





# 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

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

**Date:** June 9, 2022

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

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



Date: JUNE 9, 2022

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: JUNE 9, 2022**

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. 22-0029**

**Date: JUNE 9, 2022**

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 9<sup>TH</sup> day of JUNE, 2022.

Entered this 9<sup>TH</sup> day of JUNE, 2022.

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ROBERT G. RIVERA, CHAIRMAN

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CINDY FIELDS, COMMISSIONER

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MARK A. FRANZ, COMMISSIONER

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ERIK C. SAENZ, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 22-0029

Date: JUNE 9, 2022

**ATTACHMENT A**

<b>TAB NO.</b>	<b>SOAH DOCKET NO.</b>	<b>TICKET SALES AGENT NAME</b>	<b>TICKET SALES AGENT ADDRESS</b>	<b>LOTTERY LICENSE NO.</b>
A.	362-22-1509	D.R.S. Business LLC d/b/a AAA Liquor #2	4175 Gladys Ave. Beaumont, TX 77706	190711
B.	362-22-1586	Marziya Enterprise LLC d/b/a Old House of Liquor	1330 Mac Arthur Dr., Apt. 1504 Carrollton, TX 75007	190893
C.	362-22-1790	ABP Business LLC d/b/a Grab N Go	715 Oak River Ln. Rosenberg, TX 77469	188331
D.	362-22-1791	James Thomas Wilson d/b/a B JS Mini Mart	320 E. Milam St. Wharton, TX 77488	188437
E.	362-22-1793	Rookies Corner Store LLC d/b/a Rookies Corner Store LLC	903 W. 2 <sup>nd</sup> St. Freeport, TX 77541	190253

SOAH DOCKET NO. 362-22-1509

IN THE MATTER OF  
THE REVOCATION OF LOTTERY  
SALES AGENT LICENSE HELD BY  
D.R.S. BUSINESS LLC D/B/A AAA  
LIQUOR #2

§  
§  
§  
§  
§

BEFORE THE STATE OFFICE  
  
OF  
  
ADMINISTRATIVE HEARINGS

ORDER NO. 2  
ORDER OF DEFAULT DISMISSAL

On March 10, 2022, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in this matter. Attorney Tyler Vance appeared for the staff (Staff) of the Texas Lottery Commission (Commission). D.R.S. Business LLC D/B/A AAA Liquor #2 (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted showing proof of adequate notice to Respondent.<sup>1</sup> 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.<sup>2</sup>

Respondent may file a motion to set aside the default within 15 days of the date of this order.<sup>3</sup> 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.<sup>4</sup>

SIGNED March 16, 2022.



HEATHER HUNZIKER  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

<sup>1</sup> 1 Tex. Admin. Code § 155.501(b).

<sup>2</sup> 1 Tex. Admin. Code § 155.501(d)(1).

<sup>3</sup> 1 Tex. Admin. Code § 155.501(e).

<sup>4</sup> Tex. Gov't Code § 2001.056.





FILED  
362-22-1586  
3/17/2022 7:39 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Giselle Quintero, CLERK

SOAH DOCKET NO. 362-22-1586

ACCEPTED  
362-22-1586  
3/18/2022 8:06:08 am  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Giselle Quintero, CLERK

IN THE MATTER OF  
THE REVOCATION OF LOTTERY  
SALES AGENT LICENSE HELD BY  
MARZIYA ENTERPRISE LLC DBA  
OLD HOUSE OF LIQUOR

§  
§  
§  
§  
§

BEFORE THE STATE OFFICE  
  
OF  
  
ADMINISTRATIVE HEARINGS

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

On March 17, 2022, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in this matter. Attorney Kyle Wolfe appeared for the staff (Staff) of the Texas Lottery Commission (Commission). Marziya Enterprise LLC dba Old House of Liquor (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.<sup>1</sup> 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.<sup>2</sup>

Respondent may file a motion to set aside the default within 15 days of the date of this order.<sup>3</sup> 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.<sup>4</sup>

**SIGNED March 17, 2022.**

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

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

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

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

<sup>4</sup> Tex. Gov't Code § 2001.056.



SOAH DOCKET NO. 362-22-1790

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
THE REVOCATION OF LOTTERY	§	
SALES AGENT LICENSE HELD BY	§	OF
ABP BUSINESS LLC d/b/a GRAB N GO	§	
	§	ADMINISTRATIVE HEARINGS

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

On March 31, 2022, 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). ABP Business LLC d/b/a Grab N Go (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.<sup>1</sup> 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.<sup>2</sup>

Respondent may file a motion to set aside the default within 15 days of the date of this order.<sup>3</sup> 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.<sup>4</sup>

**SIGNED April 6, 2022.**

  
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CASSANDRA QUINN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

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

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

<sup>4</sup> Tex. Gov't Code § 2001.056.



SOAH DOCKET NO. 362-22-1791

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
THE REVOCATION OF LOTTERY	§	
SALES AGENT LICENSE HELD BY	§	OF
JAMES THOMAS WILSON d/b/a B JS	§	
MINI MART	§	ADMINISTRATIVE HEARINGS

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

On March 31, 2022, 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). James Thomas Wilson d/b/a B JS Mini 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.<sup>1</sup> 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.<sup>2</sup>

Respondent may file a motion to set aside the default within 15 days of the date of this order.<sup>3</sup> 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.<sup>4</sup>

**SIGNED April 6, 2022.**

  
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CASSANDRA QUINN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

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

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

<sup>4</sup> Tex. Gov't Code § 2001.056.



SOAH DOCKET NO. 362-22-1793

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
THE REVOCATION OF LOTTERY	§	
SALES AGENT LICENSE HELD BY	§	OF
ROOKIES CORNER STORE LLC d/b/a	§	
ROOKIES CORNER STORE LLC	§	ADMINISTRATIVE HEARINGS

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

On March 31, 2022, 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). Rookies Corner Store LLC d/b/a Rookies Corner Store LLC (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.<sup>1</sup> 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.<sup>2</sup>

Respondent may file a motion to set aside the default within 15 days of the date of this order.<sup>3</sup> 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.<sup>4</sup>

**SIGNED April 6, 2022.**

  
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CASSANDRA QUINN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

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

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

<sup>4</sup> Tex. Gov't Code § 2001.056.





**Commission Order No. 22-0030**

**Date: JUNE 9, 2022**

**Case No. 2022-73**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>R &amp; D SON’S INC.</b>	<b>§</b>	
<b>D/B/A FINA FOOD MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 144528</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and R & D Son’s Inc. d/b/a Fina Food Mart (Fina 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. Fina Food Mart holds Texas Lottery Ticket Sales Agent License No. 144528.
2. Sailesh Kharel is the president of Fina Food Mart, which is located at 507 N. Hwy. 77, Ste. 800, Waxahachie, TX 75165.
3. On June 23, 2021, Merina Pathak, Mr. Kharel’s ex-wife, presented a Texas Lottery scratch ticket with a \$1,000 prize value for validation at the Dallas Claim Center. Based on an internal review, the Commission initiated an investigation into this claim.
4. On August 11, 2021, Mr. Kharel admitted to a Commission investigator that he paid \$1,000 to a store customer for the scratch ticket and then gave the ticket to Ms. Pathak, who claimed the prize as her own.

**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. Fina 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 §466.310(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 an amount of \$600 or more may be made only by the director.

6. 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:

...

(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 from the Texas Lottery.

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

### **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, Fina 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. Fina Food Mart agrees that, as a result of its violation of Tex. Gov't Code §§ 466.310(a) and 466.402(b) and 16 Tex. Admin. Code §§ 401.158(b)(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, Fina 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, Fina 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 Fina Food Mart's Ticket Sales Agent License is posted.

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

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

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

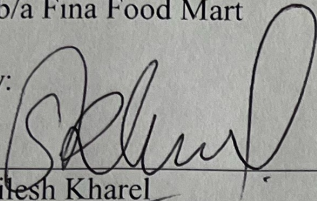


AGREED AS TO FORM AND SUBSTANCE:

R & D Son's Inc.  
d/b/a Fina Food Mart

Texas Lottery Commission  
Lottery Operations Division

By:



Sailesh Kharel  
President

04/20/2022

DATE

By:

Ed Rogers

4/21/2022

Ryan S. Mindell  
Director

DATE

**Commission Order No. 22-0030**

**Date: JUNE 9, 2022**

**Case No. 2022-73**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>R &amp; D SON'S INC.</b>	<b>§</b>	
<b>D/B/A FINA FOOD MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 144528</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**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 R & D Son's Inc. d/b/a Fina Food Mart (Fina Food Mart), 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, Fina 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, Fina 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 Fina Food Mart's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 22-0030**

**Date: JUNE 9, 2022**

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

(4) IT IS FURTHER ORDERED by the Commission that Fina 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 Fina Food Mart will be charged for the tickets sold on or before that date. Fina 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. 22-0030**

**Date: JUNE 9, 2022**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 9<sup>TH</sup> day of JUNE, 2022.

Entered this 9<sup>TH</sup> day of JUNE, 2022.

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ROBERT G. RIVERA, CHAIRMAN

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CINDY FIELDS, COMMISSIONER

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MARK A. FRANZ, COMMISSIONER

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ERIK C. SAENZ, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



## Lossman, Tarah

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**From:** Rogers, Ed  
**Sent:** Thursday, April 21, 2022 3:33 PM  
**To:** Lossman, Tarah  
**Subject:** FW: Ryan Mindell out of office; Others in charge

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

You may need to add this to the document I just signed for Ryan.

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**From:** Mendoza, Merry <Merry.Mendoza@lottery.state.tx.us>  
**Sent:** Monday, April 18, 2022 8:15 AM  
**To:** Biard, Bob <Bob.Biard@lottery.state.tx.us>; Callahan, Lauren <Lauren.Callahan@lottery.state.tx.us>; Castanuela, LaDonna <LaDonna.Castanuela@lottery.state.tx.us>; Fernandez, Mike <Mike.Fernandez@lottery.state.tx.us>; Grief, Gary <Gary.Grief@lottery.state.tx.us>; Mindell, Ryan <Ryan.Mindell@lottery.state.tx.us>; Stuckey, Kelly <Kelly.Stuckey@lottery.state.tx.us>; Thomas, Jan <Jan.Thomas@lottery.state.tx.us>; Trevino, Nelda <Nelda.Trevino@lottery.state.tx.us>; Valdez, Mario <Mario.Valdez@lottery.state.tx.us>; Bland, Angie <Angie.Bland@lottery.state.tx.us>; Mendoza, Merry <Merry.Mendoza@lottery.state.tx.us>; Mindell, Ryan <Ryan.Mindell@lottery.state.tx.us>; Moreno, Heidi <Heidi.Moreno@lottery.state.tx.us>; Page, Ray <Ray.Page@lottery.state.tx.us>; Rogers, Ed <Ed.Rogers@lottery.state.tx.us>; Snell, Amy <Amy.Snell@lottery.state.tx.us>; Tirloni, Robert <Robert.Tirloni@lottery.state.tx.us>; Schuhmann, Stacy <Stacy.Schuhmann@lottery.state.tx.us>; Stuckey, Kelly <Kelly.Stuckey@lottery.state.tx.us>; Terrell, Julie <Julie.Terrell@lottery.state.tx.us>; McCoy, Rene <Rene.McCoy@lottery.state.tx.us>; Bowersock, Dale <Dale.Bowersock@lottery.state.tx.us>; Austin, Casey <Casey.Austin@lottery.state.tx.us>; Veselka, David <David.Veselka@lottery.state.tx.us>; Leeper, Andrew <Andrew.Leeper@lottery.state.tx.us>; Simpson, MaryBeth <MaryBeth.Simpson@lottery.state.tx.us>; Daniel, Conchita <Conchita.Daniel@lottery.state.tx.us>; Perez, Liesa <Liesa.Perez@lottery.state.tx.us>; Perez, Maria <Maria.Perez@lottery.state.tx.us>; Briones, Angela <Angela.Briones@lottery.state.tx.us>; Anderson, Lisa <Lisa.Anderson@lottery.state.tx.us>; Thomas, Lyndi <Lyndi.Thomas@lottery.state.tx.us>; Guarnero, Annika <Annika.Guarnero@lottery.state.tx.us>; Zamora, Myra <Myra.Zamora@lottery.state.tx.us>; Rylee, Brandon <Brandon.Rylee@lottery.state.tx.us>  
**Subject:** Ryan Mindell out of office; Others in charge

Ryan Mindell will be out of the office April 18-21. In his absence the following will be in charge of Lottery Operations and will have full signature authority, including jackpot estimation.

April 18-19 – Robert Tirloni  
April 20-21 – Ed Rogers



**Commission Order No. 22-0031**

**Date: JUNE 9, 2022**

**Case No. 2022-218**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>SURF SIDE BUSINESS INC.</b>	<b>§</b>	
<b>D/B/A FALCON EXPRESS</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 185105</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Surf Side Business Inc. d/b/a Falcon Express (Falcon 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. Falcon Express holds Texas Lottery Ticket Sales Agent License No. 185105.
2. Asif Davwa is the president of Falcon Express, which is located at 1607 Hwy. E 332, Freeport, TX 77541.
3. On June 26, 2021, the Commission received a complaint that Falcon Express charges a \$2 fee for lottery ticket purchases with a debit card. The Commission initiated an investigation into this complaint.
4. On September 23, 2021, JP, the Falcon Express store manager, admitted to a Commission 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. Falcon 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 Falcon Express is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Falcon 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, Falcon Express agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Consent Order (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 the Order is signed by the Commission.

3. Falcon 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 the Order is signed by the Commission. During the period of suspension, Falcon 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, Falcon 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 Falcon Express's Ticket Sales Agent License is posted.

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

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

8. Falcon 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 Falcon Express will be charged for tickets sold on or before that date. Falcon 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:

Surf Side Business Inc.  
d/b/a Falcon Express

By:



**03/29/2022**

Asif Davwa  
President

DATE

Texas Lottery Commission  
Lottery Operations Division

By:



3/30/2022

Ryan S. Mindell  
Director

DATE



**Commission Order No. 22-0031**

**Date: JUNE 9, 2022**

**Case No. 2022-218**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>SURF SIDE BUSINESS INC.</b>	<b>§</b>	
<b>D/B/A FALCON EXPRESS</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 185105</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**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 Surf Side Business Inc. d/b/a Falcon Express (Falcon 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 (Order) is signed by the Commission. During the period of suspension, Falcon 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, Falcon 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 Falcon Express's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 22-0031**

**Date: JUNE 9, 2022**

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

(4) IT IS FURTHER ORDERED by the Commission that Falcon 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 Falcon Express will be charged for the tickets sold on or before that date. Falcon 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. 22-0031**

**Date: JUNE 9, 2022**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 9<sup>TH</sup> day of JUNE, 2022.

Entered this 9<sup>TH</sup> day of JUNE, 2022.

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ROBERT G. RIVERA, CHAIRMAN

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CINDY FIELDS, COMMISSIONER

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MARK A. FRANZ, COMMISSIONER

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ERIK C. SAENZ, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 22-0032**

**Date: JUNE 9, 2022**

**Case No. 2022-219**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>BIG DIAMOND LLC</b>	<b>§</b>	
<b>D/B/A CIRCLE K #2743957</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 598368</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Big Diamond LLC d/b/a Circle K #2743957 (Circle K) 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. Circle K holds Texas Lottery Ticket Sales Agent License No. 598368.
2. James Farmer is the manager of Circle K, which is located at 5346 Roosevelt Ave., San Antonio, TX 78214.
3. On July 5, 2021, the Commission received a complaint that Circle K sold five (5) Texas Lottery scratch game tickets that had been partially scratched. The Commission initiated an investigation into this complaint.
4. On July 23, 2021, a Commission investigator visited the store and found five (5) Texas Lottery scratch game tickets that had been partially scratched in the bar code and serial number areas. After reviewing the store surveillance video, the investigator determined that John McNulty, a Circle K assistant manager, and Angel Gaitan, a Circle K clerk, had partially scratched lottery scratch game tickets to identify winning tickets.

5. While the investigator was at the store, Mr. McNulty admitted to partially scratching the lottery tickets. Mr. McNulty told the investigator that if a ticket was a winner, he and Mr. Gaitan would purchase that ticket and split the prize, and if a ticket was not a winner, they would put it back in the ticket dispenser to sell to customers.

### **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. Circle K 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 §466.307(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.

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:

...

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

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 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 Circle K is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of Circle K’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, Circle K agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Consent Order (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 the Order is signed by the Commission.

3. Circle K 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 the Order is signed by the Commission. During the period of suspension, Circle K 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, Circle K 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 Circle K's Ticket Sales Agent License is posted.

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



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

8. Circle K 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 Circle K will be charged for tickets sold on or before that date. Circle K 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:

Big Diamond LLC  
d/b/a Circle K

By:



Francis Lapointe  
Vice President of Regional Operations

04/20/22

DATE

Texas Lottery Commission  
Lottery Operations Division

By:



Ryan S. Mindell  
Director

4/25/2022

DATE

**Commission Order No. 22-0032**

**Date: JUNE 9, 2022**

**Case No. 2022-219**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>BIG DIAMOND LLC</b>	<b>§</b>	
<b>D/B/A CIRCLE K #2743957</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 598368</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**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 Big Diamond LLC d/b/a Circle K #2743957 (Circle K), 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 (Order) is signed by the Commission. During the period of suspension, Circle K 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, Circle K 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 Circle K's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 22-0032**

**Date: JUNE 9, 2022**

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

(4) IT IS FURTHER ORDERED by the Commission that Circle K 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 Circle K will be charged for the tickets sold on or before that date. Circle K 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. 22-0032**

**Date: JUNE 9, 2022**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 9<sup>TH</sup> day of JUNE, 2022.

Entered this 9<sup>TH</sup> day of JUNE, 2022.

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ROBERT G. RIVERA, CHAIRMAN

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CINDY FIELDS, COMMISSIONER

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MARK A. FRANZ, COMMISSIONER

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ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 22-0033**

**Date: JUNE 9, 2022**

**Case No. 2022-222**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>HIMALAYAN SHERPA INC.</b>	<b>§</b>	
<b>D/B/A MIDLOTHIAN MINI MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 173064</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Himalayan Sherpa Inc. d/b/a Midlothian Mini Mart (Midlothian Mini 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. Midlothian Mini Mart holds Texas Lottery Ticket Sales Agent License No. 173064.
2. Dawa Sherpa is the president of Midlothian Mini Mart, which is located at 318 W. Main Street, Midlothian, TX 76065.
3. On August 28, 2021, the Commission received a complaint that Midlothian Mini Mart required a minimum purchase of \$15 when purchasing Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On October 19, 2021, Mr. Sherpa admitted to a Commission investigator that it is a store policy to require a minimum purchase of \$15 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. Midlothian Mini 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. 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 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.

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 from the Texas Lottery.

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

### **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, Midlothian Mini Mart agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Consent Order (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 the Order is signed by the Commission.

3. Midlothian Mini Mart agrees that, as a result of its violation of 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 the Order is signed by the Commission. During the period of suspension, Midlothian Mini 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, Midlothian Mini 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 Midlothian Mini Mart's Ticket Sales Agent License is posted.

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

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

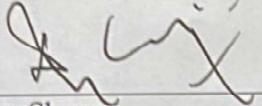
8. Midlothian Mini Mart agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Midlothian Mini Mart will be charged for tickets sold on or before that date. Midlothian Mini 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:

Himalayan Sherpa Inc.  
d/b/a Midlothian Mini Mart

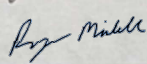
Texas Lottery Commission  
Lottery Operations Division

By:

  
Dawa Sherpa  
President

04-08-22  
DATE

By:

  
Ryan S. Mindell  
Director

4/13/2022

DATE

**Commission Order No. 22-0033**

**Date: JUNE 9, 2022**

**Case No. 2022-222**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>HIMALAYAN SHERPA INC.</b>	<b>§</b>	
<b>D/B/A MIDLOTHIAN MINI MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 173064</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**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 Himalayan Sherpa Inc. d/b/a Midlothian Mini Mart (Midlothian Mini 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 (Order) is signed by the Commission. During the period of suspension, Midlothian Mini 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, Midlothian Mini 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 Midlothian Mini Mart's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 22-0033**

**Date: JUNE 9, 2022**

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

(4) IT IS FURTHER ORDERED by the Commission that Midlothian Mini 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 Midlothian Mini Mart will be charged for the tickets sold on or before that date. Midlothian Mini 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. 22-0033**

**Date: JUNE 9, 2022**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 9<sup>TH</sup> day of JUNE, 2022.

Entered this 9<sup>TH</sup> day of JUNE, 2022.

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ROBERT G. RIVERA, CHAIRMAN

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CINDY FIELDS, COMMISSIONER

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MARK A. FRANZ, COMMISSIONER

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ERIK C. SAENZ, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 22-0034**

**Date: JUNE 9, 2022**

**Case No. 2022-224**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>TIEN T NGUYEN</b>	<b>§</b>	
<b>D/B/A A-1 CIGARETTE</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 149911</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Tien T Nguyen d/b/a A-1 Cigarette (A-1 Cigarette) 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. A-1 Cigarette holds Texas Lottery Ticket Sales Agent License No. 149911.
2. Tien Nguyen is the owner of A-1 Cigarette, which is located at 705 W. Lamar Blvd., Arlington, TX 76012.
3. On August 20, 2021, the Commission received a complaint that A-1 Cigarette charged a fee for the purchase of Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On August 31, 2021, a Commission investigator was charged a \$0.40 fee at A-1 Cigarette for purchasing a lottery ticket with a debit card.

**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. A-1 Cigarette 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 A-1 Cigarette is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of A-1 Cigarette'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, A-1 Cigarette agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Consent Order (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 the Order is signed by the Commission.

3. A-1 Cigarette 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 the Order is signed by the Commission. During the period of suspension, A-1 Cigarette 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, A-1 Cigarette 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 A-1 Cigarette's Ticket Sales Agent License is posted.

5. A-1 Cigarette 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 A-1 Cigarette's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.



6. A-1 Cigarette 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.

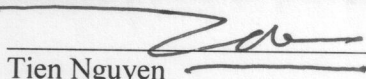
7. A-1 Cigarette agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that A-1 Cigarette has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against A-1 Cigarette, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. A-1 Cigarette 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 A-1 Cigarette will be charged for tickets sold on or before that date. A-1 Cigarette 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:

Tien T Nguyen  
d/b/a A-1 Cigarette

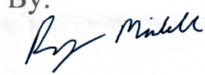
By:

  
Tien Nguyen  
Owner

MAY 13, 2022  
DATE

Texas Lottery Commission  
Lottery Operations Division

By:

  
Ryan S. Mindell  
Director

5/17/2022

DATE

**Commission Order No. 22-0034**

**Date: JUNE 9, 2022**

**Case No. 2022-224**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>TIEN T NGUYEN</b>	<b>§</b>	
<b>D/B/A A-1 CIGARETTE</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 149911</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**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 Tien T Nguyen d/b/a A-1 Cigarette (A-1 Cigarette), 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 (Order) is signed by the Commission. During the period of suspension, A-1 Cigarette 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, A-1 Cigarette 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 A-1 Cigarette's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 22-0034**

**Date: JUNE 9, 2022**

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Order, it is found that A-1 Cigarette has failed to comply with the terms of this Order, disciplinary action shall be taken against A-1 Cigarette, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that A-1 Cigarette 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 A-1 Cigarette will be charged for the tickets sold on or before that date. A-1 Cigarette 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. 22-0034**

**Date: JUNE 9, 2022**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 9<sup>TH</sup> day of JUNE, 2022.

Entered this 9<sup>TH</sup> day of JUNE, 2022.

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ROBERT G. RIVERA, CHAIRMAN

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CINDY FIELDS, COMMISSIONER

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MARK A. FRANZ, COMMISSIONER

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ERIK C. SAENZ, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



Date: JUNE 9, 2022

SOAH Docket Nos. 362-22-0964.B, 362-22-0965.B, and 362-22-0966.B

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ADVOCATES SOCIAL SERVICES SAN	§	
ANTONIO INC., ADVOCATES BOXING	§	
YOUTH PROGRAM, AND PROSPECT	§	
HILL NEIGHBORHOOD ASSOCIATION	§	LOTTERY COMMISSION

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Charitable Bingo Operations Division (Division) of the Texas Lottery Commission (Commission) and Advocates Social Services San Antonio Inc., Advocates Boxing Youth Program, and Prospect Hill Neighborhood Association (collectively, Organizations) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into the following Consent Order.

**AGREED FINDINGS OF FACT**

1. The Organizations are the members of Corpus Christi Bingo Unit (Unit), a bingo accounting unit subject to Tex. Occ. Code §§ 2001.431–.439 (Unit Accounting). Each Organization is licensed by the Commission to conduct bingo under the following taxpayer numbers: Advocates Social Services San Antonio Inc. – 17420637575, Advocates Boxing Youth Program – 14215940454, and Prospect Hill Neighborhood Association – 12028567936.

2. The Organizations conduct bingo at Corpus Christi Bingo Center located at 3905 Ayers St., Corpus Christi, TX 78415-4618.

3. On July 25, 2021, the Unit filed electronically with the Division a quarterly report for the second quarter ending June 30, 2021, including payment for prize fees due to the State in the amount of \$9,553.30. The transaction was declined by the Comptroller of Public Accounts due

to “Insufficient funds.” On August 4, 2021, the Division notified the Unit of the declined transaction by a letter mailed to the Unit.

4. On August 5, 2021, the Division issued to the Unit a Texas Notice of Tax/Fee Due and Jeopardy Determination with a prize fee liability in the amount of \$9,553.30 and a \$477.67 penalty for failure to pay the outstanding prize fees for the second quarter ending June 30, 2021, by the due date of July 25, 2021.

5. On August 23, 2021, the jeopardy determination described in paragraph 4 became final due to the Unit’s failure to timely pay the outstanding prize fees and penalty. On August 24, 2021, the Division issued to the Unit a Texas Notice of Tax/Fee Due and Jeopardy Determination with a prize fee liability in the amount of \$9,553.30 and a \$1,433 penalty for failure to pay the outstanding prize fees for the second quarter ending June 30, 2021, by the due date of August 23, 2021. In addition, because the August 5, 2021, Jeopardy Determination became final, the Division requested from the Unit a new bond in the amount of \$24,269.

6. On August 30, 2021, the Unit paid \$1,000 toward the prize fee liability. On September 2, 2021, the Division issued a Texas Notice of Tax/Fee Due and Jeopardy Determination, which reflected the \$1,000 paid and showed a remaining amount due of \$8,553.30 in prize fees and a \$1,910.67 penalty.

7. On September 10, 2021, the Division notified the Unit of the outstanding prize fee liability, penalty amount, and the new bond requirement via a show compliance letter mailed to the Unit. The Division also notified the Unit that interest on the prize fee liability would begin to accrue on September 25, 2021, until the liability is paid in full.

8. On October 24, 2021, the Unit filed electronically with the Division a quarterly report for the third quarter ending September 30, 2021. The Unit failed to pay prize fees for the third quarter in the amount of \$5,246.55 that were due to the State by October 25, 2021.

9. On November 2, 2021, the Division issued to the Unit a Texas Notice of Tax/Fee Due and Jeopardy Determination with a prize fee liability in the amount of \$5,246.55 and a \$262.33 penalty for failure to pay the outstanding prize fees for the third quarter ending September 30, 2021 and due by October 25, 2021.

10. On November 22, 2021, the jeopardy determination described in paragraph 9 became final due to the Unit's failure to timely pay the outstanding prize fees. On November 23, 2021, the Division issued to the Unit a Texas Notice of Tax/Fee Due and Jeopardy Determination with a prize fee liability in the amount of \$5,246.55 and a \$786.99 penalty for failure to pay the outstanding prize fees for the third quarter ending September 30, 2021 by the due date of November 22, 2021. In addition, because the November 2, 2021 Jeopardy Determination became final, the Division requested from the Unit a new bond in the amount of \$28,660.

11. On December 9, 2021, the Division notified the Unit of the outstanding prize fee liability and penalty, and the bond requirement via a show compliance letter mailed to the Unit. The Division also notified the Unit that interest on the prize fee liability would begin to accrue on December 25, 2021, until the liability is paid in full.

12. In addition, the Unit failed to file a Charitable Distribution Details for Accounting Unit form for the third quarter ending September 30, 2021 by the due date of October 25, 2021.

### **AGREED CONCLUSIONS OF LAW**

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

2. The Organizations are obligated to follow the provisions of the Bingo Enabling Act and the Charitable Bingo rules to maintain their licenses.



3. Tex. Occ. Code §2001.302 states:
- (a) In addition to any required application form, a license applicant or license holder shall submit any supplemental information requested by the commission.
  - (b) The commission may deny a license application or revoke a license based on a failure to submit requested supplemental information when required.
4. Tex. Occ. Code §2001.353(a) states:
- After a hearing, the commission may suspend, revoke, or refuse to renew a license or registration issued under this chapter for:
- (1) failure to comply with this chapter or a commission rule; or
  - (2) a reason that would allow or require the commission to refuse to issue or renew a license or registration of the same class.
5. Tex. Occ. Code §2001.433 states:
- A licensed authorized organization that uses unit accounting is subject to the other provisions of this chapter to the extent the provisions are applicable and are not inconsistent with this subchapter.
6. Tex. Occ. Code §2001.438 states, in pertinent part:
- ...
- (f) Each licensed authorized organization that is a member of the unit shall be jointly and severally liable for:
    - (1) compliance with the requirements of this subchapter and the rules of the commission relating to the filing of required reports;
    - (2) the maintenance of bingo inventory and financial records; and
    - (3) the payment of any penalties imposed for a violation of this subchapter or commission rules related to the operations of the unit.
  - (g) Each licensed authorized organization that is a member of the unit may be made a party to any administrative or judicial action relating to the enforcement of this subchapter or the rules of the commission pertaining to the operation of the unit.
7. Tex. Occ. Code §2001.504 states:
- (a) A fee on prizes authorized or imposed under this subchapter is due and is payable by the license holder or a person conducting bingo without a license to the commission and county or municipality, as applicable, quarterly on or before the 25th day of the month succeeding each calendar quarter.
- ...
- (d) A license holder required to file a report of the fee on prizes shall deliver the quarterly report with the net amount of the fee due to the commission.

8. Tex. Occ. Code §2001.514 states:

(a) To secure payment of the fee on prizes imposed under this subchapter, each license holder shall furnish to the commission:

- (1) a cash bond;
- (2) a bond from a surety company chartered or authorized to do business in this state;
- (3) certificates of deposit;
- (4) certificates of savings;
- (5) United States treasury bonds;
- (6) subject to the approval of the commission, an assignment of negotiable stocks or bonds; or
- (7) other security as the commission considers sufficient.

(b) The commission shall set the amount of the bond or other security, taking into consideration the amount of money that has or is expected to become due from the license holder. The amount required by the commission may not exceed three times the amount due according to the license holder's average quarterly reports.

(c) On a license holder's failure to pay the fee on prizes imposed under this subchapter, the commission may notify the license holder and any surety of the delinquency by jeopardy or deficiency determination. If payment is not made when due, the commission may forfeit all or part of the bond or security.

(d) If the license holder ceases to conduct bingo and relinquishes the license holder's license, the commission shall authorize the release of all bonds and other security on a determination that no amounts of the fee on prizes remain due and payable under this subchapter.

9. Tex. Occ. Code §2001.554(a) states, in pertinent part:

A person commits an offense and the person's license is subject to revocation under this chapter if the person:

...

- (5) violates this chapter or a term of a license issued under this chapter.

10. Tex. Occ. Code §2001.601 states:

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

11. Tex. Occ. Code §2001.602(a) states:

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

12. 16 Tex. Admin. Code §402.603 states, in pertinent parts:

(a)(1)(B) If at any time a licensed authorized organization fails to fully pay its requisite prize fees by the due date and a jeopardy determination becomes final, then the organization's security amount may be calculated at three times its highest quarterly prize fee for the four most recent quarters or for the highest quarter filed if less than four.

(b) Types of bonds or other security. The Commission will accept only the following types of bonds or other security as security for the payment of prize fees:

...

(4) United States Treasury bonds, readily convertible to cash.

(c) Forfeiture.

(1) If a licensed authorized organization or accounting unit pays less than the total amount of prize fee due, the Commission shall notify the licensed authorized organization or accounting unit of the delinquency via the "Texas Notice of Fee due and Jeopardy Determination" for the quarter in which the liability exists.

(2) If the licensed authorized organization or accounting unit does not make the required payment by the date stated in the notice provided under subsection (c)(1), the Commission will demand the bond or other security or any part of the bond or other security from the holder of the bond or other security necessary to pay the amount of prize fee due.

(3) The Commission will notify the licensed authorized organization or accounting unit and demand that a new or additional bond or other security for the specified amount be furnished within 20 days of the date of such notice. Failure to comply with the requirements of the notice within the 20 day period will result in the denial of an application for renewal or revocation of the license.

13. Each Organization's license to conduct bingo is subject to suspension or revocation pursuant to Tex. Occ. Code §2001.554(a), because of the Unit's violations of Tex. Occ. Code §§ 2001.302, 2001.504, and 2001.514 and 16 Tex. Admin. Code §402.603.

### **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, the Organizations agree to its terms,

acknowledge understanding them, and waive all rights to procedural requirements for the entry of the Consent Order (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 the Order is signed by the Commission.

3. The Organizations agree to pay the outstanding prize fee liability in the amount of \$8,553.30, due for the second quarter ending June 30, 2021, along with \$1,910.67 in penalties and any interest that has accrued or will accrue, within six (6) months of the date the Order is signed by the Commission. The Organizations acknowledge that, as of September 25, 2021, interest began to accrue on the outstanding prize fee liability and interest will continue to accrue until the liability is paid in full. The amount of prize fees due by the Organizations will be increased by the amount of interest until the liability is paid in full.

4. The Organizations agree to pay the outstanding prize fee liability in the amount of \$5,246.55, due for the third quarter ending September 30, 2021, along with \$786.99 in penalties and any interest that has accrued or will accrue, within six (6) months of the date the Order is signed by the Commission. The Organizations acknowledge that as of December 25, 2021, interest began to accrue on the outstanding prize fee liability and interest will continue to accrue until the liability is paid in full. The amount of prize fees due by the Organizations will be increased by the amount of interest until the liability is paid in full.

5. The Organizations agree to provide the Division with a bond or other authorized form of security in the amount of \$28,660 within thirty (30) days following the date the Order is signed by the Commission.

6. The Organizations agree to file with the Division the Charitable Distribution Details

for Accounting Unit form for the third quarter ending September 30, 2021, within thirty (30) days following the date the Order is signed by the Commission.

7. The Organizations agree 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 any of them by the Commission. This Memorandum of Agreement and Consent Order and the Agreed Findings of Fact and Agreed Conclusions of Law shall not, however, form the basis for, nor be used as, evidence against the Organizations in any future license renewal applications, absent other alleged violations.

8. The Organizations agree that if they fail to comply with any requirement of the Order, then, upon notice by the Division, the Organizations agree to surrender their conductor licenses within ten (10) days of the notice.

9. The Organizations agree that if they are required to surrender their conductor licenses pursuant to the above paragraph 8 and fail to do so within ten (10) days of being notified by the Division, the Organizations' conductor licenses will be immediately revoked and their bonds or other authorized form of security will be immediately forfeited without further notice or hearing.

AGREED AS TO FORM AND SUBSTANCE:

**Advocates Social Services San Antonio Inc.    Advocates Boxing Youth Program**

By:   
Jason Mata, Bingo Chairperson

By:   
Jason Mata, Bingo Chairperson

Date: April 18, 2022


Date: April 18, 2022

**Prospect Hill Neighborhood Association**

By:   
Jason Mata., Bingo Chairperson

Date: April 18, 2022

**Texas Lottery Commission  
Charitable Bingo Operations Division**

By:   
LaDonna Castañuela, Director

Date: 4/18/2022

**Commission Order No. 22-0035**

**Date: JUNE 9, 2022**

**SOAH Docket Nos. 362-22-0964.B, 362-22-0965.B, and 362-22-0966.B**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>ADVOCATES SOCIAL SERVICES SAN</b>	<b>§</b>	
<b>ANTONIO INC., ADVOCATES BOXING</b>	<b>§</b>	
<b>YOUTH PROGRAM, AND PROSPECT</b>	<b>§</b>	
<b>HILL NEIGHBORHOOD ASSOCIATION</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**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 Advocates Social Services San Antonio Inc., Advocates Boxing Youth Program, and Prospect Hill Neighborhood Association (collectively, Organizations) shall pay the outstanding prize fee liability in the amount of \$8,553.30, due for the second quarter ending June 30, 2021, along with \$1,910.67 in penalties and any interest that has accrued or will accrue, within six (6) months of the date this Consent Order (Order) is signed by the Commission. The Organizations acknowledge that, as of September 25, 2021, interest began to accrue on the outstanding prize fee liability and interest will continue to accrue until the liability is paid in full. The amount of prize fees due by the Organizations will be increased by the amount of interest until the liability is paid in full.

(2) IT IS FURTHER ORDERED by the Commission that the Organizations agree to pay the outstanding prize fee liability in the amount of \$5,246.55, due for the third quarter ending

**Commission Order No. 22-0035**

**Date: JUNE 9, 2022**

September 30, 2021, along with \$786.99 in penalties and any interest that has accrued or will accrue, within six (6) months of the date this Order is signed by the Commission. The Organizations acknowledge that as of December 25, 2021, interest began to accrue on the outstanding prize fee liability and interest will continue to accrue until the liability is paid in full. The amount of prize fees due by the Organizations will be increased by the amount of interest until the liability is paid in full.

(3) IT IS FURTHER ORDERED by the Commission that the Organizations shall provide the Division with a bond or other authorized form of security in the amount of \$28,660 within thirty (30) days following the date this Order is signed by the Commission.

(4) IT IS FURTHER ORDERED by the Commission that the Organizations shall file with the Division the Charitable Distribution Details for Accounting Unit form for the third quarter ending September 30, 2021 within thirty (30) days following the date this Order is signed by the Commission.

(5) IT IS FURTHER ORDERED by the Commission that if the Organizations fail to comply with any requirement of this Order, then, upon notice by the Division, the Organizations shall surrender their conductor licenses within ten (10) days of the notice.

(6) IT IS FURTHER ORDERED by the Commission that if the Organizations are required to surrender their licenses pursuant to the above paragraph 5 and fail to do so within ten (10) days of being notified by the Division, the Organizations' conductor licenses shall be immediately revoked and their bond or other authorized form of security shall be immediately forfeited without further notice or hearing.



**Commission Order No. 22-0035**

**Date: JUNE 9, 2022**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 9<sup>TH</sup> day of JUNE, 2022.

Entered this 9<sup>TH</sup> day of JUNE, 2022.

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ROBERT G. RIVERA, CHAIRMAN

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CINDY FIELDS, COMMISSIONER

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MARK A. FRANZ, COMMISSIONER

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ERIK C. SAENZ, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER