



INTEROFFICE MEMO

Gary Grief, Executive Director Tom Hanson, Acting Charitable Bingo Operations Director

To: J. Winston Krause, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Robert Rivera, Commissioner
Erik C. Saenz, Commissioner

From: Bob Biard, General Counsel

A handwritten signature in blue ink, appearing to be "RBB", is written next to the name Bob Biard.

Date: June 11, 2020

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: JUNE 11, 2020

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

Commission Order No. 20-0041

Date: JUNE 11, 2020

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.

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. 20-0041

Date: JUNE 11, 2020

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 11TH day of JUNE 2020.

Entered this 11TH day of JUNE 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

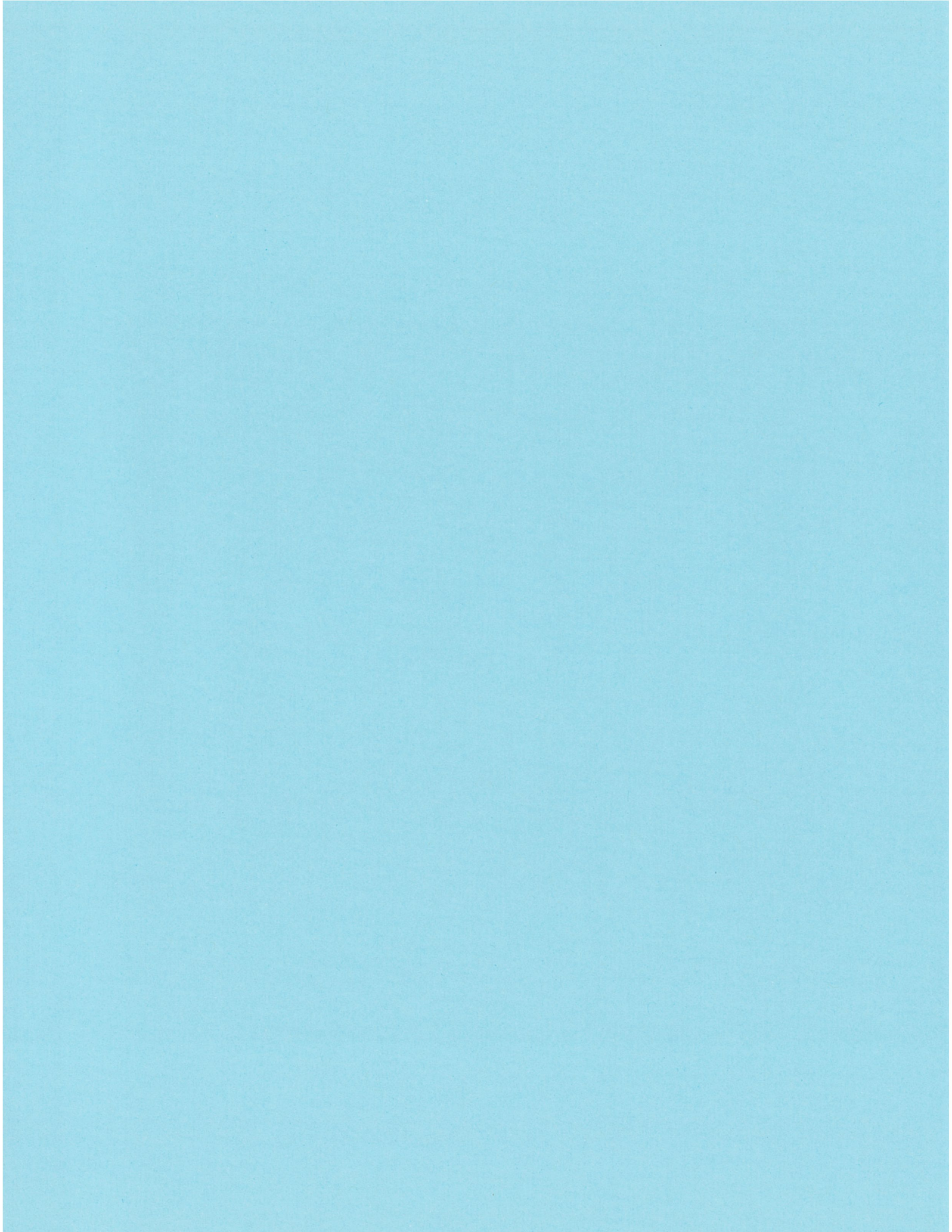
ERIK C. SAENZ, COMMISSIONER

Commission Order No. 20-0041

Date: JUNE 11, 2020

ATTACHMENT A

TAB NO.	SOAH DOCKET NO.	TICKET SALES AGENT NAME	TICKET SALES AGENT ADDRESS	LOTTERY LICENSE NO.
A.	362-20-0652	AG Alwani Associates Inc. d/b/a Caddo Mills Food Mart	1200 Fuller Wiser Rd., Apt. 318 Euless, TX 76039	184802
B.	362-20-1497	New S & B Group Inc. d/b/a Cap's Mini Mart	2801 Justin Road Flower Mound, TX 75028	186747
C.	362-20-1587	Food Rite Inc. d/b/a Food Rite	518 Arrowwood Waters Trinidad, TX 75163	112234
D.	362-20-1588	Global Golden Inc. d/b/a Waco Travel Stop	302 N. Frontier Lane Cedar Park, TX 78613	174512
E.	362-20-1700	Cale Wayne Kincaid d/b/a Graford Service Center	P.O. Box 93 Graford, TX 76449	125895
F.	362-20-1784	Sunny's Corrigan Inc. d/b/a Pit Stop	2205 Chenevert Street Houston, TX 77003	180737
G.	362-20-2366	Persia Country Corner LLC d/b/a Persia Country Corner	4207 Las Palmas Circle, Apt. B2 Brownsville, TX 78521	184684
H.	362-20-2878	SA Shoppers Mart Inc. d/b/a Shoppers Mart	P.O. Box 780910 San Antonio, TX 78279	178419
I.	362-20-2880	RMM254 Inc. d/b/a CJ's One Stop	P.O. Box 265 Wadsworth, TX 77483	187025
J.	362-20-2972	Khanis Corporation d/b/a Finer Food Beer Wine	1700 Egret Lane South Lake, TX 76092	186740
K.	362-20-3107	BMP Financial Group Inc. d/b/a Quick Track 48	1501 Pipeline Road E., Ste. B Bedford, TX 76022	185084
L.	362-20-3108	Cotulla Oner Stop LLC d/b/a Cotulla Oner Stop	402 S. Main Street Cotulla, TX 78014	187410



DOCKET NO.: SEE ATTACHMENT A

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

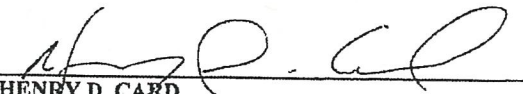
**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On January 16, 2020, 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 17, 2020


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

TEXAS LOTTERY COMMISSION

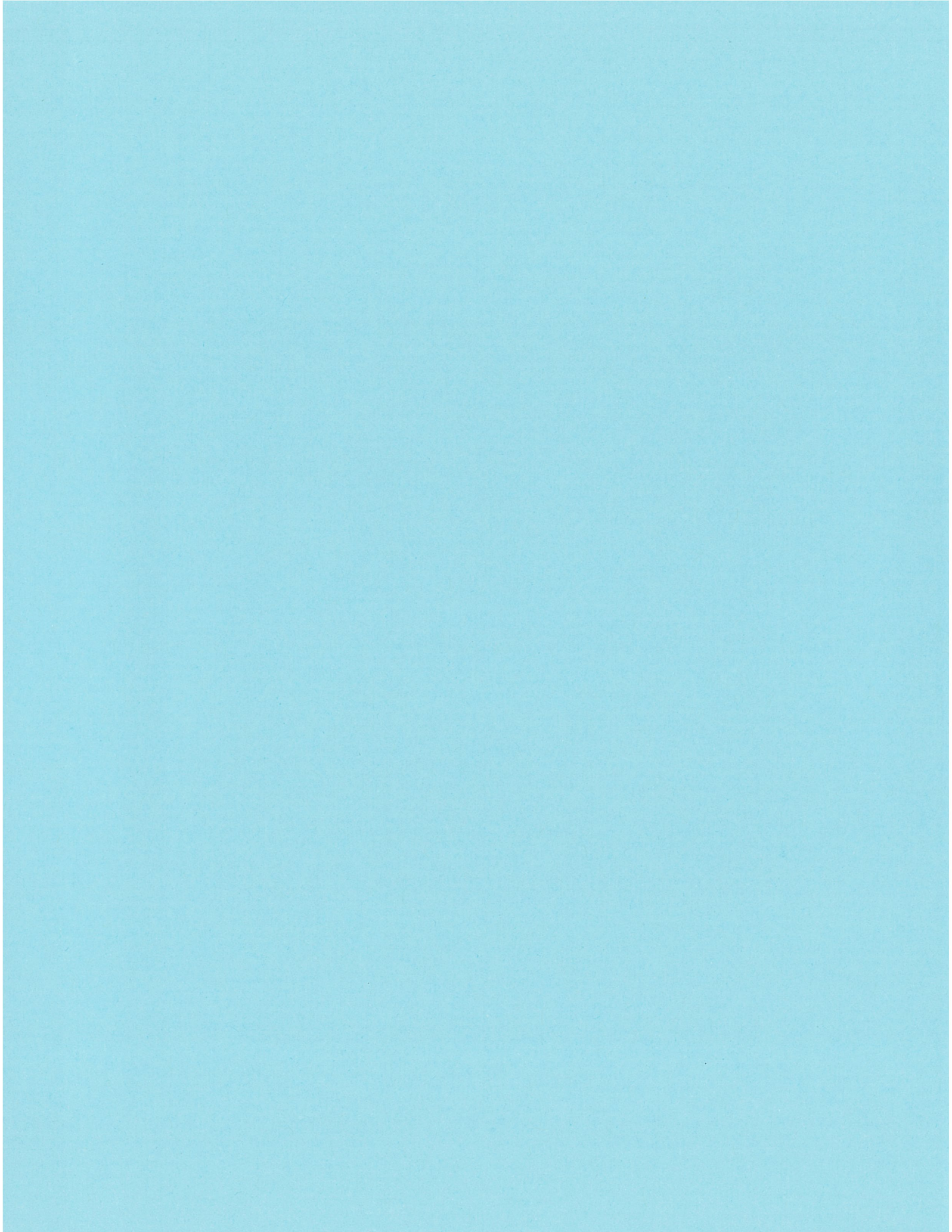
REVOCATION HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: January 16, 2020

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-0652	AG Alwani Associates Inc d/b/a Caddo Mills Food Mart	1200 Fuller Wise Rd., Apt 318 La Blanca, TX 78558	184802
362-20-1497	New S & B Group Inc. d/b/a Cap's Mini Mart	2801 Justin Road Flower Mound, TX 75028	186747



DOCKET NO.: SEE ATTACHMENT A

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

ORDER NO. 1
CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION

On January 23, 2020, 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 24, 2020

/s/ Andrew Lutostanski
Andrew Lutostanski
Administrative Law Judge
State Office of Administrative Hearings

TEXAS LOTTERY COMMISSION
REVOCATION HEARING
STATE OFFICE OF ADMINISTRATIVE HEARINGS

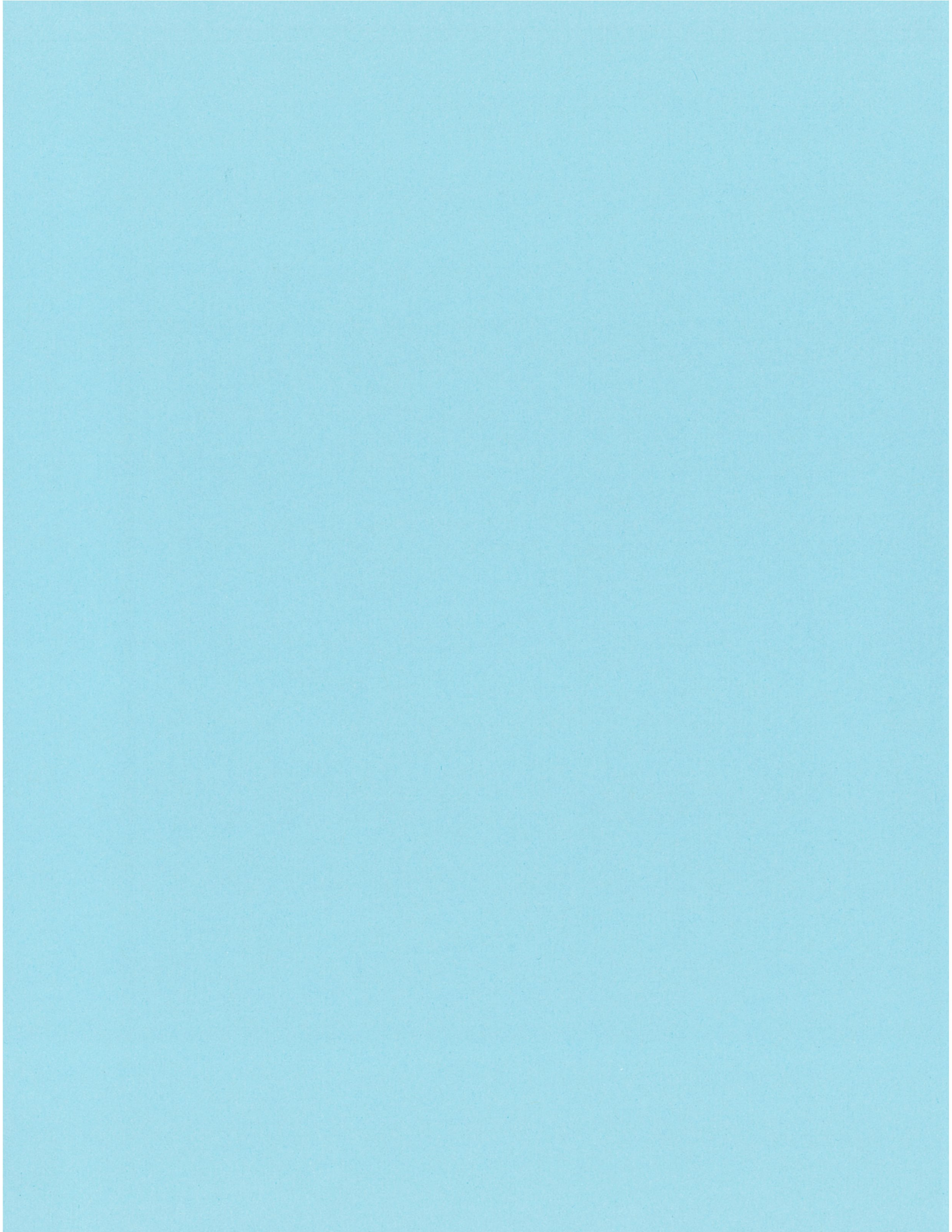
EXHIBIT 1

HEARING HELD: January 23, 2020

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-1587	Food Rite Inc d/b/a Food Rite	518 Arrowwood Waters Trinidad, TX 74163	112234
362-20-1588	Global Golden Inc d/b/a Waco Travel Stop	302 N Frontier Lane Cedar Park, TX 78613	174512

EXHIBIT 1

ATTACHMENT A



DOCKET NO. 362-20-1700

IN THE MATTER	§	BEFORE THE STATE OFFICE
	§	
OF THE REVOCATION OF	§	OF
LOTTERY RETAILER LICENSE OF	§	
GRAFORD SERVICE CENTER	§	ADMINISTRATIVE HEARINGS

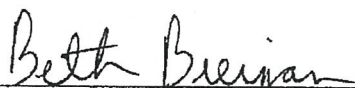
ORDER NO. 1
CONDITIONAL ORDER DISMISSING CASE FROM SOAH
AND REMANDING CASE TO COMMISSION

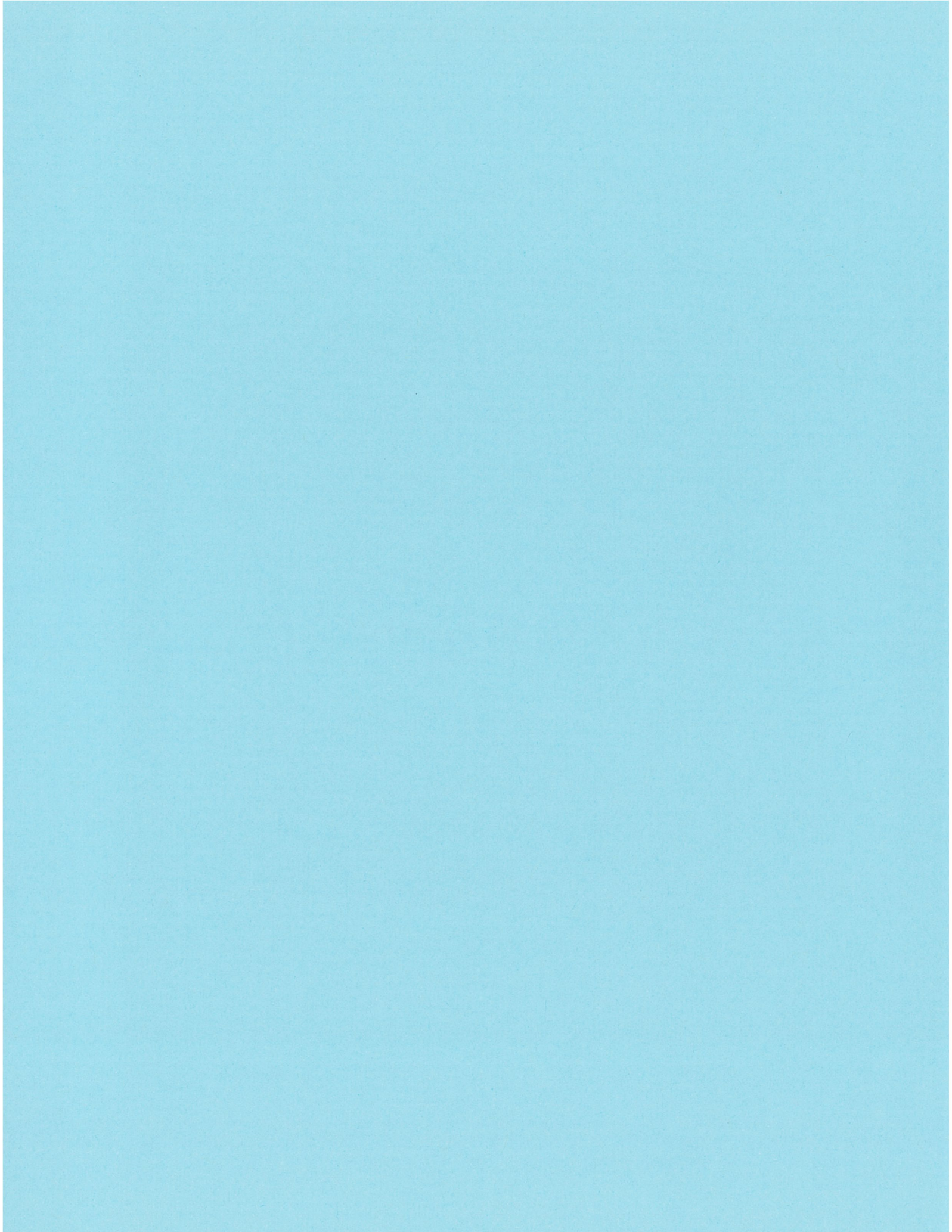
On January 30, 2020, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by Graford Service Center (the retailer). Notice of the hearing was provided to the retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at the retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. The retailer failed to appear at the hearing. Based on the 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 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. The 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 February 10, 2020.


BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



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 February 13, 2020, 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.

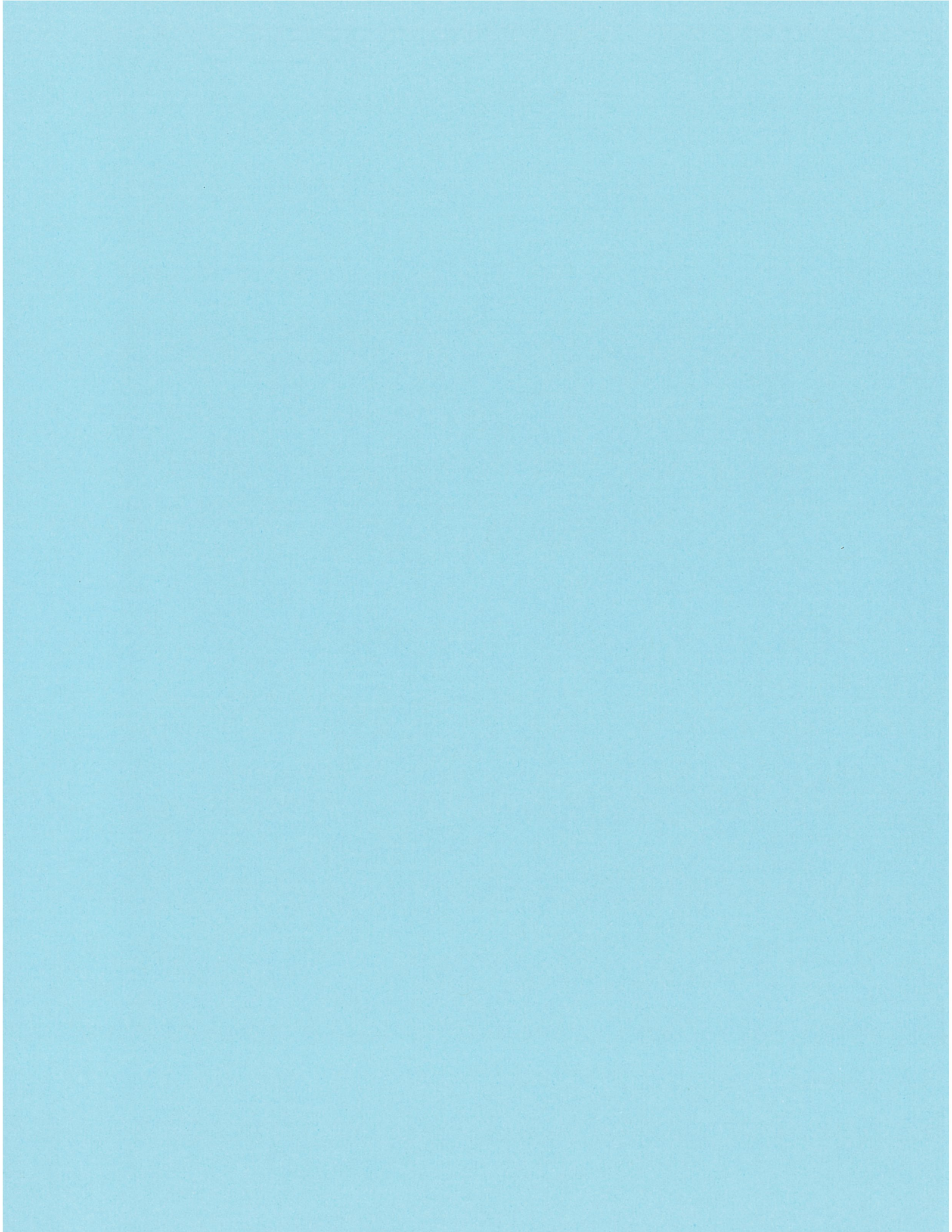
Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal 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 February 24, 2020.


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: February 13, 2020

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-1784	Sunny's Corrigan Inc., d/b/a Pit Stop	2205 Chenever Street, Houston, TX 77003	180737



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 March 12, 2020, 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 March 17, 2020.

David DuBoise

DAVID DUBOSE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

ACCEPTED
362-20-2366
3/17/2020 3:34 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

FILED
362-20-2366
3/17/2020 3:23 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

TEXAS LOTTERY COMMISSION

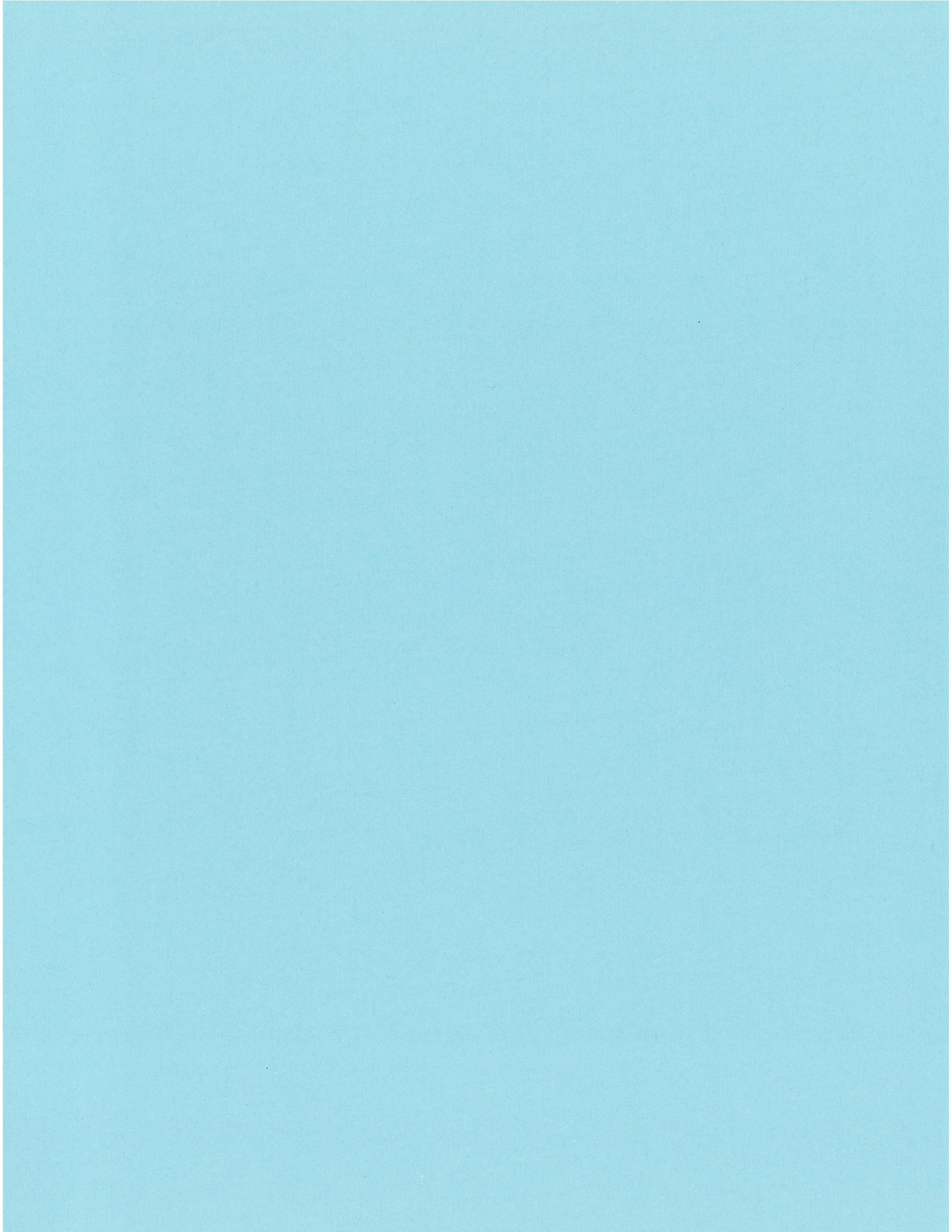
REVOCATION HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: March 12, 2020

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-2366	Persia Country Corner LLC d/b/a Persia County Center	4207 Las Palmas Circle, Apt. B2, Brownsville, TX 78521	184684



ACCEPTED
362-20-2878
04/16/2020 10:19 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

362-20-2878

FILED
362-20-2878
4/16/2020 10:07 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

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 April 9, 2020, 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 April 16, 2020.


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

ACCEPTED
362-20-2880
04/16/2020 10:34 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

362-20-2880

FILED
362-20-2880
4/16/2020 10:33 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

DOCKET NO.: SEE ATTACHMENT A

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

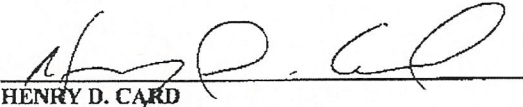
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AND REMANDING CASE(S) TO COMMISSION**

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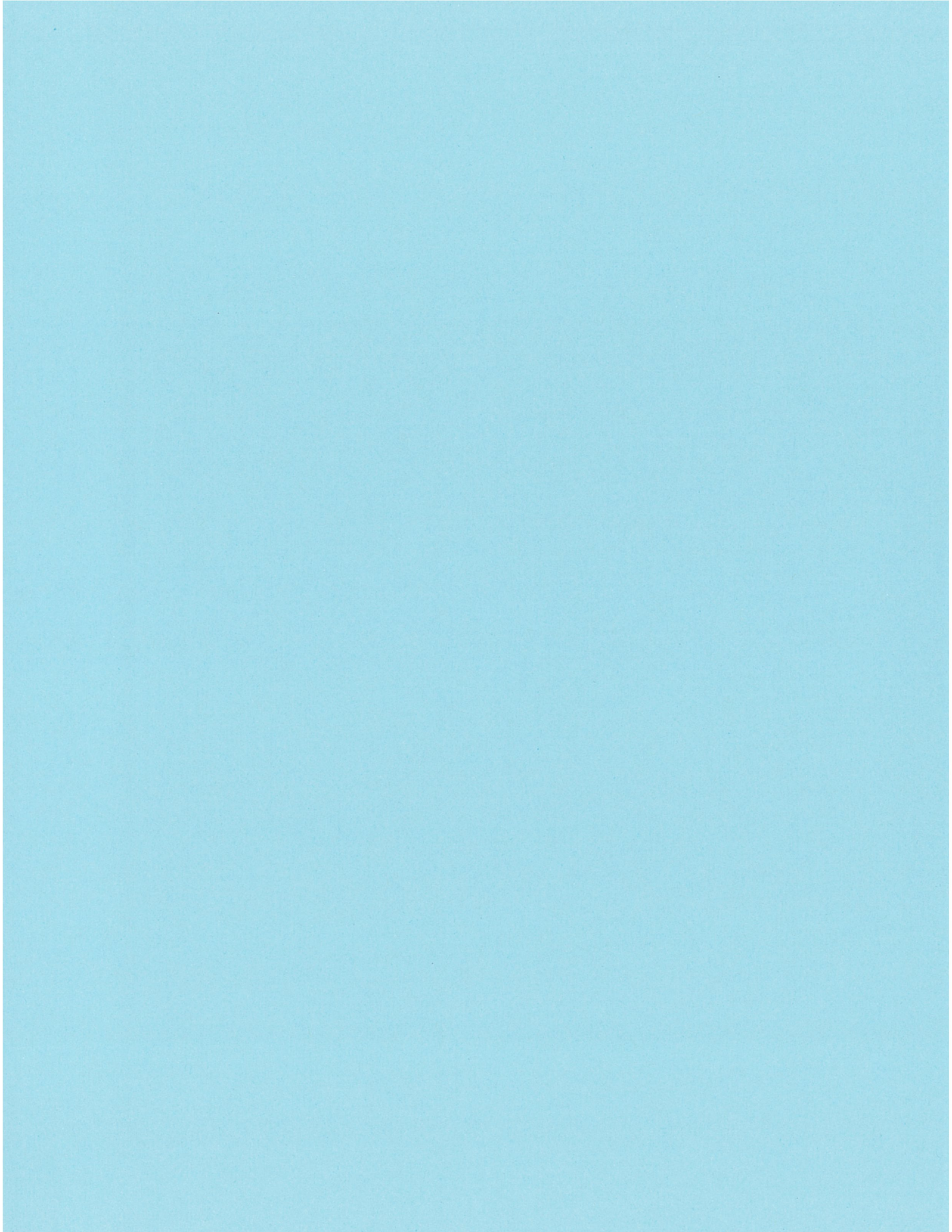
Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal 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 April 16, 2020.


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: April 9, 2020

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-2878	SA Shoppers Mart Inc., d/b/a Shopper Mart	P.O. Box 780910 San Antonio, TX 78279	178419
362-20-2880	RMM254 Inc. d/b/a CJ's One Stop	P.O. Box 265 Wadsworth, TX 77483	187025



ACCEPTED
362-20-2972
05/05/2020 11:47 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

FILED
362-20-2972
5/5/2020 11:08 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

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
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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).

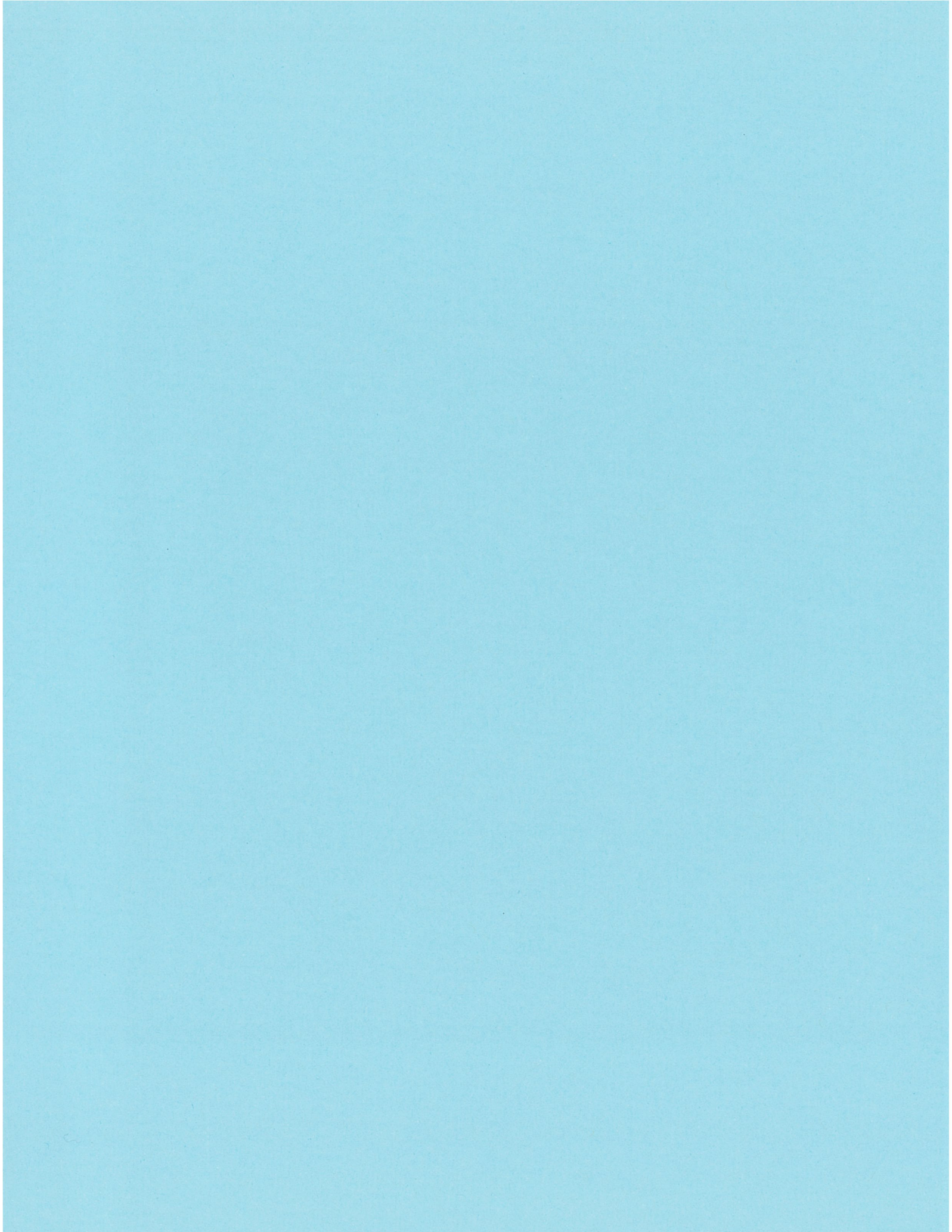
Signed May 5, 2020.



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

TEXAS LOTTERY COMMISSION
REVOCATION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTACHMENT A
HEARING HELD: April 16, 2020

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-2972	Khanis Corporation, Agent d/b/a Finer Foods Beer Wine	1700 Egret Lane South Lake, TX 76092	186740



ACCEPTED
362-20-3107
05/05/2020 12:24 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

362-20-3107

FILED
362-20-3107
5/5/2020 12:23 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

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 April 30, 2020, 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 May 5, 2020.



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

ACCEPTED
362-20-3108
05/05/2020 12:23 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

362-20-3108

FILED
362-20-3108
5/5/2020 12:21 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

DOCKET NO.: SEE ATTACHMENT A

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

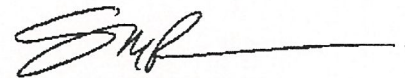
**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On April 30, 2020, 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).

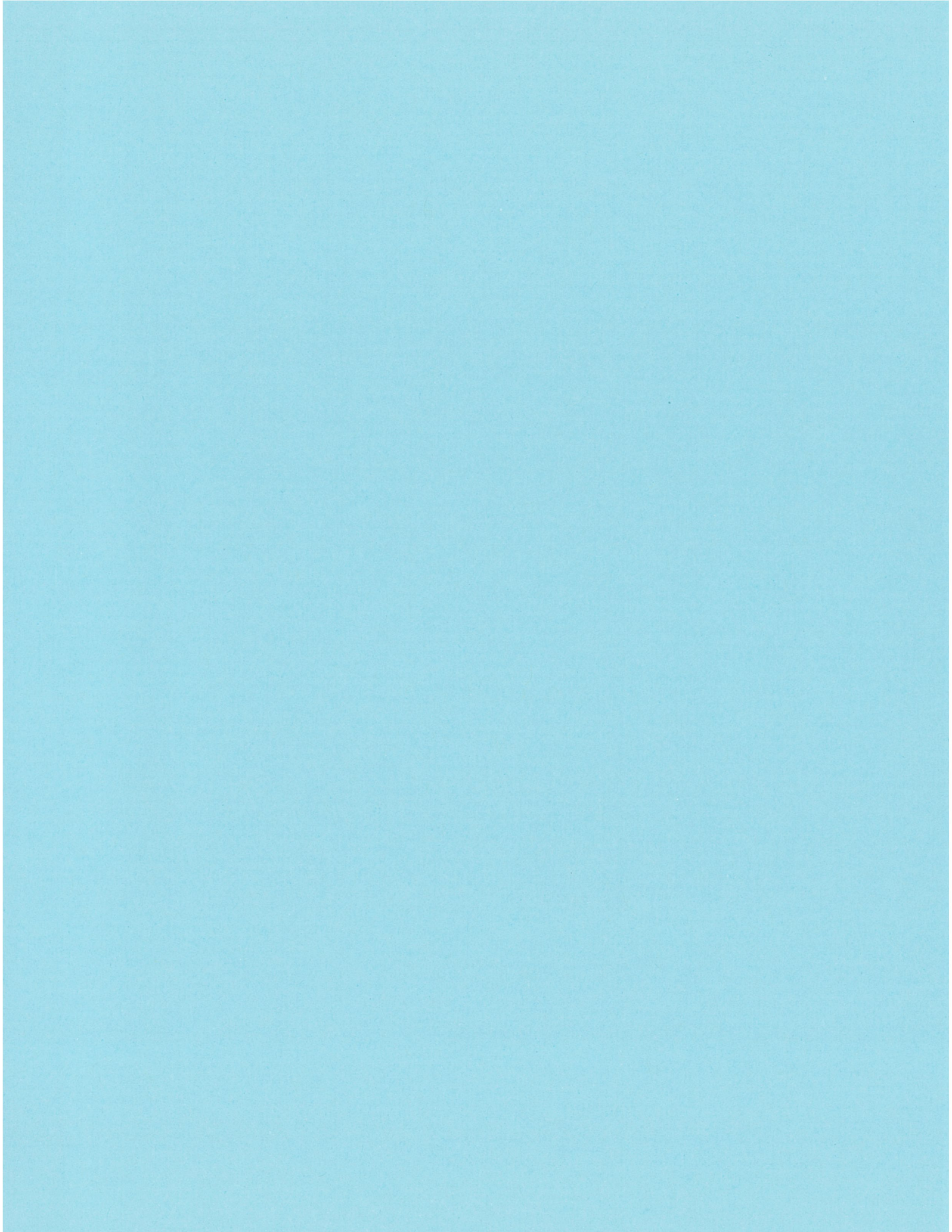
Signed May 5, 2020.



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

TEXAS LOTTERY COMMISSION
REVOCATION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTACHMENT A
HEARING HELD: April 30, 2020

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-3107	BMP Financial Group Inc. d/b/a Quick Track 48	1501 Pipeline Road, E. Ste. B Bedford, TX 76022	185084
362-20-3108	Cotulla Oner Stop LLC, d/ba Cotulla Oner Stop	402 Main Street Cotulla, TX 78014	187410



Commission Order No. 20-0042

Date: JUNE 11, 2020

Case No. 2019-916

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
TRISTAR BEN WHEELER INC.	§	
D/B/A TRISTAR #5	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 182115	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Tristar Ben Wheeler Inc. d/b/a Tristar #5 (Tristar #5) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Tristar #5 holds Texas Lottery Ticket Sales Agent License No. 182115.
2. Shezad Kapadia is the president of Tristar #5, which is located at 13843 State Highway 64, Ben Wheeler, TX 75754.
3. On April 18, 2019, Anita Khanal, presented to the Tyler Claim Center (TCC) for validation a "Money Madness" Texas Lottery scratch ticket with a prize value of \$1,000. Because the ticket was torn in half and taped together with clear tape, the TCC staff forwarded the claim to the Austin Claim Center for further review.
4. Ms. Khanal told a Commission investigator that, on April 14, 2019, when she was visiting her husband Dinesh Mainali, a manager at Tristar #5, she noticed a customer had torn a ticket in half without realizing it was a winner. With Mr. Mainali's approval, Ms. Khanal, who is not employed by Tristar #5, scanned the ticket on the terminal and confirmed the ticket was a winner.

5. The customer, who tore the ticket in half, told Ms. Khanal and Mr. Mainali that he did not have time to go to the TCC. Ms. Khanal, in Mr. Mainali's presence, arranged to claim the ticket for the customer.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to the State Lottery Act (Tex. Gov't Code, Chapter 466) and the Commission rules (16 Tex. Admin. Code, Chapter 401).

2. Tristar #5 is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

- (1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or
- (2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

4. Tex. Gov't Code §466.310(a) states:

A person commits an offense if the person:

- (A) induces another person to assign or transfer a right to claim a prize;
- (B) offers for sale the right to claim a prize; or
- (C) offers, for compensation, to claim the prize of another person.

5. Tex. Gov't Code §466.402(b) states:

The payment of a prize in an amount of \$600 or more may be made only by the director.

6. 16 Tex. Admin. Code §401.158(b) states, in pertinent parts:

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 or 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 a 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.

7. 16 Tex. Admin. Code §401.360 states:

Retailers may pay any lottery prize of less than \$600, after complying with established validation procedures. However, if a retailer validates a ticket of up to \$600, that retailer shall pay the prize amount on the ticket. Prizes of \$600 or more shall be paid by the Texas Lottery by mail or at a designated lottery claim center.

8. 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.

9. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery." Tex. Gov't Code §466.014(a).

10. Under Texas law, an employer is liable, vicariously, for the acts of its servants committed in the course and scope of their employment. *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 617–18 (Tex. 1999). An employee is acting within the scope of their employment if they are performing duties generally assigned to them, regardless of whether the employee acted

intentionally and unlawfully. *Fink v. Anderson*, 477 S.W.3d 460, 468 (Tex. App.— Houston [1st Dist.] 2015, no pet.).

11. The State Lottery Act recognizes that a sales agent's unlicensed employees may lawfully perform lottery-related duties of their licensee employers, including selling and handling lottery tickets and handling the revenue generated from ticket sales. Tex. Gov't Code §§ 466.201(a)(7), 466.303(a), 466.305(a), 466.3051(a), and 466.353(a). Thus, the Commission's ability to attribute employee violations committed within the course and scope of their employment to their licensee employer is reasonably necessary to fulfill the Commission's express duty to exercise strict control and supervision over the lottery, and is within the Commission's implied authority.

12. The Texas Lottery Ticket Sales Agent License of Tristar #5 is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Tristar #5's violation of Tex. Gov't Code §§ 466.308(a) and 466.310(a), and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), and 401.360 and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Tristar #5 agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Tristar #5 agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a) and 466.310(a), and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366, its

Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Tristar #5 agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Tristar #5 is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Tristar #5's Ticket Sales Agent License is posted.

5. Tristar #5 agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Tristar #5's Ticket Sales Agent License, for any further violations of the State Lottery Act and/or Commission rules.

6. Tristar #5 acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. Tristar #5 agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Tristar #5 has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Tristar #5, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Tristar #5 agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Tristar #5 will be charged for tickets sold on or before that date. Tristar #5 will be credited for any tickets that have been paid for in previous

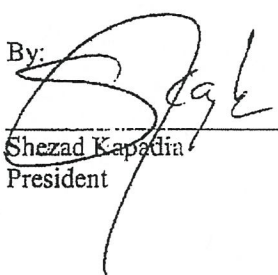
sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Tristar Ben Wheeler Inc.
d/b/a Tristar #5


Texas Lottery Commission
Lottery Operations Division

By:


Shezad Kapadia
President

3-30-20
DATE

By:


Ryan S. Mindell
Director

4-8-2020
DATE

Commission Order No. 20-0042

Date: JUNE 11, 2020

Case No. 2019-916

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
TRISTAR BEN WHEELER INC.	§	
D/B/A TRISTAR #5	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 182115	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Tristar Ben Wheeler Inc. d/b/a Tristar #5's (Tristar #5) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Tristar #5 shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Tristar #5 shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Tristar #5's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 20-0042

Date: JUNE 11, 2020

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Tristar #5 has failed to comply with the terms of this Order, disciplinary action shall be taken against Tristar #5, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Tristar #5 shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Tristar #5 will be charged for the tickets sold on or before that date. Tristar #5 will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Commission Order No. 20-0042

Date: JUNE 11, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

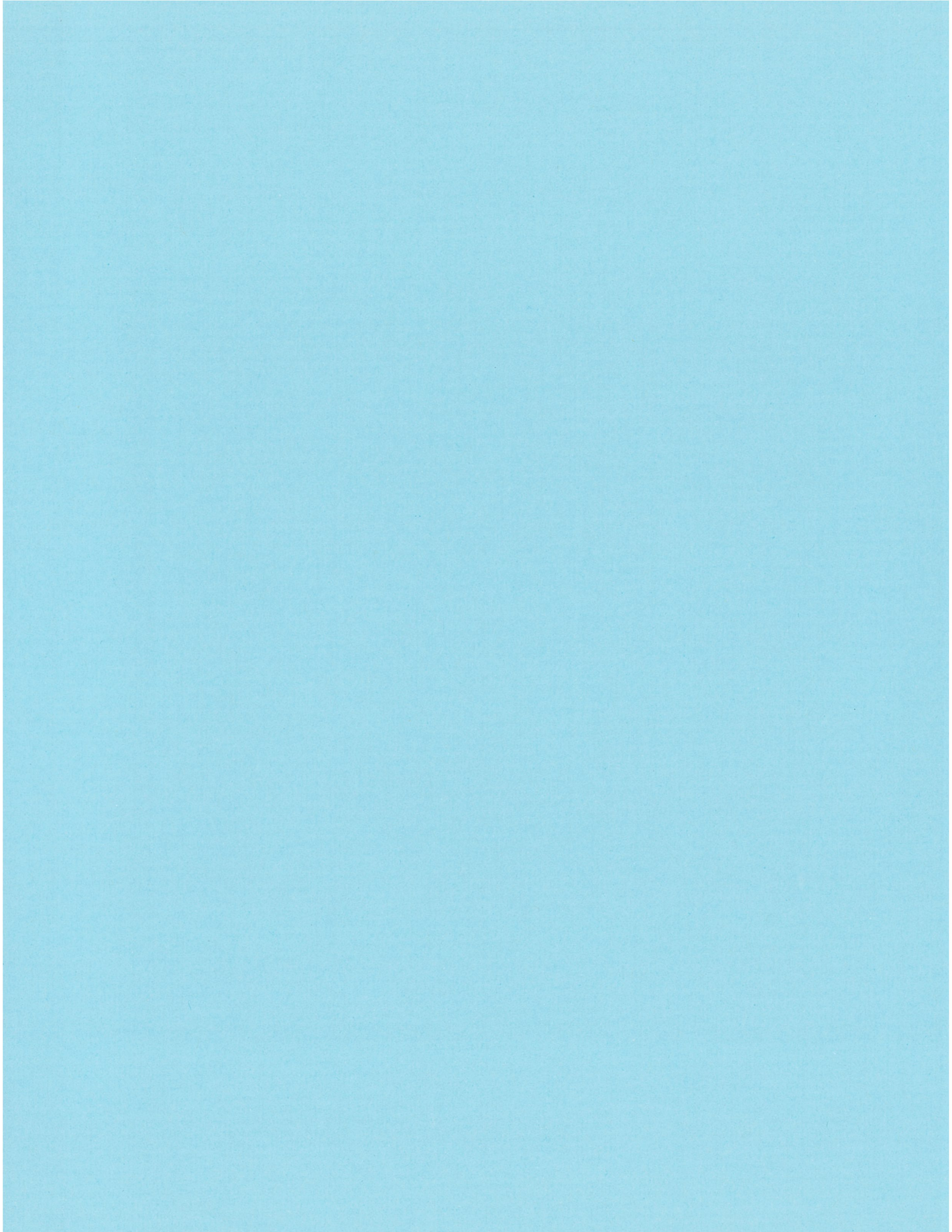
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0043

Date: JUNE 11, 2020

Case No. 2020-81

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ZINAM INC.	§	
D/B/A QUICK STOP FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 174124	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Zinam Inc. d/b/a Quick Stop Food Mart (Quick Stop Food Mart) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Quick Stop Food Mart holds Texas Lottery Ticket Sales Agent License No. 174124.
2. Brazin Basnet is the owner of Quick Stop Food Mart, which is located at 1000 Indiana St., Graham, TX 76450.
3. On June 26, 2019, Mr. Basnet presented to the Fort Worth Claim Center for payment a Texas Lottery scratch ticket with a prize value of \$1,000. Based on an internal review, the Commission initiated an investigation of Quick Stop Food Mart.
4. On September 6, 2019, a Commission investigator spoke with Mr. Basnet and he admitted to purchasing the prize-winning scratch ticket from a customer for less than its \$1,000 prize value.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (the State Lottery Act) and 16 Tex. Admin. Code ch. 401.

2. Quick Stop Food Mart is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

- (1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or
- (2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

4. Tex. Gov't Code §466.310(a) states:

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.

5. Tex. Gov't Code §466.402(b) states:

The payment of a prize in the amount of \$600 or more may be made only by the director.

6. 16 Tex. Admin. Code §401.158 states, in pertinent parts:

(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 or 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 a 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.

(D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

7. 16 Tex. Admin. Code §401.360 states:

Retailers may pay any lottery prize of less than \$600, after complying with established validation procedures. However, if a retailer validates a ticket of up to \$600, that retailer shall pay the prize amount on the ticket. Prizes of \$600 or more shall be paid by the Texas Lottery by mail or at a designated lottery claim center.

8. 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.

9. The Texas Lottery Ticket Sales Agent License of Quick Stop Food Mart is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Quick Stop Food Mart's violation of Tex. Gov't Code §§ 466.308(a), 466.310(a) and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Quick Stop Food Mart agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Quick Stop Food Mart agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a), 466.310(a) and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33),

401.360 and 401.366, its Ticket Sales Agent License will be suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Quick Stop Food Mart agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Quick Stop Food Mart is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Quick Stop Food Mart's Ticket Sales Agent License is posted.

5. Quick Stop Food Mart agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Quick Stop Food Mart's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Quick Stop Food Mart acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

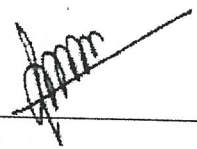
7. Quick Stop Food Mart agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Quick Stop Food Mart has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Quick Stop Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Quick Stop Food Mart agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Quick Stop Food Mart will be charged for tickets sold on or before that date. Quick Stop Food Mart will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Zinam Inc.
d/b/a Quick Stop Food Mart


By:


Brazin Basnet
Owner

Feb 01-2020
DATE

Texas Lottery Commission
Lottery Operations Division

By:


Ryan S. Mindell
Director

2-3-2020
DATE

Commission Order No. 20-0043

Date: JUNE 11, 2020

Case No. 2020-81

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ZINAM INC.	§	
D/B/A QUICK STOP FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 174124	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Zinam Inc. d/b/a Quick Stop Food Mart's (Quick Stop Food Mart) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Quick Stop Food Mart shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Quick Stop Food Mart shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Quick Stop Food Mart's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Quick Stop Food Mart has

Commission Order No. 20-0043

Date: JUNE 11, 2020

failed to comply with the terms of this Order, disciplinary action shall be taken against Quick Stop Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Quick Stop Food Mart shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Quick Stop Food Mart will be charged for the tickets sold on or before that date. Quick Stop Food Mart will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

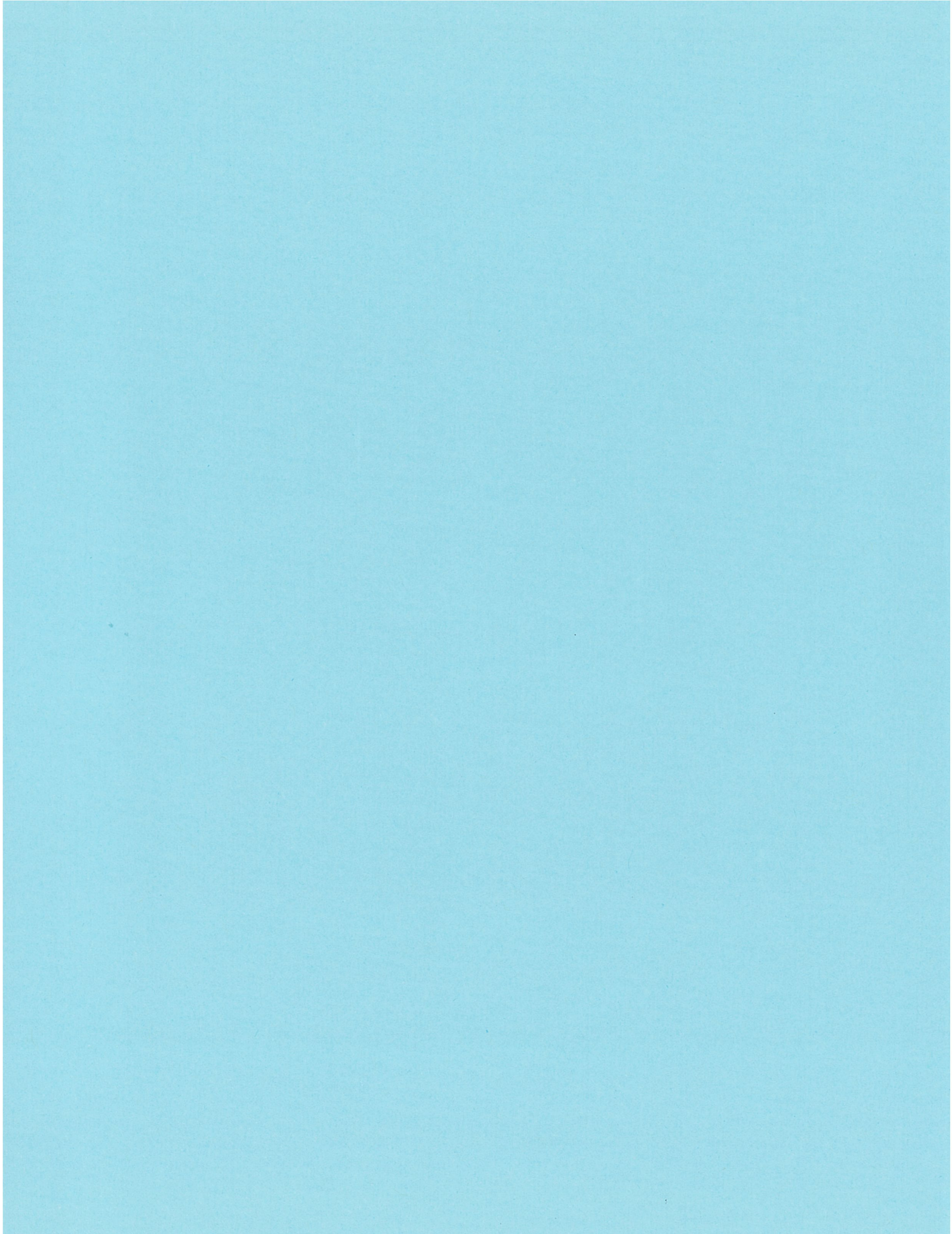
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0044

Date: JUNE 11, 2020

Case No. 2020-82

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
SALIMA INC.	§	
D/B/A DAIRY WAY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 134427	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Salima Inc. d/b/a Dairy Way (Dairy Way) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Dairy Way holds Texas Lottery Ticket Sales Agent License No. 134427.
2. Malika Piyaali is the president of Dairy Way, which is located at 2854 W. Davis St., Dallas, TX 75211.
3. On July 23, 2019, Anjal Gajurel, employee of Dairy Way, presented to the Dallas Claim Center for payment a Texas Lottery scratch ticket with a prize value of \$1,000. Based on an internal review, the Commission initiated an investigation into this claim.
4. On August 19, 2019, a Commission investigator spoke with Mr. Gajurel who stated he claimed the lottery ticket for a store customer.
5. Dairy Way terminated Mr. Gajurel from his employment for claiming a lottery ticket for a customer.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (the State Lottery Act) and 16 Tex. Admin. Code ch. 401 (Commission rules).

2. Dairy Way is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

- (1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or
- (2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

4. Tex. Gov't Code §466.310(a) states:

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.

5. 16 Tex. Admin. Code §401.158(b) states, in pertinent parts:

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 or 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 a 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.
- (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

6. 16 Tex. Admin. Code §401.360 states:

Retailers may pay any lottery prize of less than \$600, after complying with established validation procedures. However, if a retailer validates a ticket of up to \$600, that retailer shall pay the prize amount on the ticket. Prizes of \$600 or more shall be paid by the Texas Lottery by mail or at a designated lottery claim center.

7. 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.

8. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery." Tex. Gov't Code §466.014(a).

9. Under Texas law, an employer is liable, vicariously, for the acts of its servants committed in the course and scope of their employment. *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 617–18 (Tex. 1999). An employee is acting within the scope of their employment if they are performing duties generally assigned to them, regardless of whether the employee acted intentionally and unlawfully. *Fink v. Anderson*, 477 S.W.3d 460, 468 (Tex. App.—Houston [1st Dist.] 2015, no pet.).

10. The State Lottery Act recognizes that a sales agent's unlicensed employees may lawfully perform lottery-related duties of their licensee employers, including selling and handling lottery tickets and handling the revenue generated from ticket sales. Tex. Gov't Code §§ 466.201(a)(7), 466.303(a), 466.305(a), 466.3051(a), and 466.353(a). Thus, the Commission's ability to attribute employee violations committed within the course and scope of their employment to their licensee employer is reasonably necessary to fulfill the Commission's express duty to

exercise strict control and supervision over the lottery, and is within the Commission's implied authority.

11. The Texas Lottery Ticket Sales Agent License of Dairy Way is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Dairy Way's violation of Tex. Gov't Code §§ 466.308(a) and 466.310(a); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Dairy Way agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Dairy Way agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a) and 466.310(a); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366, its Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Dairy Way agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Dairy Way is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Dairy Way's Ticket Sales Agent License is posted.

5. Dairy Way agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Dairy Way's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Dairy Way acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

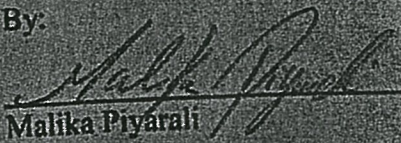
7. Dairy Way agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Dairy Way has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Dairy Way, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Dairy Way agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Dairy Way will be charged for tickets sold on or before that date. Dairy Way will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Salima Inc.
d/b/a Dairy Way

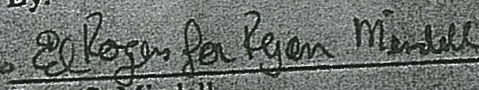
By:


Malika Priyadarshi
President

02/27/2020
DATE

Texas Lottery Commission
Lottery Operations Division

By:


Ryan S. Mindell
Director

3.3.2020
DATE

Commission Order No. 20-0044

Date: JUNE 11, 2020

Case No. 2020-82

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
SALIMA INC.	§	
D/B/A DAIRY WAY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 134427	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Salima Inc. d/b/a Dairy Way's (Dairy Way) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Dairy Way shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Dairy Way shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Dairy Way's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Dairy Way has failed to

Commission Order No. 20-0044

Date: JUNE 11, 2020

comply with the terms of this Order, disciplinary action shall be taken against Dairy Way, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Dairy Way shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Dairy Way will be charged for the tickets sold on or before that date. Dairy Way will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

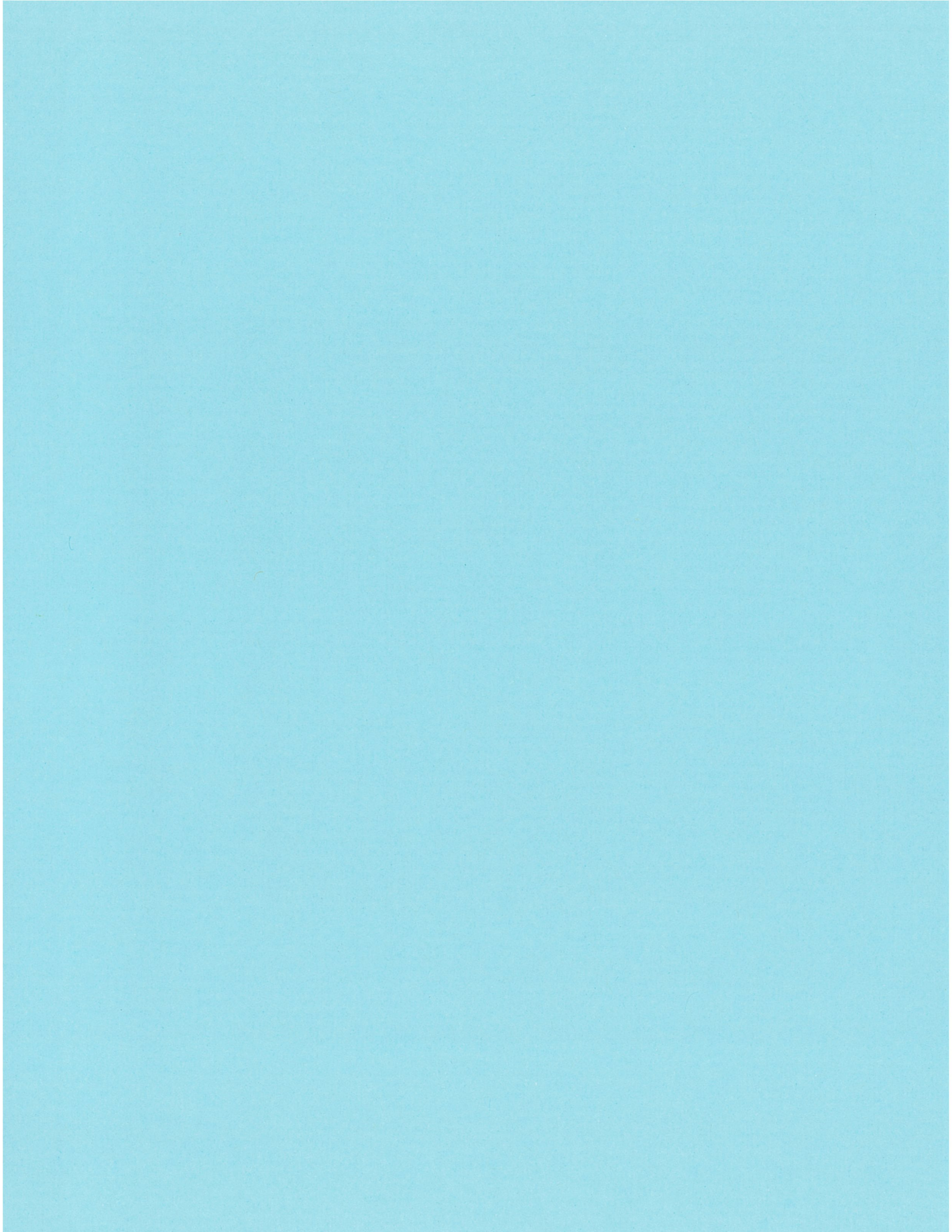
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0045

Date: JUNE 11, 2020

Case No. 2020-83

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
FALLS CAPITAL INC.	§	
D/B/A STONEY'S LIQUOR-HEARNE	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 156853	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Falls Capital Inc. d/b/a Stoney's Liquor-Hearne (Stoney's Liquor) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Stoney's Liquor holds Texas Lottery Ticket Sales Agent License No. 156853.
2. Larry Wornat is the president of Stoney's Liquor which is located at 879 N. Market St., Hearne, TX 77859.
3. On July 25, 2019, the Commission received a complaint that Stoney's Liquor allowed the purchase of lottery tickets with a credit card. The Commission initiated an investigation of Stoney's Liquor.
4. On August 29, 2019, a Commission investigator traveled to Stoney's Liquor and purchased a "Weekly Grand" Texas Lottery scratch ticket with a credit card.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code Ch. 466 (the State Lottery Act) and 16 Tex. Admin. Code Ch. 401.

2. Stoney's Liquor is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.3052 states:

A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

- (1) United States currency;
- (2) a negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code;
- (3) a debit made through a financial institution debit card;
- (4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; or
- (5) a mail order subscription on a mail order subscription form authorized by the commission.

4. 16 Tex. Admin. Code §401.158(b) states, in pertinent part:

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:

- ...
- (27) licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.

5. 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.

6. The Texas Lottery Ticket Sales Agent License of Stoney's Liquor is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Stoney's Liquor's violation of Tex. Gov't Code §466.3052 and 16 Tex. Admin. Code §§ 401.158(b)(27) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Stoney's Liquor agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Stoney's Liquor agrees that, as a result of its violation of Tex. Gov't Code §466.3052 and 16 Tex. Admin. Code §§ 401.158(b)(27) and 401.366, its Ticket Sales Agent License will be suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Stoney's Liquor agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Stoney's Liquor is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Stoney's Liquor's Ticket Sales Agent License is posted.

5. Stoney's Liquor agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Stoney's Liquor's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Stoney's Liquor acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. Stoney's Liquor agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Stoney's Liquor has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Stoney's Liquor, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Stoney's Liquor agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Stoney's Liquor will be charged for tickets sold on or before that date. Stoney's Liquor will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Falls Capital Inc.
d/b/a Stoney's Liquor-Hearne

By:

Larry Wornat
President

2-10-20
DATE

Texas Lottery Commission
Lottery Operations Division

By:

Ryan S. Mindell
Director

2-10-2020
DATE

Commission Order No. 20-0045

Date: JUNE 11, 2020

Case No. 2020-83

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
FALLS CAPITAL INC.	§	
D/B/A STONEY'S LIQUOR-HEARNE	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 156853	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Falls Capital Inc. d/b/a Stoney's Liquor-Hearne's (Stoney's Liquor) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Stoney's Liquor shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Stoney's Liquor shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Stoney's Liquor's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Stoney's Liquor has failed to

Commission Order No. 20-0045

Date: JUNE 11, 2020

comply with the terms of this Order, disciplinary action shall be taken against Stoney's Liquor, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Stoney's Liquor shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Stoney's Liquor will be charged for the tickets sold on or before that date. Stoney's Liquor will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

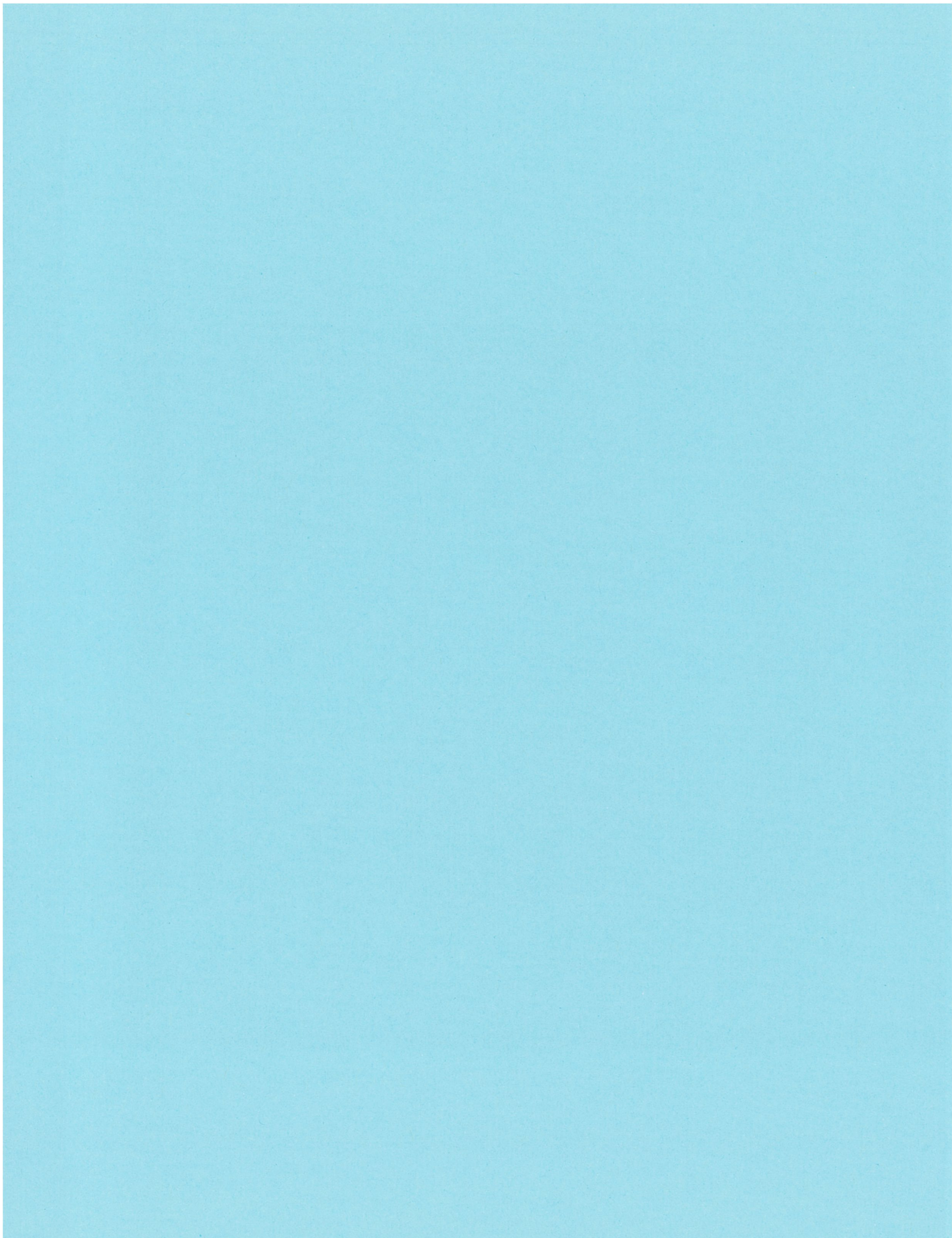
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0046

Date: JUNE 11, 2020

Case No. 2020-125

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ADELINA T. SALAZAR	§	
D/B/A FIDEL'S GROCERY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 155271	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Adelina T. Salazar d/b/a Fidel's Grocery (Fidel's Grocery) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Fidel's Grocery holds Texas Lottery Ticket Sales Agent License No. 155271.
2. Adelina Salazar is the owner of Fidel's Grocery, which is located at 301 W. Callaghan St., Fort Stockton, TX 79735.
3. On September 5, 2019, Salvador Salazar, an employee of Fidel's Grocery, presented to the Odessa Claim Center one Texas Lottery scratch ticket for a \$1,000 prize and one Texas Lottery draw game ticket for a \$1,000 prize. Based on an internal review, the Commission initiated an investigation into these claims.
4. On October 10, 2019, a Commission investigator spoke with Mr. Salazar who admitted to claiming the scratch ticket for a store customer.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (the State Lottery Act) and 16 Tex. Admin. Code ch. 401.

2. Fidel's Grocery is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

- (1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or
- (2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

4. Tex. Gov't Code §466.310(a) states:

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.

5. Tex. Gov't Code §466.402(b) states:

The payment of a prize in the amount of \$600 or more may be made only by the director.

6. 16 Tex. Admin. Code §401.158 states, in pertinent parts:

(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 or 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 a 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.
- (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

7. 16 Tex. Admin. Code §401.360 states:

Retailers may pay any lottery prize of less than \$600, after complying with established validation procedures. However, if a retailer validates a ticket of up to \$600, that retailer shall pay the prize amount on the ticket. Prizes of \$600 or more shall be paid by the Texas Lottery by mail or at a designated lottery claim center.

8. 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.

9. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery." Tex. Gov't Code §466.014(a).

10. Under Texas law, an employer is liable, vicariously, for the acts of its servants committed in the course and scope of their employment. *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 617–18 (Tex. 1999). An employee is acting within the scope of their employment if they are performing duties generally assigned to them, regardless of whether the employee acted intentionally and unlawfully. *Fink v. Anderson*, 477 S.W.3d 460, 468 (Tex. App.— Houston [1st Dist.] 2015, no pet.).

11. The State Lottery Act recognizes that a sales agent's unlicensed employees may lawfully perform lottery-related duties of their licensee employers, including selling and handling lottery tickets and handling the revenue generated from ticket sales. Tex. Gov't Code §§ 466.201(a)(7), 466.303(a), 466.305(a), 466.3051(a), and 466.353(a). Thus, the Commission's ability to attribute employee violations committed within the course and scope of their employment to their licensee employer is reasonably necessary to fulfill the Commission's express duty to

exercise strict control and supervision over the lottery, and is within the Commission's implied authority.

12. The Texas Lottery Ticket Sales Agent License of Fidel's Grocery is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Fidel's Grocery's violation of Tex. Gov't Code §§ 466.308(a), 466.310(a), and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360, and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Fidel's Grocery agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Fidel's Grocery agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a), 466.310(a) and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366, its Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Fidel's Grocery agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Fidel's Grocery is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Fidel's Grocery's Ticket Sales Agent License is posted.

5. Fidel's Grocery agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Fidel's Grocery's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Fidel's Grocery acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. Fidel's Grocery agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Fidel's Grocery has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Fidel's Grocery, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Fidel's Grocery agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Fidel's Grocery will be charged for tickets sold on or before that date. Fidel's Grocery will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Adelina T. Salazar
d/b/a Fidel's Grocery

Texas Lottery Commission
Lottery Operations Division

By:

Adelina Salazar 2-4-2020 *RM*

Adelina Salazar
Owner

DATE

By:

Ryan S. Mindell
Director

2-10-2020

DATE

Commission Order No. 20-0046

Date: JUNE 11, 2020

Case No. 2020-125

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ADELINA T. SALAZAR	§	
D/B/A FIDEL'S GROCERY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 155271	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Adelina T. Salazar d/b/a Fidel's Grocery's (Fidel's Grocery) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Fidel's Grocery shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Fidel's Grocery shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Fidel's Grocery's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Fidel's Grocery has failed to

Commission Order No. 20-0046

Date: JUNE 11, 2020

comply with the terms of this Order, disciplinary action shall be taken against Fidel's Grocery, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Fidel's Grocery shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Fidel's Grocery will be charged for the tickets sold on or before that date. Fidel's Grocery will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

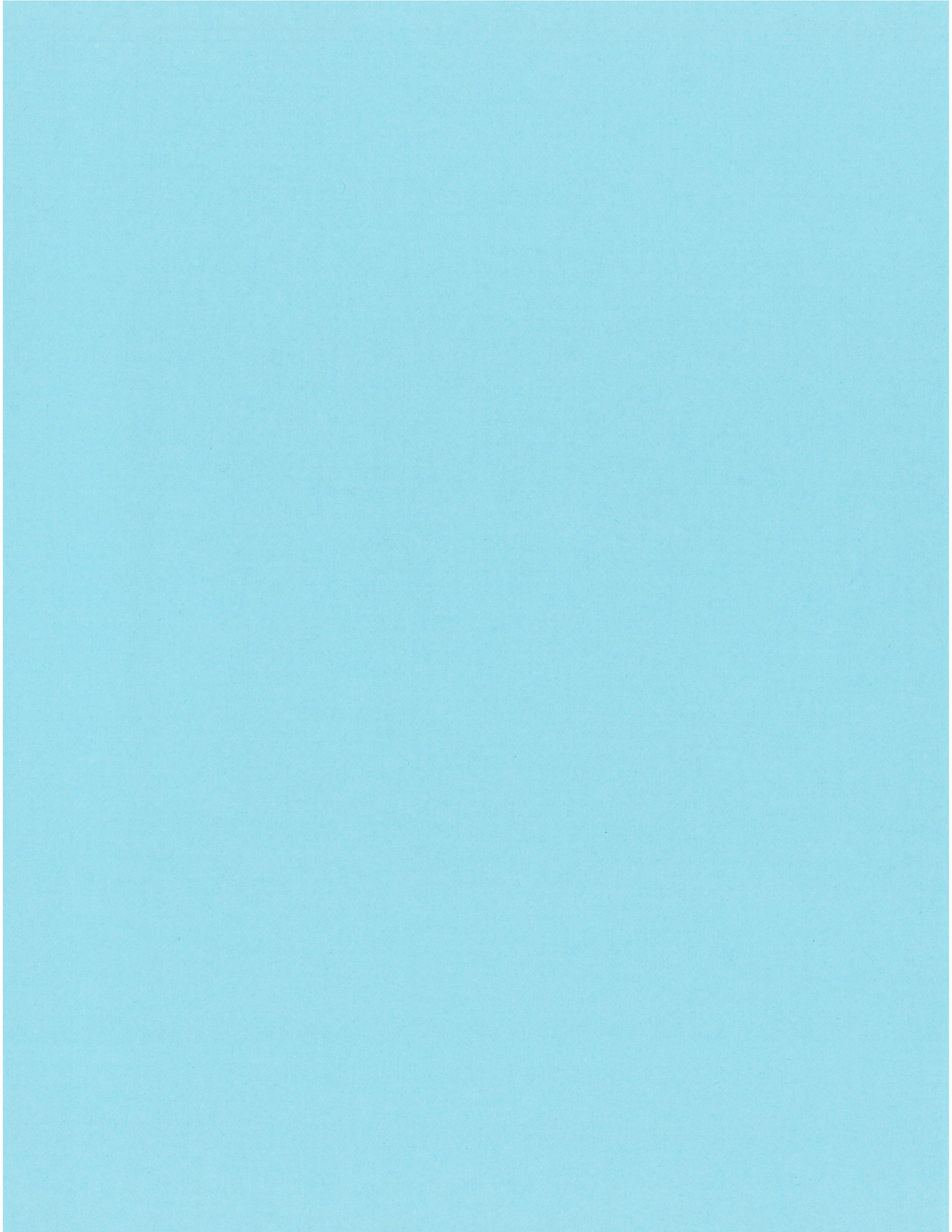
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0047

Date: JUNE 11, 2020

Case No. 2020-126

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
EZ ACTION RETAIL LP	§	
D/B/A EZ STOP #4	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 505904	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and EZ Action Retail LP d/b/a EZ Stop #4 (EZ Stop) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. EZ Stop holds Texas Lottery Ticket Sales Agent License No. 505904.
2. Brian Williams is a partner at EZ Stop, which is located at 4015 S. Loop 1604 W., San Antonio, TX 78264.
3. On September 13, 2019, Alexander Folks, an employee of EZ Stop, presented to the San Antonio Claim Center (SACC) for payment a "Super 10s Super Ticket" Texas Lottery scratch ticket. The SACC staff determined the ticket was a non-winning ticket and that it was previously placed in stolen status. The Commission initiated an investigation into this claim.
4. On October 23, 2019, Mr. Folks told a Commission investigator that he purchased the ticket on September 12, 2019, for \$350 from a store customer who told him the ticket was a winner. Because the ticket was previously placed in stolen status, the terminal message said to claim the ticket at the Lottery, so Mr. Folks proceeded to file a claim at the SACC.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (the State Lottery Act) and 16 Tex. Admin. Code ch. 401.
2. EZ Stop is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.
3. Tex. Gov't Code §466.310(a) states:

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.
4. 16 Tex. Admin. Code §401.158(b) states, in pertinent parts:

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:

...
(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.
 - (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.
5. 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.
6. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity,

security, honesty, and fairness in the operation and administration of the lottery.” Tex. Gov’t Code §466.014(a).

7. Under Texas law, an employer is liable, vicariously, for the acts of its servants committed in the course and scope of their employment. *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 617–18 (Tex. 1999). An employee is acting within the scope of their employment if they are performing duties generally assigned to them, regardless of whether the employee acted intentionally and unlawfully. *Fink v. Anderson*, 477 S.W.3d 460, 468 (Tex. App.— Houston [1st Dist.] 2015, no pet.).

8. The State Lottery Act recognizes that a sales agent’s unlicensed employees may lawfully perform lottery-related duties of their licensee employers, including selling and handling lottery tickets and handling the revenue generated from ticket sales. Tex. Gov’t Code §§ 466.201(a)(7), 466.303(a), 466.305(a), 466.3051(a), and 466.353(a). Thus, the Commission’s ability to attribute employee violations committed within the course and scope of their employment to their licensee employer is reasonably necessary to fulfill the Commission’s express duty to exercise strict control and supervision over the lottery, and is within the Commission’s implied authority.

9. The Texas Lottery Ticket Sales Agent License of EZ Stop is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of EZ Stop’s violation of Tex. Gov’t Code §466.310(a) and 16 Tex. Admin. Code §§ 401.158(b)(33) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, EZ Stop agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not

limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. EZ Stop agrees that, as a result of its violation of Tex. Gov't Code §466.310(a) and 16 Tex. Admin. Code §§ 401.158(b)(33) and 401.366, its Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, EZ Stop agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, EZ Stop is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where EZ Stop's Ticket Sales Agent License is posted.

5. EZ Stop agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of EZ Stop's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. EZ Stop acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. EZ Stop agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that EZ Stop has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be

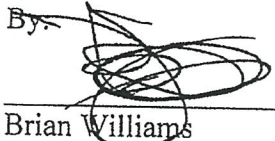
taken against EZ Stop, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. EZ Stop agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and EZ Stop will be charged for tickets sold on or before that date. EZ Stop will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

EZ Action Retail LP
d/b/a EZ Stop #4

By:



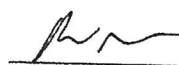
Brian Williams
Partner

2-19-2020

DATE

Texas Lottery Commission
Lottery Operations Division

By:



Ryan S. Mindell
Director

2-20-2020

DATE

Commission Order No. 20-0047

Date: JUNE 11, 2020

Case No. 2020-126

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
EZ ACTION RETAIL LP	§	
D/B/A EZ STOP #4	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 505904	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of EZ Action Retail LP d/b/a EZ Stop #4's (EZ Stop) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, EZ Stop shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, EZ Stop shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where EZ Stop's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that EZ Stop has failed to comply

Commission Order No. 20-0047

Date: JUNE 11, 2020

with the terms of this Order, disciplinary action shall be taken against EZ Stop, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that EZ Stop shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and EZ Stop will be charged for the tickets sold on or before that date. EZ Stop will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

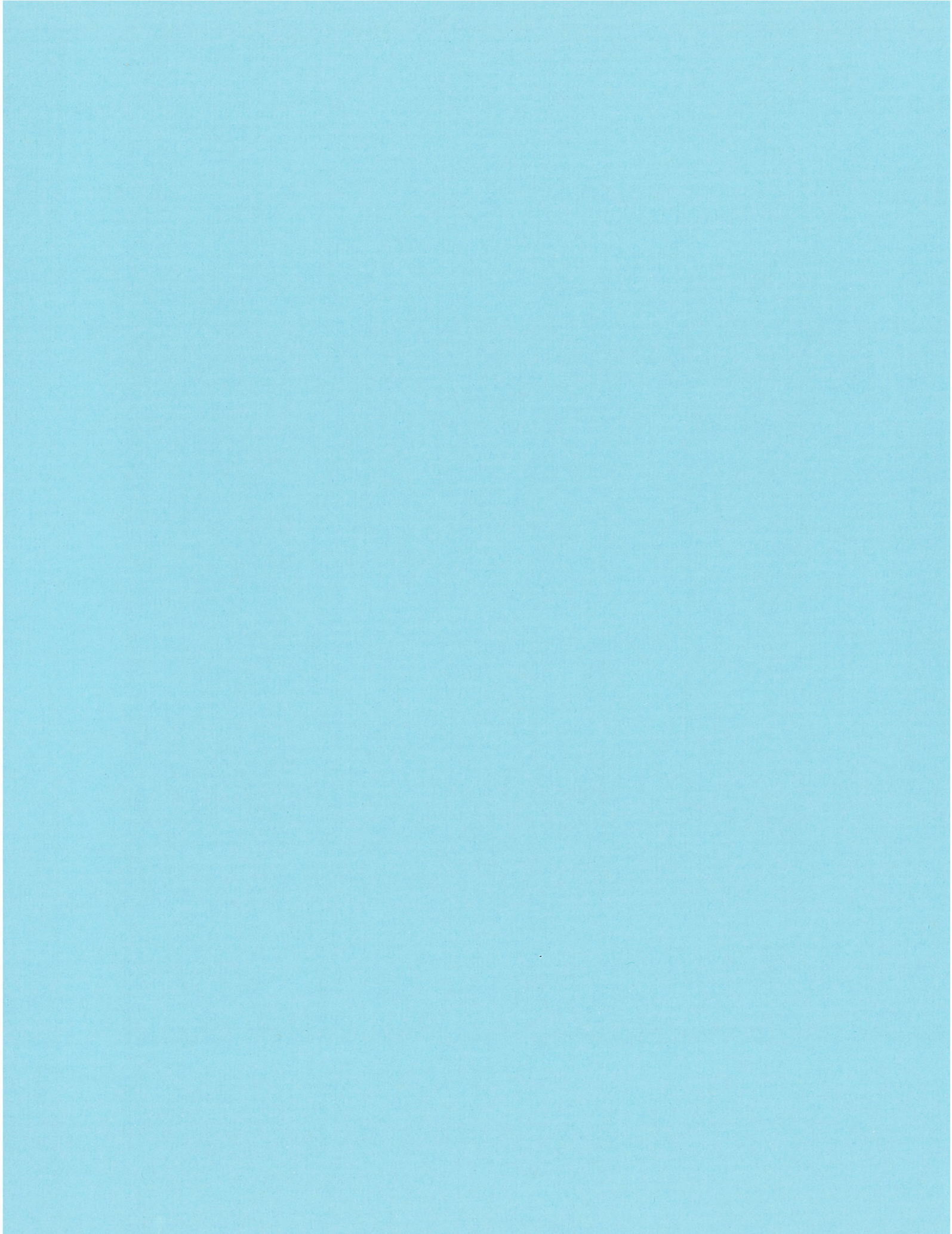
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0048

Date: JUNE 11, 2020

Case No. 2020-131

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
WRANGLER GRANBURY LLC	§	
D/B/A WRANGLER	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184305	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Wrangler Granbury LLC d/b/a Wrangler (Wrangler) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Wrangler holds Texas Lottery Ticket Sales Agent License No. 184305.
2. Binod Aryal is a managing member of Wrangler, which is located at 2163 E. U.S. 377, Granbury, TX 76049.
3. On August 12, 2019, Mr. Aryal presented to the Fort Worth Claim Center for payment a Texas Lottery scratch ticket with a prize value of \$1,000. Based on an internal review, the Commission initiated an investigation into this claim.
4. On September 24, 2019, a Commission investigator spoke with Mr. Aryal who admitted to purchasing the prize-winning scratch ticket from a customer for less than its \$1,000 prize value.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (the State Lottery Act) and 16 Tex. Admin. Code ch. 401 (Commission rules).

2. Wrangler is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

- (1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or
- (2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

4. Tex. Gov't Code §466.310(a) states:

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.

5. Tex. Gov't Code §466.402(b) states:

The payment of a prize in the amount of \$600 or more may be made only by the director.

6. 16 Tex. Admin. Code §401.158 states, in pertinent parts:

(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 or 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 a 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.
- (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

7. 16 Tex. Admin. Code §401.360 states:

Retailers may pay any lottery prize of less than \$600, after complying with established validation procedures. However, if a retailer validates a ticket of up to \$600, that retailer shall pay the prize amount on the ticket. Prizes of \$600 or more shall be paid by the Texas Lottery by mail or at a designated lottery claim center.

8. 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.

9. The Texas Lottery Ticket Sales Agent License of Wrangler is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Wrangler's violation of Tex. Gov't Code §§ 466.308(a), 466.310(a), and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Wrangler agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Wrangler agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a), 466.310(a), and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366, its Ticket Sales Agent License will be suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension,

Wrangler agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Wrangler is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Wrangler's Ticket Sales Agent License is posted.

5. Wrangler agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Wrangler's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Wrangler acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. Wrangler agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Wrangler has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Wrangler, up to and including revocation of its Texas Lottery Ticket Sales Agent License.


8. Wrangler agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Wrangler will be charged for tickets sold on or before that date. Wrangler will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Wrangler Granbury LLC
d/b/a Wrangler

Texas Lottery Commission
Lottery Operations Division

By:

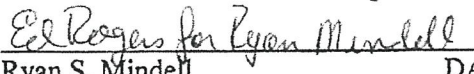


Binod Aryal
Managing Member

DATE

03-24-2020

By:



Ed Rogers for Ryan Mindell
Ryan S. Mindell
Director

DATE

3.25.2020

Commission Order No. 20-0048

Date: JUNE 11, 2020

Case No. 2020-131

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
WRANGLER GRANBURY LLC	§	
D/B/A WRANGLER	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184305	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Wrangler Granbury LLC d/b/a Wrangler's (Wrangler) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Wrangler shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Wrangler shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Wrangler's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Wrangler has failed to comply

Commission Order No. 20-0048

Date: JUNE 11, 2020

with the terms of this Order, disciplinary action shall be taken against Wrangler, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Wrangler shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Wrangler will be charged for the tickets sold on or before that date. Wrangler will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

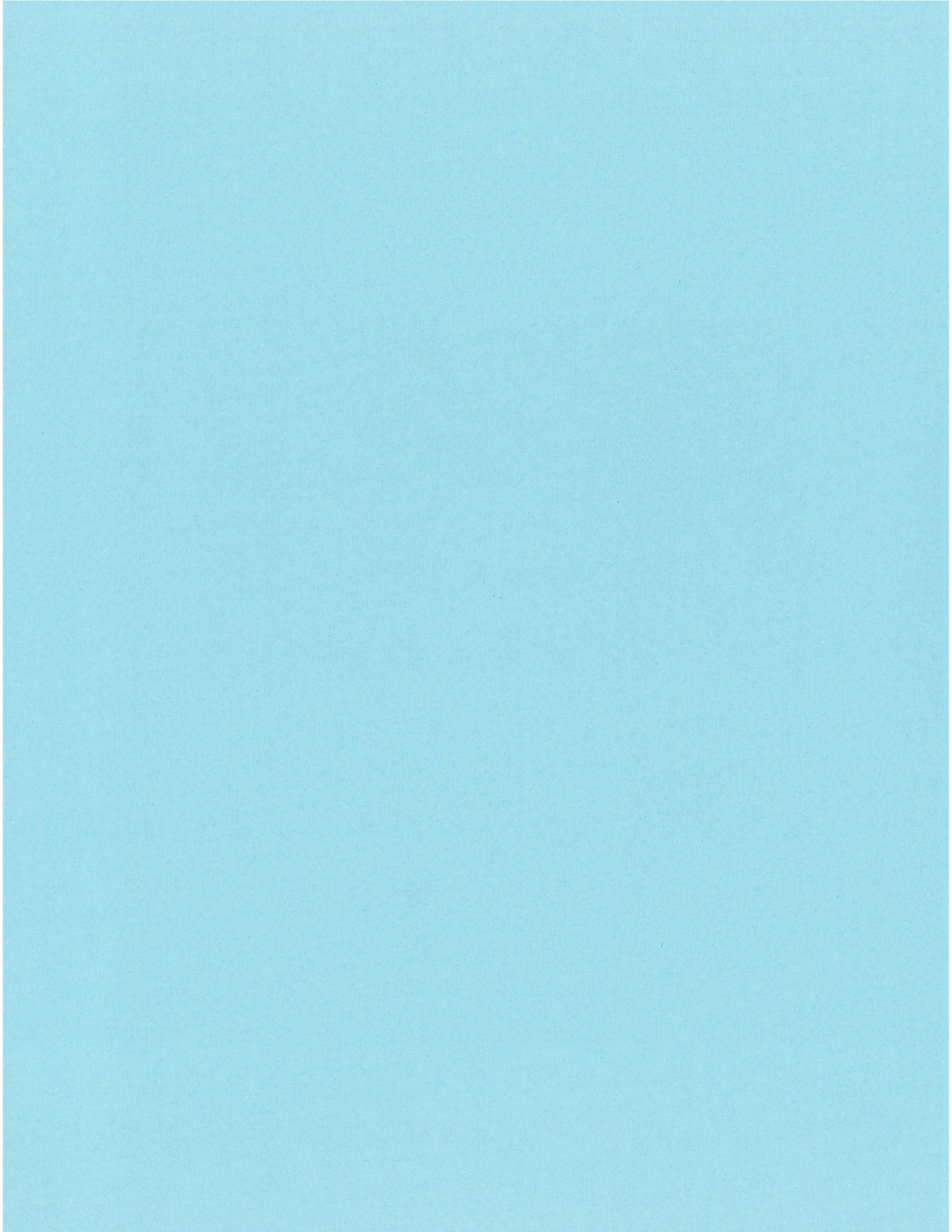
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0049

Date: JUNE 11, 2020

Case No. 2020-222

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
MEKLIT & BILLEN INC.	§	
D/B/A 7-ELEVEN CONVENIENCE	§	
STORE #20947	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 152810	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Meklit & Billen Inc. d/b/a 7-Eleven Convenience Store #20947 (7-Eleven) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. 7-Eleven holds Texas Lottery Ticket Sales Agent License No. 152810.
2. Alemnesh Kebede is the Director of 7-Eleven, which is located at 4901 Gus Thomasson Rd., Mesquite, TX 75150.
3. On October 20, 2019, the Commission received a complaint that 7-Eleven had been selling Texas Lottery scratch tickets that had been partially scratched in the bonus play area.
4. On October 30, 2019, a Commission investigator inspected tickets for sale at 7-Eleven and found four (4) scratch tickets that had been partially scratched.
5. The Commission investigator discussed his findings with Ms. Kebede, who reviewed the store security video and claimed she was not able to determine which 7-Eleven employee partially scratched the tickets.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (State Lottery Act) and 16 Tex. Admin. Code ch. 401 (Commission rules).

2. 7-Eleven is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.307(a) states:

A person commits an offense if the person intentionally or knowingly influences or attempts to influence the selection of the winner of a lottery game.

4. 16 Tex. Admin. Code §401.158(b) states, in pertinent part:

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:

...
(30) licensee intentionally or knowingly influences or attempts to influence the selection of the winner of a lottery game.

5. 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.

6. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery." Tex. Gov't Code §466.014(a).

7. Under Texas law, an employer is liable, vicariously, for the acts of its servants committed in the course and scope of their employment. *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 617–18 (Tex. 1999). An employee is acting within the scope of their employment if they are performing duties generally assigned to them, regardless of whether the employee acted

intentionally and unlawfully. *Fink v. Anderson*, 477 S.W.3d 460, 468 (Tex. App.— Houston [1st Dist.] 2015, no pet.).

8. The State Lottery Act recognizes that a sales agent's unlicensed employees may lawfully perform lottery-related duties of their licensee employers, including selling and handling lottery tickets and handling the revenue generated from ticket sales. Tex. Gov't Code §§ 466.201(a)(7), 466.303(a), 466.305(a), 466.3051(a), and 466.353(a). Thus, the Commission's ability to attribute employee violations committed within the course and scope of their employment to their licensee employer is reasonably necessary to fulfill the Commission's express duty to exercise strict control and supervision over the lottery, and is within the Commission's implied authority.

9. The Texas Lottery Ticket Sales Agent License of 7-Eleven is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of 7-Eleven's violation of Tex. Gov't Code §466.307(a) and 16 Tex. Admin. Code §§ 401.158(b)(30) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, 7-Eleven agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. 7-Eleven agrees that, as a result of its violation of Tex. Gov't Code §466.307(a) and 16 Tex. Admin. Code §§ 401.158(b)(30) and 401.366, its Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within

seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, 7-Eleven agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, 7-Eleven is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where 7-Eleven's Ticket Sales Agent License is posted.

5. 7-Eleven agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of 7-Eleven's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. 7-Eleven acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. 7-Eleven agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that 7-Eleven has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against 7-Eleven, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. 7-Eleven agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and 7-Eleven will be charged for tickets sold on or before that date. 7-Eleven will be credited for any tickets that have been paid for in previous

sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Meklit & Billen Inc.
d/b/a 7-Eleven Convenience Store #20947

Texas Lottery Commission
Lottery Operations Division

By:

By:

Alemnesh Kebede 03.16.2020
Alemnesh Kebede
Director

DATE

Ed Rogers for Ryan Mindell 3.17.2020
Ryan S. Mindell
Director

DATE

Commission Order No. 20-0049

Date: JUNE 11, 2020

Case No. 2020-222

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
MEKLIT & BILLEN INC.	§	
D/B/A 7-ELEVEN CONVENIENCE	§	
STORE #20947	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 152810	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Meklit & Billen Inc. d/b/a 7-Eleven Convenience Store #20947's (7-Eleven) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, 7-Eleven shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, 7-Eleven shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where 7-Eleven's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 20-0049

Date: JUNE 11, 2020

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that 7-Eleven has failed to comply with the terms of this Order, disciplinary action shall be taken against 7-Eleven, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that 7-Eleven shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and 7-Eleven will be charged for the tickets sold on or before that date. 7-Eleven will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Commission Order No. 20-0049

Date: JUNE 11, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

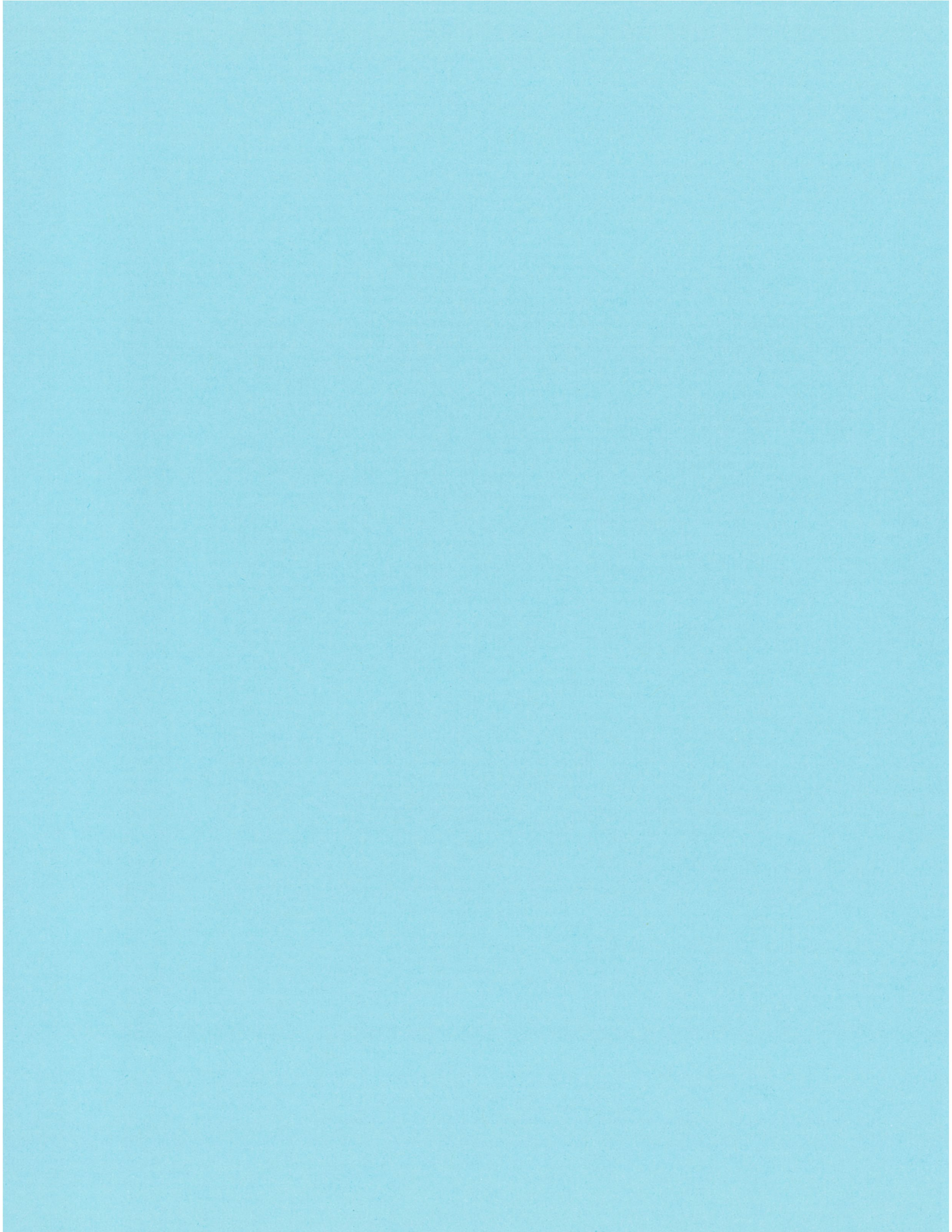
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0050

Date: JUNE 11, 2020

Case No. 2020-223

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
PEARSALL VENTURES INC.	§	
D/B/A PEARSALL SHELL	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 150820	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Pearsall Ventures Inc. d/b/a Pearsall Shell (Pearsall Shell) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Pearsall Shell holds Texas Lottery Ticket Sales Agent License No. 150820.
2. Kholoud Al-Rafati is the president of Pearsall Shell store, which is located at 6358 Pearsall Rd., San Antonio, TX 78242.
3. On June 30, 2019, the Commission received a complaint that Pearsall Shell charged a customer an additional \$0.65 on a purchase of a \$20 Texas Lottery scratch ticket with a debit card.
4. On November 15, 2019 a Commission investigator spoke with Mr. Al-Rafati, who confirmed the store charges a service fee for lottery and non-lottery purchases made under \$5.00 with a debit card.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (the State Lottery Act) and 16 Tex. Admin. Code ch. 401 (the Commission rules).

2. Pearsall Shell is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.302(a) states:

A person commits an offense if the person intentionally or knowingly sells a ticket at a price the person knows is greater than that fixed by the commission or by the lottery operator authorized to set that price.

4. 16 Tex. Admin. Code §401.158(b) states, in pertinent part:

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:

...

(23) licensee intentionally or knowingly sells a ticket at a price the licensee knows is greater than the price set by the executive director;

5. 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.

6. The Texas Lottery Ticket Sales Agent License of Pearsall Shell is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Pearsall Shell's violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(23) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Pearsall Shell agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Pearsall Shell agrees that, as a result of its violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(23) and 401.366, its Ticket Sales Agent License will be suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Pearsall Shell agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Pearsall Shell is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Pearsall Shell's Ticket Sales Agent License is posted.

5. Pearsall Shell agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Pearsall Shell's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Pearsall Shell acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. Pearsall Shell agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Pearsall Shell has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary

action shall be taken against Pearsall Shell, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Pearsall Shell agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Pearsall Shell will be charged for tickets sold on or before that date. Pearsall Shell will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Pearsall Ventures Inc.
d/b/a Pearsall Shell

Texas Lottery Commission
Lottery Operations Division

By:

By:

<u>Kholoud Al-Rafati</u>	<u>03-02-20</u>	<u>Ryan S. Mindell</u>	<u>3-4-2020</u>
Kholoud Al-Rafati	DATE	Ryan S. Mindell	DATE
President		Director	

Commission Order No. 20-0050

Date: JUNE 11, 2020

Case No. 2020-223

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
PEARSALL VENTURES INC.	§	
D/B/A PEARSALL SHELL	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 150820	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Pearsall Ventures Inc. d/b/a Pearsall Shell's (Pearsall Shell) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Pearsall Shell shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Pearsall Shell shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Pearsall Shell's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on

Commission Order No. 20-0050

Date: JUNE 11, 2020

the sole issue of compliance with this Consent Order, it is found that Pearsall Shell has failed to comply with the terms of this Order, disciplinary action shall be taken against Pearsall Shell, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Pearsall Shell shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Pearsall Shell will be charged for the tickets sold on or before that date. Pearsall Shell will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Commission Order No. 20-0050

Date: JUNE 11, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

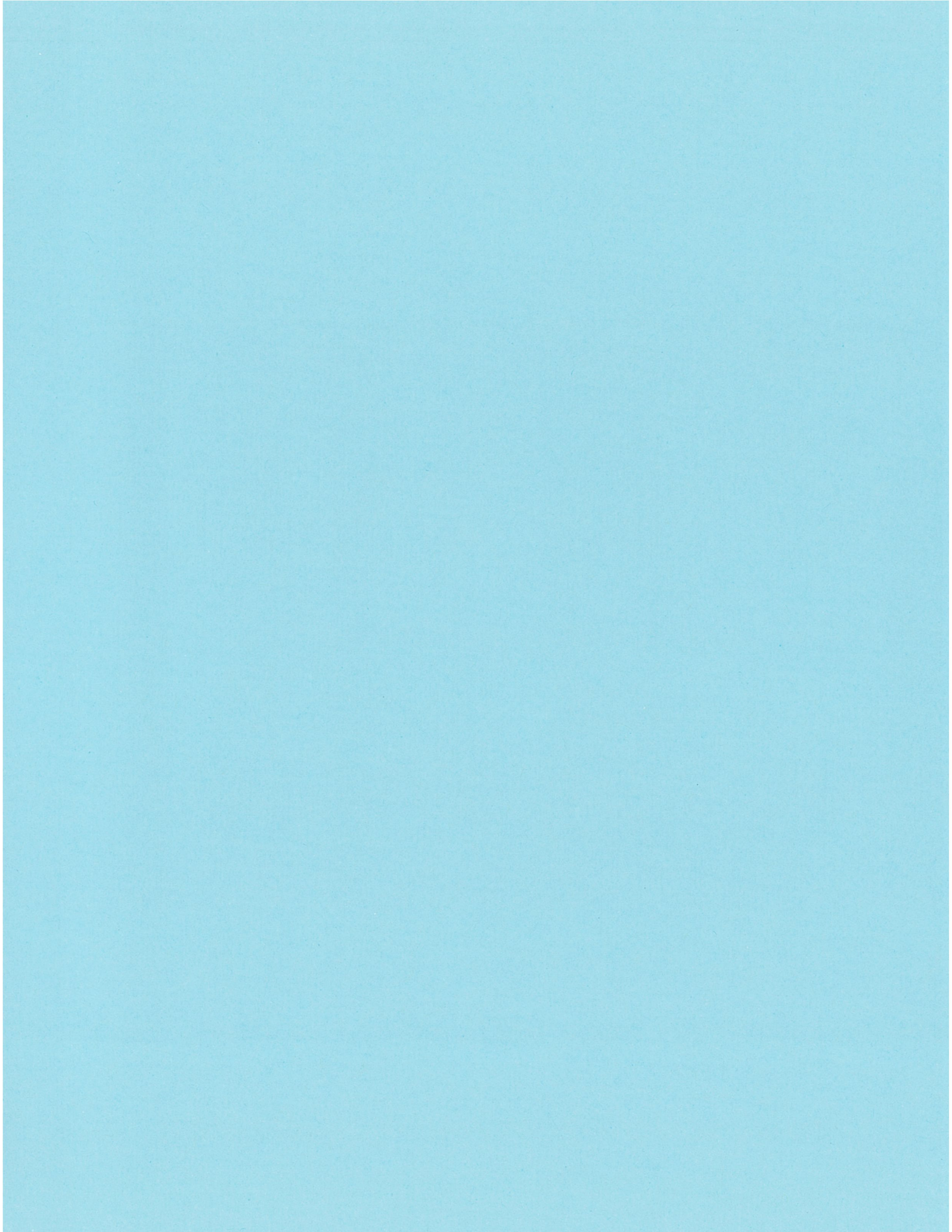
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0051

Date: JUNE 11, 2020

Case No. 2020-260

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
MD SHAH ALAM	§	
D/B/A S&L BEER, WINE AND GROCERY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 186406	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and MD Shah Alam d/b/a S&L Beer, Wine and Grocery (S&L Beer) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. S&L Beer holds Texas Lottery Ticket Sales Agent License No. 186406.
2. M.D. S. Alam is the owner of S&L Beer, which is located at 5001 Southwest Pkwy., Wichita Falls, TX 76310.
3. On September 30, 2019, the Commission received a complaint that S&L Beer charged a \$0.50 fee on a \$1 lottery ticket purchase. The Commission initiated an investigation of S&L Beer.
4. On November 25, 2019, a Commission investigator spoke with Jason Locke, an employee of S&L Beer. Mr. Locke told the investigator that the store charges \$0.50 for purchases up to \$40, including lottery ticket purchases, and \$1 for lottery ticket purchases of more than \$40. Mr. Locke also told the investigator the store accepts both credit and debit cards for lottery purchases.

5. On December 2, 2019, the investigator spoke with S&L Beer's owner, M.D. S. Alam, who confirmed the store was charging the extra fees.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (State Lottery Act) and 16 Tex. Admin. Code ch. 401.

2. S&L Beer is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.302(a) states:

A person commits an offense if the person intentionally or knowingly sells a ticket at a price the person knows is greater than that fixed by the commission or by the lottery operator authorized to set that price.

4. Tex. Gov't Code §466.3052 states:

A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

- (1) United States currency;
- (2) a negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code;
- (3) a debit made through a financial institution debit card;
- (4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; or
- (5) a mail order subscription on a mail order subscription form authorized by the commission.

5. Tex. Gov't Code §401.158 states:

(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:

...

(23) licensee intentionally or knowingly sells a ticket at a price the licensee knows is greater than the price set by the executive director.

...

(27) licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.

6. 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.

7. The Texas Lottery Ticket Sales Agent License of S&L Beer is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of S&L Beer's violation of Tex. Gov't Code §§ 466.302(a) and 466.3052; and 16 Tex. Admin. Code §§ 401.158(b)(23) and (27), and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, S&L Beer agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. S&L Beer agrees that, as a result of its violation of Tex. Gov't Code §§ 466.302(a) and 466.3052; and 16 Tex. Admin. Code §§ 401.158(b)(23) and (27), and 401.366, its Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, S&L Beer agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, S&L Beer is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where S&L Beer's Ticket Sales Agent License is posted.

5. S&L Beer agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of S&L Beer's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. S&L Beer acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. S&L Beer agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that S&L Beer has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against S&L Beer, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. S&L Beer agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and S&L Beer will be charged for tickets sold on or before that date. S&L Beer will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

MD Shah Alam
d/b/a S&L Beer, Wine and Grocery

Texas Lottery Commission
Lottery Operations Division

By:

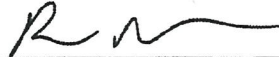


5/5/22

M.D. S. Alam
Owner

DATE

By:



5-13-2020

Ryan S. Mindell
Director

DATE

Commission Order No. 20-0051

Date: JUNE 11, 2020

Case No. 2020-260

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
MD SHAH ALAM	§	
D/B/A S&L BEER, WINE AND GROCERY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 186406	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of MD Shah Alam d/b/a S&L Beer, Wine and Grocery's (S&L Beer) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, S&L Beer shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, S&L Beer shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where S&L Beer's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that S&L Beer has failed to

Commission Order No. 20-0051

Date: JUNE 11, 2020

comply with the terms of this Order, disciplinary action shall be taken against S&L Beer, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that S&L Beer shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and S&L Beer will be charged for the tickets sold on or before that date. S&L Beer will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

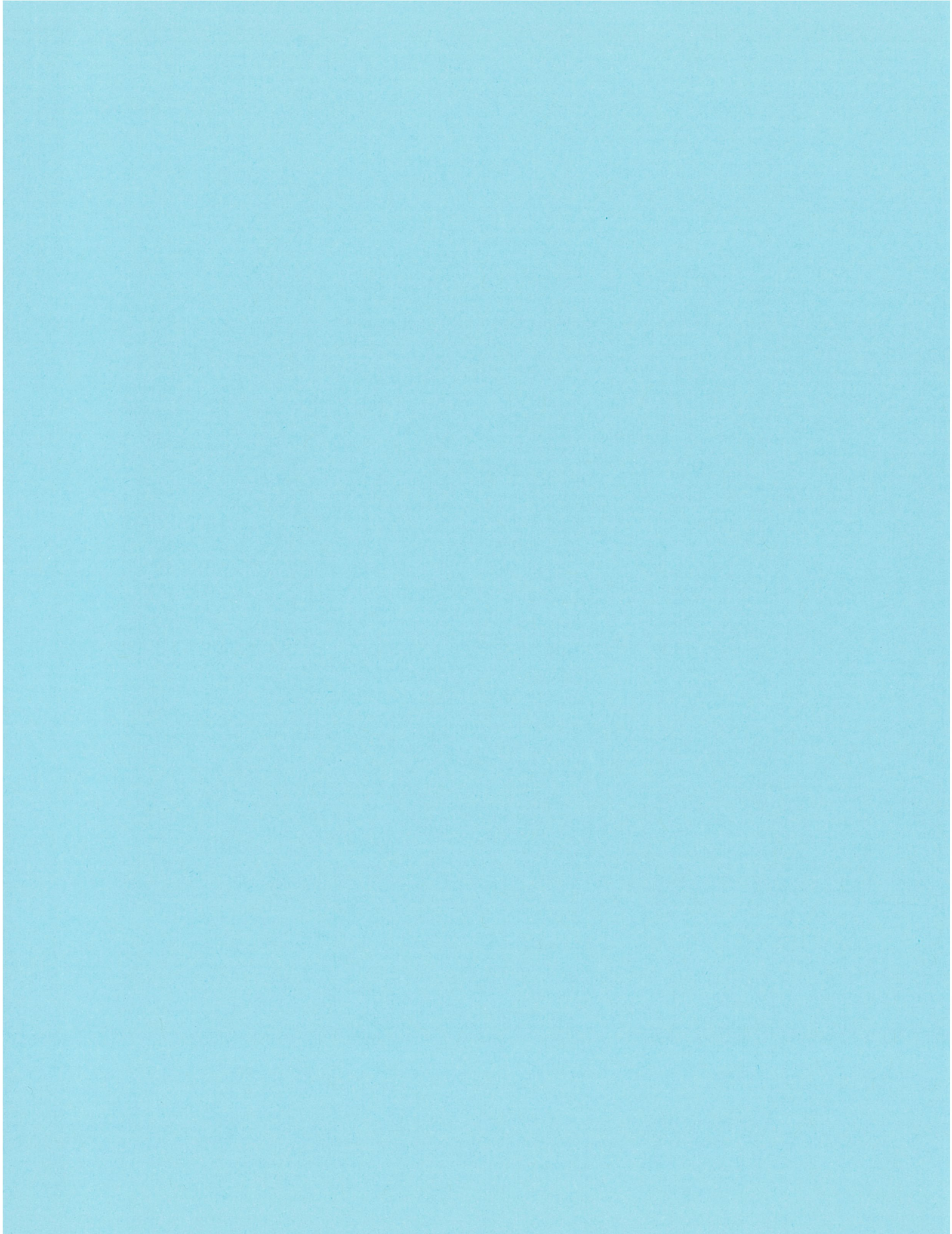
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0052

Date: JUNE 11, 2020

Case No. 2020-261

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
LANDMARK INDUSTRIES	§	
D/B/A TIMEWISE FOOD STORE #312	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 600746	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Landmark Industries d/b/a Timewise Food Store #312 (Timewise Food Store) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Timewise Food Store holds Texas Lottery Ticket Sales Agent License No. 600746.
2. Jim Parker is the Marketing Category Manager for Timewise Food Store, which is located at 8190 Katy Freeway, Houston, TX 77024.
3. On August 6, 2019, the Commission received a complaint that Timewise Food Store was selling Texas Lottery scratch tickets that were partially scratched in the bonus play area.
4. On August 20, 2019, a Commission investigator inspected the scratch tickets for sale at Timewise Food Store, and he found sixteen (16) scratch tickets from four (4) different game packs that were partially scratched.
5. On November 20, 2019, Omar Ali, a manager at Timewise Food Store, admitted to the Commission investigator that he scratched the tickets in the ticket dispensers. Timewise Food Store later terminated Mr. Ali's employment.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (State Lottery Act) and 16 Tex. Admin. Code ch. 401 (Commission rules).
2. Timewise Food Store is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.
3. Tex. Gov't Code §466.307(a) states:

A person commits an offense if the person intentionally or knowing influences or attempts to influence the selection of the winner of a lottery game.
4. 16 Tex. Admin. Code §401.158(b) states, in pertinent part:

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:

...

(30) licensee intentionally or knowingly influences or attempts to influence the selection of the winner of a lottery game.
5. 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.
6. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery." Tex. Gov't Code §466.014(a).
7. Under Texas law, an employer is liable, vicariously, for the acts of its servants committed in the course and scope of their employment. *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 617–18 (Tex. 1999). An employee is acting within the scope of their employment if they are performing duties generally assigned to them, regardless of whether the employee acted

intentionally and unlawfully. *Fink v. Anderson*, 477 S.W.3d 460, 468 (Tex. App.— Houston [1st Dist.] 2015, no pet.).

8. The State Lottery Act recognizes that a sales agent's unlicensed employees may lawfully perform lottery-related duties of their licensee employers, including selling and handling lottery tickets and handling the revenue generated from ticket sales. Tex. Gov't Code §§ 466.201(a)(7), 466.303(a), 466.305(a), 466.3051(a), and 466.353(a). Thus, the Commission's ability to attribute employee violations committed within the course and scope of their employment to their licensee employer is reasonably necessary to fulfill the Commission's express duty to exercise strict control and supervision over the lottery, and is within the Commission's implied authority.

9. The Texas Lottery Ticket Sales Agent License of Timewise Food Store is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Timewise Food Store's violation of Tex. Gov't Code §466.307(a) and 16 Tex. Admin. Code §§ 401.158(b)(30) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Timewise Food Store agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Timewise Food Store agrees that, as a result of its violation of Tex. Gov't Code §466.307(a) and 16 Tex. Admin. Code §§ 401.158(b)(30) and 401.366, its Ticket Sales Agent

License will be suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Timewise Food Store agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Timewise Food Store is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Timewise Food Store's Ticket Sales Agent License is posted.

5. Timewise Food Store agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Timewise Food Store's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Timewise Food Store acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. Timewise Food Store agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Timewise Food Store has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Timewise Food Store, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

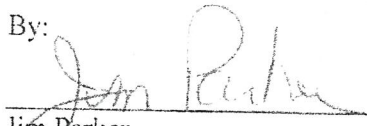
8. Timewise Food Store agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Timewise Food Store will be charged for tickets sold on or before that date. Timewise Food Store will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Landmark Industries
d/b/a Timewise Food Store #312

Texas Lottery Commission
Lottery Operations Division

By:


Jim Parker
Timewise Marketing Category Manager

DATE

By:


Ryan S. Mindell
Director

DATE

Commission Order No. 20-0052

Date: JUNE 11, 2020

Case No. 2020-261

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
LANDMARK INDUSTRIES	§	
D/B/A TIMEWISE FOOD STORE #312	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 600746	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Landmark Industries d/b/a Timewise Food Store #312's (Timewise Food Store) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Timewise Food Store shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Timewise Food Store shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Timewise Food Store's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 20-0052

Date: JUNE 11, 2020

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Timewise Food Store has failed to comply with the terms of this Order, disciplinary action shall be taken against Timewise Food Store, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Timewise Food Store shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Timewise Food Store will be charged for the tickets sold on or before that date. Timewise Food Store will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Commission Order No. 20-0052

Date: JUNE 11, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

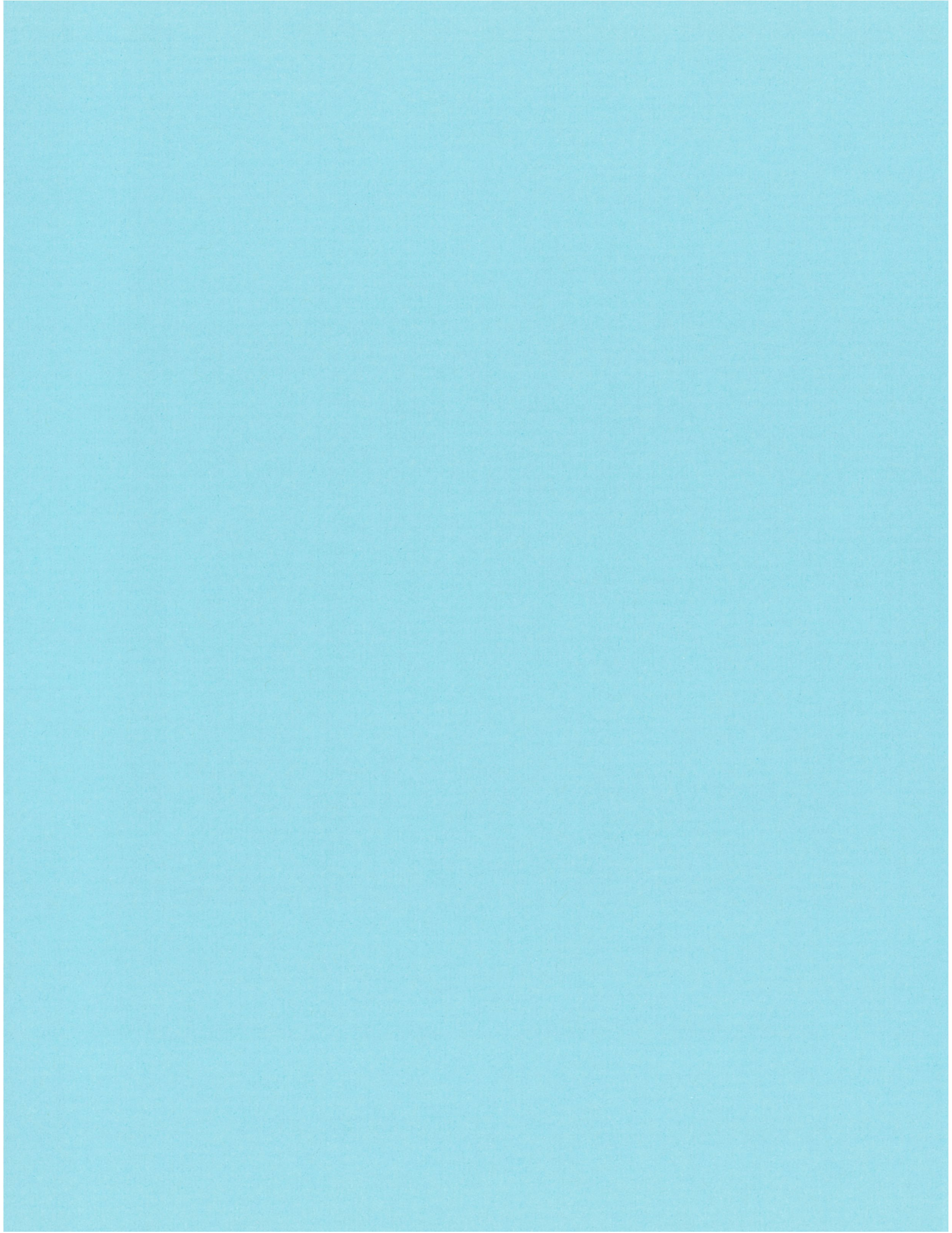
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0053

Date: JUNE 11, 2020

Case No. 2020-365

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
QUIKIN BUSINESS LLC	§	
D/B/A QUIKIN FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 185569	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Quikin Business LLC d/b/a Quikin Food Mart (Quikin Food Mart) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Quikin Food Mart holds Texas Lottery Ticket Sales Agent License No. 185569.
2. Nizarali Karedia is a managing member of Quikin Food Mart, which is located at 101 W. San Augustine St., Deer Park, TX 77536.
3. In June 2019, the Commission received information about an investigation by the Deer Park Police Department of illegal gambling at Quikin Food Mart. As part of the investigation, a Deer Park Police officer played gambling devices located at Quikin Food Mart and received Texas Lottery scratch tickets in exchange for his winnings.
4. On June 13, 2019, the police officer played \$40 on a gambling device at Quikin Food Mart and received \$56.35 in store credit in the form of a voucher. When he asked what he could purchase with the voucher, the store clerk, identified as Nizarali Maredia, offered Texas Lottery scratch tickets. Another store clerk, identified as Trutibahen Thakkar, also told the officer

he could exchange scratch tickets for the value of the voucher. The officer exchanged his \$56 voucher for Texas Lottery scratch tickets.

5. On June 14, 2019, the officer played \$40 on a gambling device at Quikin Food Mart and received a \$23.15 voucher. After handing the voucher to Mr. Maredia, the officer received \$23 in Texas Lottery scratch tickets.

6. On June 20, 2019, the officer played \$80 on a gambling device at Quikin Food Mart and received a \$72.30 voucher. When the officer asked Ms. Thakkar to exchange cash for his voucher, Ms. Thakkar responded she could only give the officer lottery tickets and gave him \$72 in Texas Lottery scratch tickets.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (State Lottery Act) and 16 Tex. Admin. Code ch. 401.

2. Quikin Food Mart is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.3052 states:

A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

- (1) United States currency;
- (2) a negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code;
- (3) a debit made through a financial institution debit card;
- (4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; or
- (5) a mail order subscription on a mail order subscription form authorized by the commission.

4. Tex. Gov't Code §401.158(b) states, in pertinent part:

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:

...
(27) licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.

6. 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.

7. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery." Tex. Gov't Code §466.014(a).

8. Under Texas law, an employer is liable, vicariously, for the acts of its servants committed in the course and scope of their employment. *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 617–18 (Tex. 1999). An employee is acting within the scope of their employment if they are performing duties generally assigned to them, regardless of whether the employee acted intentionally and unlawfully. *Fink v. Anderson*, 477 S.W.3d 460, 468 (Tex. App.— Houston [1st Dist.] 2015, no pet.).

9. The State Lottery Act recognizes that a sales agent's unlicensed employees may lawfully perform lottery-related duties of their licensee employers, including selling and handling lottery tickets and handling the revenue generated from ticket sales. Tex. Gov't Code §§ 466.201(a)(7), 466.303(a), 466.305(a), 466.3051(a), and 466.353(a). Thus, the Commission's ability to attribute employee violations committed within the course and scope of their employment to their licensee employer is within the Commission's implied authority and is reasonably necessary to fulfill the Commission's express duty to exercise strict control and supervision over the lottery.

10. The Texas Lottery Ticket Sales Agent License of Quikin Food Mart is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Quikin Food Mart's violation of Tex. Gov't Code §466.3052 and 16 Tex. Admin. Code §§ 401.158(b)(27) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Quikin Food Mart agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Quikin Food Mart agrees that, as a result of its violation of Tex. Gov't Code §466.3052 and 16 Tex. Admin. Code §§ 401.158(b)(27) and 401.366, its Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Quikin Food Mart agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Quikin Food Mart is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Quikin Food Mart's Ticket Sales Agent License is posted.

5. Quikin Food Mart agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Quikin Food Mart's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Quikin Food Mart acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. Quikin Food Mart agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Quikin Food Mart has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Quikin Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Quikin Food Mart agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Quikin Food Mart will be charged for tickets sold on or before that date. Quikin Food Mart will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

Quikin Business LLC
d/b/a Quikin Food Mart

Texas Lottery Commission
Lottery Operations Division

By:

By:

N.N. Karedia 05/25/2020
Nizarali Karedia DATE
Managing Member

R 5-28-2020
Ryan S. Mindell DATE
Director

Commission Order No. 20-0053

Date: JUNE 11, 2020

Case No. 2020-365

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
QUIKIN BUSINESS LLC	§	
D/B/A QUIKIN FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 185569	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Quikin Business LLC d/b/a Quikin Food Mart's (Quikin Food Mart) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Quikin Food Mart shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Quikin Food Mart shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Quikin Food Mart's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 20-0053

Date: JUNE 11, 2020

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Quikin Food Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against Quikin Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Quikin Food Mart shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Quikin Food Mart will be charged for the tickets sold on or before that date. Quikin Food Mart will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Commission Order No. 20-0053

Date: JUNE 11, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

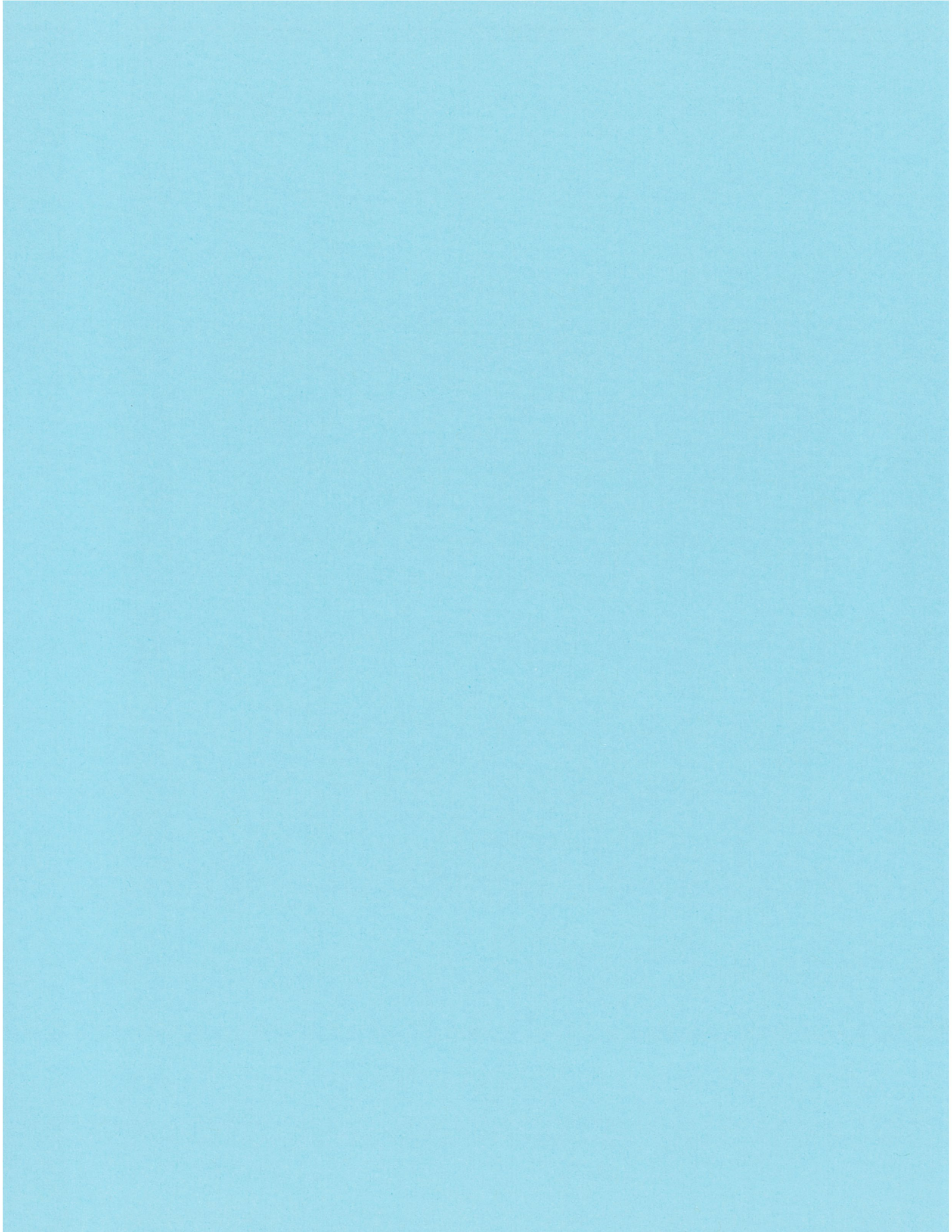
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER



Commission Order No. 20-0054

Date: JUNE 11, 2020

Case No. 2020-366

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ALL STAR RETAIL INC.	§	
D/B/A SUPER QUIK SAK	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 182127	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and All Star Retail Inc. d/b/a Super Quik Sak (Super Quik Sak) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Super Quik Sak holds Texas Lottery Ticket Sales Agent License No. 182127.
2. Zulfiqar Kabani is the owner of Super Quik Sak, which is located at 1101 Ohio Garden Road, Fort Worth, TX 76114.
3. On December 16, 2019, Mr. Kabani presented a Texas Lottery scratch ticket with a prize value of \$3,000 to the Fort Worth Claim Center for payment. Based on an internal review, the Commission initiated an investigation into this claim.
4. As part of the investigation, on January 23, 2020, a Commission investigator presented a Texas Lottery scratch ticket with an apparent prize value of \$1,000 for validation at Super Quik Sak. Mr. Kabani offered to purchase the ticket from the investigator for \$720. Mr. Kabani also admitted to the investigator that, on December 16, 2019, he claimed a \$3,000 winning ticket for a relative.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (State Lottery Act) and 16 Tex. Admin. Code ch. 401.

2. Super Quik Sak is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

- (1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or
- (2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

4. Tex. Gov't Code §466.310(a) states:

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.

5. Tex. Gov't Code §466.402(b) states:

The payment of a prize in the amount of \$600 or more may be made only by the director.

6. 16 Tex. Admin. Code §401.158 states, in pertinent parts:

(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 or 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 a 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.

(D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

7. 16 Tex. Admin. Code §401.360 states:

Retailers may pay any lottery prize of less than \$600, after complying with established validation procedures. However, if a retailer validates a ticket of up to \$600, that retailer shall pay the prize amount on the ticket. Prizes of \$600 or more shall be paid by the Texas Lottery by mail or at a designated lottery claim center.

8. 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.

9. The Texas Lottery Ticket Sales Agent License of Super Quik Sak is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Super Quik Sak's violation of Tex. Gov't Code §§ 466.308(a), 466.310(a), and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360, and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Super Quik Sak agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Super Quik Sak agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a), 466.310(a) and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33),

401.360 and 401.366, its Ticket Sales Agent License will be suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Super Quik Sak agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

4. During the entire period of suspension hereunder, Super Quik Sak is required to post a notice of suspension in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Super Quik Sak's Ticket Sales Agent License is posted.

5. Super Quik Sak agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including suspension or revocation of Super Quik Sak's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Super Quik Sak acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and the Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against it by the Commission.

7. Super Quik Sak agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Super Quik Sak has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Super Quik Sak, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Super Quik Sak agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Super Quik Sak will be charged for

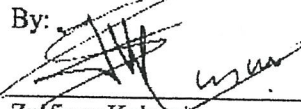
tickets sold on or before that date. Super Quik Sak will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

AGREED AS TO FORM AND SUBSTANCE:

All Star Retail Inc.
d/b/a Super Quik Sak

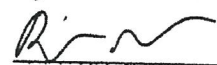
Texas Lottery Commission
Lottery Operations Division

By:


Zulfiqar Kabani
Owner

4/23/20
DATE

By:


Ryan S. Mindell
Director

4-26-2020
DATE

Commission Order No. 20-0054

Date: JUNE 11, 2020

Case No. 2020-366

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ALL STAR RETAIL INC.	§	
D/B/A SUPER QUIK SAK	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 182127	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of revocation of All Star Retail Inc. d/b/a Super Quik Sak's (Super Quik Sak) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Super Quik Sak shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(2) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, Super Quik Sak shall post a notice of suspension, in the form and at the location prescribed by the Commission, visible to store customers, in the same area where Super Quik Sak's Texas Lottery Ticket Sales Agent License is posted.

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Super Quik Sak has failed to

Commission Order No. 20-0054

Date: JUNE 11, 2020

comply with the terms of this Order, disciplinary action shall be taken against Super Quik Sak, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Super Quik Sak shall provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins, that these active tickets will settle on that date, and Super Quik Sak will be charged for the tickets sold on or before that date. Super Quik Sak will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

Date: JUNE 11, 2020

DOCKET NO. 362-20-0062

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
<i>Petitioner</i>	§	
	§	
v.	§	
	§	
DINH T. CHAU	§	
D/B/A TIMES MARKET #102	§	
TICKET SALES AGENT LICENSE	§	
NO. 180968	§	
<i>Respondent</i>	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

To: Dinh T. Chau
d/b/a Times Market #102
107 Seadrift St.
Port Lavaca, TX 77979

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.

In response to Commission staff's exceptions, the ALJ amended PFD Conclusion of Law No. 9 to change the word "should" to "may", as follows: "The Commission may impose a 10-day suspension of the lottery sales agent license of Respondent Dinh T. Chau d/b/a Times Market #102 based upon consideration of factors found at 16 Texas Administrative Code § 401.160(g)(1)-(10)." (Emphasis added.)

The Commission is not limited to the 10-day license suspension the ALJ identified. Pursuant to the State Lottery Act (SLA), the Commission's rules at 16 Tex. Admin. Code

Commission Order No. 20-0055

Date: JUNE 11, 2020

§401.158(b)(27), and the Commission's standard penalty chart in 16 Tex. Admin. Code §401.160, the Commission may suspend a lottery retailer's Texas Lottery Ticket Sales Agent License for thirty (30) days for intentionally or knowingly selling a ticket and accepting a form of payment not specifically allowed under the SLA. In similar contested cases where a licensee has violated 16 Tex. Admin Code §401.158(b)(27), the Commission has suspended the retailer's license for thirty (30) days.

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 Dinh T. Chau d/b/a Times Market #102 is hereby suspended for thirty (30) days.

Commission Order No. 20-0055

Date: JUNE 11, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

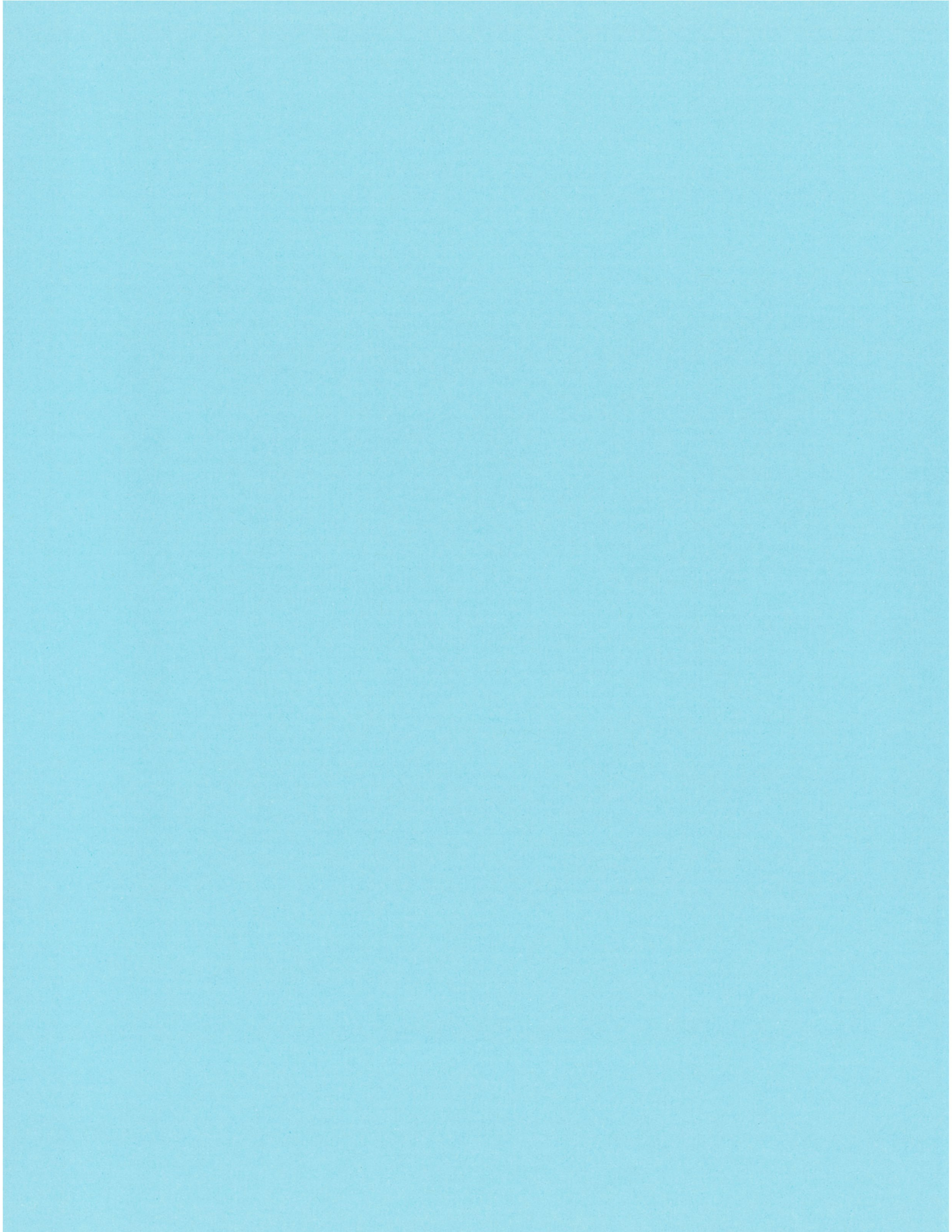
J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER





State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

March 26, 2020

Kristen Guthrie
Assistant General Counsel
Texas Lottery Commission
P.O. Box 16660
Austin, Texas 78761-6660

VIA EFILE TEXAS

RE: Docket No. 362-20-0062; Texas Lottery Commission v. Dinh T. Chau, d/b/a Times Market #102

Dear Ms. Guthrie:

On October 23, 2020, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in the above-referenced matter, and the record closed on November 22, 2019. On January 23, 2020, the ALJ issued a Proposal for Decision (PFD), and on February 10, 2020, Staff for Texas Lottery Commission filed exceptions to the PFD. Respondent, Dinh T. Chau d/b/a Times Market #102, did not file a response to Staff's exceptions.

In its Exceptions, Staff asserted the ALJ erred by proposing a sanction (10-day license suspension) within the PFD's Conclusion of Law No. 9, which states: The Commission should impose a 10-day suspension of the lottery sales agent license of [Respondent]. The ALJ agrees with Staff's exception to the extent that a Conclusion of Law should not contain *proposal-type* language. However, the ALJ maintains that a 10-day license suspension is an appropriate sanction in this matter. As such, the ALJ amends the PFD as follows:

Conclusion of Law No. 9. The Commission may impose a 10-day suspension of the lottery sales agent license of Respondent Dinh T. Chau d/b/a Times Market #102 based upon consideration of factors found at 16 Texas Administrative Code § 401.160(g)(1)-(10).

No other changes to the PFD are recommended at this time.

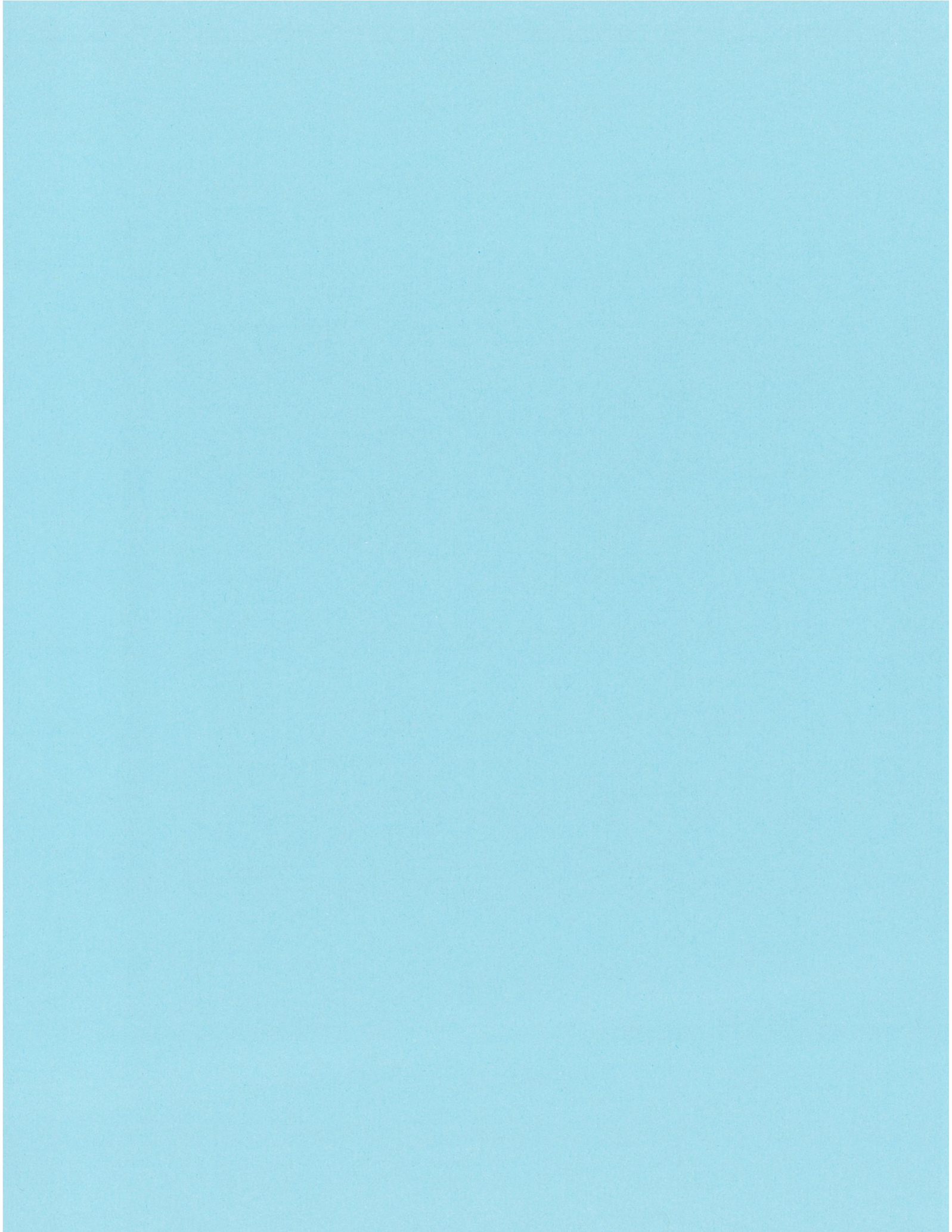
Sincerely,



Steven M. Rivas
Administrative Law Judge

SR/nm
Enclosure
xc:

Dinh T. Chau, d/b/a Times Market #102, 107 Seadrift Street, Port Lavaca, TX 77979: - VIA REGULAR MAIL



SOAH DOCKET NO. 362-20-0062

TEXAS LOTTERY COMMISSION <i>Petitioner</i>	§ § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
v. DINH T. CHAU D/B/A TIMES MARKET #102 <i>Respondent</i>		

**TEXAS LOTTERY COMMISSION'S EXCEPTIONS TO THE ADMINISTRATIVE
LAW JUDGE'S PROPOSAL FOR DECISION**

The Texas Lottery Commission (Commission) hereby files these *Exceptions to the Administrative Law Judge's Proposal for Decision*.

I. Background.

After a contested case hearing on October 23, 2019, the Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD) in which he found Dinh T. Chau d/b/a Times Market #102 (Respondent) violated Tex. Gov't Code §466.3052(a) and 16 Tex. Admin. Code §401.158(b)(27) by intentionally or knowingly selling a ticket and accepting a form of payment not specifically allowed under the State Lottery Act (Act).

Applying the penalty guidelines of Tex. Gov't Code ch. 466 and 16 Tex. Admin. Code §401.160(g), Commission staff asked the ALJ to recommend the suspension of Respondent's license for thirty (30) days. Instead of making a recommendation as to an appropriate sanction, the ALJ made the following conclusion of law:

9. The Commission should impose a 10-day suspension of the lottery sales agent license of Dinh T. Chau d/b/a Times Market #102. Texas. 16 Tex. Admin. Code § 401.160.

Commission staff takes exception to Conclusion of Law No. 9. The Commission welcomes

recommendations of the ALJ as to appropriate sanctions, but a proposed sanction is not a proper conclusion of law. With due respect, the proposed sanction being styled as a conclusion of law purports to usurp the Commission's discretion to determine the appropriate sanction.

II. Public Policy Favors a 30-Day Suspension, which is Within the Penalty Guidelines for a First-Time Occurrence of Accepting an Unauthorized Form of Payment for a Lottery Ticket.

The Act prohibits accepting payment for lottery tickets in anything but a few limited forms of currency.¹ In this case, Respondent's clerk sold six (6) Texas Lottery scratch tickets worth \$5 each in exchange for a 30,000-point ticket voucher (worth \$30) from an 8-liner gambling device located inside the store. In fact, the clerk was found guilty under the Act for violating Tex. Gov't Code §466.3052(a) in the Justice of the Peace, Precinct 1, Place 1, Calhoun County, Texas, and received deferred adjudication. Prior to this transaction, the Commission received information that Respondent repeatedly allowed customers to exchange their 8-liner gaming machine winning vouchers for Texas Lottery tickets. Therefore, public policy and welfare considerations support a 30-day suspension as the appropriate penalty to deter the unlawful behavior in this case. The 30 day-suspension is clearly within the provisions of the Commission's penalty chart, which allows for a ninety (90) day suspension, or even revocation, for a first-time violation of 16 Tex. Admin. Code §401.158(b)(27).²

The Act does not authorize the Commission to assess monetary penalties against licensed retailers, nor does it authorize the Commission to take enforcement action against lottery players or the general public. The only tools at the Commission's disposal to deter the unlawful behavior

¹ Tex. Gov't Code §466.3052(a).

² 16 Tex. Admin. Code §401.160 (10-90 day Suspension to Revocation for the 1st occurrence violation of Tex. Gov't Code §466.3052(a)).

presented in this case are license suspension and license revocation. The Commission, as the state agency mandated by the Legislature to exercise strict control and close supervision over all lottery games to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery,³ believes the only effective way to fulfill its mandate to deter this behavior and to spread the message to the retailer community is to impose a suspension longer than ten (10) days. The Commission's recommendation conforms to the Act and the standard penalty chart in 16 Tex. Admin. Code §401.160(g).

III. Exception to Conclusion of Law No. 9.

The Commission staff takes further exception to the ALJ's proposed Conclusion of Law No. 9, which states, "The Commission should impose a 10-day suspension of the lottery sales agent license of Dinh T. Chau d/b/a Times Market #102. Texas. 16 Tex. Admin. Code § 401.160." Proposed Conclusion of Law No. 9 is actually a recommendation as to what is an appropriate sanction, not a conclusion of law. Under Texas law, "A recommendation for sanctions is not a finding of fact or conclusion of law."⁴ "The mere labeling of a recommended sanction as a finding" does not bind an agency.⁵ An "ALJ's proposed conclusions of law were not conclusions but recommended sanctions and while the ALJ may recommend a sanction, it is up to the [agency] to determine appropriate sanctions."⁶ "An Agency has broad discretion in determining which sanctions best serve statutory policies committed to agency's oversight."⁷ "The choice of penalty

³ Tex. Gov't Code §466.014(a).

⁴ See F. Scott McCown & Monica Leo, *When Can an Agency Change the Findings or Conclusions of an ALJ?; Part Two*, 51 BAYLOR L. REV. 63 (1999).

⁵ *Grotti v. Texas State Bd. of Medical Examiners* No. 03-04-00612-CV, 2005 WL 2464417, at 9 (Tex. App.—Austin, October 6, 2005).

⁶ *Texas State Bd. of Dental Examiners v. Brown*, 281 S.W.3d 692, 699 (Tex. App.—Corpus Christi, 2009).

⁷ *Fay-Ray Corp. v. Texas Alcoholic Beverage Com'n*, 959 S.W.2d 362, 369 (Tex. App.—Austin, 1998).

is vested in the agency, not in the courts.”⁸ “The agency is charged by law with discretion to fix the penalty when it determines that the statute has been violated.”⁹

“The mere labeling of a recommended sanction as a conclusion of law or as a finding of fact does not change the effect of the ALJ’s recommendation.”¹⁰ Because Tex. Gov’t Code §2001.058(e) restricts the Commission’s ability to change a conclusion of law, the PFD, by characterizing the 10-day suspension as a conclusion of law, calls into question the Commission’s lawful discretion to deviate from the ALJ’s recommended sanction and determine a penalty. The Commission may lawfully disagree with the ALJ on the severity of the violation.

IV. Conclusion

For the reasons stated above, the Commission respectfully requests that the ALJ either (1) issue an Amended Proposal for Decision removing Conclusion of Law No. 9, or (2) restyle Conclusion of Law No. 9 as a recommended sanction of a 30-day suspension.

Respectfully submitted,

/s/ Kristen Guthrie
Kristen Guthrie
Assistant General Counsel
Texas Lottery Commission
P.O. Box 16630
Austin, Texas 78761-6630
Telephone: (512) 344-5475
Facsimile: (512) 344-5189

⁸ *Sears v. Tex. State Bd. of Dental Examiners*, 759 S.W.2d 748, 751 (Tex. App.—Austin 1988, no writ).

⁹ *Id.*

¹⁰ *Texas State Bd. of Dental Examiners v. Brown* 281 S.W.3d 692, 697 (Tex. App.—Corpus Christi, 2009).

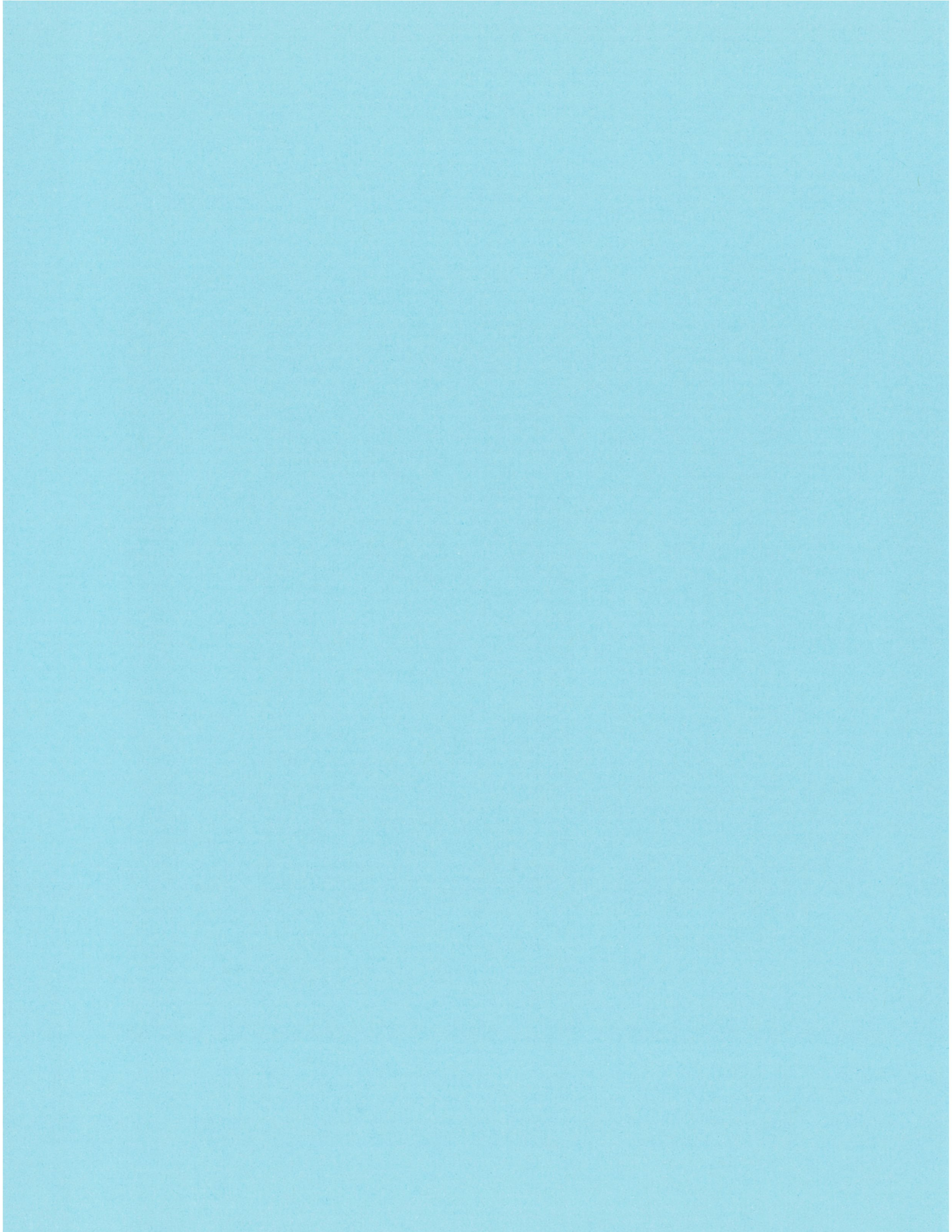
CERTIFICATE OF SERVICE

I certify that on February 10, 2020, a true and correct copy of the *Texas Lottery Commission's Exceptions to the Administrative Law Judge's Proposal for Decision* was served on the following individuals at the locations and in the manner indicated below.

Dinh T. Chau
d/b/a Times Market #102
107 Seadrift St.
Port Lavaca, TX 77979

via regular mail
via email at chaumanagement@yahoo.com

/s/ Kristen Guthrie
Kristen Guthrie
Assistant General Counsel





State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

January 27, 2020

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

VIA EMAIL

**RE: Docket No. 362-20-0062; Texas Lottery Commission v. Dinh T. Chau,
d/b/a Times Market #102, License No.180968]**

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,

Steven M. Rivas
Administrative Law Judge

SR/nm

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA EMAIL
Dinh T. Chau, d/b/a: Times Market #102, 107 Seadrift St., Port Lavaca, TX 77979 -VIA REGULAR MAIL

P.O. Box 13025 Austin, Texas 78711-3025 | 300 W. 15th Street Austin, Texas 78701
Phone: 512-475-4993 | Fax: 512-475-4994
www.soah.texas.gov

SOAH DOCKET NO. 362-20-0062

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
v.	§	
	§	OF
DINH T. CHAU	§	
D/B/A TIMES MARKET # 102,	§	ADMINISTRATIVE HEARINGS
	§	

PROPOSAL FOR DECISION

Staff of the Texas Lottery Commission (Commission) requested a 30-day suspension of the lottery sales agent's license No. 180968 held by Dinh T. Chau d/b/a Times Market #102 (Licensee). Staff contends that an employee of Licensee knowingly and intentionally accepted prize credit vouchers issued by an 8-liner gambling device as payment for lottery tickets in violation of Texas Government Code § 466.3052(a) and 40 Texas Administrative Code § 401.158(b)(27). The Administrative Law Judge (ALJ) finds that Staff proved the allegation but recommends a 10-day license suspension.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

On October 23, 2019, ALJ Steven M. Rivas convened a hearing on the merits at the State Office of Administrative Hearings in Austin, Texas. Kristin Guthrie, Assistant General Counsel, represented Staff. Dinh T. Chau appeared on behalf of Licensee. The hearing adjourned and the ALJ held the record open until November 22, 2019, to allow Staff an opportunity to address the legality of 8-liner gambling devices.

Neither party objected to notice or jurisdiction. Therefore, those matters are set out in the findings of fact and conclusions of law without further discussion here.

II. APPLICABLE LAW

The Commission's director may issue a license to a person only if the director finds that the person's experience, character, and general fitness are such that the person's participation as a sales agent will not detract from the integrity, security, honesty, and fairness of the operation of the lottery.¹ After a hearing, the commission shall suspend or revoke a license if the commission finds that the sales agent has violated this chapter or a rule adopted under this chapter.² At a hearing, the sales agent must show by a preponderance of the evidence why the license should not be suspended or revoked.³

Under Texas Government Code § 466.3052(a): A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

- (1) United States currency;
- (2) a negotiable instrument in the form of a check that meets the requirements of § 3.104, Business & Commerce Code;
- (3) a debit made through a financial institution debit card;
- (4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; or
- (5) a mail order subscription on a mail order subscription form authorized by the commission.⁴

Without limiting the Commission's ability to consider factors in § 401.153(b), the Commission may suspend or revoke a retailer's license if the licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.⁵

¹ Tex. Gov't Code § 466.151(e).

² Tex. Gov't Code § 466.155(a)(5). Texas Government Code § 466.155 was revised effective June 7, 2019. This Proposal for Decision cites the Code in effect during the time in which the alleged conduct occurred.

³ Tex. Gov't Code § 466.155(c).

Each retailer agrees to operate in a manner consistent with the State Lottery Act, and 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.⁶ The Commission imposes penalties, including suspensions and revocations, in accordance with 16 Texas Administrative Code § 401.160. A repeat violation by a licensee justifies the penalty for a second or third violation if it occurs within 12 months of the first violation, and need not be the same or similar in nature to previous violations to be considered repeat violations.⁷

III. DISCUSSION

A. Evidence

1. Staff's Case

Staff offered seven exhibits into evidence, which were admitted, including the notice of administrative hearing and evidence relating to the violations.⁸ Staff also presented the testimony of Tammy Boddy, Department investigator, and Nancy Guerra, retail services specialist.

Ms. Boddy testified that on April 15, 2019, she conducted an undercover investigation at Licensee's store Times Market #102 located at 107 Seadrift Street, in Port Lavaca, Texas.

Ms. Boddy testified that, while at the store, she played an electronic gambling device referred to as an 8-liner. Ms. Boddy stated that after several minutes, her winnings totaled 30,000 in credit points.

⁴ Per Texas Government Code § 466.3052(b), an offense under this section is a Class C misdemeanor.

⁵ 16 Tex. Admin. Code § 401.158(b)(27).

⁶ 16 Tex. Admin. Code § 401.366.

⁷ 16 Tex. Admin. Code § 401.160(b).

Ms. Boddy said she then pushed the ticket button on the machine and it produced a ticket voucher reflecting 30,000 credit points, which she could use to purchase \$30 worth of items from the store. She then took the voucher to the front counter and asked the male clerk for six (6) Texas Lottery scratch tickets.⁹ According to Ms. Boddy, the clerk handed her six (6) Texas Lottery scratch tickets worth \$5 each in exchange for the 30,000 point (worth \$30) ticket voucher Ms. Boddy had won playing an 8-liner machine inside the store.

Ms. Boddy determined that the clerk who exchanged the 8-liner voucher for lottery tickets was Mr. Chau's son Dinh-Diamond Luong Chau. Ms. Boddy said she reported the incident to Calhoun County Sheriff's Office, which ultimately cited Dinh-Diamond Luong Chau for the alleged violation.

On August 16, 2019, Dinh-Diamond Luong Chau pleaded guilty to violating Texas Government Code § 466.3052(a) regarding the "Purchase and Sale of Tickets," a Class C misdemeanor in the Justice of the Peace, Precinct 1, Place 1, Calhoun County, Texas.¹⁰ The court deferred adjudication of the offense and discharged him on August 21, 2019.¹¹

Ms. Boddy further testified that Mr. Chau has a prior violation from 2016. In that case, Ms. Boddy testified, Mr. Chau was cited for failure to follow Department's procedure with regard to the location of where scratch tickets could be sold.

Specifically, Ms. Boddy explained, Mr. Chau moved scratch ticket game packs from one store (Times Market #105) to sell at another store he owned (Times Market #102).

⁸ Staff Exs. 1-7.

⁹ Staff noted in its brief that although Texas Penal Code § 47.01-.02 makes it an offense to place a bet on gambling devices such as 8-liners, it is a defense to prosecution under Texas Penal Code § 47.09(a)(3) if the person's conduct was directly or indirectly authorized by the Commission.

¹⁰ Staff Ex. 5.

¹¹ The Court ordered Dinh-Diamond Luong Chau to write a report of this experience. He complied, swiftly.

According to the citation, packs of scratch tickets that are inventoried at one store may not be moved—for any reason—to another store.¹²

Ms. Guerra testified that a 30-day suspension was appropriate in this matter. She pointed out the Department's penalty matrix provides for a 30-90 day suspension or revocation for the current violation if it is a second violation. After considering the circumstances surrounding the violation, Ms. Guerra testified that a 30-day suspension would suffice.

2. Licensee's Case

Mr. Chau did not dispute Staff's allegation. Nor did he dispute that his son Dinh-Diamond Luong Chau was one of Licensee's employees or agents acting on behalf of Licensee. He testified that on the day in question, he was the store's lone employee and received a phone call from his daughter's middle school that his daughter was sick, and that she needed to be picked up from school. Mr. Chau testified that he called his son Dinh-Diamond Luong Chau to run the store while he left to pick up his daughter from school.

Mr. Chau testified that before he left the store, he saw Ms. Boddy playing an 8-liner machine. He further recalls that he advised her that 8-liner vouchers could be used to purchase grocery items only. Mr. Chau testified that he also advised his son that 8-liner credit vouchers could only be used to purchase groceries, and further advised his son that he could not accept 8-liner vouchers for beer, cigarettes, or lottery tickets.

C. ALJ's Analysis

The evidence supports a finding that Licensee violated Texas Government Code § 466.3052(a).

¹² Staff Ex. 5.

Moreover, the Commission's rule at § 401.158(b)(27) provides that the Commission may suspend or revoke a license if the licensee knowingly accepts anything other than what is listed in § 466.3052(a). On April 16, 2019, Mr. Chau's son, Dinh-Diamond Luong Chau, intentionally and knowingly accepted an 8-liner voucher as payment of six (6) lottery tickets. Because, 8-liner vouchers are not listed in § 466.0352(a) of the Texas Government Code as acceptable payment for a lottery ticket, Dinh-Diamond Luong Chau was cited for violating § 466.3052(a) a Class C misdemeanor, to which he ultimately pled guilty.

The ALJ notes that on the day in question, Mr. Chau was compelled to leave the store and had no choice but to ask his son to manage the store while he was away. Even so, before Mr. Chau left the store, he admonished both Ms. Boddy¹³ and his son that 8-liner vouchers could be used to purchase groceries only. Mr. Chau asserted that he did everything he could do to abide by the law short of closing the store—yet still failed to comply with § 466.3052(a) on that date.

Staff argued that this incident is a repeat violation, and as such, Staff is authorized to seek a 30 to 90-day license suspension or possibly revoke the license. However, the applicable provision regarding repeat violations defines a repeat violation as one that occurs within 12 months of the first violation.¹⁴ In this case, the current (repeat) violation in 2019 did not occur within 12 months of the first violation in 2016. Therefore, the current 2019 violation may be considered as Licensee's first violation and, that being the case, allows for the imposition of a lesser sanction.

For the above-stated reasons, the ALJ finds that a violation occurred but that the Commission should impose a 10-day suspension, and in support thereof makes the following Findings of Fact and Conclusions of Law.

¹³ Ms. Boddy confirmed that Mr. Chau informed her that 8-liner vouchers could be used to purchase groceries only.

¹⁴ 16 Tex. Admin. Code § 401.160(b).

III. FINDINGS OF FACT

1. Dinh T. Chau d/b/a Times Market #102 (Licensee) is a lottery sales agent licensed by the Texas Lottery Commission (Commission). Licensee holds license number 180968.
2. Licensee is the sole owner of Times Market #102, located on 107 Seadrift Street, in Port Lavaca, Texas.
3. On April 15, 2019, Ms. Boddy went to Licensee's store and began playing an electronic gambling device referred to as an 8-liner.
4. On the day in question, while Ms. Boddy was playing the 8-liner gambling device, Mr. Chau had to leave the store to pick up his daughter from school because she was ill.
5. Mr. Chau allowed his son Dinh-Diamond Luong Chau to run the store while he went to pick up his daughter from school.
6. Before leaving the store, Mr. Chau advised Ms. Boddy that 8-liner vouchers could only be used to purchase grocery items.
7. Mr. Chau also advised his son that 8-liner credit vouchers could only be used to purchase groceries, and could not be used to purchase beer, cigarettes, or lottery tickets.
8. Ms. Boddy cashed out a ticket voucher from the 8-liner gambling device, which reflected 30,000 credit points. The voucher was good for \$30 worth of purchases from the store.
9. Ms. Boddy took the voucher to the front counter and asked the clerk for six (6) Texas Lottery scratch tickets.
10. The clerk handed Ms. Boddy six (6) Texas Lottery scratch tickets worth \$5 each in exchange for the 30,000 point (worth \$30) ticket voucher.
11. The clerk who performed the transaction was identified as Dinh Chau's son, Dinh-Diamond Luong Chau.
12. On August 16, 2019, Dinh-Diamond Luong Chau pleaded guilty to violating Texas Government Code § 466.3052(a) regarding the "Purchase and Sale of Tickets," a Class C misdemeanor in the Justice of the Peace, Precinct 1, Place 1, Calhoun County, Texas. The court deferred adjudication of the offense and discharged him on August 21, 2019.

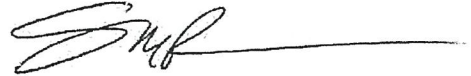
13. On July 18, 2019, Staff notified Licensee of the violations and gave him the opportunity to respond to the allegations.
14. Licensee has a prior violation in 2016.
15. On September 9, 2019, Staff sent the notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing. The notice was sent by first class and certified mail, return receipt requested, to Licensee's address on file with the Commission.
16. On October 23, 2019, ALJ Steven M. Rivas convened a hearing on the merits at the State Office of Administrative Hearings in Austin, Texas. Kristin Guthrie, Assistant General Counsel, represented the Staff. Dinh T. Chau appeared on behalf of the Licensee. The hearing adjourned and the ALJ held the record open until November 22, 2019, to allow Staff an opportunity to address the legality of 8-liner gambling devices.

IV. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act). Tex. Gov't Code § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
3. Proper and timely notice of the hearing was provided to Licensee pursuant to Texas Government Code §§ 2001.051 - 2001.052 and § 466.155(b) of the Act, and 16 Texas Administrative Code § 401.205(a)(4).
4. The Commission has authority to suspend or revoke a retailer's license for violations of the Act and 16 Texas Administrative Code §§ 401.158(b)(7)(28) and 401.3052.
5. The Commission has authority to take disciplinary action against its licensees for any violation of the Act or rules adopted under the Act. Tex Gov't Code § 466.155.
6. Based on the Findings of Fact, Licensee violated Texas Government Code § 466.3052(a).
7. A repeat violation is one that occurs within 12 months of the first violation. 16 Tex. Admin. Code § 401.160(b).
8. The penalty for intentionally or knowingly selling a ticket and accepting anything for payment not specifically allowed under the State Lottery Act is a 10 to 90-day suspension or revocation for a violation on its first occurrence. 16 Tex. Admin. Code § 401.160(g)(10).

9. The Commission should impose a 10-day suspension of the lottery sales agent license of Dinh T. Chau d/b/a Times Market #102. Texas. 16 Tex. Admin. Code § 401.160.

SIGNED January 27, 2020.

A handwritten signature in black ink, appearing to read 'S. Rivas', followed by a horizontal line.

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

Commission Order No. 20-0056

Date: JUNE 11, 2020

No. 2019-905

IN THE MATTER OF

ROBIN SANDERS

BINGO WORKER REGISTRY NO. 151701

§
§
§
§
§

BEFORE THE TEXAS

LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Charitable Bingo Operations Division of the Texas Lottery Commission (Commission) and Robin Sanders, Bingo Worker Registry No. 151701, make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Robin Sanders has been on the Registry of Approved Bingo Workers (Registry) since at least January 2, 2019. On July 23, 2019, the Commission sent Ms. Sanders a Notice of Proposed Removal from the Registry, and Notice of Opportunity for a Hearing, based on her criminal history, discussed below.

2. On June 10, 2019, in the 2nd District Court of Cherokee County, Texas, in Case No. 21035, Robin Sanders received deferred adjudication for Tampering with a Governmental Record, a third-degree felony, and was placed on a community supervision for a period of forty-two (42) months. The date of the offense was November 17, 2015.

3. Ms. Sanders has provided the Commission three letters of recommendation, including a letter from her probation officer and a letter from a manager of Flamingo Bingo, where Ms. Sanders is currently employed.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to the Bingo Enabling Act (Tex. Occ. Code, Chapter 2001), Tex. Gov't Code, Chapter 467; and 16 Tex. Admin. Code, Chapter 402.

2. Robin Sanders is obligated to follow the provisions of the Bingo Enabling Act and the Commission rules to maintain her bingo worker listing on the Registry.

3. Tex. Occ. Code §2001.0541 provides that the Commission shall adopt rules and guidelines as necessary to comply with Occupations Code Chapter 53 when using criminal history record information under the Bingo Enabling Act to issue or renew a bingo license or to list or renew the listing of an individual on the Registry.

4. Tex. Occ. Code §53.021(a) states:

A licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:

- (1) an offense that directly relates to the duties and responsibilities of the licensed occupation;
- (2) an offense that does not directly relate to the duties and responsibilities of the licensed occupation and that was committed less than five years before the date the person applies for the license;
- (3) an offense listed in Section 3g, Article 42.12, Code of Criminal Procedure; or
- (4) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

5. Tex. Occ. Code §53.022 states:

In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

6. Tex. Occ. Code §53.023 states:

(a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) other evidence of the person's fitness, including letters of recommendation from:

(A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

(B) the sheriff or chief of police in the community where the person resides; and

(C) any other person in contact with the convicted person.

(b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).

(c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:

- (1) maintained a record of steady employment;
- (2) supported the applicant's dependents;
- (3) maintained a record of good conduct; and
- (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

7. In accordance with Tex. Occ. Code §§ 53.021, 53.022 and 53.023, the Commission has discretionary authority to remove Ms. Sanders from the Registry.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Robin Sanders agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Ms. Sanders agrees to not act as a bingo chairperson, manager, operator, bookkeeper, cashier or designated agent for any licensed bingo conductor organization for a period of three (3) years following the effective date of this Order. Ms. Sanders may deliver prize money and sell bingo cards and pull tabs as an usher or salesperson, but she may not be responsible for recording those transactions.

4. Ms. Sanders agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including removal of Ms. Sanders from the Registry, for any further violations of the Bingo Enabling Act and/or the Commission rules.

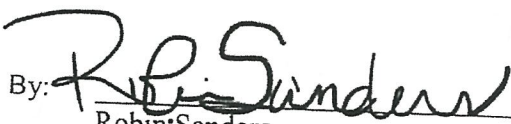
5. Ms. Sanders acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against him by the Commission. This Memorandum of Agreement and Consent Order shall not, however, form the basis for, nor be used as, evidence against Ms. Sanders in any future Registry renewal applications absent other alleged violations.

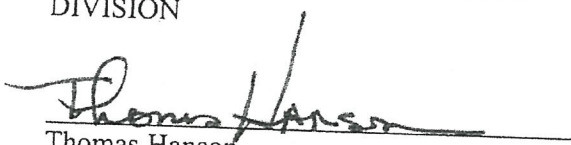
6. Ms. Sanders agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Ms. Sanders has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Ms. Sanders, up to and including removal of Ms. Sanders from the Registry.

AGREED AS TO FORM AND SUBSTANCE:

ROBIN SANDERS

TEXAS LOTTERY COMMISSION,
CHARITABLE BINGO OPERATIONS
DIVISION

By: 
Robin Sanders

By: 
Thomas Hanson
Acting Director

Date: 04-09-2020

Date: 4/15/2020

Commission Order No. 20-0056

Date: JUNE 11, 2020

No. 2019-905

IN THE MATTER OF

ROBIN SANDERS

BINGO REGISTRY NO. 151701

§
§
§
§
§

BEFORE THE TEXAS

LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of removal of Robin Sanders from the Registry of Approved Bingo Workers (Registry), Ms. Sanders shall not act as a bingo chairperson, manager, operator, bookkeeper, cashier or designated agent for a licensed bingo conductor for a period of three (3) years from the date of this Consent Order is signed by the Commission. Ms. Sanders may deliver prize money and sell bingo cards and pull tabs as an usher or salesperson, but she shall not be responsible for recording those transactions.

(2) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Ms. Sanders has failed to comply with the terms of this Order, disciplinary action shall be taken against Ms. Sanders, up to and including removal of Ms. Sanders from the Registry.

Commission Order No. 20-0056

Date: JUNE 11, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

Commission Order No. 20-0057

Date: JUNE 11, 2020

No. 2020-88

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
RYANNA MCBRIDE	§	
	§	
BINGO REGISTRY NO. 152985	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission, Charitable Bingo Operations Division (Commission), and Ryanna McBride make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Ryanna McBride has been on the Registry of Approved Bingo Workers (Registry) under the Bingo Worker Registry No. 152985 since at least September 12, 2019. On December 12, 2019, the Commission sent Ms. McBride a Notice of Proposed Removal from the Registry based on her criminal history, discussed below.

2. On January 22, 2015, in the County Court at Law of Austin County, Texas, in Case No. 12CR30476, Ms. McBride was convicted of Theft of Property $\geq \$50 < \500 , a Class B misdemeanor, and sentenced to confinement in jail for a period of fifteen (15) days. The date of the offense was December 9, 2012.

3. Ms. McBride has provided the Commission three letters of recommendation, including one from the bingo chairperson and one from the quartermaster of VFW Post 4816, where she is currently employed.

AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Occ. Code ch.

2001 (the Bingo Enabling Act), Tex. Gov't Code ch. 467, and 16 Tex. Admin. Code ch. 402.

2. Ryanna McBride is obligated to follow the provisions of the Bingo Enabling Act and the Commission rules to maintain her bingo worker listing on the Registry.

3. Tex. Occ. Code §2001.0541 provides that the Commission shall adopt rules and guidelines as necessary to comply with Occupations Code Chapter 53 when using criminal history record information under the Bingo Enabling Act to issue or renew a bingo license or to list or renew the listing of an individual on the Registry.

4. Tex. Occ. Code §2001.313 states, in pertinent parts:

(e) The commission may refuse to add an individual's name to, or remove an individual's name from, the registry established by this section if, after notice and, if requested by the individual, a hearing, the individual is finally determined to have:

...

(7) participated in any violation of this chapter or rules adopted by the commission for the administration of this chapter.

5. Tex. Occ. Code §53.021(a) states:

Subject to Section 53.0231, a licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:

- (1) an offense that directly relates to the duties and responsibilities of the licensed occupation;
- (2) an offense listed in Article 42A.054, Code of Criminal Procedure; or
- (3) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

6. Tex. Occ. Code §53.022 states:

In determining whether a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the licensing authority shall consider each of the following factors:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
- (5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

7. Tex. Occ. Code §53.023 states:

(a) If a licensing authority determines under Section 53.022 that a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the licensing authority shall consider the following in determining whether to take an action authorized by Section 53.021:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- (7) other evidence of the person's fitness, including letters of recommendation.

(b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations described by Subsection (a)(7).

8. Tex. Penal Code §31.03 states, in pertinent parts:

(a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

(b) Appropriation of property is unlawful if:

- (1) it is without the owner's effective consent;
- (2) the property is stolen and the actor appropriates the property knowing it was stolen by another.

9. 16 Tex. Admin. Code §402.702 states, in pertinent parts:

...
(e) The Commission deems convictions (including deferred adjudications and/or nolo contendere pleas) for certain misdemeanor and felony offenses to directly relate to the fitness of a new or renewal applicant for a license or registry listing under the BEA. Such offenses include the following:
...

(2) Penal Code, Chapter 31, Theft.

...
(h) If the Commission determines that an applicant has a criminal conviction directly related to the duties and responsibilities of the licensed occupation, the Commission shall consider the following in determining whether to take an action against the applicant:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- (7) other evidence of the person's fitness, including letters of recommendation and veteran's status, including discharge status.

(i) Upon notification of the Commission's intent to deny a new or renewal application or registry listing, an applicant may provide documentation of mitigating factors that the applicant would like the Commission to consider regarding its application. Such documentation must be provided to the Commission no later than 20 days after the Commission provides notice to an applicant of a denial, unless the deadline is extended in writing or through e-mail by authorized Commission staff.

10. In accordance with Tex. Occ. Code §§ 53.021(a) and §2001.313(e)(7), the Commission has discretionary authority to remove Ms. McBride from the Registry.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Ryanna McBride agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date it is signed by the Commission.

3. Ms. McBride agrees to not act as a bingo chairperson, manager, operator, bookkeeper, cashier or designated agent for any licensed bingo conductor organization for a period of three (3) years following the effective date of this Order.

4. Ms. McBride agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including removal of Ms. McBride from the Registry, for any further violations of the Bingo Enabling Act and/or the Commission rules.

5. Ms. McBride acknowledges and agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against her by the Commission. This Memorandum of Agreement and Consent Order shall not, however, form the basis for, nor be used as, evidence against Ms. McBride in any future Registry renewal applications absent other alleged violations.


6. Ms. McBride agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Ms. McBride has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Ms. McBride, up to and including removal of Ms. McBride from the Registry.

AGREED AS TO FORM AND SUBSTANCE:

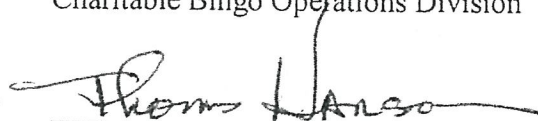
Ryanna McBride

Texas Lottery Commission
Charitable Bingo Operations Division

By:


Ryanna McBride

By:


Thomas Hanson, Acting Director

Date:

2-23-20

Date:

3/4/2020

Commission Order No. 20-0057

Date: JUNE 11, 2020

No. 2020-88

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
RYANNA MCBRIDE	§	
	§	
BINGO REGISTRY NO. 152985	§	LOTTERY COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission (Commission), based on the above Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Commission that, in lieu of removal of Ryanna McBride from the Registry of Approved Bingo Workers (Registry), Ms. McBride shall not act as a bingo chairperson, manager, operator, bookkeeper, cashier or designated agent for a licensed bingo conductor for a period of three (3) years from the date of this Consent Order is signed by the Commission.

(2) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Ms. McBride has failed to comply with the terms of this Order, disciplinary action shall be taken against Ms. McBride, up to and including removal of Ms. McBride from the Registry.

Commission Order No. 20-0057

Date: JUNE 11, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the 11TH day of JUNE, 2020.

Entered this 11TH day of JUNE, 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER