



INTEROFFICE MEMO

Gary Grief, Executive Director Michael P. Farrell, Charitable Bingo Operations Director

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

From: Bob Biard, General Counsel 

Date: February 7, 2019

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

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

Date: FEBRUARY 7, 2019

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

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 §§ 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

Date: FEBRUARY 7, 2019

the Commission for informal disposition, in accordance with Tex. Gov't Code §2001.058(d-1) and 1 Tex. Admin. Code §155.501(d).

4. The ALJ conditionally dismissed the referenced cases from the SOAH docket and remanded these cases to the Commission for informal disposition under Tex. Gov't Code §2001.056, provided the Respondent in each case did not file a motion to set aside the default within 15 days from the date of the ALJ's Order Remanding Case to Commission.

5. In each case, Respondent did not file a motion to set aside the default within 15 days from the date of the ALJ's Order.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code §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 §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.

Date: FEBRUARY 7, 2019

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
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 7TH day of FEBRUARY 2019.

Entered this 7TH day of FEBRUARY 2019.

J. WINSTON KRAUSE, CHAIRMAN

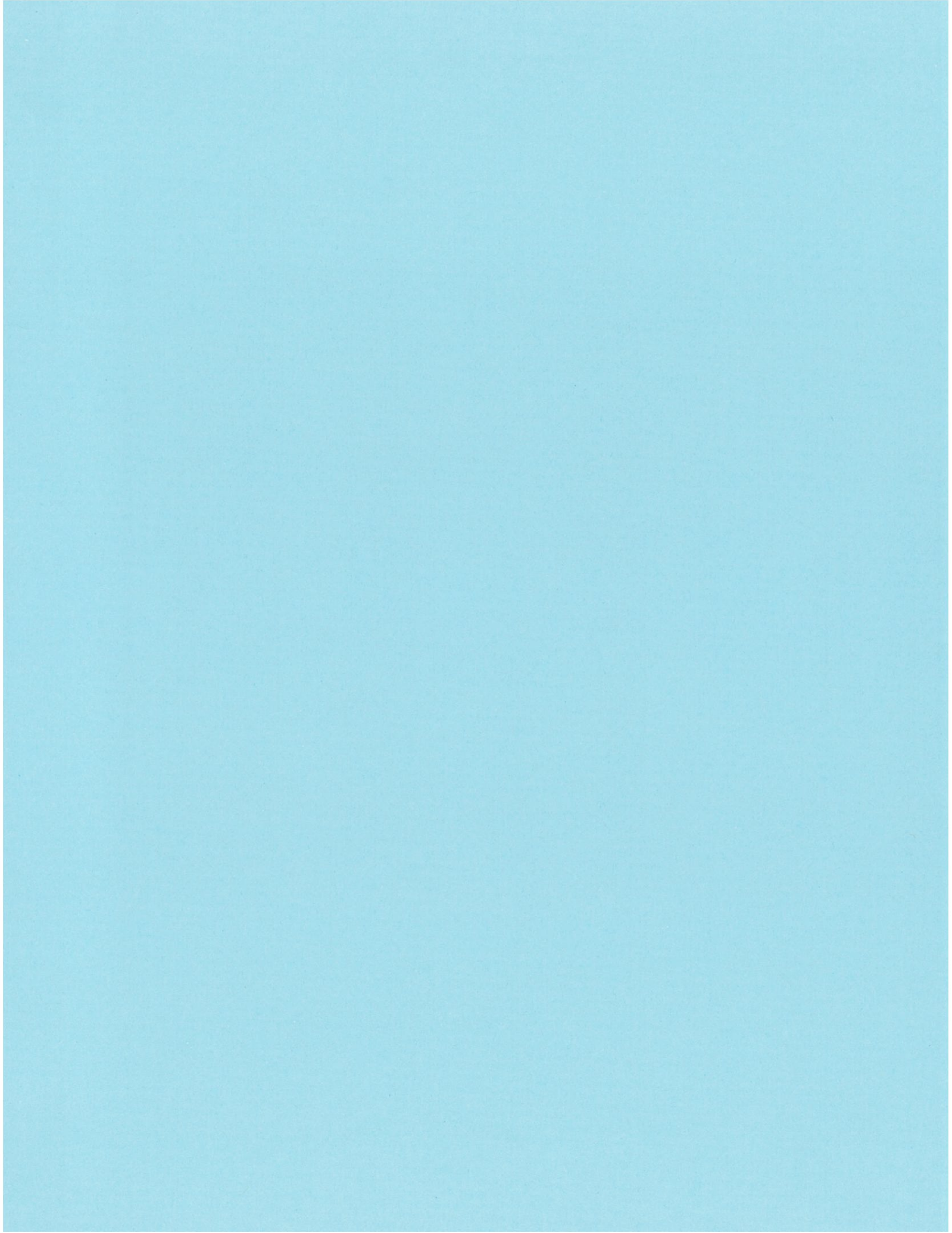
CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

Date: FEBRUARY 7, 2019**ATTACHMENT A**

| TAB NO. | SOAH DOCKET NO. | TICKET SALES AGENT NAME | TICKET SALES AGENT ADDRESS | LOTTERY LICENSE NO. |
|----------------|------------------------|---|--|----------------------------|
| A. | 362-18-5096 | Alesha Management Group LLC d/b/a Thompson Oil | P.O. Box 53 Lovelady, TX 75851 | 176413 |
| B. | 362-19-0274 | Right Stores LLC d/b/a Right Food Mart | P.O. Box 145 Porter, TX | 181099 |
| C. | 362-19-0701 | Simon T. Tessema d/b/a Yolo Liquor Store | 3101 Glenmont Dr., Suite B Houston, TX 77081-1471 | 178713 |
| D. | 362-19-0702 | La Porte Holdings LLC d/b/a La Porte Express | 11323 Barker Cypress Rd. Cypress, TX 77433 | 181515 |
| E. | 362-19-0930 | Birat Enterprises LLC d/b/a Mystop #1 | 824 Richmond Rd. Texarkana, TX 75503 | 177880 |
| F. | 362-19-1013 | Sai Harshit Inc. d/b/a D and M Mart | P.O. Box 541895 Grand Prairie, TX 75054 | 178795 |
| G. | 362-19-1133 | Old Wharf Enterprises LLC d/b/a Oak Hill Liquors | 3633 SW Moody St., Suite C Victoria, TX 77905 | 180170 |
| H. | 362-19-1135 | Rodriguez Get N Go Food Mart LLC d/b/a Get N Go Food Mart | 301 E. Broadway St. Cuero, TX 77954 | 185358 |
| I. | 362-19-1270 | Henry Tran d/b/a Quik Store | 91 South Lockwood Dr. Houston, TX 77011 | 157081 |
| J. | 362-19-1272 | The Daya Enterprise Inc. d/b/a Regal Food Mart | 2010 1 st Street Palacios, TX 77465 | 176758 |
| K. | 362-19-1346 | DASC Ventures Inc. d/b/a Tomball Postal and More | 24922 SH 249 Tomball, TX 77375 | 183276 |



DOCKET NO.: SEE ATTACHMENT A

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

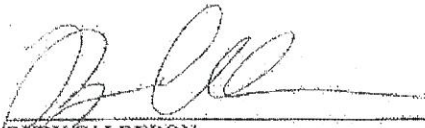
**CONDITIONAL ORDER DISMISSING CASE FROM SOAH
AND REMANDING CASE TO COMMISSION**

On September 20, 2018, 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 and remand each case listed on Attachment A is conditionally granted, and the case are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed December 7, 2018

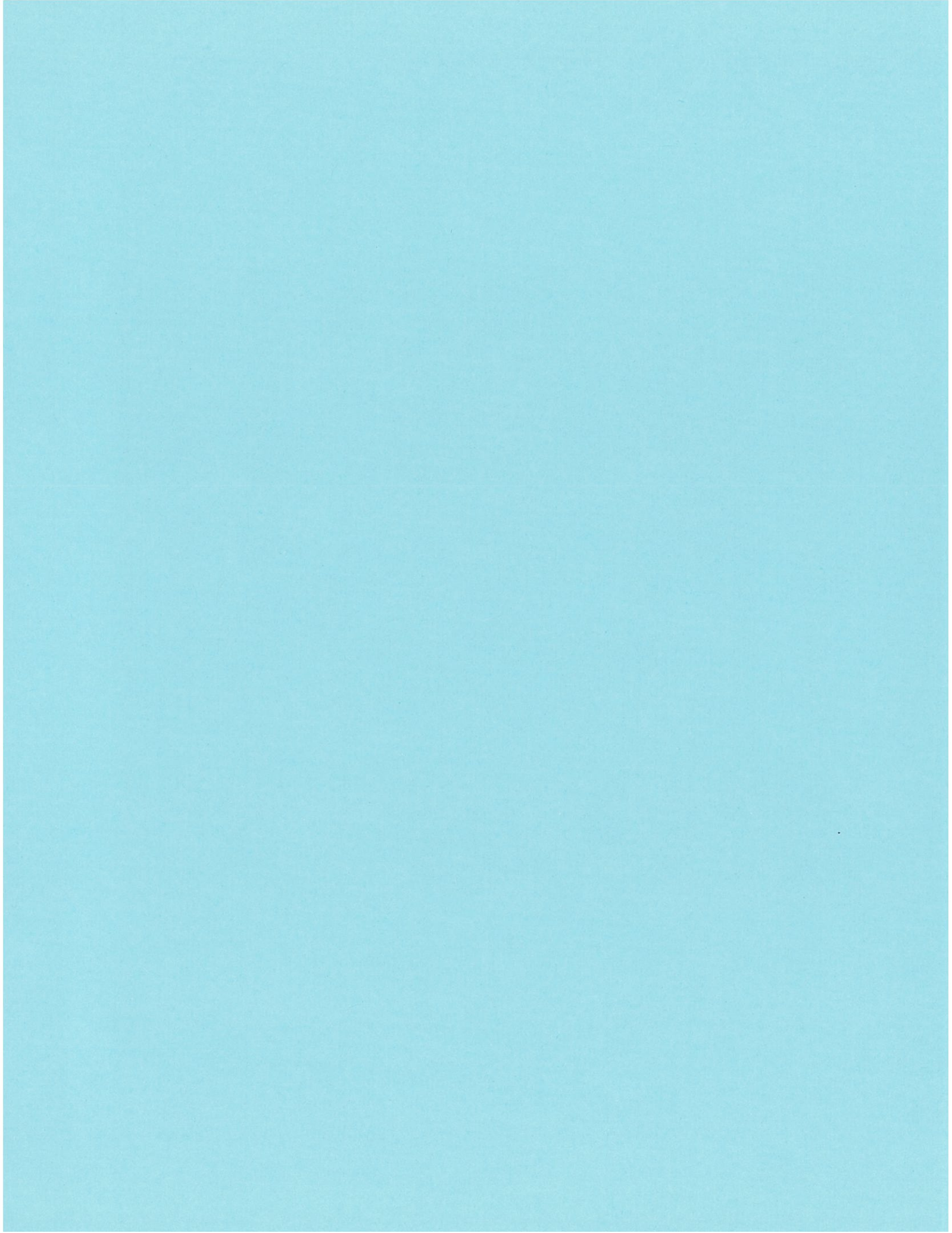


RUDY CALDERON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

HEARING HELD: September 20, 2018

| SOAH DOCKET NO. | RETAILER NAME | RETAILER ADDRESS | RETAILER NUMBER |
|--------------------|--|-----------------------------------|-----------------|
| 362-18-5096 | ALESHA MANAGEMENT GROUP LLC DBA THOMPSON OIL | P.O. BOX 53 LOVELADY, TX 75851 | 176413 |



DOCKET NO.: SEE ATTACHMENT A

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

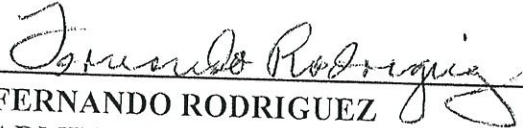
**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On November 1, 2018, 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 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 and remand each case listed on Attachment A is conditionally granted, and the case is conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

SIGNED December 17, 2018.

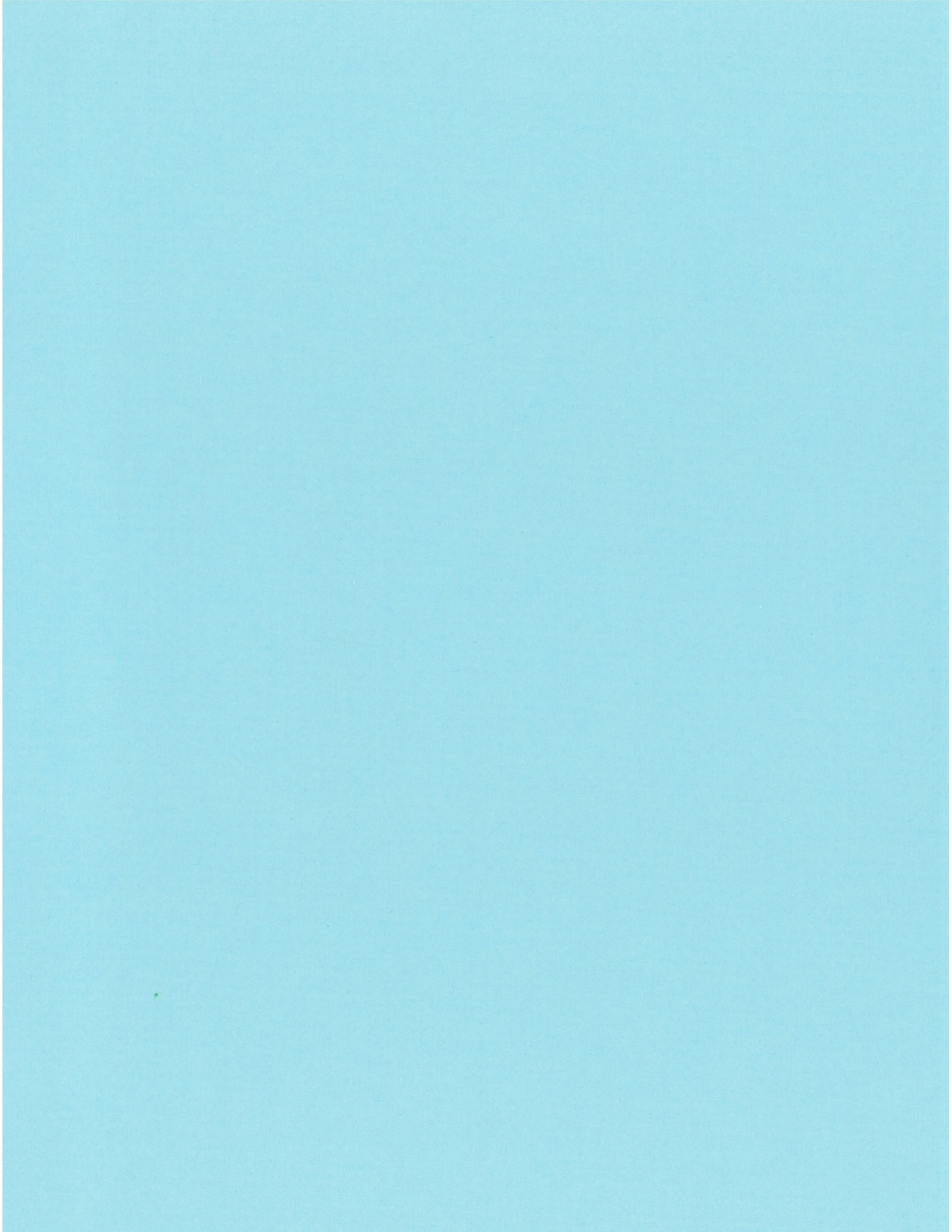


FERNANDO RODRIGUEZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS LOTTERY COMMISSION
SUMMARY SUSPENSION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTACHMENT A

HEARING HELD: November 1, 2018

| SOAH DOCKET NO. | RETAILER NAME | RETAILER ADDRESS | RETAILER NUMBER |
|--------------------|--|-------------------------------|-----------------|
| 362-19-0274 | Right Stores LLC, Agent DBA Right Food Mart | P.O. Box 145 Porter, Texas | 181099 |



DOCKET NO.: SEE ATTACHMENT A

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

**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On November 29, 2018, 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 and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

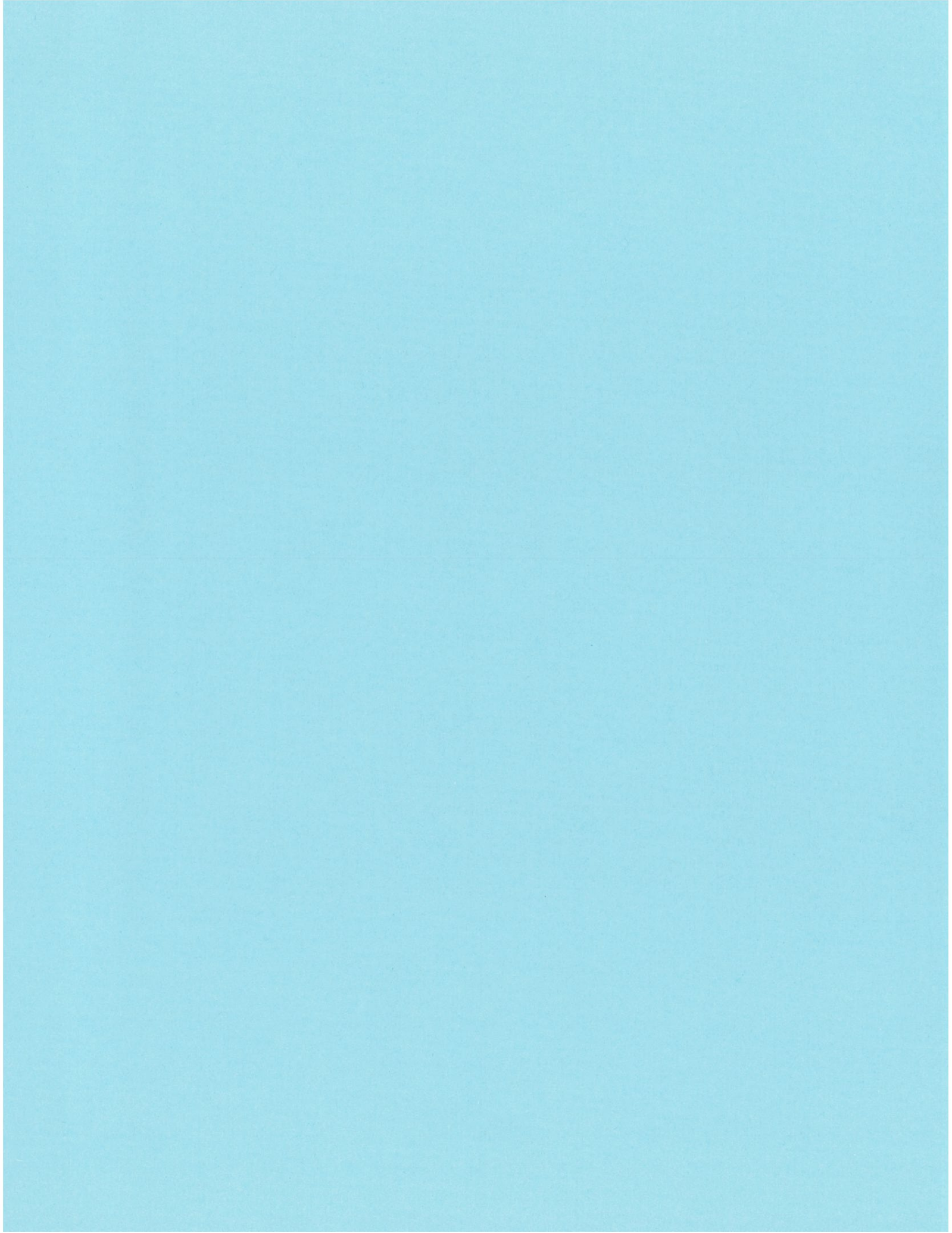
SIGNED December 7, 2018.


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: November 29, 2018

| SOAH DOCKET NO. | RETAILER NAME | RETAILER ADDRESS | RETAILER NUMBER |
|--------------------|--|---|--------------------|
| 362-19-0701 | Simon T. Tessema, Agent DBA Yolo Liquor Store | 6101 Glenmont Dr., Suite B Houston, Texas 77081-1471 | 178713 |
| 362-19-0702 | La Porte Holdings LLC, Agent DBA La Porte Express | 11323 Barker Cypress Rd Cypress, Texas 77433 | 181515 |



DOCKET NO.: SEE ATTACHMENT A

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

**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On December 6, 2018, 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 and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed January 11, 2019.



**STEVEN M. RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

TEXAS LOTTERY COMMISSION

REVOCATION HEARING

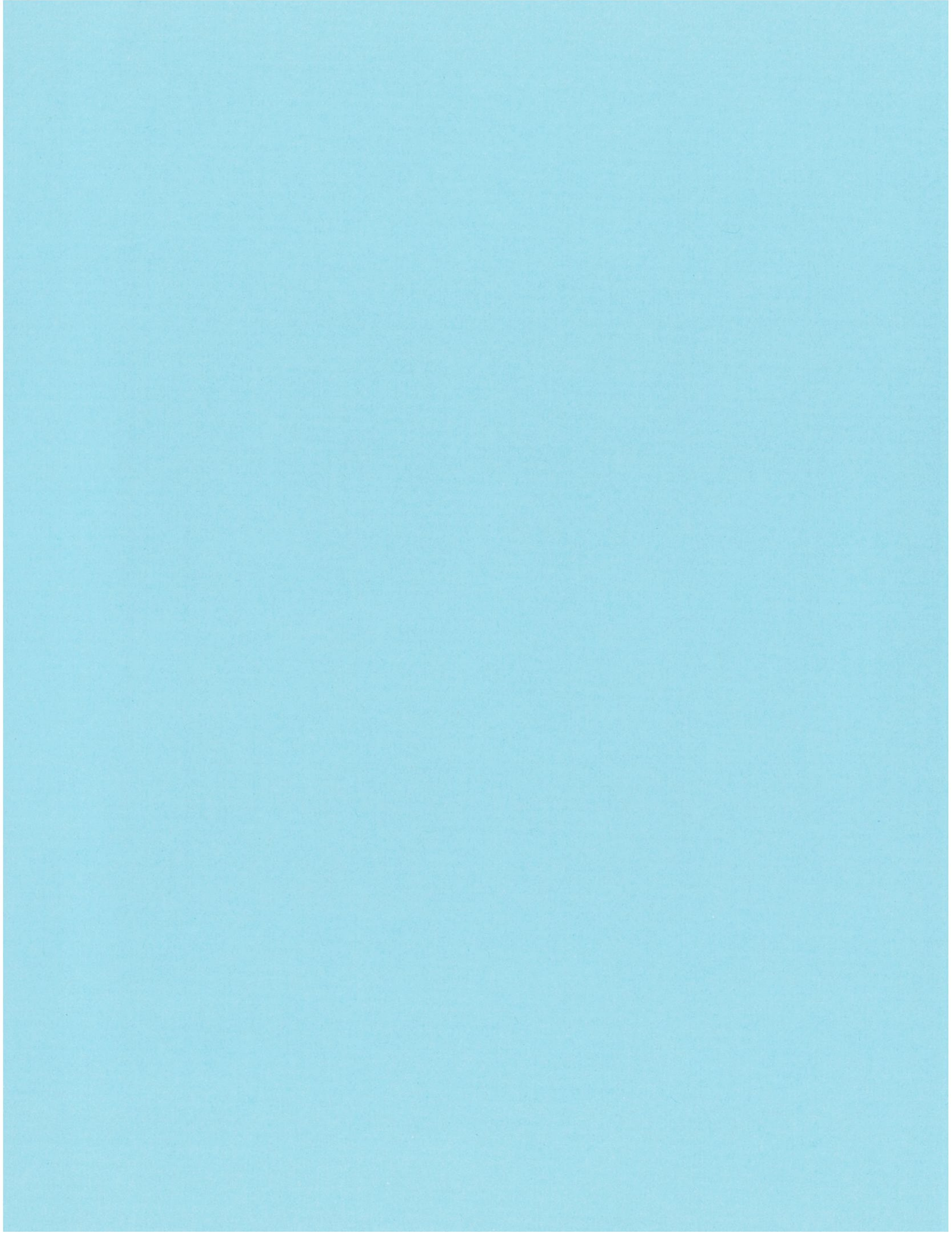
STATE OFFICE OF ADMINISTRATIVE HEARINGS

EXHIBIT 1

HEARING HELD: December 6, 2018

| SOAH DOCKET NO. | RETAILER NAME | RETAILER ADDRESS | RETAILER NUMBER |
|-----------------|--|---|-----------------|
| 362-19-0929 | SSM Enterprises Inc., Agent DBA Chevron Food Mart | 307 Zanderson Ave. Jourdanton, Texas 78026 | 175167 |
| 362-19-0930 | Birat Enterprises LLC, Agent DBA Mystop #1 | 824 Richmond Rd Texarkana, Texas 75503 | 177880 |

*Dismissed**Attachment A*



DOCKET NO.: SEE ATTACHMENT A

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


**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On December 27, 2018, 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.

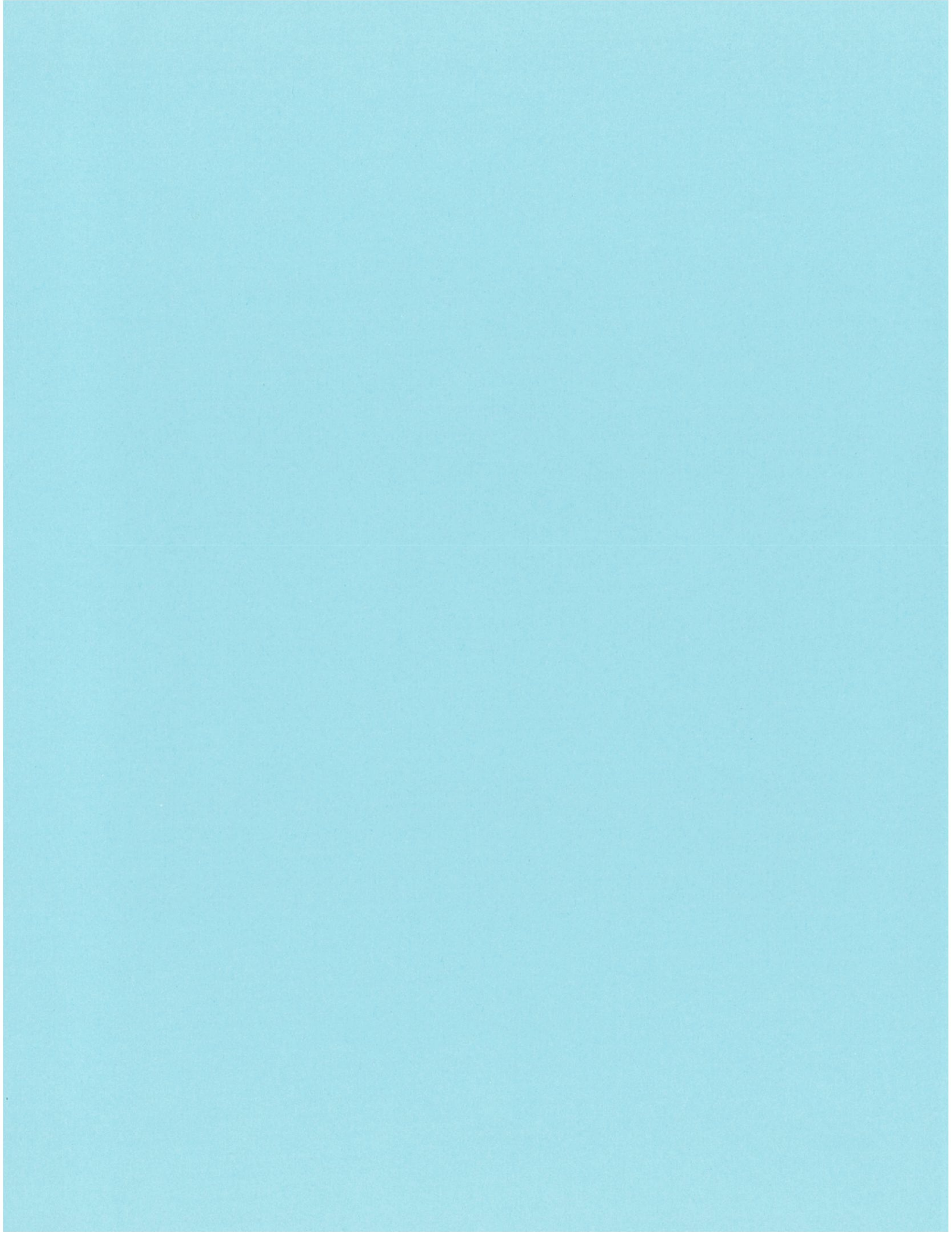
Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

SIGNED December 27, 2018.


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

TEXAS LOTTERY COMMISSION
REVOCATION HEARING
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTACHMENT A
HEARING HELD: December 27, 2018

| SOAH DOCKET NO. | RETAILER NAME | RETAILER ADDRESS | RETAILER NUMBER |
|--------------------|--|---|-----------------|
| 362-19-1013 | SAI HARSHIT INC. d/b/a D AND M MART | P.O.BOX 541895 GRAND PRAIRIE, TX 75054 | 178795 |



DOCKET NO.: SEE ATTACHMENT A

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

**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On December 20, 2018, 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 and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed December 21, 2018.


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

TEXAS LOTTERY COMMISSION

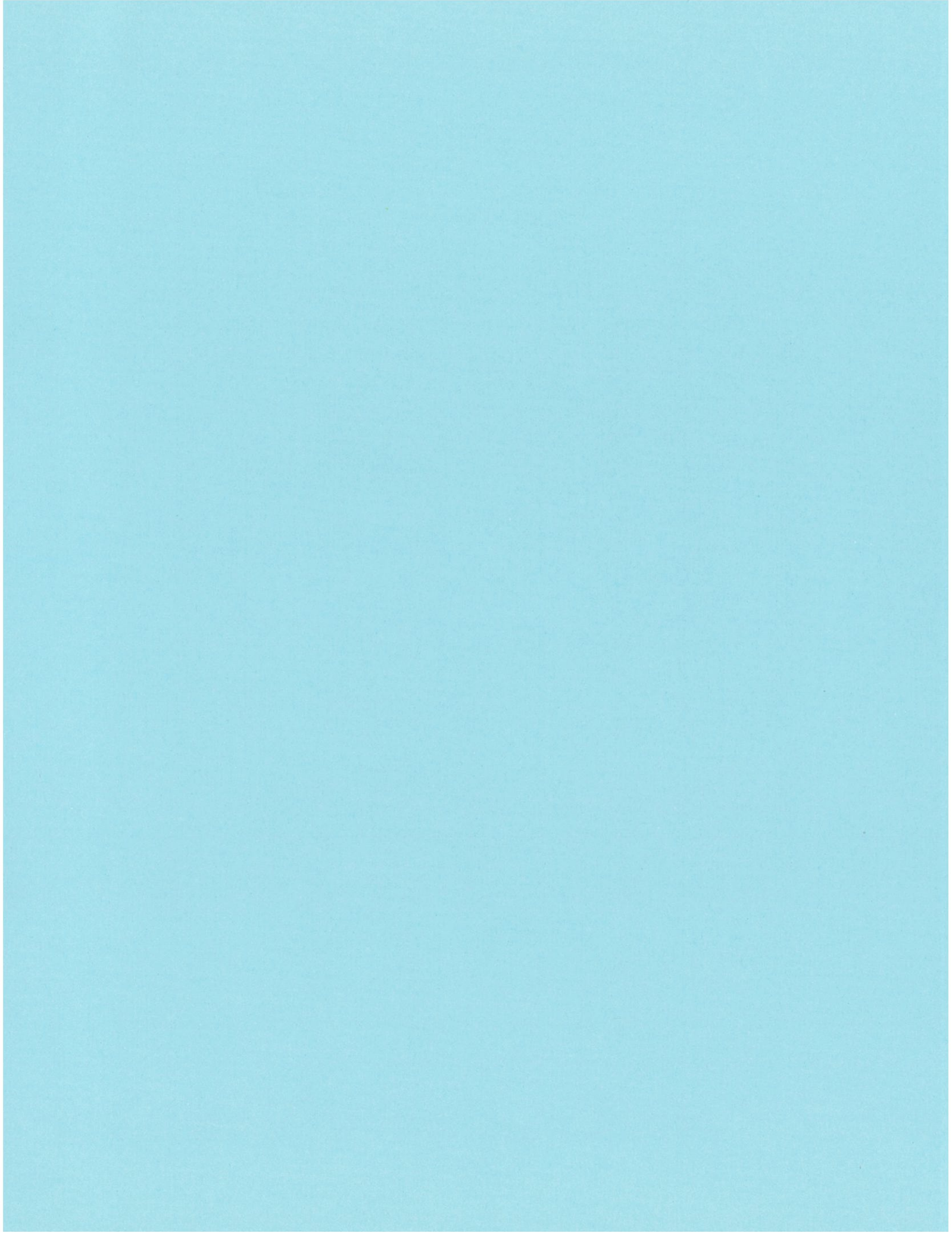
REVOCATION HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: December 20, 2018

| SOAH DOCKET NO. | RETAILER NAME | RETAILER ADDRESS | RETAILER NUMBER |
|--------------------|--|---|-----------------|
| 362-19-1133 | Old Wharf Enterprises LLC, Agent DBA Oak Hill Liquors | 3633 SW Moody St., Suite C Victoria, Texas 77905 | 180170 |
| 362-19-1135 | Rodriguez Get N Go Food Mart LLC, Agent DBA Get N Go Food Mart | 301 E. Broadway St. Cuero, Texas 77954 | 185358 |



DOCKET NO.: SEE ATTACHMENT A

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

**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On January 3, 2019, 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 and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

SIGNED January 8, 2019.


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

TEXAS LOTTERY COMMISSION

REVOCATION HEARING

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: January 3, 2019

| SOAH DOCKET NO. | RETAILER NAME | RETAILER ADDRESS | RETAILER NUMBER |
|-----------------|---|---|-----------------|
| 362-19-1270 | Henry Tran d/b/a Quik Store | 91 South Lockwood Dr. Houston, TX 77011 | 157081 |
| 362-19-1272 | The Daya Enterprise, Inc. d/b/a Regal Food Mart | 2010 1 st Street Palacios, TX 77465 | 176758 |
| 362-19-1346 | DASC Ventures Inc. d/b/a Tomball Postal and More | 24922 SH 249 Tomball, TX 77375 | 183276 |

Commission Order No. 19-0029

Date: FEBRUARY 7, 2019

DOCKET NO. 362-19-0004

| | | |
|--------------------------|---|--------------------|
| TEXAS LOTTERY COMMISSION | § | BEFORE THE TEXAS |
| PETITIONER | § | |
| | § | |
| V. | § | |
| | § | |
| CHHANTYAL SHRESTHA LLC | § | |
| D/B/A EASY SHOP | § | |
| RETAILER NO. 180308 | § | |
| RESPONDENTS | § | LOTTERY COMMISSION |

ORDER OF THE COMMISSION

TO: Chhantyal Shrestha LLC
d/b/a Easy Shop
400 1st Street, Apt. B
College Station, TX 77840

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 Texas Lottery Ticket Sales Agent License of Chhantyal Shrestha LLC d/b/a Easy Shop is hereby revoked.

Commission Order No. 19-0029

Date: FEBRUARY 7, 2019

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 7TH day of FEBRUARY 2019.

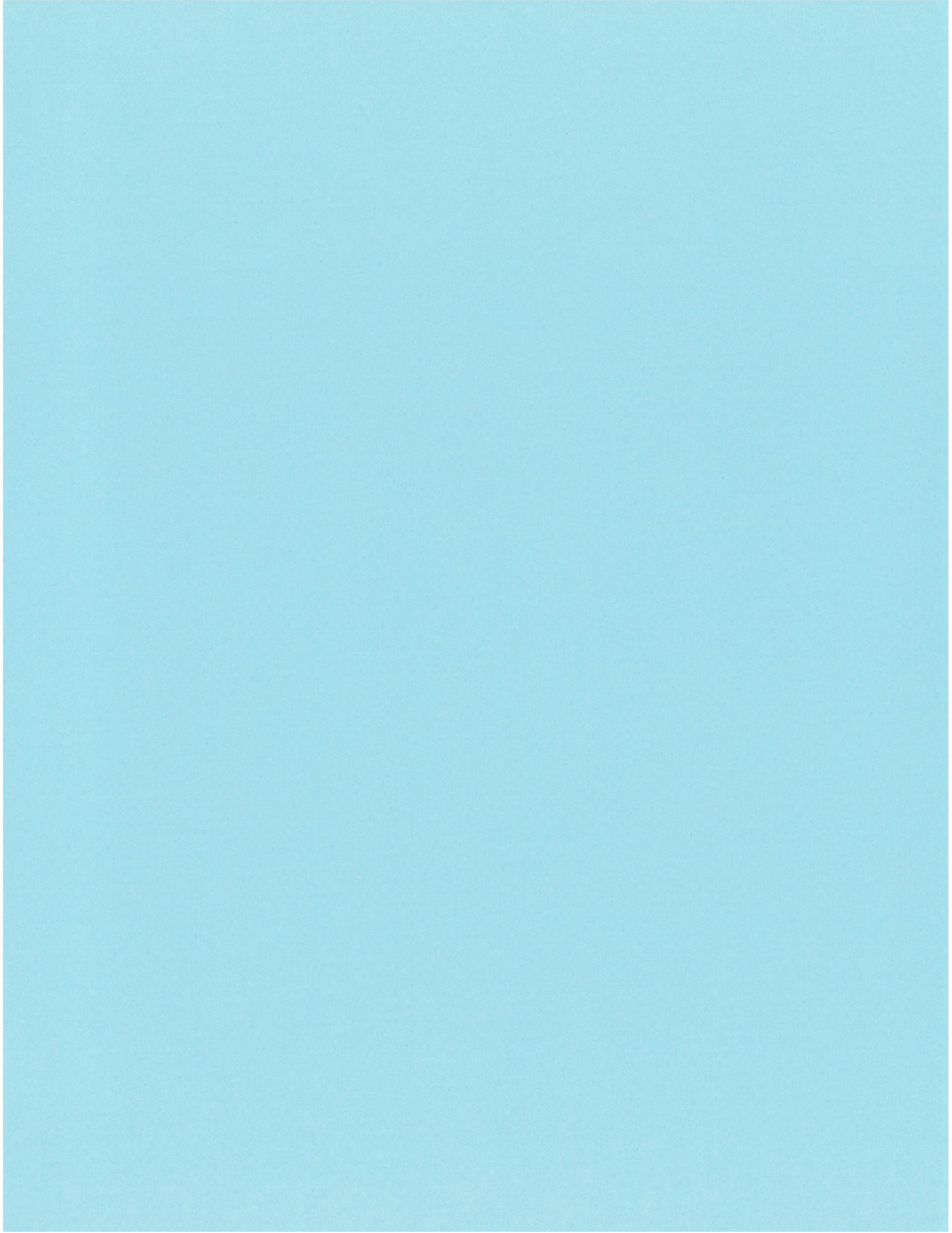
Entered this 7TH day of FEBRUARY 2019.

J. WINSTON KRAUSE, CHAIRMAN

CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER



State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

January 11, 2019

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

VIA E-MAIL

**RE: Docket No. 362-19-0004; Texas Lottery Commission v. Chhantyal
Shrestha, LLC D/B/A Easy Shop License No. 180308**

Dear Mr. Grief:

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

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

Sincerely,

Fernando Rodriguez
Administrative Law Judge

FR/eh

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - **VIA E-MAIL**
Chhantyal Shrestha, LLC., D/B/A Easy Shop, 40001st Street, Apartment B, College Station, TX - **VIA REGULAR MAIL**

SOAH DOCKET NO. 362-19-0004

| | | |
|----------------------------------|---|--------------------------------|
| TEXAS LOTTERY COMMISSION, | § | BEFORE THE STATE OFFICE |
| Petitioner | § | |
| | § | |
| v. | § | |
| | § | OF |
| CHHANTYAL SHRESTHA, LLC | § | |
| D/B/A EASY SHOP | § | |
| LICENSE NO. 180308, | § | |
| Respondent | § | ADMINISTRATIVE HEARINGS |

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Lottery Commission (Commission) requested the revocation of the lottery ticket sales agent's license held by Chhantyal Shrestha, LLC, d/b/a Easy Shop (Easy Shop), which is partially owned by Neeraj Man Shrestha. Chetan Chhantyal is also an owner of Easy Shop. Staff alleged that Mr. Shrestha cashed lottery tickets for less than the face value of the winning tickets, then cashed the tickets himself for full face value at lottery claim centers. After considering the evidence and arguments presented, the Administrative Law Judge (ALJ) recommends revocation of the lottery ticket sales agent's license held by Mr. Shrestha and Chhantyal Shrestha/Easy Shop.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Jurisdiction and notice were not disputed and are discussed in the Findings of Fact and Conclusions of Law without further mention here. On November 1, 2018, State Office of Administrative Hearings ALJ Fernando Rodriguez convened the hearing on the merits in this case. Kristen Guthrie, Assistant General Counsel, represented Staff. Mr. Shrestha appeared personally with Mohamad Hussein, a friend of Mr. Shrestha's, who served as Mr. Shrestha's translator for the proceeding.¹ The record closed on November 14, 2018, when the transcript was filed.

¹ Mr. Shrestha understands English with some difficulty. Mr. Hussein was given the translator's oath and translated when necessary to ensure that Mr. Shrestha understood the testimony.

II. APPLICABLE LAW

The relevant statutory and regulatory provisions in this case are found in the State Lottery Act, Chapter 466 of the Texas Government Code, and 16 Texas Administrative Code § 401. Texas Government Code § 466.155 states, in pertinent part:

- (a) After a hearing, the director shall deny an application for a license or the commission shall suspend or revoke a license if the director or commission, as applicable, finds that the applicant or sales agent:
 - (5) has violated this chapter or a rule adopted under this chapter.
- (c) At a hearing, an applicant or sales agent must show by a preponderance of the evidence why the application should not be denied or the license suspended or revoked.

Texas Government Code § 466.310(a) provides that:

A person commits an offense if the person:

- (1) induces another person to assign or transfer a right to claim a prize;
- (2) offers for sale the right to claim a prize; or
- (3) offers, for compensation, to claim the prize of another person.

Texas Government Code § 466.313 states that:

- (a) A person commits an offense of conspiracy if, with intent that an offense under this chapter be committed:
 - (1) the person agrees with one or more other persons that they or one or more of them engage in conduct that would constitute the offense; and
 - (2) one or more of the persons agreeing under Subdivision (1) performs an overt act in pursuance of the agreement.
- (b) An agreement constituting a conspiracy may be inferred from acts of the parties.
- (c) It is no defense to prosecution for conspiracy under this section that:
 - (1) one or more of the coconspirators is not criminally responsible for the object offense;
 - (2) one or more of the coconspirators has been acquitted, so long as at least two coconspirators have not been acquitted;

- (3) one or more of the coconspirators has not been prosecuted or convicted, has been convicted of a different offense, or is immune from prosecution;
- (4) the actor belongs to a class of persons that by definition of the object offense is legally incapable of committing the object offense in an individual capacity; or
- (5) the object offense was not actually committed.

Texas Government Code § 466.402(b) provides that, “The payment of a prize in an amount of \$600 or more may be made only by the director.”

16 Texas Administrative Code § 401.158 states, in pertinent part that:

- (a) The commission may suspend or revoke any license issued under this subchapter if the commission finds that any factor listed as grounds for denial of a license under § 401.153(b) of this title (relating to Qualifications for License) or any factor listed in subsection (b) of this section apply to the licensee.
- (b) Without limiting the commission’s ability to consider factors listed in § 401.153(b) of this title as grounds for suspension or revocation of a license issued under this subchapter, the commission may also suspend or revoke a license for reasons including, but not limited to, any of the following:
 - (31) licensee intentionally or knowingly claims a lottery prize of a share of a lottery prize by means of fraud, deceit, or misrepresentation; or aids or agrees to aid another person or persons to claim a lottery prize or share of a lottery prize by means of fraud, deceit, or misrepresentation.
 - (33) licensee:
 - (A) induces another person to assign or transfer a right to claim a prize;
 - (B) initiates or accepts an offer to sell the right to claim a prize;
 - (C) initiates or accepts an offer of compensation from another person to claim a lottery prize; or
 - (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

The Commission’s rules provide that lottery scratch tickets shall be validated according to the validation procedures prior to payment for a prize,² and impose on each ticket retailer the duty

² 16 Tex. Admin. Code § 401.302(d)(1).

to follow all rules and guidelines contained in the most recent Retailer Manual, the Commission's rules, and any agreements made with the Texas Lottery.³

A ticket sales agent is not permitted to offer, for compensation, the right to claim a prize for a winning lottery ticket. If a licensee cashes a winning lottery ticket for a person for less than the face value of the ticket and subsequently claims the full-face value, the ticket sales agent has violated Texas Government Code § 466.310 and, after hearing, the Commission shall deny an application, or suspend or revoke a license.⁴ If a hearing is requested by the licensee, the burden of proof is on the licensee to show that the application should not be denied, or the license should not be suspended or revoked.⁵

III. EVIDENCE AND DISCUSSION

At the hearing, Staff moved to admit nine exhibits into evidence. All of Staff's exhibits were admitted into evidence without objection. Staff also offered into evidence the testimony of Carlos Salinas and Nancy Guerra. Mr. Salinas is an investigator with the Commission's Enforcement Division while Ms. Guerra is a Retail Specialist in the Lottery Operations Division. Mr. Shrestha offered no documentary evidence and testified very briefly on his own behalf.

The evidence in this case is essentially undisputed. Mr. Salinas testified that in 2017 the Lottery Security Division produced a Retail Claimant Report (Report) that the division creates when it observes numerous claims made by a retail owner or anyone affiliated with the ownership of the retailer.⁶ In this case, the Report indicated that Mr. Shrestha made two claims in 2016 and three claims in 2017, totaling \$10,300.⁷ The claims raised suspicions within the Commission because the winning tickets were bought somewhere other than at Easy Shop (Mr. Shrestha's store), scanned somewhere other than Easy Shop, or ultimately checked in at a retailer other than

³ 16 Tex. Admin. Code § 401.366.

⁴ Tex. Gov't Code § 466.155(a).

⁵ Tex. Gov't Code § 466.155(c).

⁶ Tr. at 22-24; Staff Ex. 5.

⁷ Staff Ex. 5 at 2.

Easy Shop before being submitted for payment to the Houston Claim Center (HCC).⁸ Because the initial observations suggested fraudulent activity, Mr. Salinas was tasked with investigating in more detail the three winning claims filed by Mr. Shrestha in 2017.⁹

The first winning ticket investigated was sold by Easy Shop and was scanned four times in Bryan, Texas, by Easy Shop before being presented to the HCC for payment of a \$1,000 prize. The second winning ticket was scanned once by retailer Zip-N-118 (where the ticket was purchased) and four times by Easy Shop before being presented to the HCC for payment of a \$3,000 prize.¹⁰ The third winning ticket was scanned five times by Easy Shop, where it was purchased, and once by Exxon Express Market (College Station, Texas) before being presented to the HCC for payment of a \$2,600 prize.¹¹

The Report indicated that the three claims submitted by Mr. Shrestha in 2017 raised red flags for Commission investigators, particularly the second ticket which was sold from a location other than Easy Shop, inquired into by a second store, then inquired into again at Easy Shop before being presented for payment. Mr. Salinas testified that, based on his experience, facts such as these are characteristic of fraudulent transactions. Based on the Report, the case was transferred to the Enforcement Division for further investigation.

As part of its investigation, the Enforcement Division conducted an undercover purchase at Easy Shop. The undercover investigator presented Mr. Shrestha with an "Ultimate Millions" scratch-off ticket worth \$1,000. Mr. Shrestha told the investigator he would have to go the HCC to claim his winnings or, alternatively, Mr. Shrestha would cash the ticket for the investigator for \$700.¹² Mr. Shrestha then offered to cash the ticket for \$650 because the additional \$50 was for "taxes." Ultimately, Mr. Shrestha offered to cash the ticket for \$600 because he decided he wanted

⁸ Tr. at 23-24; Staff Ex. 5 at 2.

⁹ Staff Ex. 5.

¹⁰ Both stores are located in Bryan, Texas.

¹¹ Staff Ex. 5 at 2.

¹² Staff Ex. 5; Tr. at 27-30.

to keep \$50 for himself.¹³ After the transaction was consummated, the investigator informed Mr. Shrestha that the transaction was part of an undercover investigation.

Ms. Guerra testified that after the investigator confronted Mr. Shrestha with the evidence, he was provided a Notice of Opportunity to Show Compliance (Notice) dated June 22, 2018. The Notice provided Mr. Shrestha with an opportunity to contest the investigation's findings. On September 20, 2018, Staff mailed Mr. Shrestha a Notice of Final Hearing on Revocation of Lottery License, which required Mr. Shrestha to file a response within ten days. Mr. Shrestha failed to respond.¹⁴ Ms. Guerra testified that cases such as Mr. Shrestha's are taken very seriously by the Commission because it is required to withhold funds from winning prizes if a winner owes child support, is delinquent in paying back student loans, or is delinquent in repaying a number of other government debts.¹⁵ When a ticket sales agent cashes a winning ticket for a winning customer at less than face value, then cashes the ticket at full face value at a claim center, the ticket sales agent engages in a conspiracy and commits fraud for two reasons. First, the ticket sales agent is prohibited from engaging in such a practice.¹⁶ Second, a ticket sales agent who cashes a winning ticket for less than face value, as Mr. Shrestha is alleged to have done here, enables a person with a winning lottery prize to evade his or her child support or other government payments, and deprives the government of funds that might otherwise be used to repay government debts.¹⁷

Because the Commission takes these types of violations so seriously, Ms. Guerra testified that license revocation is the only appropriate sanction in this case. Ms. Guerra explained that a lesser penalty frustrates the Commission's duty to ensure the integrity and fairness of lottery games. Furthermore, Ms. Guerra noted that the Commission has consistently sought license revocations in cases like this, rather than mere suspensions, in order to send a message that

¹³ Staff Ex. 6 is a picture of the \$1,000 scratch-off ticket and six \$100 bills given the investigator by Mr. Shrestha in exchange for the ticket.

¹⁴ Staff Ex. 3.

¹⁵ Tr. At 39-40.

¹⁶ Tex. Gov't Code § 466.310.

¹⁷ Tr. at 39-40.

conspiracy and fraud will not be tolerated in lottery games.¹⁸ Moreover, while seemingly harsh, Ms. Guerra noted that license revocation is not permanent, but only lasts for one year after which time the ticket sales agent may reapply for licensure.

At the hearing, Mr. Shrestha testified very briefly. Mr. Shrestha said that two tickets he cashed at the HCC were purchased by a friend who did not have proper identification and Mr. Shrestha simply accompanied him to Houston to help him cash his winnings. With respect to the \$3,000 ticket, Mr. Shrestha testified that the lady who won the lottery was Hispanic and told him she had no transportation, did not speak English, and did not have proper documentation.¹⁹ To allow her to salvage some of the winnings (despite her alleged impediments), he offered to cash the ticket for her in exchange for \$300 (leaving the claimant with \$2,700) while Mr. Shrestha cashed the ticket at the HCC for \$3,000.²⁰

On cross-examination, Mr. Shrestha first testified that the \$3,000 winner could not mail the ticket to claim her prize because of her particular circumstances, particularly her lack of documentation. Later, on cross-examination, Mr. Shrestha admitted that he knew he could have told her she could claim her winnings by mail, but he claimed he was not aware that it was a violation to accept an offer by someone who wants to sell his or her prize, and he was merely trying to help her out of a difficult situation.²¹ Mr. Shrestha later admitted that he checked the box on the claim form acknowledging that the \$3,000 prize he submitted was his when, in fact, that was not true.²² He also admitted under on cross-examination that he checked the box on the claim form he submitted and signed that stated:

¹⁸ Tr. at 66-70.

¹⁹ Tr. at 50-52.

²⁰ Tr. at 48.

²¹ Tr. at 51.

²² Staff Ex. 7.

Under penalty of law, I declare that to the best of my knowledge and belief, the information entered above is correct and correctly identifies the person entitled to claim this prize; no other person is entitled to claim any part of the prize; and the recipient is not prohibited by law from purchasing a ticket or claiming, collecting, or receiving a lottery prize or share of a prize. I understand that it is a violation of law for any person to intentionally or knowingly, claim or aid another in claiming a lottery prize, or a share of a prize by means of fraud, deceit, or misrepresentation, or to intentionally or knowingly alter or forge a ticket.²³

IV. ANALYSIS AND RECOMMENDATION

Mr. Shrestha's ticket sale agent license should be revoked. His testimony on direct examination was not persuasive and was often contradictory. On cross-examination, Staff pointed out that, while Mr. Shrestha claimed to have his customers' best interests at heart, his pattern of behavior was self-serving and completely at odds with his responsibility as a licensed ticket sales agent. His explanation for the second 2017 violation investigated by Staff was especially unconvincing. During his testimony Mr. Shrestha could not name the lady he purportedly helped, nor could he say for certain that she was even Hispanic. On close cross-examination by Staff, Mr. Shrestha conceded that he only thought "she was a Hispanic lady who may or may not be familiar with her right . . ." to mail in her winning ticket. His concession came only after Staff informed him that the lady in question could have mailed in her winning ticket to the HCC without Mr. Shrestha's intervention. At that point Mr. Shrestha deflected Staff's questions by testifying that he was unaware he could not cash a winning ticket for less than face value or more than \$600. Not only was his testimony unpersuasive, but as a licensed ticket sales agent, the concession Staff extracted from him is information that he *should have known* as a licensed ticket sales agent.

Staff's undercover investigation also exposed Mr. Shrestha's fraudulent behavior. When the Commission's investigator presented Mr. Shrestha with a \$1,000 "Ultimate Millions" ticket Mr. Shrestha initially suggested to the investigator that he could mail his winning ticket to the HCC – an alternative he failed to offer the lady in the second investigated scenario, above. However, Mr. Shrestha then quickly offered the investigator \$700, then \$650, then \$600 for the winning ticket, thereby corroborating the Commission's suspicion that Mr. Shrestha was engaged

²³ Staff Ex. 7.

in fraudulent activities. Mr. Shrestha's behavior was particularly egregious because he signed the ticket-claim form and checked the box that inquired if he was the true owner, as well as the box requiring the holder of the ticket to acknowledge under penalty of law that the information on the claim form was accurate and truthful. Both acknowledgements were false.

Staff's explanation that the Commission must ensure the integrity of lottery games is logical and firmly based on Chapter 466 of the Texas Government Code. Under the facts of this case, Mr. Shrestha violated Texas Government Code § 466.310(a) by inducing another person to transfer to him, for compensation, a right to claim a prize, then falsely claiming to the HCC that the winning person's prize was actually his own. The ALJ concludes that the three claims Mr. Shrestha made in 2017 (for which he investigated by the Commission), as well as the undercover ticket purchase initiated by the Commission, violated 16 Texas Administrative Code § 401.158(b)(31) because Mr. Shrestha intentionally or knowingly aided another person to claim a lottery prize by means of fraud, deceit, or misrepresentation. The ALJ also concludes that Mr. Shrestha violated 16 Texas Administrative Code § 401.158(b)(33) when he accepted an offer of compensation from another person to claim a lottery prize.²⁴ Mr. Shrestha did not carry his burden to show that his license should not be revoked.²⁵ Under the circumstances, the ALJ concludes that Mr. Shrestha's ticket sales agent's license should be revoked.

V. FINDINGS OF FACT

1. Chhantyal Shrestha LLC, dba Easy Shop (Easy Shop) is partly owned by Neeraj Man Shrestha. Chetan Chhantyal is also an owner of Easy Shop.
2. Easy Shop is located at 3510 S. College Avenue in College Station, Texas, and holds Texas Lottery Ticket Sales Agent License No. 180308.
3. In 2017 the Texas Lottery Commission (Commission) observed a number of claims made by a retail owner or someone affiliated with Easy Shop and, as a result, created a Retail Claim Report (Report) to investigate suspicions raised by the number of claims.

²⁴ This analysis applies to the 3 suspicious claims in 2017 that triggered the Report, as well as to the undercover ticket sales operation conducted by the Commission in 2017.

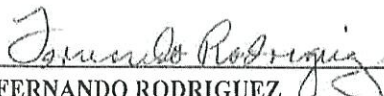
²⁵ Tex. Gov't Code § 466.313(a).

4. The Report showed that Mr. Shrestha made two lottery claims in 2016 and three lottery claims in 2017 totaling \$10,300. The Commission initiated an investigation of the three lottery claims filed in 2017.
5. The investigation showed that all three lottery claims in 2017 were suspicious because the claims were scanned at locations other than where they were purchased, scanned a number of times, or cashed at places other than where the winning tickets were purchased.
6. In two cases Mr. Shrestha accompanied the lottery-ticket winner to the Houston Claim Center (HCC) and cashed two tickets. In the third case, Mr. Shrestha cashed a \$3,000 winning lottery ticket \$2,700 then cashed the winning ticket for the \$3,000 face value at the HCC.
7. Based on the anomalous behavior indicated by the Report, the Commission initiated an undercover operation in which a Commission investigator presented Mr. Shrestha with a \$1,000 "Ultimate Millions" scratch-off ticket.
8. Mr. Shrestha offered to cash the ticket for the Commission investigator for \$700, then \$650, and ultimately \$600 for the ticket which he intended to cash at the HCC for the full face-value of \$1,000.
9. Mr. Shrestha did not contest the accuracy of the allegations raised by Commission staff (Staff).
10. On June 22, 2018, Staff provided Mr. Shrestha with a Notice of Opportunity to Show Compliance that offered Mr. Shrestha a chance to contest the investigation's findings.
11. On September 20, 2018, Staff mailed Mr. Shrestha a Notice of Final Hearing on Revocation of Lottery License (Notice of Hearing). 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 was to be held; a reference to the particular sections of the statutes and rules involved; and either a short plain statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
12. On November 1, 2018, State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) Fernando Rodriguez convened the hearing on the merits at SOAH's hearing facility in Austin, Texas. Commission Staff appeared and was represented by Kristin Guthrie, Assistant General Counsel. Mr. Shrestha appeared personally and represented himself. Mohamad Hussein, a friend of Mr. Shrestha's, also appeared and acted as Mr. Shrestha's interpreter. The record closed on November 14, 2018, when the transcript was filed.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to the State Lottery Act. Tex. Gov't Code § 466.155.
2. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, as provided by Texas Government Code ch. 2003.
3. Timely and adequate notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051, .052.
4. Mr. Shrestha violated the State Lottery Act when he induced holders of winning lottery tickets to let him cash their winning tickets for less than face value, then claimed the tickets as his own and cashed them for full face value at a claim center. Tex. Gov't Code § 466.310(a)(1)-(3); 16 Tex. Admin. Code § 410.158(b).
5. The Commission shall deny an application for a license or revoke a license if the applicant or license holder has violated the State Lottery Act, Texas Government Code ch. 466, or a Commission rule adopted under that chapter. Tex. Gov't Code § 466.155(a).
6. An applicant or license holder has the burden of proof, by a preponderance of the evidence, to show why the application should not be denied or the license should not be revoked. Tex. Gov't Code § 466.155(c).
7. The lottery sales agent license of Neeraj Man Shrestha/Easy Shop, license No. 180308, should be revoked pursuant to Texas Government Code § 466.155 and 16 Texas Administrative Code § 401.158.

SIGNED January 11 2019.


FERNANDO RODRIGUEZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

Date: FEBRUARY 7, 2019

DOCKET NOS. 362-19-0418 and 362-19-0419

| | | |
|---------------------------------------|---|---------------------------|
| TEXAS LOTTERY COMMISSION | § | BEFORE THE TEXAS |
| Petitioner | § | |
| v. | § | |
| | § | |
| BOVA INC. D/B/A PETROMART #113 | § | |
| RETAILER LICENSE NO. 181128 | § | |
| | § | |
| BOVA INC. D/B/A PETROMART #114 | § | |
| RETAILER LICENSE NO. 181127 | § | LOTTERY COMMISSION |
| Respondents | § | |

ORDER OF THE COMMISSION

TO: Mr. James Holtz
Holtz Law Firm
2500 City West Blvd., Suite 300
Houston, TX 77042
Via fax: (713) 467-1339
Via email: jholtz@holtzlegal.com

Bova Inc.
d/b/a Petromart #113 and
d/b/a Petromart #114
9337 Katy Fwy. #109B
Houston, TX 77024
Via email: sampetromax@yahoo.com

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the above styled cases in which Bova Inc. d/b/a Petromart #113 and Bova Inc. d/b/a Petromart #114 (Respondents) 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.

Date: FEBRUARY 7, 2019

I. Findings of Fact

1. Timely and adequate notice of the hearing in the referenced cases before SOAH was provided to each Respondent and Respondent's attorney, pursuant to Tex. Gov't Code §§ 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.

2. After timely and adequate notice was given to each Respondent and Respondent's attorney, the cases were heard by a SOAH Administrative Law Judge (ALJ). The Respondents did not appear at the hearing.

3. The Commission, by and through its attorney of record, filed a motion to dismiss the cases from the SOAH docket and to remand the cases to the Commission for informal disposition, in accordance with Tex. Gov't Code §2001.058(d-1) and 1 Tex. Admin. Code §155.501(d).

4. The ALJ conditionally dismissed the cases from the SOAH docket and remanded the cases to the Commission for informal disposition under Tex. Gov't Code §2001.056, provided the Respondents did not file a motion to set aside the default no later than 15 days from the date of the ALJ's Conditional Order of Default Dismissal and Remand.

5. The Respondents did not file a motion to set aside the default within the 15 days from the date of the ALJ's Conditional Order.

Date: FEBRUARY 7, 2019

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code §466.155 and 16 Tex. Admin. Code, Chapter 401.
2. The Respondents violated the State Lottery Act (Tex. Gov't Code, Chapter 466) and/or the Rules for the Administration of State Lottery Act (Title 16 Tex. Admin. Code, Chapter 401) 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 of the above styled cases, this matter is hereby disposed of by default, and:

1. All allegations set forth in the Commission's notice of hearing in each case are deemed admitted; and
2. The Texas Lottery Ticket Sales Agent licenses of Bova Inc. d/b/a Petromart #113 and Bova Inc. d/b/a Petromart #114 are hereby revoked.

Commission Order No. 19-0030

Date: FEBRUARY 7, 2019

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 7TH day of FEBRUARY 2019.

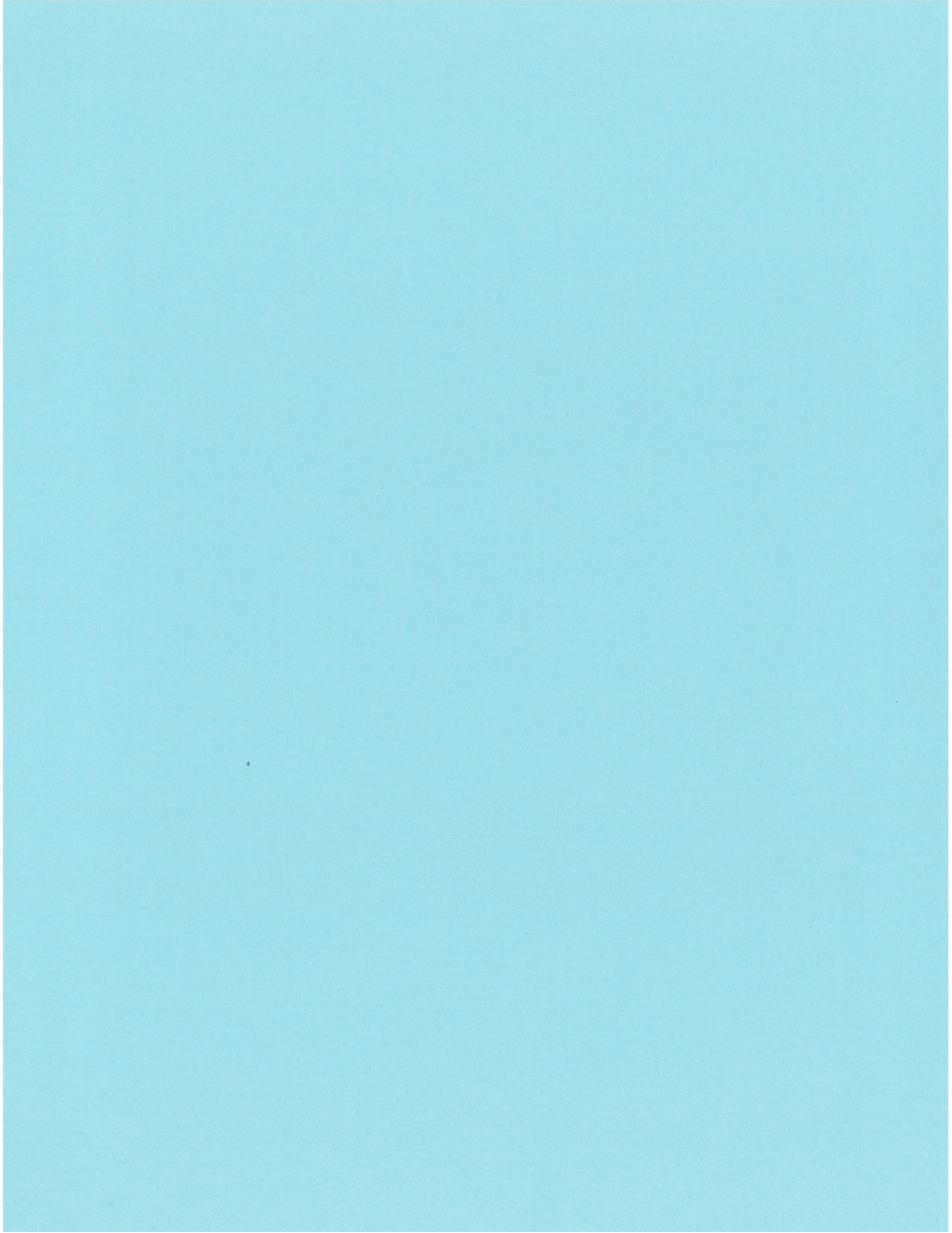
Entered this 7TH day of FEBRUARY 2019.

J. WINSTON KRAUSE, CHAIRMAN

CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER



SOAH DOCKET NOS. 362-19-0418 and 362-19-0419

| | | |
|---------------------------------------|---|--------------------------------|
| TEXAS LOTTERY COMMISSION, | § | BEFORE THE STATE OFFICE |
| Petitioner | § | |
| v. | § | |
| | § | |
| BOVA INC. D/B/A PETROMART #113 | § | |
| RETAILER LICENSE NO. 181128, | § | OF |
| | § | |
| BOVA INC. D/B/A PETROMART #114 | § | |
| RETAILER LICENSE NO. 181127, | § | |
| Respondents | § | ADMINISTRATIVE HEARINGS |

SOAH ORDER NO. 4
CONDITIONAL ORDER DISMISSING CASES FROM SOAH
AND REMANDING CASES TO COMMISSION

On November 29, 2018, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the suspension or revocation of the lottery sales agent license held by each Respondent. Notice of the hearing was provided to Respondents 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 Respondent'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 or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency; 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 through Assistant Attorney General Kristen Guthrie. The Respondents did not appear and had notified Ms. Guthrie prior to the hearing that they would not appear. Staff offered exhibits that were admitted and proved that each Respondent had been notified of the date, time, and place of the hearing. Staff moved to

SOAH DOCKET NO. 362-19-0418
SOAH DOCKET NO. 362-19-0419


SOAH ORDER NO. 4

PAGE 2

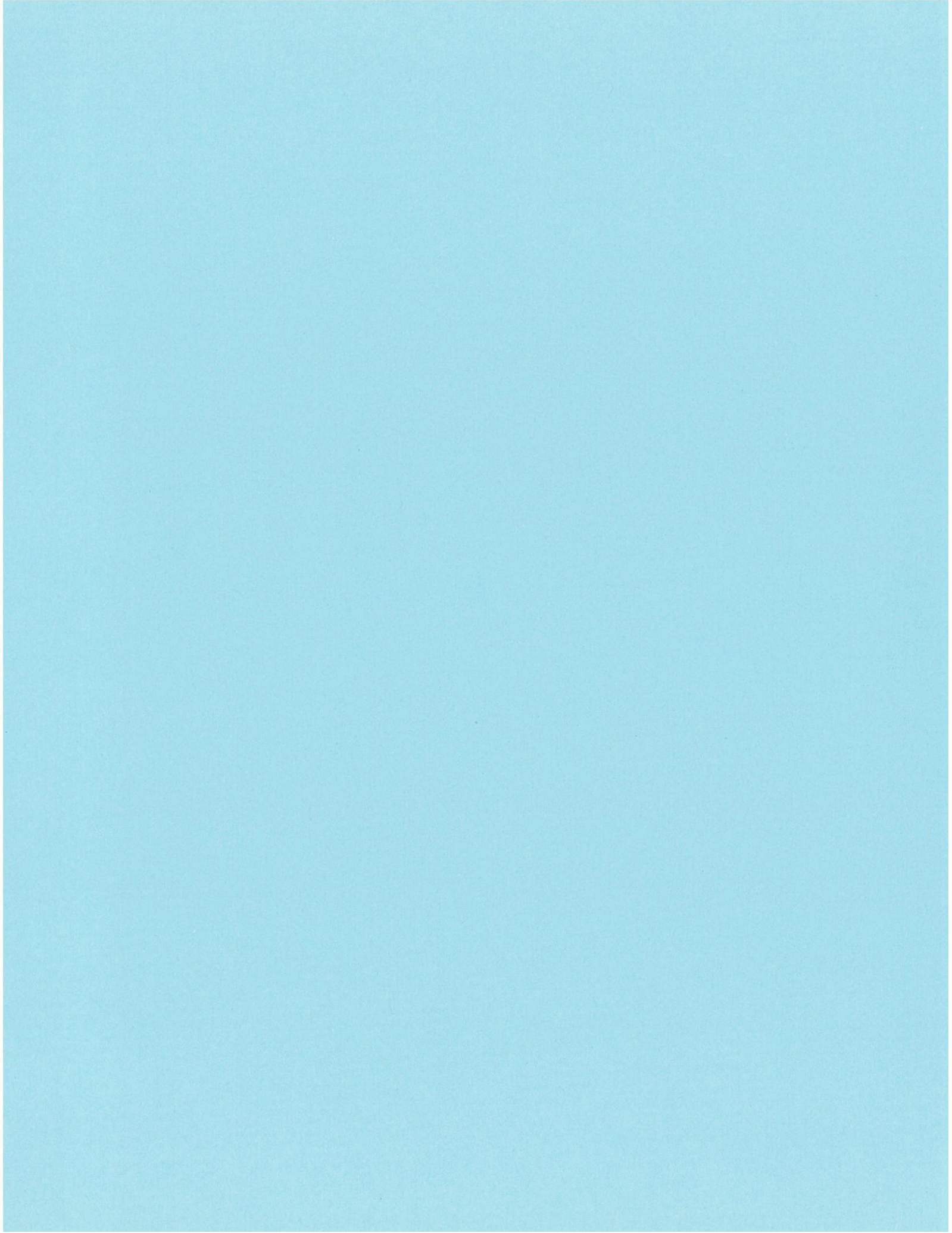
dismiss both cases from the docket of the State Office of Administrative Hearings and to remand them to the Commission for informal disposition on a default basis in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand each case is **CONDITIONALLY GRANTED**, and the case(s) are **CONDITIONALLY DISMISSED** from SOAH's docket and **REMANDED** to the Commission for informal disposition under Texas Government Code § 2001.056. Respondents may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

SIGNED December 7, 2018.



BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



Commissioners:

J. Winston Krause,
Chairman

Carmen Arrieta-Candelaria

Doug Lowe

Robert Rivera



TEXAS LOTTERY COMMISSION

Gary Grief, *Executive Director*

Michael P. Farrell, *Charitable Bingo Operations Director*

FIRST CLASS UNITED STATES MAIL

and

CERTIFIED MAIL NO. 91 7199 9991 7030 8546 2717

Date of Notice: October 25, 2018

Bova Inc.
d/b/a Petromart #113
9337 Katy Fwy. #109B
Houston, TX 77024

**RE: NOTICE OF FINAL HEARING ON SUSPENSION OR REVOCATION OF
LOTTERY LICENSE
DOCKET NO. 362-19-0418
TEXAS LOTTERY TICKET SALES AGENT LICENSE NO. 181128**

Dear Sir/Madam:

Be advised that this letter is a formal notice that a final public hearing to consider the suspension or revocation of the above-referenced lottery license, pursuant to the provisions of the TEX. GOV'T. CODE, Chapters 466, 2001, and 2003; 1 TEX. ADMIN. CODE 155; and 16 TEX. ADMIN. CODE, Chapter 401, will be held as follows:

| | |
|-----------------------------|---|
| TIME OF HEARING: | 9:00 a.m. |
| DATE OF HEARING: | November 15, 2018 |
| LOCATION OF HEARING: | State Office of Administrative Hearings William P. Clements Building 300 West 15th St. 4th Floor Austin, Texas 78701 |

P.O. Box 16630 • Austin, Texas 78761-6630

Phone (512) 344-5000 • FAX (512) 478-3682 • Bingo FAX (512) 344-5142

txlottery.org • txbingo.org

I.
Factual Matters Asserted

Bova Inc. d/b/a Petromart #113 (Petromart #113), by and through its employee, Sam Patel, prevented Commission vendor employees access to lottery products to conduct state lottery business and exhibited discourteous treatment, including, but not limited to, abusive language toward a Texas Lottery Commission (Commission) vendor, in violation of 16 Tex. Admin. Code §§ 401.158(b)(4), (5), (8) and (36) and 401.363; and did not agree to operate in a manner consistent with the State Lottery Act, with all terms and conditions related to the retailer's license, with the rules and regulations promulgated by the Commission, and with its license agreement with the Commission, in violation of 16 Tex. Admin. Code § 401.366.

More specifically (additional facts may be presented at the hearing):

1. On July 19, 2018, Mr. Patel would not permit Mr. Charles Verrett, a Commission vendor employee, to conduct necessary state lottery business regarding auto-settled packs (1894-107503) and an unconfirmed order #01-18306214-01 (14 packs). The unconfirmed order was placed in lost courier status as a result of Mr. Patel's refusal to allow Mr. Verrett to conduct state lottery business. In addition, Mr. Patel raised his voice and spoke in a hostile manner toward Mr. Verrett. As of the date of this Notice, Petromart #113 is now a closed store that is boarded up.
2. On July 23, 2018, David Veselka called Mr. Patel to discuss performing a temporary closure at Petromart #113, due to the store being closed and boarded up. Mr. Patel refused to let Mr. Veselka explain the need for a temporary closure. Mr. Patel instructed Mr. Veselka to send him an email. Mr. Veselka sent Mr. Patel an email regarding temporary closure but did not receive a reply from Mr. Patel. The Retailer Guide states "If you plan to close your business temporarily, an owner, officer, partner or director must notify the Texas Lottery (includes phone, email and fax) in advance." Petromart #113 failed to notify the Commission in advance of closing its business.
3. On July 25, 2018, Mr. Veselka called Farzana Patel, the owner of Petromart #113, and explained the need for a temporary closure at Petromart #113. Further, Mr. Veselka explained that the Commission planned to pursue administrative action against Petromart #113 and possibly other locations due to the on-going violations. Ms. Patel said that she needed to speak with Mr. Sam Patel. That evening, Mr. Patel called Mr. Veselka and left a threatening voicemail.
4. On July 26, 2018, Mr. Veselka returned Mr. Patel's call to explain the reason for his call to Ms. Patel, but Mr. Patel kept interrupting and refused to let Mr. Veselka speak. After a while, Mr. Veselka said that he would have to end the call if he wasn't allowed to speak. Mr. Patel then cursed and hung up.

II.
Legal Authority and Jurisdiction

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

The State Office of Administrative Hearings has jurisdiction over this matter pursuant to TEX. GOV'T CODE ANN., Chapter 2003.

III. Applicable Statutes and Rules

TEX. GOV'T CODE ANN. § 466.155(a) states in pertinent parts:

After a hearing, the director shall deny an application for a license or the commission shall suspend or revoke a license if the director or commission, as applicable, finds that the applicant or sales agent:

...

(5) has violated this chapter or a rule adopted under this chapter.

16 TEX. ADMIN. CODE § 401.158 states, in pertinent parts:

(a) The commission may suspend or revoke any license issued under this subchapter if the commission finds that . . . any factor listed in subsection (b) of this section apply to the license.

(b) Without limiting the commission's ability to consider factors listed in § 401.153(b) of this title as grounds for suspension or revocation of a license issued under this subchapter, the commission may also suspend or revoke a license for reasons including, but not limited to, any of the following:

...

(4) licensee fails to follow instructions and procedures for the conduct of any particular lottery game, lottery special event or promotion;

...

(5) licensee and/or its employee(s) exhibit discourteous treatment including, but not limited to, abusive language toward customers, commission employees or commission vendors;

...

(8) licensee violates any directive or instruction issued by the director of the Lottery Operations Division;

...

(36) licensee knowingly refuses to permit the director of the Lottery Operations Division, the executive director, commission, or the state auditor to examine the agent's books, records, papers or other objects, or refuses to answer any question authorized under the State Lottery Act.

16 TEX. ADMIN. CODE § 401.363 states:

Each retailer shall keep accurate and complete records of all tickets from active and settled packs that have not sold. All commission records maintained by a retailer shall be open to inspection by the commission at all times during normal business hours. The commission may make summaries or notes of any such records and may copy any such records either at the retailer's place of business or off such premises so long as such records are returned within 48 hours of the time they are removed from such place of business.

16 TEX. ADMIN. CODE § 401.366 states:

Each retailer agrees to operate in a manner consistent with the State Lottery Act, applicable federal laws, Texas laws, local ordinances, with all terms and conditions related to the retailer's license, with all requirements set forth in the most recent Retailer Manual, the rules and regulations promulgated by the commission, and with his/her or its license agreements with the Texas Lottery.

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.

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

TITLE 16 TEXAS ADMINISTRATIVE CODE § 401.207 REQUIRES THAT YOU FILE A WRITTEN ANSWER TO THE ALLEGATIONS IN THIS NOTICE OF HEARING WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (BY FAX AT 512-322-2061) AND PROVIDE A COPY TO THE UNDERSIGNED (BY FAX AT 512-344-5189 OR EMAIL AT LEGAL.INPUT@LOTTERY.STATE.TX.US) AT LEAST TEN (10) CALENDAR DAYS BEFORE THE DATE OF THE HEARING. FAILURE TO FILE A WRITTEN ANSWER BY THIS DATE AND/OR TO APPEAR AT THE HEARING MAY RESULT IN THE ALLEGATIONS BEING ADMITTED AS TRUE AND RELIEF REQUESTED BEING GRANTED BY DEFAULT.

The hearing is conducted under authority of the State Lottery Act, Texas Government Code Annotated, Section 466.155; together with Title 16 of the Texas Administrative Code, Sections 401.153, 401.158, 401.160 and 401.201-227.

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), 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.**

All hearings are formal due-process matters governed by and conducted in accordance with law, including the Texas Government Code, Chapters 2001 and 466, the Texas Rules of Civil

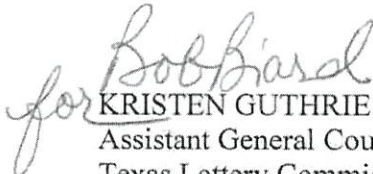
Procedures, the Texas Rules of Civil Evidence, and Title 16 of the Texas Administrative Code, Chapter 401.

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.

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, or in printed format upon request to SOAH.

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

Sincerely,


for KRISTEN GUTHRIE
Assistant General Counsel
Texas Lottery Commission

CERTIFICATE OF SERVICE

Pursuant to the Texas Rules of Civil Procedures, Rule 21a, Texas Government Code, Chapter 466.155(b); and to Title 16 of the Texas Administrative Code, Chapter 401.205, I do hereby certify that on this the 25th day of October, 2018, a true and correct copy of the foregoing *Notice of Final Hearing on Suspension or Revocation of Lottery License* has been served by First Class United States Mail and Certified Mail No. 91 7199 9991 7030 8546 2717, 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 Bova Inc. d/b/a Petromart #113, 9337 Katy Fwy. #109B, Houston, TX 77024.


for KRISTEN GUTHRIE
Assistant General Counsel
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630
(512) 344-5465
(512) 344-5189 Fax

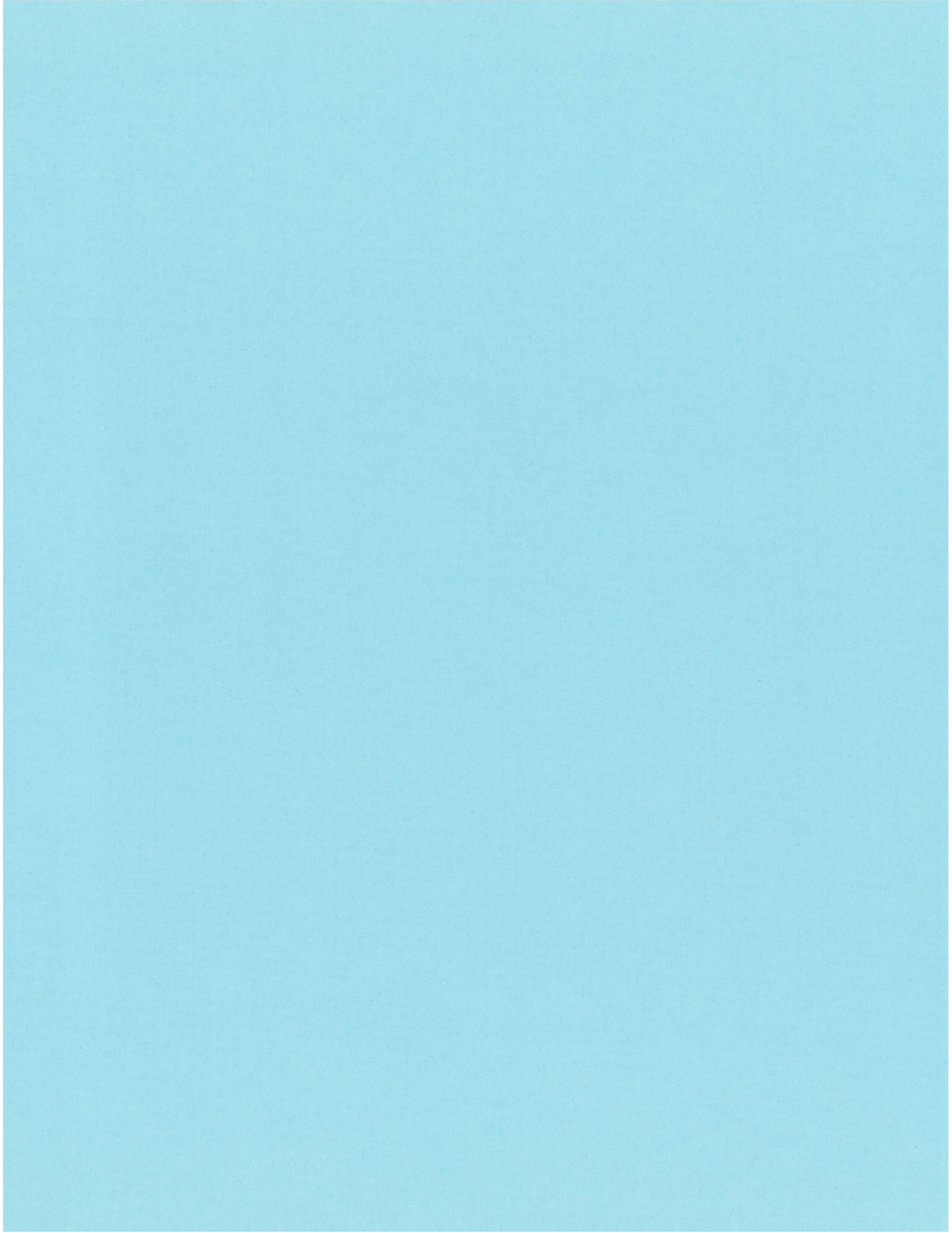
cc: State Office of Administrative Hearings
Lottery Operations Division, Retailer Services Department

Mr. James W. Holtz
Holtz Law Firm
2500 City West Blvd., Suite 300
Houston, TX 77042

Via fax: (713) 467-1399
Via email: jholtz@holtzlegal.com

Mr. Sam Patel
Bova Inc.
d/b/a Petromart #113
9337 Katy Fwy. #109B
Houston, TX 77024

Via email: sampetromax@yahoo.com



Commissioners:

J. Winston Krause,
Chairman

Carmen Arrieta-Candelaria

Doug Lowe

Robert Rivera



TEXAS LOTTERY COMMISSION

Gary Grief, *Executive Director*

Michael P. Farrell, *Charitable Bingo Operations Director*

FIRST CLASS UNITED STATES MAIL
and
CERTIFIED MAIL NO. 91 7199 9991 7030 8546 2724

Date of Notice: October 25, 2018

Bova Inc.
d/b/a Petromart #114
9337 Katy Fwy. #109B
Houston, TX 77024

**RE: NOTICE OF FINAL HEARING ON SUSPENSION OR REVOCATION OF
LOTTERY LICENSE
DOCKET NO. 362-19-0419
TEXAS LOTTERY TICKET SALES AGENT LICENSE NO. 181127**

Dear Sir/Madam:

Be advised that this letter is a formal notice that a final public hearing to consider the suspension or revocation of the above-referenced lottery license, pursuant to the provisions of the TEX. GOV'T. CODE, Chapters 466, 2001, and 2003; 1 TEX. ADMIN. CODE 155; and 16 TEX. ADMIN. CODE, Chapter 401, will be held as follows:

| | |
|-----------------------------|---|
| TIME OF HEARING: | 9:00 a.m. |
| DATE OF HEARING: | November 15, 2018 |
| LOCATION OF HEARING: | State Office of Administrative Hearings William P. Clements Building 300 West 15th St. 4th Floor Austin, Texas 78701 |

I.
Factual Matters Asserted

On numerous occasions, Bova Inc. d/b/a Petromart #114 (Petromart #114), by and through its employee Sam Patel, prevented Texas Lottery Commission (Commission) vendor employees access to lottery products to conduct state lottery business and exhibited discourteous treatment, including, but not limited to, abusive language toward a Commission vendor, in violation of 16 Tex. Admin. Code §§ 401.158(b)(4), (5), (8), and (36) and 401.363; and did not agree to operate in a manner consistent with the State Lottery Act, with all terms and conditions related to the retailer's license, with the rules and regulations promulgated by the Commission, and with its license agreement with the Commission, in violation of 16 Tex. Admin. Code § 401.366.

More specifically (additional facts may be presented at the hearing):

1. On November 14, 2017, Mr. Patel refused to allow a Commission vendor employee to conduct state lottery business because Mr. Patel complained the employee did not call first.
2. On December 15, 2017, the Commission vendor IGT notified the Commission that a Commission vendor employee called Mr. Patel on December 11, 2017 to conduct state lottery business, and Mr. Patel did not answer his phone and did not return the employee's call. The Commission vendor employee was unable to conduct a sales visit.
3. On December 27, 2017, IGT notified the Commission that a Commission vendor employee called Mr. Patel on December 26, 2017 to conduct state lottery business, Mr. Patel did not answer his phone and did not return the employee's call. The Commission vendor employee was unable to conduct a sales visit.
4. On January 10, 2018, IGT notified the Commission that a Commission vendor employee called Mr. Patel on January 9, 2018 to conduct state lottery business, Mr. Patel did not answer his phone and did not return the employee's call. The Commission vendor employee was unable to conduct a sales visit.
5. On January 22, 2018, a Commission vendor employee called Mr. Patel to conduct state lottery business, Mr. Patel did not answer his phone and did not return the employee's call. The Commission vendor employee was unable to conduct a sales visit.
6. On February 5, 2018, a Commission vendor employee called Mr. Patel to conduct state lottery business, Mr. Patel did not answer his phone and did not return the employee's call. The Commission vendor employee was unable to conduct a sales visit.
7. On July 9, 2018, Mr. Patel refused to let Mr. Charles Verrett, a Commission vendor employee, complete a sales visit because it was a Monday. Mr. Patel told Mr. Verrett he cannot come on Mondays.
8. On August 9, 2018, Mr. Patel refused to let Mr. Verrett pick up a pack of tickets in confirmed status for a called game Petromart #114 had been selling. The game had been called because all top prizes had been claimed. Mr. Patel was not at the location, but instructed the employees at Petromart #114 to not allow Mr. Verrett to pick up the called game because Mr. Patel was not there to witness the pickup of the game. On July 19, 2018, a terminal message was sent to all retailers notifying them that the game had been called and instructing them to stop selling the game immediately and to store packs of the game properly so that sales representatives could pick up the packs on their next visits. Petromart

- #114 failed to follow these instructions, as the game was available for sale on August 9, 2018.
9. On August 16, 2018, Mr. Patel refused to let a Commission Investigator pick up the called game. Mr. Patel claimed the game had already been picked up when it had not. Mr. Patel raised his voice with the Investigator and became hostile towards the Investigator.
 10. On August 20, 2018, Mr. Patel refused to allow Mr. Verrett to pick up scratch ticket pack 1847-81113 which was called due to all top prizes being claimed. Mr. Patel said that he would call Mr. Verrett the next week for pickup, but did not do so.
 11. On August 30, 2018, Mr. Verrett called Mr. Patel regarding lottery games that would need to be picked up. Mr. Patel spoke abusively with profanity to Mr. Verrett over the telephone.

II.

Legal Authority and Jurisdiction

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

The State Office of Administrative Hearings has jurisdiction over this matter pursuant to TEX. GOV'T CODE ANN., Chapter 2003.

III.

Applicable Statutes and Rules

TEX. GOV'T CODE ANN. § 466.155(a) states, in pertinent part:

After a hearing, the director shall deny an application for a license or the commission shall suspend or revoke a license if the director or commission, as applicable, finds that the applicant or sales agent:

...

(5) has violated this chapter or a rule adopted under this chapter.

16 TEX. ADMIN. CODE § 401.158 states, in pertinent parts:

(a) The commission may suspend or revoke any license issued under this subchapter if the commission finds that . . . any factor listed in subsection (b) of this section apply to the license.

(b) Without limiting the commission's ability to consider factors listed in § 401.153(b) of this title as grounds for suspension or revocation of a license issued under this subchapter, the commission may also suspend or revoke a license for reasons including, but not limited to, any of the following:

...

(4) licensee fails to follow instructions and procedures for the conduct of any particular lottery game, lottery special event or promotion;

...

(5) licensee and/or its employee(s) exhibit discourteous treatment including, but not limited to, abusive language toward customers, commission employees or commission vendors;

...
(8) licensee violates any directive or instruction issued by the director of the Lottery Operations Division;

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(36) licensee knowingly refuses to permit the director of the Lottery Operations Division, the executive director, commission, or the state auditor to examine the agent's books, records, papers or other objects, or refuses to answer any question authorized under the State Lottery Act.

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16 TEX. ADMIN. CODE § 401.366 states:

Each retailer agrees to operate in a manner consistent with the State Lottery Act, applicable federal laws, Texas laws, local ordinances, with all terms and conditions related to the retailer's license, with all requirements set forth in the most recent Retailer Manual, the rules and regulations promulgated by the commission, and with his/her or its license agreements with the Texas Lottery.

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.

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RESULT IN THE ALLEGATIONS BEING ADMITTED AS TRUE AND RELIEF REQUESTED BEING GRANTED BY DEFAULT.

The hearing is conducted under authority of the State Lottery Act, Texas Government Code Annotated, Section 466.155; together with Title 16 of the Texas Administrative Code, Sections 401.153, 401.158, 401.160 and 401.201-227.

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), 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.**

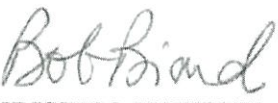
All hearings are formal due-process matters governed by and conducted in accordance with law, including the Texas Government Code, Chapters 2001 and 466, the Texas Rules of Civil Procedures, the Texas Rules of Civil Evidence, and Title 16 of the Texas Administrative Code, Chapter 401.

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.

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, or in printed format upon request to SOAH.

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

Sincerely,


for KRISTEN GUTHRIE
Assistant General Counsel
Texas Lottery Commission

CERTIFICATE OF SERVICE

Pursuant to the Texas Rules of Civil Procedures, Rule 21a, Texas Government Code, Chapter 466.155(b); and to Title 16 of the Texas Administrative Code, Chapter 401.205, I do hereby certify that on this the 25th day of October, 2018, a true and correct copy of the foregoing *Notice of Final Hearing on Suspension or Revocation of Lottery License* has been served by First Class United States Mail and Certified Mail No. 91 7199 9991 7030 8546 2724, 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 Bova Inc. d/b/a Petromart #114, 9337 Katy Fwy. #109B, Houston, TX 77024.


for KRISTEN GUTHRIE
Assistant General Counsel
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630
(512) 344-5465
(512) 344-5189 Fax

cc: State Office of Administrative Hearings
Lottery Operations Division, Retailer Services Department

Mr. James W. Holtz
Holtz Law Firm
2500 City West Blvd., Suite 300
Houston, TX 77042

Via fax: (713) 467-1399
Via email: jholtz@holtzlegal.com

Mr. Sam Patel
Bova Inc.
d/b/a Petromart #114
9337 Katy Fwy. #109B
Houston, TX 77024

Via email: sampetromax@yahoo.com