



INTEROFFICE MEMO

Gary Grief, Executive Director LaDonna Castañuela, Charitable Bingo Operations Director

To: Robert G. Rivera, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Erik C. Saenz, Commissioner
Jamey Steen, Commissioner

From: Bob Biard, General Counsel

RGB

Date: December 16, 2021

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: DECEMBER 16, 2021

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 in each case requesting the ALJ issue a conditional order of default dismissal and remand 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)-(e).

Date: DECEMBER 16, 2021

4. The ALJ dismissed the referenced cases from the SOAH docket and remanded these cases to the Commission for informal disposition under Tex. Gov't Code §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 the 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 (State Lottery Act) and 16 Tex. Admin. Code Chapter 401 (Commission Rules).

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. 22-0012

Date: DECEMBER 16, 2021

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 16TH day of DECEMBER, 2021.

Entered this 16TH day of DECEMBER, 2021.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 22-0012

Date: DECEMBER 16, 2021

ATTACHMENT A

TAB NO.	SOAH DOCKET NO.	TICKET SALES AGENT NAME	TICKET SALES AGENT ADDRESS	LOTTERY LICENSE NO.
A.	362-22-0015	SHM Trading LLC d/b/a Vassu Food Mart	3605 FM 646 Rd. N Santa Fe, TX 77510	189311
B.	362-22-0016	Dream Grocery Inc. d/b/a Arena Food Mart	2603 E. Commerce St. San Antonio, TX 78203	190168
C.	362-22-0250	Aya Issa Inc. d/b/a Aya Issa Inc.	604 W. 11 th St. Friona, TX 79035	606112

FILED
362-22-0015
10/29/2021 8:45 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

SOAH DOCKET NO. 362-22-0015

ACCEPTED
362-22-0015
10/29/2021 8:46:11 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

**IN THE MATTER OF
THE REVOCATION OF LOTTERY
SALES AGENT LICENSE HELD BY
SHM TRADING LLC d/b/a VASSU
FOOD MART**

§
§
§
§
§

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

**ORDER NO. 2
ORDER OF DEFAULT DISMISSAL**

On October 14, 2021, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in this matter. Attorney Kristen Guthrie appeared for the staff (Staff) of the Texas Lottery Commission (Commission). SHM Trading LLC d/b/a Vassu Food Mart (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted showing proof of adequate notice to Respondent.¹ Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion is **GRANTED**, and the factual allegations detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.²

Respondent may file a motion to set aside the default within 15 days of the date of this order.³ The motion must show good cause for resetting a hearing or show that the interests of justice require setting aside the default. If Respondent does not file a timely motion to set aside, or if the ALJ finds that a filed motion should be denied, the contested case will be remanded to the Commission for informal disposition on a default basis in accordance with the Administrative Procedure Act.⁴

SIGNED October 29, 2021.



AMY DAVIS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

¹ 1 Tex. Admin. Code § 155.501(b), as amended effective November 29, 2020.

² 1 Tex. Admin. Code § 155.501(d)(1), as amended effective November 29, 2020.

³ 1 Tex. Admin. Code § 155.501(e), as amended effective November 29, 2020.

⁴ Tex. Gov't Code § 2001.056.

FILED
362-22-0016
10/29/2021 8:53 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

SOAH DOCKET NO. 362-22-0016

ACCEPTED
362-22-0016
10/29/2021 9:19:08 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jessie Harbin, CLERK

**IN THE MATTER OF
THE REVOCATION OF LOTTERY
SALES AGENT LICENSE HELD BY
DREAM GROCERY INC DBA ARENA
FOOD MART**

§
§
§
§
§

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

**ORDER NO. 2
ORDER OF DEFAULT DISMISSAL**

On October 14, 2021, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in this matter. Attorney Kristen Guthrie appeared for the staff (Staff) of the Texas Lottery Commission (Commission). Dream Grocery Inc. d/b/a Arena Food Mart (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted showing proof of adequate notice to Respondent.¹ Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion is **GRANTED**, and the factual allegations detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.²

Respondent may file a motion to set aside the default within 15 days of the date of this order.³ The motion must show good cause for resetting a hearing or show that the interests of justice require setting aside the default. If Respondent does not file a timely motion to set aside, or if the ALJ finds that a filed motion should be denied, the contested case will be remanded to the Commission for informal disposition on a default basis in accordance with the Administrative Procedure Act.⁴

SIGNED October 29, 2021.



AMY DAVIS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

¹ 1 Tex. Admin. Code § 155.501(b), as amended effective November 29, 2020.

² 1 Tex. Admin. Code § 155.501(d)(1), as amended effective November 29, 2020.

³ 1 Tex. Admin. Code § 155.501(e), as amended effective November 29, 2020.

⁴ Tex. Gov't Code § 2001.056.

SOAH DOCKET NO. 362-22-0250

**IN THE MATTER OF
THE REVOCATION OF
LOTTERY SALES AGENT LICENSE
HELD BY AYA ISSA INC d/b/a AYA
ISSA INC**


**§ BEFORE THE STATE OFFICE
§
§ OF
§
§ ADMINISTRATIVE HEARINGS**

**ORDER NO. 1
ORDER OF DEFAULT DISMISSAL**

On November 4, 2021, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in this matter. Attorney Kristen Guthrie appeared for the staff (Staff) of the Texas Lottery Commission (Commission). Aya Issa Inc d/b/a Aya Issa Inc (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted showing proof of adequate notice to Respondent.¹ Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion is **GRANTED**, and the factual allegations detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.²

Respondent may file a motion to set aside the default within 15 days of the date of this order.³ The motion must show good cause for resetting a hearing or show that the interests of justice require setting aside the default. If Respondent does not file a timely motion to set aside, or if the ALJ finds that a filed motion should be denied, the contested case will be remanded to the Commission for informal disposition on a default basis in accordance with the Administrative Procedure Act.⁴

SIGNED November 8, 2021.


**MITTRA FARHADI
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

¹ 1 Tex. Admin. Code § 155.501(b), as amended effective November 29, 2020.

² 1 Tex. Admin. Code § 155.501(d)(1), as amended effective November 29, 2020.

³ 1 Tex. Admin. Code § 155.501(e), as amended effective November 29, 2020.

⁴ Tex. Gov't Code § 2001.056.

Commission Order No. 22-0013

Date: DECEMBER 16, 2021

Case No. 2021-774

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ROYAL 18 FOOD MART INC.	§	
D/B/A ROYAL FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 185058	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Royal 18 Food Mart Inc. d/b/a Royal Food Mart (Royal 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. Royal Food Mart holds Texas Lottery Ticket Sales Agent License No. 185058.
2. Joseph Kunnacherry is the director of Royal Food Mart, which is located at 1539 Texas Pkwy., Missouri City, TX 77489.
3. On January 12, 2021, the Commission received a complaint that Royal Food Mart assessed a fee on the purchase of Texas Lottery draw tickets with a debit card. Based on an internal review, the Commission initiated an investigation into this complaint.
4. On February 4, 2021, a Commission investigator traveled to Royal Food Mart and observed a sign taped to the card reader stating a \$0.25 fee would be added to debit card transactions of \$5.00 or less.
5. On February 9, 2021, Mr. Kunnacherry admitted to the investigator that the store automatically adds a fee to all debit card transactions of \$5.00 or less, including lottery ticket purchases.

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. Royal 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 §466.155(a) states, in pertinent part:

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

...

(5) has violated this chapter or a rule adopted under this chapter.
4. 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.
5. 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:

...

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

(23) licensee charges a fee for lottery ticket purchases using a debit card and/or requires a minimum dollar amount for debit card purchases of only lottery tickets.
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 from the Texas Lottery.

7. The Texas Lottery Ticket Sales Agent License of Royal Food Mart is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Royal Food Mart's violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(22) and (23) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Royal 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. Royal Food Mart agrees that, as a result of its violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(22) and (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, Royal 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, Royal 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 Royal Food Mart's Ticket Sales Agent License is posted.

5. Royal 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 Royal Food Mart's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Royal 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. Royal 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 Royal Food Mart has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Royal Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Royal 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 Royal Food Mart will be charged for tickets sold on or before that date. Royal 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.

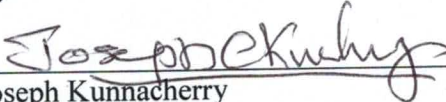
AGREED AS TO FORM AND SUBSTANCE:

Royal 18 Food Mart Inc.
d/b/a Royal Food Mart

Texas Lottery Commission
Lottery Operations Division

By:


By:



Joseph Kunnacherry
Director

9/29/21

DATE



Ryan S. Mindell
Director

9-30-21

DATE

Commission Order No. 22-0013

Date: DECEMBER 16, 2021

Case Nos. 2021-774

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ROYAL 18 FOOD MART INC.	§	
D/B/A ROYAL FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 185058	§	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 the Texas Lottery Ticket Sales Agent License of Royal 18 Food Mart Inc. d/b/a Royal Food Mart (Royal Food Mart), 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, Royal 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, Royal 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 Royal Food Mart's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 22-0013

Date: DECEMBER 16, 2021

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

(4) IT IS FURTHER ORDERED by the Commission that Royal 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 Royal Food Mart will be charged for the tickets sold on or before that date. Royal 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. 22-0013

Date: DECEMBER 16, 2021

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 16TH day of DECEMBER, 2021.

Entered this 16TH day of DECEMBER, 2021.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 22-0014

Date: DECEMBER 16, 2021

Case No. 2022-23

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
BONA YEAN	§	
D/B/A E & C EXPRESS	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 151567	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Bona Yean d/b/a E & C Express (E & C Express) 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. E & C Express holds Texas Lottery Ticket Sales Agent License No. 151567.
2. Bona Yean is the owner of E & C Express, which is located at 1201 E. Main St., Gatesville, TX 76528.
3. On April 13, 2021, the Commission received a complaint that E & C Express charges a fee for lottery ticket purchases with a debit card. The Commission initiated an investigation into this complaint.
4. On May 19, 2021, a Commission investigator traveled to E & C Express and observed a sign that read, “50¢ fee for lottery only purchases with a debit card.”
5. On May 20, 2021, Mr. Yean admitted to the investigator to charging the fee for debit card purchases of only lottery 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. E & C Express 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 §466.155(a) states, in pertinent part:

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

...

(5) has violated this chapter or a rule adopted under this chapter.
4. 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.
5. 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:

...

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

(23) licensee charges a fee for lottery ticket purchases using a debit card and/or requires a minimum dollar amount for debit card purchases of only lottery tickets.
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 from the Texas Lottery.

7. The Texas Lottery Ticket Sales Agent License of E & C Express is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of E & C Express's violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(22) and (23) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, E & C Express 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. E & C Express agrees that, as a result of its violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(22) and (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, E & C Express 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, E & C Express 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 E & C Express's Ticket Sales Agent License is posted.

5. E & C Express 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 E & C Express's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. E & C Express 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. E & C Express 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 E & C Express has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against E & C Express, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. E & C Express 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 E & C Express will be charged for tickets sold on or before that date. E & C Express 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:

Bona Yean
d/b/a E & C Express

Texas Lottery Commission
Lottery Operations Division

By:

Bona Yean 11/03/2021
Bona Yean DATE
Owner

By:

Ryan S. Mindell 11-14-21
Ryan S. Mindell DATE
Director

Commission Order No. 22-0014

Date: DECEMBER 16, 2021

Case No. 2022-23

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
BONA YEAN	§	
D/B/A E & C EXPRESS	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 151567	§	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 the Texas Lottery Ticket Sales Agent License of Bona Yean d/b/a E & C Express (E & C Express), 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, E & C Express 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, E & C Express 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 E & C Express's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 22-0014

Date: DECEMBER 16, 2021

(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 E & C Express has failed to comply with the terms of this Order, disciplinary action shall be taken against E & C Express, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that E & C Express 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 E & C Express will be charged for the tickets sold on or before that date. E & C Express 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. 22-0014

Date: DECEMBER 16, 2021

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 16TH day of DECEMBER, 2021.

Entered this 16TH day of DECEMBER, 2021.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 22-0015

Date: DECEMBER 16, 2021

Case No. 2022-25

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
SAVE WAY FOOD STORE INC.	§	
D/B/A SAVE WAY FOOD STORE	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 143825	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Save Way Food Store Inc. d/b/a Save Way Food Store (Save Way 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. Save Way Food Store holds Texas Lottery Ticket Sales Agent License No. 143825.
2. Mamoun Haifa is the director of Save Way Food Store, which is located at 1562 E. Ann Arbor Ave., Dallas, TX 75216.
3. On April 21, 2021, the Commission received a complaint that Save Way Food Store charged an additional \$1.50 fee on a \$10.00 purchase of Texas Lottery draw tickets with a debit card. Based on an internal review, the Commission initiated an investigation into this complaint.
4. On June 2, 2021, Mr. Haifa admitted to the Commission investigator that Save Way Food Store sometimes charges a \$1.50 fee for debit card purchases of only lottery 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. Save Way 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 §466.155(a) states, in pertinent part:

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

...

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

4. 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.

5. 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:

...

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

(23) licensee charges a fee for lottery ticket purchases using a debit card and/or requires a minimum dollar amount for debit card purchases of only lottery tickets.

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 from the Texas Lottery.

7. The Texas Lottery Ticket Sales Agent License of Save Way Food Store is subject to suspension or revocation pursuant to Tex. Gov't Code §§ 466.155(a)(5), as a result of Save Way

Food Store's violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(22)–(23) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Save Way 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. Save Way Food Store agrees that, as a result of its violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(22)–(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, Save Way 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, Save Way 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 Save Way Food Store's Ticket Sales Agent License is posted.

5. Save Way 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 Save Way Food Store's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Save Way 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. Save Way 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 Save Way Food Store has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Save Way Food Store, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Save Way 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 Save Way Food Store will be charged for tickets sold on or before that date. Save Way 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:

Save Way Food Store Inc.
d/b/a Save Way Food Store

Texas Lottery Commission
Lottery Operations Division

By:



Mamoun Haifa
Director

11/6/2021

DATE

By:



Ryan S. Mindell
Director

11-23-21

DATE

Commission Order No. 22-0015

Date: DECEMBER 16, 2021

Case No. 2022-25

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
SAVE WAY FOOD STORE INC.	§	
D/B/A SAVE WAY FOOD STORE	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 143825	§	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 the Texas Lottery Ticket Sales Agent License of Save Way Food Store Inc. d/b/a Save Way Food Store (Save Way Food Store), 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, Save Way 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, Save Way 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 Save Way Food Store's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 22-0015

Date: DECEMBER 16, 2021

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

(4) IT IS FURTHER ORDERED by the Commission that Save Way 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 Save Way Food Store will be charged for the tickets sold on or before that date. Save Way 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. 22-0015

Date: DECEMBER 16, 2021

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 16TH day of DECEMBER, 2021.

Entered this 16TH day of DECEMBER, 2021.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER