



INTEROFFICE MEMO

Gary Grief, Executive Director

Alfonso D. Royal III, Charitable Bingo Operations Director

To: J. Winston Krause, Chairman
Carmen Arrieta-Candelaria, Commissioner
Peggy A. Heeg, Commissioner
Doug Lowe, Commissioner
Robert Rivera, Commissioner

From: Bob Biard, General Counsel *ROB*

Date: April 14, 2016

Re: Consideration of the Status and Possible Approval of Orders in Enforcement Cases

The Legal Services Division staff recommends that the Commission approve each of the proposed orders in the enforcement cases presented under this item.

Commission Order No. 16-0028

Date: APRIL 14, 2016

DOCKET NO. 362-16-1009 *et al.*

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
THE REVOCATION OF CERTAIN	§	
LOTTERY RETAILER LICENSES	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

During open meeting at Austin, Texas, the Texas Lottery Commission finds that after proper and timely notice was given, the above-styled cases were heard by Administrative Law Judges who made and filed Proposals for Decision containing the Administrative Law Judge's Findings of Fact and Conclusions of Law. The Proposals for Decision were properly served and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Texas Lottery Commission, after review and due consideration of the Proposals for Decision, and exceptions and replies filed, if any, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judges as if fully set out and separately stated herein. All proposed Findings of Fact and Conclusions of Law not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that the licenses for the Lottery Retailers listed on Attachment A, which is incorporated into this Order for all purposes, are hereby revoked.

Commission Order No. 16-0028

Date: APRIL 14, 2016

Passed and approved at the regular meeting of the Texas Lottery Commission at Austin, Texas, on the 14TH day of APRIL, 2016.

Entered this 14TH day of APRIL, 2016.

J. WINSTON KRAUSE, CHAIRMAN

CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

PEGGY A. HEEG, COMMISSIONER

DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

Commission Order No. 16-0028

Date: APRIL 14, 2016

ATTACHMENT A

Tab NO.	SOAH DOCKET NO.	LOTTERY RETAILER	LOTTERY LICENSE NO.
A.	362-16-1009	Tho Qui Hang D/B/A Francis Mini Mart	176179
B.	362-16-1010	Star Allied Enterprises, Inc. D/B/A MLKing Grocery	179252
C.	362-16-1394	Father & Son Tobacco Store, LLC D/B/A Father & Son Tobacco Store, LLC	177580

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

January 15, 2016

Gary Grief
Executive Director
Texas Lottery Commission
611 East 6th Street
Austin, Texas 78701

RECEIVED
2016 JAN 15 AM 8:39
GENERAL COUNSEL
VIA E-MAIL

**RE: Docket No. 362-16-1009; Texas Lottery Commission v. Tho Qui Hang,
Agent, d/b/a Francis Mini Mart, License No. 176179**

Dear Mr. Grief:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with Texas Administrative Code title 1, § 155.507(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary W. Elkins".

Gary W. Elkins
Administrative Law Judge
State Office of Administrative Hearings

GWE/Ls

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Tho Qui Hang, Agent, 1656 S. Church St., Paris, TX 75460 - VIA REGULAR MAIL

300 W. 15th Street, Suite 502, Austin, Texas 78701/P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.322.2061 (Fax)
www.soah.state.tx.us

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SOAH DOCKET NO. 362-16-1009

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
	§	
V.	§	
	§	OF
THO QUI HANG, AGENT	§	
D/B/A FRANCIS MINI MART	§	
	§	
SALES AGENT LICENSE NO. 176179	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) requested the revocation of a lottery sales agent’s license held by Tho Qui Hang, Agent d/b/a Francis Mini Mart (Licensee) on the grounds that Licensee failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On December 10, 2015, in Austin, Texas, ALJ Gary W. Elkins conducted a hearing to consider Staff’s allegations. Stephen White, Assistant General Counsel, represented the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Tho Qui Hang, Agent d/b/a Francis Mini Mart (Licensee), Paris, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 176179.
2. On November 5, 2015, staff of the Commission (Staff) sent notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing. The notice was sent by certified mail, return receipt requested, to Licensee’s address as it appears in the Commission’s records.

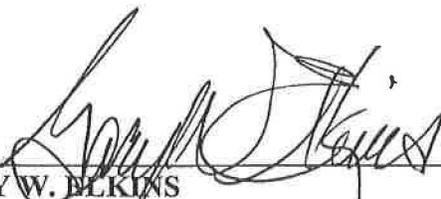
3. The notice of hearing informed Licensee in 12-point, bold face type that failure to appear at the hearing would result in the factual allegations in the notice of hearing being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on December 10, 2015, at the State Office of Administrative Hearings, located in the William P. Clements Building at 300 West 15th Street, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On the following dates, Licensee failed to have sufficient funds available to cover an electronic transfer of funds to the Commission's account and owed the Commission the amounts listed below for the sale of lottery tickets:
 - (a) **June 10, 2015, in the amount of \$3,585.32;**
 - (b) **July 29, 2015, in the amount of \$5,464.82;**
 - (c) **September 23, 2015, in the amount of \$5,427.22; and**
 - (d) **October 7, 2015, in the amount of \$6,053.57.**

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Texas Government Code § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, as provided by Texas Government Code ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Tho Qui Hang, Agent d/b/a Francis Mini Mart (Licensee) pursuant to the Administrative Procedure Act, Texas Government Code §§ 2001.051-2001.052; § 466.155(b) of the Act; and 16 Texas Administrative Code § 401.205(4).
4. Based upon Findings of Fact Nos. 2 through 5 and Conclusion of Law No. 3, a default should be entered against Licensee, pursuant to 1 Texas Administrative Code § 155.501.
5. Based upon Finding of Fact No. 6, Licensee violated § 466.351 of the Act and 16 Texas Administrative Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.

6. Based on Finding of Fact No. 6, Licensee violated 16 Texas Administrative Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.
7. Pursuant to § 466.155 of the Act and 16 Texas Administrative Code §§ 401.158 and 401.352(a), the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Findings of Fact and Conclusions of Law.
8. Based upon the foregoing Findings of Fact and Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License No. 176179, issued to Tho Qui Hang, Agent d/b/a Francis Mini Mart of Paris, Texas.

SIGNED January 15, 2016.



GARY W. ELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

January 15, 2016

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2016 JAN 15 AM 8:39
GENERAL COUNSEL

VIA E-MAIL

Gary Grief
Executive Director
Texas Lottery Commission
611 East 6th Street
Austin, Texas 78701

RE: Docket No. 362-16-1010; Texas Lottery Commission v. Star Allied Enterprises, Inc., Agent, d/b/a MLKing Grocery, License No. 179252

Dear Mr. Grief:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with Texas Administrative Code title 1, § 155.507(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary W. Elkins".

Gary W. Elkins
Administrative Law Judge
State Office of Administrative Hearings

GWE/Ls

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Star Allied enterprises, Inc., Agent, 11333 Martin Luther King Blvd., Houston, TX 77048 -VIA REGULAR MAIL

300 W. 15th Street, Suite 502, Austin, Texas 78701/ P.O. Box 13025, Austin, Texas 78711-3025
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2016-224
359273

SOAH DOCKET NO. 362-16-1010

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
	§	
V.	§	
	§	OF
STAR ALLIED ENTERPRISES, INC.,	§	
AGENT D/B/A MLKING GROCERY	§	
	§	
SALES AGENT LICENSE NO. 179252	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) requested the revocation of a lottery sales agent's license held by Star Allied Enterprises, Inc., Agent d/b/a MLKing Grocery (Licensee) on the grounds that Licensee failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On December 10, 2015, in Austin, Texas, ALJ Gary W. Elkins conducted a hearing to consider Staff's allegations. Stephen White, Assistant General Counsel, represented the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Star Allied Enterprises, Inc., Agent d/b/a MLKing Grocery (Licensee), Houston, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 179252.
2. On November 5, 2015, staff of the Commission (Staff) sent notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing. The notice was sent by certified mail, return receipt requested, to Licensee's address as it appears in the Commission's records.

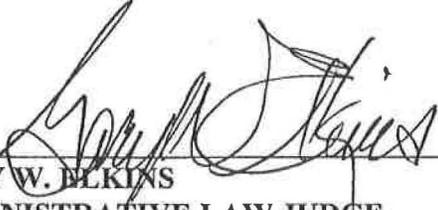
3. The notice of hearing informed Licensee in 12-point, bold face type that failure to appear at the hearing would result in the factual allegations in the notice of hearing being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on December 10, 2015, at the State Office of Administrative Hearings, located in the William P. Clements Building at 300 West 15th Street, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On the following dates, Licensee failed to have sufficient funds available to cover an electronic transfer of funds to the Commission's account and owed the Commission the amounts listed below for the sale of lottery tickets:
 - (a) **August 12, 2015, in the amount of \$1,773.17;**
 - (b) **September 2, 2015, in the amount of \$974.17;**
 - (c) **October 7, 2015, in the amount of \$1,180.44; and**
 - (d) **October 15, 2015, in the amount of \$950.15.**

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Texas Government Code § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, as provided by Texas Government Code ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Star Allied Enterprises, Inc., Agent d/b/a MLKing Grocery (Licensee) pursuant to the Administrative Procedure Act, Texas Government Code §§ 2001.051-2001.052; § 466.155(b) of the Act; and 16 Texas Administrative Code § 401.205(4).
4. Based upon Findings of Fact Nos. 2 through 5 and Conclusion of Law No. 3, a default should be entered against Licensee, pursuant to 1 Texas Administrative Code § 155.501.
5. Based upon Finding of Fact No. 6, Licensee violated § 466.351 of the Act and 16 Texas Administrative Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.

6. Based on Finding of Fact No. 6, Licensee violated 16 Texas Administrative Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.
7. Pursuant to § 466.155 of the Act and 16 Texas Administrative Code §§ 401.158 and 401.352(a), the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Findings of Fact and Conclusions of Law.
8. Based upon the foregoing Findings of Fact and Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License No. 179252, issued to Star Allied Enterprises, Inc., Agent d/b/a MLKing Grocery of Houston, Texas.

SIGNED January 15, 2016.



GARY W. BELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

February 10, 2016

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2016 FEB 10 PM 2:39
GENERAL COUNSEL

Gary Grief
Executive Director
Texas Lottery Commission
611 East 6th Street
Austin, Texas 78701

VIA E-MAIL

RE: Docket No. 362-16-1394; *Texas Lottery Commission v. Father & Son Tobacco Store, LLC Agent, d/b/a Father & Son Tobacco Store, LLC, License No. 177580*

Dear Mr. Grief:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with Texas Administrative Code title 1, § 155.507(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary W. Elkins".

Gary W. Elkins
Administrative Law Judge
State Office of Administrative Hearings

GWE/Ls

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Father & Son Tobacco Store, LLC. 3225 Forest Lane, Garland, TX 75042 - VIA REGULAR MAIL

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512.475.4993 (Main) 512.475.3445 (Docketing) 512.322.2061 (Fax)
www.soah.state.tx.us

2016-282
361081

SOAH DOCKET NO. 362-16-1394

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
	§	
V.	§	
	§	
FATHER & SON TOBACCO STORE, LLC, AGENT D/B/A FATHER & SON TOBACCO STORE, LLC	§	OF
	§	
SALES AGENT LICENSE NO. 177580	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) requested the revocation of a lottery sales agent’s license held by Father & Son Tobacco Store, LLC, Agent d/b/a Father & Son Tobacco Store, LLC (Licensee) on the grounds that Licensee failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On January 7, 2016, in Austin, Texas, ALJ Gary W. Elkins conducted a hearing to consider Staff’s allegations. Stephen White, Assistant General Counsel, represented the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Father & Son Tobacco Store, LLC, Agent d/b/a Father & Son Tobacco Store, LLC (Licensee), Garland, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 177580.
2. On December 3, 2015, staff of the Commission (Staff) sent notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing. The notice was sent by certified mail, return receipt requested, to Licensee’s address as it appears in the Commission’s records.

3. The notice of hearing informed Licensee in 12-point, bold face type that failure to appear at the hearing would result in the factual allegations in the notice of hearing being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on January 7, 2016, at the State Office of Administrative Hearings, located in the William P. Clements Building at 300 West 15th Street, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On **November 4, 2015**, Licensee failed to have sufficient funds available to cover an electronic transfer of funds to the Commission's account and owed the Commission **\$2,050.82** for the sale of lottery tickets.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Texas Government Code § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, as provided by Texas Government Code Chapter 2003.
3. Proper and timely notice of the hearing was effected upon Father & Son Tobacco Store, LLC, Agent d/b/a Father & Son Tobacco Store, LLC (Licensee) pursuant to the Administrative Procedure Act, Texas Government Code §§ 2001.051-2001.052; § 466.155(b) of the Act; and 16 Texas Administrative Code § 401.205(4).
4. A default should be entered against Licensee, pursuant to 1 Texas Administrative Code § 155.501.
5. Licensee violated § 466.351 of the Act and 16 Texas Administrative Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.
6. Licensee violated 16 Texas Administrative Code §401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.
7. Pursuant to § 466.155 of the Act and 16 Texas Administrative Code §§ 401.158 and 401.352(a), the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Findings of Fact and Conclusions of Law.

8. The Commission is warranted in revoking Texas Lottery Sales Agent License No. 177580, issued to Father & Son Tobacco Store, LLC, Agent d/b/a Father & Son Tobacco Store, LLC of Garland, Texas.

SIGNED February 10, 2016.



**GARY W. ELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

