





## 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 

**Date:** April 6, 2017

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

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

RECEIVED  
2017 MAR 27 AM 8:27  
EXECUTIVE ADMIN.  
LOTTERY



**Date: APRIL 6, 2017**

|                                  |          |                                |
|----------------------------------|----------|--------------------------------|
| <b>IN THE MATTER OF</b>          | <b>§</b> | <b>BEFORE THE STATE OFFICE</b> |
|                                  | <b>§</b> |                                |
|                                  | <b>§</b> | <b>OF</b>                      |
| <b>THE REVOCATION OF CERTAIN</b> | <b>§</b> |                                |
| <b>LOTTERY RETAILER LICENSES</b> | <b>§</b> | <b>ADMINISTRATIVE HEARINGS</b> |

**ORDER OF THE COMMISSION**

During an open meeting at Austin, Texas, the Texas Lottery Commission (Commission) heard the license revocation cases listed on Attachment A hereto, in which the Texas Lottery Ticket Sales Agent (Respondent) in each referenced case did not appear at the scheduled hearing before the State Office of Administrative Hearings (SOAH) to respond to the allegations set forth in the Commission's notice of hearing.

**I. Findings of Fact**

1. Timely and adequate notice of the hearings in the referenced cases before SOAH was provided to each Respondent, pursuant to TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052, and 1 TEX. ADMIN. CODE § 155.401. Each notice of hearing included a disclosure in at least 12-point, bold-face type, that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against the party that fails to appear at hearing.

2. After timely and adequate notice was given in each case, each case was heard by a SOAH Administrative Law Judge (ALJ). In each case, the Respondent did not appear at the hearing.

3. The Commission, by and through its attorney of record, filed a motion to dismiss each of the referenced cases from the SOAH docket and to remand each case to

**Commission Order No. 17-0032**

**Date: APRIL 6, 2017**

the Commission for informal disposition, in accordance with TEX. GOV'T CODE ANN. § 2001.058(d-1) and 1 TEX. ADMIN. CODE § 155.501(d).

4. The ALJ dismissed the referenced cases from the SOAH docket and remanded these cases to the Commission for informal disposition under TEX. GOV'T CODE ANN. § 2001.056.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to TEX. GOV'T CODE ANN. § 466.155 and 16 TEX. ADMIN. CODE, Chapter 401.

2. The Respondent in each of the cases listed on Attachment A violated the State Lottery Act and the Commission's Rules as set forth in the Commission's notice of hearing applicable to such Respondent. Specifically, each Respondent failed to deposit money due to the State received from lottery ticket sales under the State Lottery Act, in violation of TEX. GOV'T CODE ANN. § 466.351 and 16 TEX. ADMIN. CODE §§ 401.351 and 401.352.

3. The relief sought by the Commission Staff is fair, reasonable, and adequately protects the public.

**III. Order**

NOW, THEREFORE, IT IS ORDERED that, after review and due consideration of the administrative record, each of the cases listed on Attachment A hereto, which is incorporated into this Order for all purposes, is hereby disposed by default, and:

1. All allegations set forth in each notice of hearing in the cases listed on Attachment A are deemed admitted; and

**Commission Order No. 17-0032**

**Date: APRIL 6, 2017**

2. The Lottery Ticket Sales Agent License for each Respondent in the cases listed on Attachment A are hereby revoked.

Passed and approved at the regular meeting of the Texas Lottery Commission at Austin, Texas, on the 6<sup>TH</sup> day of APRIL, 2017.

Entered this 6<sup>TH</sup> day of APRIL, 2017.

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J. WINSTON KRAUSE, CHAIRMAN

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CARMEN ARRIETA-CANDELARIA,  
COMMISSIONER

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PEGGY A. HEEG, COMMISSIONER

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DOUG LOWE, COMMISSIONER

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ROBERT RIVERA, COMMISSIONER

**Commission Order No. 17-0032****Date: APRIL 6, 2017****ATTACHMENT A**

| <b>Tab No.</b> | <b>SOAH<br/>DOCKET<br/>NO.</b> | <b>LOTTERY<br/>TICKET SALES<br/>AGENT NAME</b>                             | <b>SALES AGENT<br/>ADDRESS</b>          | <b>LOTTERY<br/>LICENSE<br/>NO.</b> |
|----------------|--------------------------------|--|---|------------------------------------|
| A.             | 362-17-1943                    | Jaycee L. Doak<br>D/B/A V S Market   | 7956 CR 121<br>Rosharon, TX 77583       | 156742                             |
| B.             | 362-17-1945                    | Malabar Management<br>Corp.<br>D/B/A Mikes 09                              | 3629 Ebro Drive<br>Edinburg, TX 78539   | 180574                             |
| C.             | 362-17-1947                    | Malabar Management<br>Corp., Agent<br>D/B/A Alton Grocery<br>& Meat Market | 2508 Kings Dr.<br>Edinburg, TX 78539    | 181715                             |
| D.             | 362-17-2353                    | Aleeza Business, Inc.<br>D/B/A In & Out                                    | 101 N. Market St.<br>Hearne, TX 77859   | 178534                             |
| E.             | 362-17-2354                    | Aleeza Business, Inc.,<br>Agent<br>D/B/A Amigo's<br>Market                 | 202 Mary Louise St.<br>Hearne, TX 77859 | 181030                             |

DOCKET NO.: SEE ATTACHMENT A

|                          |   |                         |
|--------------------------|---|-------------------------|
| IN THE MATTER            | § | BEFORE THE STATE OFFICE |
|                          | § |                         |
| OF THE REVOCATION OF     | § | OF                      |
| CERTAIN LOTTERY RETAILER | § |                         |
| LICENSES                 | § | ADMINISTRATIVE HEARINGS |


**ORDER REMANDING CASE(S) TO COMMISSION**

On February 2, 2017, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss each case listed on Attachment A is granted, and each case is dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056.

**SIGNED February 13, 2017.**

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



**TEXAS LOTTERY COMMISSION**

**REVOCATION HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**ATTACHMENT A**

**HEARING HELD: FEBRUARY 2, 2017**

| <b>SOAH<br/>DOCKET NO.</b> | <b>LOTTERY TICKET<br/>SALES AGENT NAME</b>                           | <b>SALES AGENT<br/>ADDRESS</b>        | <b>LOTTERY<br/>NO.</b> | <b>LICENSE</b> |
|----------------------------|--|---------------------------------------|------------------------|----------------|
| 362-17-1943                | Jaycee L. Doak, Agent<br>D/B/A V S Market                            | 7956 CR 121<br>Rosharon, TX 77583     | 156742                 |                |
| 362-17-1945                | Malabar Management Corp.<br>D/B/A Mikes 09                           | 3629 Ebro Drive<br>Edinburg, TX 78539 | 180574                 |                |
| 362-17-1947                | Malabar Management Corp., Agent<br>D/B/A Alton Grocery & Meat Market | 2508 Kings Dr.<br>Edinburg, TX 78539  | 181715                 |                |



DOCKET NO.: SEE ATTACHMENT A

IN THE MATTER

OF THE REVOCATION OF  
CERTAIN LOTTERY RETAILER  
LICENSES

§  
§  
§  
§  
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**ORDER REMANDING CASE(S) TO COMMISSION**

On February 16, 2017, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss each case listed on Attachment A is granted, and the case(s) are dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056.

SIGNED March 3, 2017.



GARY W. ELKINS

ADMINISTRATIVE LAW JUDGE

STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS LOTTERY COMMISSION  
REVOCATION HEARINGS  
STATE OFFICE OF ADMINISTRATIVE HEARINGS  
ATTACHMENT A

HEARING HELD: FEBRUARY 16, 2017

| SOAH<br>DOCKET NO. | LOTTERY TICKET<br>SALES AGENT NAME                   | SALES AGENT<br>ADDRESS                  | LOTTERY<br>NO. | LICENSE |
|--------------------|--|---|----------------|---------|
| 362-17-2353        | Aleeza Business, Inc.<br>D/B/A In & Out              | 101 N. Market St.<br>Hearne, TX 77859   | 178534         |         |
| 362-17-2354        | Aleeza Business, Inc., Agent<br>D/B/A Amigo's Market | 202 Mary Louise St.<br>Hearne, TX 77859 | 181030         |         |



















**Date: APRIL 6, 2017**

**DOCKET NO. 362-17-0236.B**

|                              |          |                                |
|------------------------------|----------|--------------------------------|
| <b>IN THE MATTER OF</b>      | <b>§</b> | <b>BEFORE THE STATE OFFICE</b> |
|                              | <b>§</b> |                                |
| <b>THE REVOCATION OF</b>     | <b>§</b> | <b>OF</b>                      |
| <b>THE LICENSE OF</b>        | <b>§</b> |                                |
| <b>SALADO VOLUNTEER FIRE</b> | <b>§</b> |                                |
| <b>DEPARTMENT</b>            | <b>§</b> | <b>ADMINISTRATIVE HEARINGS</b> |

**ORDER OF THE COMMISSION**

TO: Mr. Shane Berrier  
Salado Volunteer Fire Department  
P.O. Box 503  
Salado, TX 76571-0503

During an open meeting at Austin, Texas, the Texas Lottery Commission (Commission) heard the above styled case in which Salado Volunteer Fire Department (Respondent) did not appear at the scheduled hearing before the State Office of Administrative Hearings (SOAH) to respond to the allegations set forth in the Commission's notice of hearing.

**I. Findings of Fact**

1. Timely and adequate notice of the hearing in the referenced case before SOAH was provided to the Respondent, pursuant to TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052 and 1 TEX. ADMIN. CODE §§ 155.401 and 155.501(b)(2). The notice of hearing included a disclosure in at least 12-point, bold-face type, that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against the party that fails to appear at hearing.

**Commission Order No. 17-0040**

**Date: APRIL 6, 2017**

2. After timely and adequate notice was given to the Respondent, the case was heard by a SOAH Administrative Law Judge (ALJ). The Respondent did not appear at the hearing.

3. The Commission, by and through its attorney of record, filed a motion to dismiss the case from the SOAH docket and to remand the case to the Commission for informal disposition, in accordance with TEX. GOV'T CODE ANN. § 2001.058(d-1) and 1 TEX. ADMIN. CODE § 155.501(d).

4. The ALJ dismissed the case from the SOAH docket and remanded the case to the Commission for informal disposition under TEX. GOV'T CODE ANN. § 2001.056.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §§ 2001.312(e) and 2001.353(a), and 16 TEX. ADMIN. CODE, Chapter 402.

2. The Respondent violated the Bingo Enabling Act, (Chapter 2001, TEX. OCC. CODE ANN.); and/or the Charitable Bingo Administrative Rules, (Title 16 TEX. ADMIN. CODE, Chapter 402) as set forth in the Commission's notice of hearing.

3. The relief sought by the Commission Staff is fair, reasonable, and adequately protects the public.

**III. Order**

NOW, THEREFORE, IT IS ORDERED that, after review and due consideration of the administrative record above styled case, this matter is hereby disposed of by default, and:

**Commission Order No. 17-0040**

**Date: APRIL 6, 2017**

1. All allegations set forth in the Commission's notice of hearing in the case are deemed admitted; and

2. The license of Salado Volunteer Fire Department to conduct bingo is hereby revoked.

Passed and approved at the regular meeting of the Texas Lottery Commission at Austin, Texas, on the 6<sup>TH</sup> day of APRIL, 2017.

Entered this 6<sup>TH</sup> day of APRIL, 2017.

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J. WINSTON KRAUSE, CHAIRMAN

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CARMEN ARRIETA-CANDELARIA,  
COMMISSIONER

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PEGGY A. HEEG, COMMISSIONER

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DOUG LOWE, COMMISSIONER

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ROBERT RIVERA, COMMISSIONER

**DOCKET NO. 362-17-0236.B**

|                              |   |                                |
|------------------------------|---|--------------------------------|
| <b>IN THE MATTER OF</b>      | § | <b>BEFORE THE STATE OFFICE</b> |
|                              | § |                                |
| <b>THE REVOCATION OF</b>     | § | <b>OF</b>                      |
| <b>THE LICENSE OF</b>        | § |                                |
| <b>SALADO VOLUNTEER FIRE</b> | § |                                |
| <b>DEPARTMENT</b>            | § | <b>ADMINISTRATIVE HEARINGS</b> |


**ORDER OF DISMISSAL AND REMAND**

A hearing on this matter was convened on January 26, 2017, before the State Office of Administrative Hearings (SOAH). Kristen Guthrie, Assistant General Counsel, represented the Texas Lottery Commission, Charitable Bingo Operations Division (Commission). Salado Volunteer Fire Department (Respondent) did not appear. Timely and adequate notice of the hearing was provided to Respondent in accordance with Texas Government Code §§ 2001.051 and 2001.052, and 1 Texas Administrative Code §§ 155.401 and 155.501(b)(2). The Commission served the notice of hearing via certified mail at Respondent's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

Based on Respondent's failure to appear, Commission Staff filed a motion to remand, requesting dismissal of the case from SOAH's docket and remanding it to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to remand is granted, and the case is dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056.

**SIGNED January 31, 2017.**

  
**CRAIG R. BENNETT**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**





# Texas Lottery Commission

Commissioners:

J. Winston Krause, Chairman • Carmen Arrieta-Candelaria

Peggy A. Heeg • Doug Lowe • Robert Rivera



Alfonso D. Royal III  
Director

FIRST CLASS UNITED STATES MAIL  
and  
CERTIFIED MAIL NO. 91 7199 9991 7030 8841 9688

December 7, 2016

Mr. Shane Berrier  
Salado Volunteer Fire Department  
P.O. Box 503  
Salado, TX 76571-0503

RE: **NOTICE OF HEARING CONCERNING SUSPENSION OR REVOCATION OF  
LICENSE  
DOCKET NO. 362-17-0236.B  
SALADO VOLUNTEER FIRE DEPARTMENT, CONDUCTOR  
TAXPAYER NUMBER – 17422939821**

Dear Mr. Berrier:

Be advised that a public hearing will be held to consider whether the charitable bingo conductor's license of Salado Volunteer Fire Department should be suspended or revoked, and/or administrative penalties assessed, based on the violation of the Bingo Enabling Act, (TEX. OCC. CODE ANN. Chapter 2001); and/or the Charitable Bingo Administrative Rules, (Title 16 TEX. ADMIN. CODE, Chapter 402) as outlined below.

The hearing has been set as follows:

**TIME OF HEARING:**  
**DATE OF HEARING:**  
**LOCATION OF HEARING:**

**9:00 a.m.  
January 26, 2017  
State Office of Administrative Hearings  
William P. Clements Building  
300 West 15<sup>th</sup> Street, 4<sup>th</sup> Floor  
Austin, Texas 78701**

**I.**  
**Factual Matters Asserted**

Salado Volunteer Fire Department failed to have positive net proceeds over the organization's license period from the first quarter of 2015 through the fourth quarter of 2015, as required by TEX. OCC. CODE ANN. § 2001.451(g)(1) and 16 TEX. ADMIN. CODE § 402.452(a). Specifically, the organization's net proceeds for the first quarter of 2015 through the fourth quarter of 2015 resulted in negative net proceeds of \$20,754. On April 19, 2016, the Charitable Bingo Operations Division received an Application for Waiver to exempt Salado Volunteer Fire Department from the net proceeds requirement for the period from the first quarter of 2015 through the fourth quarter of 2015, in accordance with TEX. OCC. CODE ANN. § 2001.451(k). Salado Volunteer Fire Department failed to show good cause that compliance with net proceeds requirement would be detrimental to the organization's existing or planned charitable purposes.

**II.**  
**Applicable Statutes and Rules**

TEX. OCC. CODE ANN. § 2001.353(a)(1) and (2) state in part:

After a hearing, the commission may suspend, revoke, or refuse to renew a license issued under this chapter for: (1) failure to comply with this chapter or a commission rule; or (2) a reason that would allow or require the commission to refuse to issue or renew a license of the same class.

TEX. OCC. CODE ANN. § 2001.451(g)(1) states in part:

The bingo operations of a licensed authorized organization must: (1) result in net proceeds over the organization's license period.

TEX. OCC. CODE ANN. § 2001.451(k) states in part:

A licensed authorized organization may apply to the commission for a waiver of the requirements of this section and Section 2001.457. The commission may grant the waiver on a showing of good cause by the organization that compliance with this section and Section 2001.457 is detrimental to the organization's existing or planned charitable purposes.

16 TEX. ADMIN. CODE § 402.452(a) and (e) state in part:

(a) Net proceeds from the conduct of bingo must result in a positive amount over the organization's license period. If the organization has a two year license, the net proceeds from the conduct of bingo must result in a positive amount over each year of the organization's license period.

(e) A licensed authorized organization may apply for a waiver from the net proceeds requirement by showing good cause that compliance is detrimental to

the organization's existing or planned charitable purposes. Waiver applications must be submitted in accordance with §402.450 of this chapter (relating to Request for Waiver).

TEX. OCC. CODE ANN. § 2001.601 states:

The commission may impose an administrative penalty against a person who violates this chapter or a rule or order adopted by the commission under this chapter.

TEX. OCC. CODE ANN. § 2001.602 states in part:

The amount of the administrative penalty may not exceed \$1,000 for each violation. Each day a violation continues or occurs may be considered a separate violation for purposes of imposing a penalty.

TEX. OCC. CODE ANN. §2001.352(b) states:

The burden of proof is on the applicant to establish by a preponderance of the evidence its eligibility for a license.

All visitors to the William P. Clements Building without an agency or DPS issued ID card will be required to sign a log and receive a visitor's pass. Persons going to a hearing at the State Office of Administrative Hearings will need to identify to the security officer the hearing that they are attending. Persons must provide the officer with the SOAH docket number to be allowed access to the hearing room. Individuals should allow additional time to go through the security process. Failure to provide the docket number may result in delaying the individual's arrival to the hearing.

The hearing will be conducted in accordance with the Bingo Enabling Act, the Texas Government Code, Chapter 2001; the Texas Rules of Evidence; Title 16 of the Texas Administrative Code, Chapter 402; and the Rules of Procedure of the State Office of Administrative Hearings, Title 1, Texas Administrative Code, Chapter 155. You are entitled to be represented by a lawyer, but it is your responsibility to obtain and pay for such representation.

A court reporter will be present, and a record of the proceedings will be created. It is, however, the sole and exclusive responsibility of each party to request and pay for any printed transcript.

The licensee is also advised that no settlement of this case is authorized after the hearing commences. This means that the case will go forward unless the Charitable Bingo Operations Division determines that the licensee has satisfied all requirements for the retention of the license before the hearing commences.

It is the responsibility of the licensee to make all arrangements necessary to satisfy all requirements for the retention of the license and to provide proof of doing so to the Charitable

Bingo Operations Division, so that this determination can be made before the hearing commences.

No payment for delinquent prize fees, taxes, penalty or interest will be accepted at the location of the hearing.

Please note this notice of hearing is not a summons. If you do not oppose suspension or revocation of this license, your appearance at the hearing is not required. If you do oppose suspension or revocation of the license, you have the right to appear and present evidence.

**FAILURE TO APPEAR AT THE HEARING MAY RESULT IN THE ALLEGATIONS AGAINST YOU SET OUT IN THIS NOTICE OF HEARING BEING ADMITTED AS TRUE AND THE RELIEF REQUESTED MAY BE GRANTED BY DEFAULT.**

The State Office of Administrative Hearings (SOAH) is now offering you the ability to receive service of orders and other documents issued by SOAH through email rather than mail or fax. To elect to receive service of SOAH-issued documents by email, go to the SOAH website ([www.soah.state.tx.us](http://www.soah.state.tx.us)), click on the "Service by Email" tab, and follow the instructions. **NOTE: Your request to receive SOAH-issued documents by email does not change the procedures you must follow in order to file documents with SOAH. The requirements for filing documents and providing copies to the other parties are set out in Sections 155.101 and 155.103 of SOAH's Procedural Rules, which are available on SOAH's website under the "Procedural Rules" tab.**

Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH.

The Commission reserves the right to amend this Notice of Hearing.

Respectfully,



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KRISTEN GUTHRIE  
Assistant General Counsel  
Texas Lottery Commission

**CERTIFICATE OF SERVICE**

Pursuant to the Texas Rules of Civil Procedures, Rule 21a, I do hereby certify that on this the 7 day of December, 2016, a true and correct copy of the foregoing **NOTICE OF HEARING CONCERNING SUSPENSION OR REVOCATION OF LICENSE**, Docket No. 362-17-0236.B, has been served by First Class United States Mail and Certified Mail No. 91 7199 9991 7030 8841 9688, by depositing each mailing in a post office or official depository under the care and custody of the United States Postal Service, enclosed in a postpaid wrapper properly addressed to Mr. Shane Berrier, Salado Volunteer Fire Department, P.O. Box 503, Salado, TX 76571-0503.



KRISTEN GUTHRIE  
Assistant General Counsel  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630  
(512) 344-5475  
(512) 344-5189 Fax

cc: State Office of Administrative Hearings  
Charitable Bingo Operations Division

Mr. Allen Califano  
11008 Oak Tree Dr.  
Salado, TX 76571-5077

(Certified Mail No. 91 7199 9991 7030 8841 9695  
and First Class U.S. Mail)

Ms. Heather Copeland  
Rouse Band Boosters, Inc.  
P.O. Box 1831  
Cedar Park, TX 78630

(Certified Mail No. 91 7199 9991 7030 8841 9701  
and First Class U.S. Mail)

Ms. Sheri Hickman  
Booster Bingo 2  
11880 Old 2243 West Ste. 301  
Leander, TX 78641

(Certified Mail No. 91 7199 9991 7030 8841 9718  
and First Class U.S. Mail)



**Commission Order No. 17-0041**

**Date: APRIL 6, 2017**

**DOCKET NO. 362-17-1619.B**

|                               |          |                                |
|-------------------------------|----------|--------------------------------|
| <b>IN THE MATTER OF</b>       | <b>§</b> | <b>BEFORE THE STATE OFFICE</b> |
|                               | <b>§</b> |                                |
| <b>THE REMOVAL OF</b>         | <b>§</b> | <b>OF</b>                      |
| <b>ANDREA PATTERSON</b>       | <b>§</b> |                                |
| <b>FROM THE REGISTRY OF</b>   | <b>§</b> |                                |
| <b>APPROVED BINGO WORKERS</b> | <b>§</b> | <b>ADMINISTRATIVE HEARINGS</b> |

**ORDER OF THE COMMISSION**

TO: Ms. Andrea Patterson  
5600 Fletcher Ave.  
Fort Worth, TX 76107-6724

During an open meeting at Austin, Texas, the Texas Lottery Commission (Commission) heard the above styled case in which Andrea Patterson (Respondent) did not appear at the scheduled hearing before the State Office of Administrative Hearings (SOAH) to respond to the allegations set forth in the Commission's notice of hearing.

**I. Findings of Fact**

1. Timely and adequate notice of the hearing in the referenced case before SOAH was provided to the Respondent, pursuant to TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052 and 1 TEX. ADMIN. CODE §§ 155.401 and 155.501(b)(2). The notice of hearing included a disclosure in at least 12-point, bold-face type, that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against the party that fails to appear at hearing.

**Commission Order No. 17-0041**

**Date: APRIL 6, 2017**

2. After timely and adequate notice was given to the Respondent, the case was heard by a SOAH Administrative Law Judge (ALJ). The Respondent did not appear at the hearing.

3. The Commission, by and through its attorney of record, filed a motion to dismiss the case from the SOAH docket and to remand the case to the Commission for informal disposition, in accordance with TEX. GOV'T CODE ANN. § 2001.058(d-1) and 1 TEX. ADMIN. CODE § 155.501(d).

4. The ALJ dismissed the case from the SOAH docket and remanded the case to the Commission for informal disposition under TEX. GOV'T CODE ANN. § 2001.056.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. §§ 2001.312(e) and 2001.353(a), and 16 TEX. ADMIN. CODE, Chapter 402.

2. The Respondent violated the Bingo Enabling Act, (Chapter 2001, TEX. OCC. CODE ANN.); and/or the Charitable Bingo Administrative Rules, (Title 16 TEX. ADMIN. CODE, Chapter 402) as set forth in the Commission's notice of hearing.

3. The relief sought by the Commission Staff is fair, reasonable, and adequately protects the public.

**III. Order**

NOW, THEREFORE, IT IS ORDERED that, after review and due consideration of the administrative record in the above styled case, this matter is hereby disposed of by default, and:



**Commission Order No. 17-0041**

**Date: APRIL 6, 2017**

1. All allegations set forth in the Commission's notice of hearing in the case are deemed admitted; and

2. Andrea Patterson's name is hereby removed from the Commission's Registry of Approved Bingo Workers.

Passed and approved at the regular meeting of the Texas Lottery Commission at Austin, Texas, on the 6<sup>TH</sup> day of APRIL, 2017.

Entered this 6<sup>TH</sup> day of APRIL, 2017.

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J. WINSTON KRAUSE, CHAIRMAN

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CARMEN ARRIETA-CANDELARIA,  
COMMISSIONER

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PEGGY A. HEEG, COMMISSIONER

---

DOUG LOWE, COMMISSIONER

---

ROBERT RIVERA, COMMISSIONER

**DOCKET NO. 362-17-1619.B**

|                               |          |                                |
|-------------------------------|----------|--------------------------------|
| <b>IN THE MATTER OF</b>       | <b>§</b> | <b>BEFORE THE STATE OFFICE</b> |
|                               | <b>§</b> |                                |
| <b>THE REMOVAL OF</b>         | <b>§</b> | <b>OF</b>                      |
| <b>ANDREA PATTERSON</b>       | <b>§</b> |                                |
| <b>FROM THE REGISTRY OF</b>   | <b>§</b> |                                |
| <b>APPROVED BINGO WORKERS</b> | <b>§</b> | <b>ADMINISTRATIVE HEARINGS</b> |

**ORDER OF DISMISSAL AND REMAND**

A hearing on this matter was convened on February 7, 2017, before the State Office of Administrative Hearings (SOAH). Stephen White, Assistant General Counsel, represented the Texas Lottery Commission (Commission). Andrea Patterson (Respondent) did not appear. Timely and adequate notice of the hearing was provided to Respondent in accordance with Texas Government Code §§ 2001.051-.052, and 1 Texas Administrative Code §§ 155.401 and .501(b)(2). The Commission served the notice of hearing via certified mail at Respondent's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

Based on Respondent's failure to appear despite being provided adequate notice of the hearing, the Commission filed a motion to remand, requesting that the case be dismissed from SOAH's docket and remanded it to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The motion has merit.

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SOAH DOCKET NO. 362-17-1619.B

ORDER NO. 1

PAGE 2

Accordingly, the motion to remand is **GRANTED**, and the case is **DISMISSED** from SOAH's docket and **REMANDED** to the Commission for informal disposition under Texas Government Code § 2001.056.

**SIGNED February 10, 2017.**



**PRATIBHA J. SHENOY**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

*Commissioners:*

J. Winston Krause,  
*Chairman*

Carmen Arrieta-Candelaria

Peggy A. Herg

Doug Lowe

Robert Rivera



# TEXAS LOTTERY COMMISSION

Gary Grief, *Executive Director*

Alfonso D. Royal III, *Charitable Bingo Operations Director*

**FIRST CLASS UNITED STATES MAIL  
AND  
CERTIFIED MAIL NO. 91 7199 9991 7031 0736 8355**

January 3, 2017

Ms. Andrea Patterson  
5600 Fletcher Ave.  
Fort Worth, TX 76107-6724

**RE: NOTICE OF REMOVAL AND NOTICE OF HEARING  
SOAH DOCKET NO. 362-17-1619.B  
ANDREA PATTERSON, BINGO WORKER**

Dear Ms. Patterson:

Be advised that a public hearing will be held to consider whether the Texas Lottery Commission, Charitable Bingo Operations Division (the Commission) will remove you from the Registry of Approved Bingo Workers (the Registry) for the reason outlined below.

The hearing has been set as follows:

**DATE:** February 7, 2017  
**TIME:** 9:00 a.m.  
**LOCATION:** State Office of Administrative Hearings  
William P. Clements Jr. Building  
300 W. 15<sup>th</sup> Street, 4<sup>th</sup> Floor  
Austin TX 78701

**I.**

**Factual Matters Asserted**

On August 26, 2009, in the Criminal District Court Number Four, Tarrant County, Texas, in Cause No. 1152918D, Andrea Patterson aka Andrea Laurtrice Patterson, was found guilty of forgery in violation of Tex. Penal Code § 32.21 by passing a financial instrument, a state jail felony. Adjudication of guilt was deferred and Ms. Patterson was placed on Community Supervision for a period of two (2) years. On October 15, 2010, a Judgment Adjudicating Guilt was entered and Ms.

Patterson was sentenced to six (6) months confinement in the Texas Department of Criminal Justice State Jail Facility.

## II. Applicable Statutes, Rules and Agency Policy

TEX. OCC. CODE ANN. § 2001.313(e) states:

The Commission may refuse to add an individual's name to, or remove an individual's name from, the registry established by this section if, after notice and, if requested by the individual, a hearing, the individual is finally determined to have: (1) been convicted of an offense listed under Section 2001.105(b).

TEX. OCC. CODE ANN. § 2001.105(b) states:

The Commission may not issue a license to an authorized organization to conduct bingo if an officer or member of the board of directors of the organization has been convicted of **criminal fraud**, gambling or a gambling related offense [emphasis added].

TEX. ADMIN. CODE § 402.702(b) states:

If any of the following persons have been convicted of a gambling or gambling-related offense, or **criminal fraud**, the applicant for a license or a listing in the registry of approved bingo workers will not be eligible for a new or renewal license or registry listing, as applicable: the applicant; or for an applicant for a license, any person whose conviction of any such offense would render the applicant ineligible under the eligibility standards for the particular type of license (*i.e.*, BEA §2001.105(b) for authorized organizations, BEA §2001.154(a)(5) for commercial lessors, BEA §2001.202(9) for manufacturers, and BEA §2001.207(9) for distributors). **Such a conviction** (which shall not include deferred adjudications and/or nolo contendere pleas) **shall be a permanent bar to the applicant obtaining a license or registry listing.** (emphasis added). TEX. ADMIN. CODE § 402.702(b)(2) states:

The Commission deems any offense involving criminal fraud to be any offense listed in the following Penal Code Chapters and as described below, with the exception of Class C misdemeanors:

(A) Penal Code, Chapter 32, Fraud;...

TEX. ADMIN. CODE § 402.702(i) states:

Upon notification of the Commission's intent to deny a new or renewal application or registry listing, an applicant may provide documentation of mitigating factors that the applicant would like the Commission to consider regarding its application. Such documentation must be provided to the

Commission no later than 20 days after the Commission provides notice to an applicant of a denial, unless the deadline is extended in writing or through e-mail by authorized Commission staff.

All visitors to the William P. Clements Building without an agency or DPS issued ID card will be required to sign a log and receive a visitor's pass. Persons going to a hearing at the State Office of Administrative Hearings will need to identify to the security officer the hearing that they are attending. Persons must provide the officer with the SOAH docket number to be allowed access to the hearing room. Individuals should allow additional time to go through the security process. Failure to provide the docket number may result in delaying the individual's arrival to the hearing.

All hearings are formal, due process matters governed by and conducted pursuant to authority of the Bingo Enabling Act, TEX. OCC. CODE ANN. Chapter 2001; TEX GOV'T CODE ANN. Chapter 2001; TEX. R. CIV. EVID.; and the Charitable Bingo Administrative Rules, 16 TEX. ADMIN. CODE Chapter 402; and SOAH Rules 1 TEX. ADMIN. CODE Chapter 155.

A court reporter will be present, and a record of the proceedings will be created. It is, however, the sole and exclusive responsibility of each party to request and pay for any printed transcript.

**IF YOU FAIL TO APPEAR AT THE HEARING, THE FACTUAL ALLEGATIONS IN THIS NOTICE MAY BE DEEMED ADMITTED AND THE RELIEF SOUGHT BY THE COMMISSION MAY BE GRANTED BY DEFAULT.**

The State Office of Administrative Hearings (SOAH) is now offering you the ability to receive service of orders and other documents issued by SOAH through email rather than mail or fax. To elect to receive service of SOAH-issued documents by email, go to the SOAH website ([www.soah.state.tx.us](http://www.soah.state.tx.us)), click on the "Service by Email" tab, and follow the instructions. **NOTE: Your request to receive SOAH-issued documents by email does not change the procedures you must follow in order to file documents with SOAH. The requirements for filing documents and providing copies to the other parties are set out in Sections 155.101 and 155.103 of SOAH's Procedural Rules, which are available on SOAH's website under the "Procedural Rules" tab.**

Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH.

The Commission reserves the right to amend this Notice of Hearing.

Sincerely,

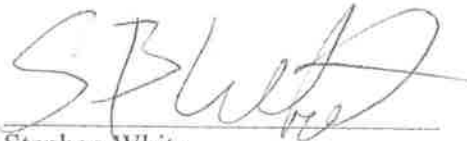


STEPHEN WHITE

Assistant General Counsel

**CERTIFICATE OF SERVICE**

Pursuant to TEX. R. CIV. PRO., Rule 21a, I certify that I mailed a copy of the foregoing Notice of Removal and Notice of Hearing concerning the denial of Respondent's application to be on the Registry of Approved Bingo Workers, Docket No. 362-17-1619.B by first class and certified U.S. Mail return receipt requested, to Ms. Andrea Patterson, 5600 Fletcher Ave., Fort Worth, TX 76107-6724, on January 3, 2017.



Stephen White  
Assistant General Counsel  
Texas Lottery Commission  
P.O. Box 16630  
Austin TX 78761  
(512) 344-5465 (Tel.)  
(512) 344-5189 (Fax)

cc: Bingo Division  
State Office of Administrative Hearings