





## 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:** October 5, 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.



**Commission Order No. 18-0005**

**Date: OCTOBER 5, 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 in 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 and 155.501(b). 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. 18-0005**

**Date: OCTOBER 5, 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. 18-0005**

**Date: OCTOBER 5, 2017**

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

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 5<sup>TH</sup> day of OCTOBER, 2017.

Entered this 5<sup>TH</sup> day of OCTOBER, 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. 18-0005****Date: OCTOBER 5, 2017****ATTACHMENT A**

<b>TAB NO.</b>	<b>SOAH DOCKET NO.</b>	<b>TICKET SALES AGENT NAME</b>	<b>TICKET SALES AGENT ADDRESS</b>	<b>LOTTERY LICENSE NO.</b>
A.	362-17-4662	Point Target Enterprises Inc. d/b/a Lufkin Truck Stop	P.O. Box 131315 Tyler, TX 75713	175380
B.	362-17-4663	Point Target Enterprises Inc. d/b/a Super Stop	P.O. Box 131315 Tyler, TX 75713	177728
C.	362-17-4922	Tony & Jennifer LLC d/b/a J and T Grocery	2325 South 4th Street Beaumont, TX 77701	175226
D.	362-17-4923	Eastex Tidwell Inc. d/b/a Fast N Easy Tidwell	9278 Eastex Freeway Houston, TX 77093	180823
E.	362-17-5121	NZ LLC d/b/a Jeffrey's Food Mart	13420 W. Bellfort Ave. Sugar Land, TX 77498-1103	153318
F.	362-17-5122	Texxon Petrochemicals LLC d/b/a Pret Manger	5301 N. Lamar Blvd. Austin, TX 78751	156774
G.	362-17-5123	MAF Petroleum LLC d/b/a MAF Petroleum LLC	317 Catumet Dr. Pflugerville, TX 78660-5159	179496
H.	362-17-5693	Saleem Noorani d/b/a Stop N Get of Irving	1915 S. Story Rd. Irving, TX 75060	153031
I.	362-17-5694	Harisith Inc. d/b/a Times Market	15927 Hwy. 181 Sinton, TX 78387	155594





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 July 6, 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(s) 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 July 14, 2017.**

  
HENRY D. CARD  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

HEARING HELD: July 6, 2017

SOAH DOCKET NO.	LOTTERY TICKET SALES AGENT NAME	SALES AGENT ADDRESS	LOTTERY NO.	LICENSE
362-17-4662	Point Target Enterprises Inc., Agent D/B/A Lufkin Truck Stop	P.O. Box 131315 Tyler, Texas 75713	175380	
362-17-4663	Point Target Enterprises Inc., Agent D/B/A Super Stop	P.O. Box 131315 Tyler, Texas 75713	177728	



DOCKET NO.: SEE ATTACHMENT A

IN THE MATTER

OF THE REVOCATION OF  
CERTAIN LOTTERY RETAILER  
LICENSES

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

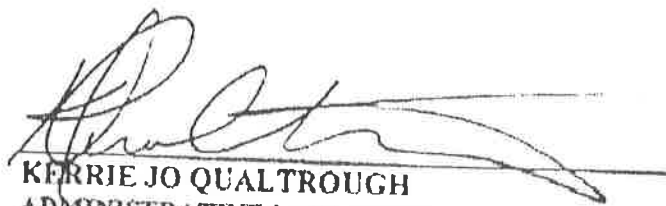
**ORDER REMANDING CASE(S) TO COMMISSION**

On July 20, 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 July 20, 2017.

  
KERRIE JO QUALTROUGH  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**TEXAS LOTTERY COMMISSION**  
**REVOCAION HEARINGS**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**  
**ATTACHMENT A**

**HEARING HELD: July 20, 2017**

SOAH DOCKET NO.	LOTTERY TICKET SALES AGENT NAME	SALES AGENT ADDRESS	LOTTERY NO.	LICENSE
362-17-4922	Tony & Jennifer LLC, Agent D/B/A J and T Grocery	2325 South 4th Street Beaumont, Texas 77701	175226	
362-17-4923	Eastex Tidwell Inc, Agent D/B/A Fast N Easy Tidwell	9278 Eastex Freeway Houston, Texas 77093	180823	

**ADMITTED**



**DOCKET NO.: SEE ATTACHMENT A**

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

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

On August 3, 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 August 11, 2017.**

  
**TRAVIS VICKERY**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**TEXAS LOTTERY COMMISSION**  
**SUMMARY SUSPENSION HEARINGS**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**ATTACHMENT A**

**HEARING HELD: August 3, 2017**

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-17-5121	JEFFREY'S FOOD MART	13420 W BELLFORT AVE SUGAR LAND, TX 77498	153318
362-17-5122	PRET MANGER	5301 N LAMAR BLVD AUSTIN, TX 78751	156774
362-17-5123	MAF PETROLEUM LLC	317 CATUMET DR PFLUGERVILLE, TX 78660	179496





DOCKET NO.: SEE ATTACHMENT A

IN THE MATTER

OF THE REVOCATION OF  
CERTAIN LOTTERY RETAILER  
LICENSES

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORDER REMANDING CASE(S) TO COMMISSION

On September 14, 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 September 18, 2017.

*Stephanie Frazee*  
STEPHANIE FRAZEE  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**TEXAS LOTTERY COMMISSION**  
**REVOCAION HEARINGS**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**  
**ATTACHMENT A**

**HEARING HELD: September 14, 2017**

SOAH DOCKET NO.	LOTTERY TICKET SALES AGENT NAME	SALES AGENT ADDRESS	LOTTERY LICENSE NO.
362-17-5693	Saleem Noorani, Agent D/B/A Stop N Get of Irving	1915 S. Story Rd Irving, TX 75060	153031
362-17-5694	Harisith Inc, Agent D/B/A Times Market	15927 Hwy 181 Sinton, TX 78387	155594









**Commission Order No. 18-0009**

**Date: OCTOBER 5, 2017**

DOCKET NO. 362-17-3249

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
PETITIONER	§	
	§	
VS.	§	
	§	
SARWAT'S INVESTMENT, INC.	§	
D/B/A MARIPOSA GROCERIES	§	
RESPONDENT	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

TO: Sarwat's Investment, Inc.  
d/b/a Mariposa Groceries  
1438 W. Mariposa Dr.  
San Antonio, TX 78201

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

The Commission, after review and due consideration of the PFD and exceptions and replies filed, if any, adopts the ALJ's Findings of Fact and Conclusions of Law 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 Sarwat's Investment, Inc. d/b/a Mariposa Groceries' Texas Lottery Ticket Sales Agent license is hereby revoked.



**Commission Order No. 18-0009**

**Date: OCTOBER 5, 2017**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 5<sup>TH</sup> day of OCTOBER, 2017.

Entered this 5<sup>TH</sup> day of OCTOBER, 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

**SOAH DOCKET NO. 362-17-3249**

<b>TEXAS LOTTERY COMMISSION,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
<b>v.</b>	§	<b>OF</b>
	§	
<b>SARWAT'S INVESTMENT, INC,</b>	§	
<b>d/b/a MARIPOSA GROCERIES,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Lottery Commission (Commission) seeks to revoke the Texas Lottery Sales Agent license held by Sarwat's Investment, Inc., d/b/a Mariposa Groceries (Respondent). Staff contends that, on four occasions in a 12-month period, Respondent was subject to summary suspension for non-transfer of funds to the Commission. Accordingly, Staff seeks revocation of Respondent's license under 16 Texas Administrative Code § 401.353(e). After considering the evidence and arguments presented by the parties at the contested case hearing, the Administrative Law Judge (ALJ) concludes that Staff proved its allegations and that Respondent's license should be revoked.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

On March 22, 2017, Staff referred this case to the State Office of Administrative Hearings (SOAH) for assignment of an ALJ to conduct a hearing on Staff's proposed revocation of Respondent's license. On June 22, 2017, ALJ Craig R. Bennett conducted a hearing at SOAH offices in Austin, Texas, to consider Staff's allegations. Stephen White, Assistant General Counsel, represented the Staff. Respondent was represented by its principal, Faraz Ahmad. Jurisdiction and notice were not disputed and are discussed only in the Findings of Fact and Conclusions of Law below. The hearing adjourned and the record closed the same day, June 22, 2017.

## II. DISCUSSION

### A. Applicable Law

Pursuant to 16 Texas Administrative Code § 401.353(b), each lottery retailer shall maintain an account balance sufficient to cover moneys due the Commission for ticket sales during the established billing period. The moneys are collected by electronic funds transfers that occur when the account is “swept” by the Commission. In the event a retailer fails to maintain a sufficient account balance to cover an electronic sweep for the established billing period, the retailer’s license shall be summarily suspended.<sup>1</sup> If a retailer has four instances in a 12-month period of insufficient funds or non-transfer of funds, the retailer’s license shall be revoked.<sup>2</sup> The Commission has adopted a standard penalty chart for violations. Under the standard penalty chart, the Commission’s standard penalty for a licensee incurring four notices of nonsufficient fund transfers within a 12-month period is revocation of the license.<sup>3</sup>

### B. Evidence and Argument

At the hearing, Fred Pitre testified for Staff and Mr. Ahmad testified for Respondent. Further, a total of 13 exhibits were admitted into evidence—ten by Staff and three by Respondent. The evidence establishes the following facts.

On four occasions from July 7, 2016, to February 23, 2017, the Commission unsuccessfully swept<sup>4</sup> the bank account in which Respondent kept funds corresponding to Respondent’s lottery sales. Respondent’s retailer’s license was summarily suspended on each occasion. Mr. Pitre, an Account Manager IV for the Commission, affirmed that neither the applicable statute nor the Commission’s rules address any circumstances that would absolve a

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<sup>1</sup> 16 Tex. Admin. Code § 401.353(e).

<sup>2</sup> 16 Tex. Admin. Code § 401.353(e).

<sup>3</sup> 16 Tex. Admin. Code § 401.160(g)(10).

<sup>4</sup> An unsuccessful sweep occurred when the Commission attempted to withdraw the funds due, but the account had insufficient funds.

retailer of responsibility from an unsuccessful account sweep. Nonetheless, he acknowledged, the Commission has adopted the informal practice of not holding the retailer responsible in the event of bank error. The Commission has a form letter that the appropriate bank representative may complete and submit to the Commission in the event that an error prevented the Commission's sweep. Respondent has not submitted such a letter to the Commission.

In response, Mr. Ahmad, Respondent's principal, testified that the account had adequate funds in it on the date the Commission originally notified him that it intended to sweep the account. However, due to a bank holiday, the Commission swept a day later than Mr. Ahmad was expecting and Mr. Ahmad did not have sufficient funds in his account on that date, February 23, 2017. Mr. Ahmad testified that he had not received training from the Commission or a copy of the retailer manual that details the Commission's policies and procedures regarding sweeps, including the Commission's process for dealing with bank holidays. He argued that it was unfair for the Commission to notify him it was going to sweep the account one day, and then not sweep it until a day later. In this situation, he contended he should not be punished—especially when he had sufficient funds in the account the day before when he thought it was going to be swept.

In reply, Staff argued that it ultimately is the retailer's obligation to ensure that it has sufficient funds in its account at the time of an electronic sweep, regardless of whether the sweep is delayed. Staff contends that a retailer holds the Commission's funds in trust and is not permitted to use them for any other purposes. Therefore, it makes no difference whether the funds were in the account the day before, as they should have still been there the next day since they were the Commission's funds held in trust.

### **C. ALJ's Analysis and Recommendation**

Respondent's lottery sales agent license should be revoked. Although the Commission indeed swept Respondent's account a day later than it originally indicated to Respondent the sweep would occur, the funds should nevertheless have been available. The Commission's rules at 16 Texas Administrative Code § 401.351 provide a retailer's responsibility regarding the proceeds from lottery ticket sales:

All proceeds from the sale of lottery tickets received by a retailer shall constitute a trust fund until paid to the commission either directly or through the commission's authorized collection representative. A retailer shall have a fiduciary duty to preserve and account for lottery proceeds and retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets and commission and/or commission vendor property received by a retailer and cash proceeds of sale of any lottery products, net of allowable sales commissions and credit for lottery prizes to winners by retailers. Sales proceeds, unused instant tickets, and commission and/or commission vendor property shall be delivered to the commission or its authorized collection representative on demand. Retailers shall place all lottery proceeds due the commission in accounts in institutions insured by the United States government not later than the close of the next banking day after the date of their collection by the retailer until the date that they are paid over to the commission. (Emphasis added)

Thus, it is clear that a retailer has a duty to maintain the Commission's funds held in trust until such time as the Commission sweeps the funds. By failing to maintain the funds, Respondent violated this provision. Further, 16 Texas Administrative Code § 401.352(a) provides that:

The commission may require a retailer to establish a single separate electronic funds transfer account, where available, for the purpose of receiving monies from ticket sales, making payments to the commission and receiving payments from the commission. Failure to have sufficient funds available to cover an electronic funds transfer to the commission's account shall be cause for suspension, summary suspension and revocation of a retailer's license at each location where such retailer is licensed. (Emphasis added)

It is impermissible for Respondent to use funds collected from lottery ticket sales to pay other bills. Those funds do not belong to Respondent and are being held in trust for the Commission. Thus, regardless of what date the Commission swept Respondent's account, the balance should minimally reflect the amount due to the Commission from the sale of lottery tickets. Moreover, this was not the first instance of insufficient funds. Respondent had three other instances of insufficient funds in the prior 12 months. Given these facts, the ALJ concludes that Respondent clearly violated 16 Texas Administrative Code §§ 401.351, .352(a), and .353(b) of the Commission's rules by failing to have sufficient funds to transfer to the Commission during each of the attempted sweeps. Because it had four instances of non-transfer of funds in a 12-month period, Respondent's license should be revoked as provided in 16 Texas Administrative Code § 401.353(e).

### III. FINDINGS OF FACT

1. Sarwat's Investment, Inc., d/b/a Mariposa Groceries (Respondent) is a retail lottery sales agent licensed by the Texas Lottery Commission (Commission). Respondent holds license number 173927.
2. On the following dates, Respondent failed to electronically transfer funds to the Commission for the following amounts owed to the Commission for the sale of lottery tickets:
  - (a) July 7, 2016, in the amount of \$1,470.62;
  - (b) September 21, 2016, in the amount of \$1,188.60;
  - (c) October 13, 2016, in the amount of \$1,521.40; and
  - (d) February 23, 2017, in the amount of \$782.85.
3. Respondent's retailer license was summarily suspended for non-transfer of funds four times within a 12-month period.
4. On March 23, 2017, the Commission's staff (Staff) issued a notice of hearing to Respondent. The notice of hearing advised Respondent 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; and a short, plain statement of the factual matters asserted. Respondent received the notice.
5. The hearing convened and closed before Administrative Law Judge Craig R. Bennett on June 22, 2017, at the State Office of Administrative Hearings, located in the William P. Clements Building, 300 West 15th Street in Austin, Texas. Faraz Ahmad appeared at the hearing on behalf of Respondent. Staff appeared and was represented by Stephen White, assistant general counsel.

### IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this case pursuant to the Texas Lottery Act (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 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 Respondent pursuant to Texas Government Code §§ 2001.051-2001.052, § 466.155(b) of the Act, and 16 Texas Administrative Code § 401.205(4).

4. Respondent violated 16 Texas Administrative Code § 401.352, which requires a lottery retailer to have sufficient funds on deposit to cover electronic sweeps conducted by the Commission.
5. Pursuant to § 466.155(a)(5) of the Act and 16 Texas Administrative Code §§ 401.352(a) and .353(e), the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the Findings of Fact and Conclusions of Law.
6. Because Respondent's retailer license was summarily suspended for non-transfer of funds four times within a 12-month period, the license should be revoked as provided under 16 Texas Administrative Code § 401.353(e).

**SIGNED August 18, 2017.**



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























**Commission Order No. 18-0018**

**Date: OCTOBER 5, 2017**

**DOCKET NO. 362-17-4109.B**

<b>TEXAS LOTTERY COMMISSION</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
<b>PETITIONER</b>	<b>§</b>	
	<b>§</b>	
<b>VS.</b>	<b>§</b>	
	<b>§</b>	
<b>RICHARD GONZALES</b>	<b>§</b>	
<b>RESPONDENT</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**ORDER OF THE COMMISSION**

TO: Mr. Richard Gonzales  
6219 Big Valley Rd.  
San Antonio, TX 78242

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the above styled case in which Richard Gonzales (Respondent), Worker Registry No. 146131, 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). 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. 18-0018**

**Date: OCTOBER 5, 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 conditionally 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, provided the Respondent did not file a motion to set aside the default no later than 15 days from the date of the Conditional Order of Default Dismissal and Remand issued by the ALJ.

5. The Respondent did not file a motion to set aside the default within the 15 days from the date of the Conditional Order issued by the ALJ.

**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.

**Commission Order No. 18-0018**

**Date: OCTOBER 5, 2017**

**III. Order**

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

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

2. Richard Gonzales, Worker Registry No. 146131, is hereby removed from the Registry of Approved Bingo Workers.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 5<sup>TH</sup> day of OCTOBER, 2017.

Entered this 5<sup>TH</sup> day of OCTOBER, 2017.

---

J. WINSTON KRAUSE, CHAIRMAN

---

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

SOAH DOCKET NO. 362-17-4109.B  
WORKER REGISTRY NO. 146131

TEXAS LOTTERY COMMISSION, Petitioner	§	BEFORE THE STATE OFFICE
	§	
	§	
v.	§	OF
	§	
RICHARD GONZALES, Respondent	§	ADMINISTRATIVE HEARINGS

ORDER NO. 1  
CONDITIONAL ORDER OF  
DEFAULT DISMISSAL AND REMAND

This matter was set for hearing on July 11, 2017, before Administrative Law Judge (ALJ) Hunter Burkhalter. Assistant General Counsel Kristen Guthrie appeared on behalf of the staff (Staff) of the Texas Lottery Commission (Commission). (Respondent) Richard Gonzales did not appear and was not represented at the hearing. Staff Exhibits 1 and 2 were admitted into evidence. Upon finding that Staff's evidence established adequate notice to Respondent, the ALJ granted Staff's oral motion for default.<sup>1</sup>

Due to Respondent's failure to appear, this matter may be dismissed from the docket of the State Office of Administrative Hearings and returned to the Commission for informal disposition on a default basis in accordance with Texas Government Code § 2001.056. **IT IS, THEREFORE, ORDERED** that this case is **CONDITIONALLY DISMISSED AND REMANDED** pursuant to 1 Texas Administrative Code § 155.501(d)(1). **This order of dismissal will become final, without further action by the ALJ, unless Respondent files a motion to set aside the default not later than 15 days from the date of this order.**

<sup>1</sup> 1 Tex. Admin. Code § 155.501(d)(1). The ALJ only reviewed the adequacy of the notice and not the sufficiency of Staff's factual allegations.

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GENERAL COUNSEL  
RECEIVED  
405483

SOAH DOCKET NO. 362-17-4109.B

ORDER NO. 1

PAGE 2

Such a motion must show good cause for reopening the hearing, or show that the interests of justice require setting aside the default dismissal.

SIGNED July 11, 2017.



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HUNTER BURKHALTER  
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 8543 2970

May 17, 2017

Mr. Richard Gonzales  
6219 Big Valley Rd.  
San Antonio, TX 78242

**RE: NOTICE OF HEARING CONCERNING REMOVAL FROM THE REGISTRY  
RICHARD GONZALES, BINGO WORKER  
WORKER REGISTRY NO. 146131  
DOCKET NO. 362-17-4109.B**

Dear Mr. Gonzales:

Be advised that a public hearing will be held to consider whether the Texas Lottery Commission, Charitable Bingo Operations Division (Commission), should remove you from the Registry of Approved Bingo Workers, and/or assess administrative penalties, 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:

<b>TIME OF HEARING:</b>	<b>9:00 a.m.</b>
<b>DATE OF HEARING:</b>	<b>July 11, 2017</b>
<b>LOCATION OF HEARING:</b>	<b>State Office of Administrative Hearings William P. Clements Building 300 West 15<sup>th</sup> Street, 4<sup>th</sup> Floor Austin, Texas 78701</b>

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

On January 12, 2017, Richard Gonzales did not wear, present, visibly display, or list the individual's name and unique registration number in a legible manner on his prescribed identification card, while on duty, in violation of TEX. OCC. CODE ANN. § 2001.314(a) and 16 TEX. ADMIN. CODE § 402.402(k). Specifically, Mr. Gonzales did not wear his worker registry identification card during both bingo occasions conducted on January 12, 2017.

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

TEX. OCC. CODE ANN. § 2001.314(a) states in part:

The Commission may require an individual listed in the registry maintained under Section 2001.313 to wear an identification card to identify the individual to license holders, bingo players, and commission staff while the individual is on duty during the conduct of bingo.

16 TEX. ADMIN. CODE § 402.402(k)(1) states:

The Commission will issue an identification card indicating that the individual is listed in the registry. A registered worker and operator must wear his/her identification card while on duty.

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.

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.

**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,



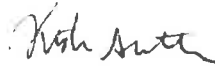
---

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 17 day of May, 2017, a true and correct copy of the foregoing **NOTICE OF HEARING CONCERNING REMOVAL FROM THE REGISTRY**, Docket No. 362-17-4109.B, has been served by First Class United States Mail and Certified Mail No. 91 7199 9991 7030 8543 2970, 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. Richard Gonzales, 6219 Big Valley Rd., San Antonio, TX 78242.



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

Ms. Annabel House  
Ambler Bingo Unit  
P.O. Box 68  
Tuscola, TX 79562-0068

(Certified Mail No. 91 7199 9991 7030 8543 2987  
and First Class U.S. Mail)

Mr. Roger Coxé  
Lawn Volunteer Fire Fighters  
P.O. Box 126  
Lawn, TX 79530-0126

(Certified Mail No. 91 7199 9991 7030 8543 2994  
and First Class U.S. Mail)

Ms. Annabel House  
Abilene Opera Association, Inc.  
3433 S. Willis St.  
Abilene, TX 79605-6653

(Certified Mail No. 91 7199 9991 7030 8543 3007  
and First Class U.S. Mail)

Mr. David Allman  
South Taylor Emergency Medical Service  
1458 County Road 314  
Abilene, TX 79606

(Certified Mail No. 91 7199 9991 7030 8543 2680  
and First Class U.S. Mail)

Mr. Richard Gonzales  
Worker Registry No. 146131  
Page 5 of 5

Mr. Franklin Cozby  
Jim Ned Volunteer Fire Department  
Incorporated  
P.O. Box 424  
Tuscola, TX 79562-0424

(Certified Mail No. 91 7199 9991 7030 8543 2697  
and First Class U.S. Mail)

Mr. Jack Guzman  
LULAC Council 605  
P.O. Box 2106  
Abilene, TX 79604-2106

(Certified Mail No. 91 7199 9991 7030 8543 2703  
and First Class U.S. Mail)



**Commission Order No. 18-0019**

**Date: OCTOBER 5, 2017**

**DOCKET NO. 362-17-4987.B**

<b>TEXAS LOTTERY COMMISSION</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
<b>PETITIONER</b>	<b>§</b>	
	<b>§</b>	
<b>VS.</b>	<b>§</b>	
	<b>§</b>	
<b>ELKS IBPOE TEMPLE 1401</b>	<b>§</b>	
<b>EMMA MCGHEE</b>	<b>§</b>	
<b>RESPONDENT</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**ORDER OF THE COMMISSION**

TO: Ms. Diana Wyatt  
Elks IBPOE Temple 1401 Emma McGhee  
811 Homes Ave.  
Wichita Falls, TX 76301-2724

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the above styled case in which Elks IBPOE Temple 1401 Emma McGhee (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). 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. 18-0019**

**Date: OCTOBER 5, 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 conditionally 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, provided the Respondent did not file a motion to set aside the default no later than 15 days from the date of the Conditional Order of Default Dismissal and Remand issued by the ALJ.

5. The Respondent did not file a motion to set aside the default within the 15 days from the date of the Conditional Order issued by the ALJ.

**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.

**Commission Order No. 18-0019**

**Date: OCTOBER 5, 2017**

**III. Order**

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

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

2. The license of Elks IBPOE Temple 1401 Emma McGhee to conduct bingo is hereby revoked.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 5<sup>TH</sup> day of OCTOBER, 2017.

Entered this 5<sup>TH</sup> day of OCTOBER, 2017.

---

J. WINSTON KRAUSE, CHAIRMAN

---

CARMEN ARRIETA-CANDELARIA,  
COMMISSIONER

---

PEGGY A. HEEG, COMMISSIONER

---

DOUG LOWE, COMMISSIONER

---

ROBERT RIVERA, COMMISSIONER

SOAH DOCKET NO. 362-17-4987.B

TEXAS LOTTERY COMMISSION, Petitioner	§ § § § § § § §	BEFORE THE STATE OFFICE       OF    ADMINISTRATIVE HEARINGS
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v.

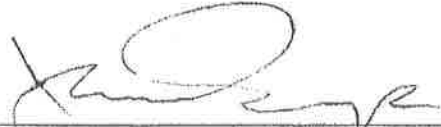
ELKS IBPOE LODGE 1401 EMMA  
 MCGHEE,  
 Respondent

**ORDER NO. 2  
 RECONSIDERING ORDER DENYING MOTION FOR DEFAULT AND  
 CONDITIONAL ORDER OF DEFAULT DISMISSAL AND REMAND**

This matter was set for hearing on August 16, 2017, before Administrative Law Judge (ALJ) Joanne Summerhays. Staff attorney Kristen Guthrie appeared on behalf of the staff (Staff) of the Texas Lottery Commission (Commission). Respondent Elks IBPOE Lodge 1401 Emma McGhee did not appear and was not represented at the hearing. The record was held open to allow Staff to submit adequate proof of notice. Staff submitted evidence of notice, but due to a filing error, the ALJ did not receive the evidence until after an order denying the motion for default was entered. Subsequently, the ALJ was made aware of the error by Staff's Motion to Reconsider Order No. 1 filed on August 22, 2017, and reopened the record to receive the notice evidence. Upon considering Staff's Exhibits 1, 6, and 10 showing proof of adequate notice to Respondent, the ALJ grants Staff's motion to reconsider, and grants Staff's motion for default.<sup>1</sup>

Due to Respondent's failure to appear, this matter may be dismissed from the docket of the State Office of Administrative Hearings and returned to the Board for informal disposition on a default basis in accordance with Texas Government Code § 2001.056. **IT IS, THEREFORE, ORDERED** that this case is **CONDITIONALLY DISMISSED AND REMANDED** pursuant to 1 Texas Administrative Code § 155.501(d)(1). **This order of dismissal will become final, without further action by the ALJ, unless Respondent files a motion to set aside the default not later than 15 days from the date of this order.** Such a motion must show good cause for reopening the hearing, or show that the interests of justice require setting aside the default dismissal.

**SIGNED August 28, 2017.**

  
 \_\_\_\_\_  
 JOANNE SUMMERHAYS  
 ADMINISTRATIVE LAW JUDGE  
 STATE OFFICE OF ADMINISTRATIVE HEARINGS

<sup>1</sup> 1 Tex. Admin. Code § 155.501(d)(1). The ALJ only reviewed the adequacy of the notice and not the sufficiency of Staff's factual allegations.



# 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 8545 9410

July 10, 2017

Ms. Diana Wyatt  
Elks Ibpoe Temple 1401 Emma McGhee  
811 Homes Ave.  
Wichita Falls, TX 76301-2724

**RE: NOTICE OF HEARING CONCERNING SUSPENSION OR REVOCATION OF  
LICENSE  
DOCKET NO. 362-17-4987.B  
ELKS IBPOE TEMPLE 1401 EMMA MCGHEE, CONDUCTOR  
TAXPAYER NUMBER – 16512193679**

Dear Ms. Wyatt:

Be advised that a public hearing will be held to consider whether the charitable bingo conductor's license of Elks Ibpoe Temple 1401 Emma McGhee, member of Superior Bingo Trust at the time of violation, 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:

<b>TIME OF HEARING:</b>	<b>9:00 a.m.</b>
<b>DATE OF HEARING:</b>	<b>August 16, 2017</b>
<b>LOCATION OF HEARING:</b>	<b>State Office of Administrative Hearings William P. Clements Building 300 West 15<sup>th</sup> Street, 4<sup>th</sup> Floor Austin, Texas 78701</b>



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

Elks Ibpoe Temple 1401 Emma McGhee, member of Superior Bingo Trust (Unit) at the time of the violation, failed to have positive net proceeds for the first quarter of 2016 through the fourth quarter of 2016, as required by TEX. OCC. CODE ANN. § 2001.451(g)(1) and 16 TEX. ADMIN. CODE § 402.452. Specifically, the net proceeds for the Unit and its members, including Elks Ibpoe Temple 1401 Emma McGhee, resulted in negative net proceeds of \$7,038 for the first quarter of 2016 through the fourth quarter of 2016. Elks Ibpoe Temple 1401 Emma McGhee has not applied for a waiver of the requirement that the bingo operations of the organization must result in positive net proceeds over the unit's prior four quarter period. Charitable Bingo Operations Division staff notified Elks Ibpoe Temple 1401 Emma McGhee of this matter in writing on February 10, 2017, and March 8, 2017.

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

TEX. OCC. CODE ANN. § 2001.438(f) and (g) state in part:

Each member of a unit is jointly and severally liable for compliance with the Bingo Enabling Act, and that each member of a unit may be a party to any administrative or judicial action relating to the enforcement of the Bingo Enabling Act 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. An organization applying for a waiver establishes good cause by providing to the commission:

(1) credible evidence of circumstances beyond the control of the organization, including force majeure; or

- (2) a credible business plan for the organization's conduct of bingo or the organization's existing or planned charitable purposes.

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

(c) Calculation of Net Proceeds for Units.

- (1) Net proceeds for units will be calculated at the end of each quarter for the prior four (4) quarter period.

- (2) Members of units failing to meet the net proceed requirement may subject their license to conduct bingo to administrative action, up to and including revocation.

- (3) The calculation of net proceeds for a licensed authorized organization that withdraws from a unit will be based on the following for the four (4) calendar quarters immediately preceding the license end date:

- (A) the amount of distributions received from the unit; and

- (B) the licensed authorized organization's quarterly reports.

- (4) The Commission may request additional information from a member of a unit to assist in the determination of compliance with this section.

- (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.**

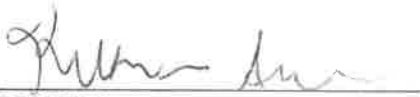
The State Office of Administrative Hearings (SOAH) is now offering you the ability to receive service of orders and other documents issued by SOAH through email rather than mail or fax. To elect to receive service of SOAH-issued documents by email, go to the SOAH website ([www.soah.state.tx.us](http://www.soah.state.tx.us)), 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,



---

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 10 day of July, 2017, a true and correct copy of the foregoing **NOTICE OF HEARING CONCERNING SUSPENSION OR REVOCATION OF LICENSE**, Docket No. 362-17-4987.B, has been served by First Class United States Mail and Certified Mail No. 91 7199 9991 7030 8545 9410, 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 Ms. Diana Wyatt, Elks Ibpoe Temple 1401 Emma McGhee, 811 Homes Ave., Wichita Falls, Texas 76301-2724.



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

Ms. Zelecka Carson  
1404 New Haven Rd.  
Wichita Falls, TX 76306-5250

(Certified Mail No. 91 7199 9991 7030 8545 9427  
and First Class U.S. Mail)

Mr. Brad Beard  
Superior Bingo, Inc.  
P.O. Box 715  
Wichita Falls, TX 76307

(Certified Mail No. 91 7199 9991 7030 8545 9373  
and First Class U.S. Mail)

Mr. Gene Buchananc  
Superior Bingo Trust  
P.O. Box 33646  
Fort Worth, TX 76162-3646

(Certified Mail No. 91 7199 9991 7030 8545 9380  
and First Class U.S. Mail)



**Commission Order No. 18-0020**

**Date: OCTOBER 5, 2017**

**DOCKET NO. 362-17-4988.B**

<b>TEXAS LOTTERY COMMISSION</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
<b>PETITIONER</b>	<b>§</b>	
	<b>§</b>	
<b>VS.</b>	<b>§</b>	
	<b>§</b>	
<b>ELKS IBPOE LODGE 1217</b>	<b>§</b>	
<b>FELIX LISTER</b>	<b>§</b>	
<b>RESPONDENT</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**ORDER OF THE COMMISSION**

TO: Mr. Gene Buchanan  
Elks IBPOE Lodge 1217 Felix Lister  
P.O. Box 33646  
Fort Worth, TX 76162-3646

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the above styled case in which Elks IBPOE Lodge 1217 Felix Lister (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). 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. 18-0020**

**Date: OCTOBER 5, 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 conditionally 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, provided the Respondent did not file a motion to set aside the default no later than 15 days from the date of the Conditional Order of Default Dismissal and Remand issued by the ALJ.

5. The Respondent did not file a motion to set aside the default within the 15 days from the date of the Conditional Order issued by the ALJ.

**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.



**Commission Order No. 18-0020**

**Date: OCTOBER 5, 2017**

**III. Order**

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

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

2. The license of Elks IBPOE Lodge 1217 Felix Lister to conduct bingo is hereby revoked.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 5<sup>TH</sup> day of OCTOBER, 2017.

Entered this 5<sup>TH</sup> day of OCTOBER, 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

SOAH DOCKET NO. 362-17-4988.B

TEXAS LOTTERY COMMISSION,  
Petitioner

v.

ELKS IBPOE LODGE 1217 FELIX  
LISTER,  
Respondent

§  
§  
§  
§  
§  
§  
§

BEFORE THE STATE OFFICE

OF


ADMINISTRATIVE HEARINGS

ORDER NO. 1  
CONDITIONAL ORDER OF  
DEFAULT DISMISSAL AND REMAND

This matter was set for hearing on August 16, 2017, before Administrative Law Judge (ALJ) Joanne Summerhays. Staff attorney Kristen Guthrie appeared on behalf of the staff (Staff) of the Texas Lottery Commission (Commission). Respondent Elks IBPOE Lodge 1217 Felix Lister did not appear and was not represented at the hearing. Upon receiving Staff's Exhibits 1, 2, and 7 showing proof of adequate notice to Respondent, the ALJ granted Staff's oral motion for default.<sup>1</sup>

Due to Respondent's failure to appear, this matter may be dismissed from the docket of the State Office of Administrative Hearings and returned to the Commission for informal disposition on a default basis in accordance with Texas Government Code § 2001.056. **IT IS, THEREFORE, ORDERED** that this case is **CONDITIONALLY DISMISSED AND REMANDED** pursuant to 1 Texas Administrative Code § 155.501(d)(1). **This order of dismissal will become final, without further action by the ALJ, unless Respondent files a motion to set aside the default not later than 15 days from the date of this order.** Such a motion must show good cause for reopening the hearing, or show that the interests of justice require setting aside the default dismissal.

**SIGNED August 21, 2017.**

  
JOANNE SUMMERHAYS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

<sup>1</sup> 1 Tex. Admin. Code § 155.501(d)(1). The ALJ only reviewed the adequacy of the notice and not the sufficiency of Staff's factual allegations.



# 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 8545 9397

July 10, 2017

Mr. Gene Buchanan  
Elks Ibpoe Lodge 1217 Felix Lister  
P.O. Box 33646  
Fort Worth, TX 76162-3646

**RE: NOTICE OF HEARING CONCERNING SUSPENSION OR REVOCATION OF  
LICENSE  
DOCKET NO. 362-17-4988.B  
ELKS IBPOE LODGE 1217 FELIX LISTER, CONDUCTOR  
TAXPAYER NUMBER – 12376217134**

Dear Mr. Buchanan:

Be advised that a public hearing will be held to consider whether the charitable bingo conductor's license of Elks Ibpoe Lodge 1217 Felix Lister, member of Superior Bingo Trust at the time of violation, 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: 9:00 a.m.**  
**DATE OF HEARING: August 16, 2017**  
**LOCATION OF HEARING: 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**

Elks Ibpoe Lodge 1217 Felix Lister, member of Superior Bingo Trust (Unit) at the time of the violation, failed to have positive net proceeds for the first quarter of 2016 through the fourth quarter of 2016, as required by TEX. OCC. CODE ANN. § 2001.451(g)(1) and 16 TEX. ADMIN. CODE § 402.452. Specifically, the net proceeds for the Unit and its members, including Elks Ibpoe Lodge 1217 Felix Lister, resulted in negative net proceeds of \$7,038 for the first quarter of 2016 through the fourth quarter of 2016. Elks Ibpoe Lodge 1217 Felix Lister has not applied for a waiver of the requirement that the bingo operations of the organization must result in positive net proceeds over the unit's prior four quarter period. Charitable Bingo Operations Division staff notified Elks Ibpoe Lodge 1217 Felix Lister of this matter in writing on February 10, 2017, and March 8, 2017.

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

TEX. OCC. CODE ANN. § 2001.438(f) and (g) state in part:

Each member of a unit is jointly and severally liable for compliance with the Bingo Enabling Act, and that each member of a unit may be a party to any administrative or judicial action relating to the enforcement of the Bingo Enabling Act 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. An organization applying for a waiver establishes good cause by providing to the commission:

(1) credible evidence of circumstances beyond the control of the organization, including force majeure; or

(2) a credible business plan for the organization's conduct of bingo or the organization's existing or planned charitable purposes.

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

(c) Calculation of Net Proceeds for Units.

(1) Net proceeds for units will be calculated at the end of each quarter for the prior four (4) quarter period.

(2) Members of units failing to meet the net proceed requirement may subject their license to conduct bingo to administrative action, up to and including revocation.

(3) The calculation of net proceeds for a licensed authorized organization that withdraws from a unit will be based on the following for the four (4) calendar quarters immediately preceding the license end date:

(A) the amount of distributions received from the unit; and

(B) the licensed authorized organization's quarterly reports.

(4) The Commission may request additional information from a member of a unit to assist in the determination of compliance with this section.

(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.**

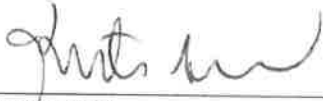
The State Office of Administrative Hearings (SOAH) is now offering you the ability to receive service of orders and other documents issued by SOAH through email rather than mail or fax. To elect to receive service of SOAH-issued documents by email, go to the SOAH website ([www.soah.state.tx.us](http://www.soah.state.tx.us)), 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,

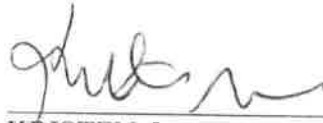


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KRISTEN GUTHRIE  
Assistant General Counsel  
Texas Lottery Commission

CERTIFICATE OF SERVICE

Pursuant to the Texas Rules of Civil Procedures, Rule 21a, I do hereby certify that on this the 10 day of July, 2017, a true and correct copy of the foregoing **NOTICE OF HEARING CONCERNING SUSPENSION OR REVOCATION OF LICENSE**, Docket No. 362-17-4988.B, has been served by First Class United States Mail and Certified Mail No. 91 7199 9991 7030 8545 9397, 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. Gene Buchanan, Elks Ibpoe Lodge 1217 Felix Lister, P.O. Box 33646, Fort Worth, TX 76162-3646.



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. Aaron Trotter  
306 Truman Dr.  
Electra, TX 76360

(Certified Mail No. 91 7199 9991 7030 8545 9403  
and First Class U.S. Mail)

Mr. Brad Beard  
Superior Bingo, Inc.  
P.O. Box 715  
Wichita Falls, TX 76307

(Certified Mail No. 91 7199 9991 7030 8545 9373  
and First Class U.S. Mail)

Mr. Gene Buchanan  
Superior Bingo Trust  
P.O. Box 33646  
Fort Worth, TX 76162-3646

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and First Class U.S. Mail)