





# 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 read "RBB", is written over the name "Bob Biard".

**Date:** December 12, 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: DECEMBER 12, 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: DECEMBER 12, 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. 23-0004**

**Date: DECEMBER 12, 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 12<sup>TH</sup> day of DECEMBER, 2022.

Entered this 12<sup>TH</sup> day of DECEMBER, 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. **23-0004**

Date: **DECEMBER 12, 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.	362-22-08789	Antoine Business Inc. d/b/a Mercado Express	4911 Cypress Spring Dr. Missouri City, TX 77459	189723
B.	362-22-09364	Bellfort Market Inc. d/b/a Mercado Express 2	4911 Cypress Spring Dr. Missouri City, TX 77459	189724
C.	362-23-00612	Roo & Sai Enterprises Inc. d/b/a Gold Star Food	P.O. Box 541895 Grand Prairie, TX 75054	183168





**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER**

**V.**

**ANTONIE BUSINESS INC. D/B/A MERCADO EXPRESS,  
RESPONDENT**

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**DEFAULT DISMISSAL ORDER**

On September 29, 2022, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in this matter. Attorney TLC Staff Attorney's Tyler Vance appeared for the staff (Staff) of the Texas Lottery Commission (Commission). Antonie Business Inc. d/b/a Mercado Express (Respondent) did not appear and was not represented at the hearing. Staff Exhibits Exhibit #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**,

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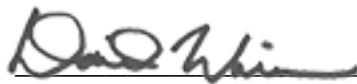
<sup>1</sup> 1 Tex. Admin. Code § 155.501(b), as amended effective November 29, 2020.

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 SEPTEMBER 29, 2022**

ALJ Signature(s):

A handwritten signature in dark ink, appearing to read "Daniel Wiseman", is written over a horizontal line.

Daniel Wiseman,

Presiding Administrative Law Judge

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<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.



**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
V.  
BELLFORT MARKET INC. D/B/A MERCADO EXPRESS 2,  
RESPONDENT**

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**DEFAULT DISMISSAL ORDER**

On October 6, 2022, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in this matter. Kyle Wolf appeared for the Texas Lottery Commission. The Respondent, Bellfort Market Inc. d/b/a Mercado Express 2, did not appear personally or through counsel. The Commission's Exhibits 1-3, which established adequate notice to the Respondent, were admitted.<sup>1</sup> The Commission thereafter moved for a default dismissal. That motion is **GRANTED**, and the factual allegations detailed in the Notice of Hearing and associated documents are deemed admitted.<sup>2</sup>

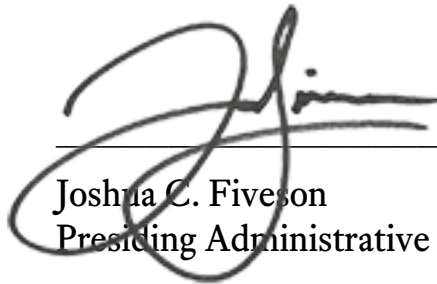
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<sup>1</sup> 1 Tex. Admin. Code § 155.501(b).

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

The 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 the Respondent does not file a timely motion to set aside, or if such motion is 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 October 6, 2022**



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Joshua C. Fiveson  
Presiding Administrative Law Judge

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

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



FILED  
362-23-00612  
10/24/2022 11:08 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Crystal Rosas, CLERK

ACCEPTED  
362-23-00612  
10/24/2022 11:23:45 am  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Crystal Rosas, CLERK

**SOAH Docket No. 362-23-00612**

**Suffix: TLC**

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

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
V.  
ROO AND SAI ENTERPRISES INC D/B/A GOLD STAR FOOD,  
RESPONDENT**

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## **DEFAULT DISMISSAL ORDER**

On October 20, 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). Roo and Sai Enterprises Inc. d/b/a Gold Star Food (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

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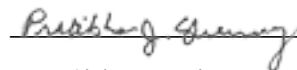
<sup>1</sup> 1 Tex. Admin. Code § 155.501(b).

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 October 24, 2022.**

ALJ Signature:

A handwritten signature in cursive script, appearing to read "Pratibha J. Shenoy", is written over a horizontal line.

Pratibha J. Shenoy,

Presiding Administrative Law Judge

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

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

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



### **Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 69493372

Status as of 10/24/2022 11:24 AM CST

#### Case Contacts

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Kyle Wolfe		kyle.wolfe@lottery.state.tx.us	10/24/2022 11:08:02 AM	SENT
Dorota Bienkowska		dorota.bienkowska@lottery.state.tx.us	10/24/2022 11:08:02 AM	SENT
Tarah Lossman		tarah.lossman@lottery.state.tx.us	10/24/2022 11:08:02 AM	SENT
Tracy Bender		tracy.bender@lottery.state.tx.us	10/24/2022 11:08:02 AM	SENT
BHES GHIMIRE		GHIMIRE_ROHIT2000@YAHOO.COM	10/24/2022 11:08:02 AM	SENT



**Commission Order No. 23-0005**

**Date: DECEMBER 12, 2022**

**Case No. 2022-363**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>LUCKY STONE LLC</b>	<b>§</b>	
<b>D/B/A SUNNY FOOD MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 155357</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Lucky Stone LLC d/b/a Sunny Food Mart (Sunny 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. Sunny Food Mart holds Texas Lottery Ticket Sales Agent License No. 155357.
2. Riyaz Maknojia is the managing member of Sunny Food Mart, which is located at 2623 1<sup>st</sup> St., Rosenberg, TX 77471.
3. Based on an internal review, the Commission initiated an investigation into certain lottery ticket prize claims made by Mr. Maknojia.
4. On July 7, 2021, a Commission investigator presented a \$1,000 Texas Lottery scratch ticket for validation at Sunny Food Mart, and Mr. Maknojia offered to pay the investigator \$500 for the scratch ticket.
5. Mr. Maknojia also admitted to the investigator that he had previously paid a customer \$700 for a \$1,000 prize-winning ticket.

## **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. Sunny 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 Sunny Food Mart is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Sunny 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, Sunny Food 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. Sunny 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 the Order is signed by the

Commission. During the period of suspension, Sunny 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, Sunny 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 Sunny Food Mart's Ticket Sales Agent License is posted.

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

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

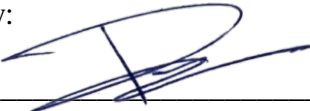
8. Sunny Food Mart agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Sunny Food Mart will be charged

for tickets sold on or before that date. Sunny 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:

Lucky Stone LLC  
d/b/a Sunny Food Mart

By:



Oct 04, 2022

Riyaz Maknojia  
Managing Member

DATE

Texas Lottery Commission  
Lottery Operations Division

By:



10/5/2022

Robert Tirloni  
Director

DATE

**Commission Order No. 23-0005**

**Date: December 12, 2022**

**Case No. 2022-363**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>LUCKY STONE LLC</b>	<b>§</b>	
<b>D/B/A SUNNY FOOD MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 155357</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 Lucky Stone LLC d/b/a Sunny Food Mart (Sunny 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 (Order) is signed by the Commission. During the period of suspension, Sunny 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, Sunny 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 Sunny Food Mart's Texas Lottery Ticket Sales Agent License is posted.



**Commission Order No. 23-0005**

**Date: December 12, 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 Sunny Food Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against Sunny Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Sunny 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 Sunny Food Mart will be charged for the tickets sold on or before that date. Sunny 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. 23-0005**

**Date: December 12, 2022**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 12<sup>TH</sup> day of DECEMBER, 2022.

Entered this 12<sup>TH</sup> day of DECEMBER, 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. 23-0006**

**Date: DECEMBER 12, 2022**

**Case No. 2023-29**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>OM NMO GLOBAL INC.</b>	<b>§</b>	
<b>D/B/A MR. 4 FOOD MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 152349</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and OM NMO Global Inc. d/b/a Mr. 4 Food Mart (Mr. 4 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. Mr. 4 Food Mart holds Texas Lottery Ticket Sales Agent License No. 152349.
2. Kirtikumar Patel is the president of Mr. 4 Food Mart, which is located at 200 W. Harwood Rd., Euless, TX 76039.
3. On June 29, 2022, the Commission received a complaint that Mr. 4 Food Mart charges a fee when purchasing lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On July 19, 2022, Mr. Patel admitted to a Commission investigator that he charges a fee of 3-5% of the total purchase amount when customers purchase lottery tickets 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. Mr. 4 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 Mr. 4 Food Mart is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Mr. 4 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, Mr. 4 Food 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. Mr. 4 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 the Order is signed by the Commission. During the period of suspension, Mr. 4 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, Mr. 4 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 Mr. 4 Food Mart's Ticket Sales Agent License is posted.

5. Mr. 4 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 Mr. 4 Food Mart's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Mr. 4 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. Mr. 4 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 Mr. 4 Food Mart has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Mr. 4 Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Mr. 4 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 Mr. 4 Food Mart will be charged for tickets sold on or before that date. Mr. 4 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:

OM NMO Global Inc.  
d/b/a Mr. 4 Food Mart

Texas Lottery Commission  
Lottery Operations Division

By:



Kirtikumar Patel  
President

10-24-22

DATE

By:



Robert Tirloni  
Director

10/24/2022

DATE

**Commission Order No. 23-0006**

**Date: DECEMBER 12, 2022**

**Case No. 2023-29**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>OM NMO GLOBAL INC.</b>	<b>§</b>	
<b>D/B/A MR. 4 FOOD MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 152349</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 OM NMO Global Inc. d/b/a Mr. 4 Food Mart (Mr. 4 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 (Order) is signed by the Commission. During the period of suspension, Mr. 4 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, Mr. 4 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 Mr. 4 Food Mart's Texas Lottery Ticket Sales Agent License is posted.



**Commission Order No. 23-0006**

**Date: DECEMBER 12, 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 Mr. 4 Food Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against Mr. 4 Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Mr. 4 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 Mr. 4 Food Mart will be charged for the tickets sold on or before that date. Mr. 4 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. 23-0006**

**Date: DECEMBER 12, 2022**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 12<sup>TH</sup> day of DECEMBER, 2022.

Entered this 12<sup>TH</sup> day of DECEMBER, 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. 23-0007**

**Date: DECEMBER 12, 2022**

**SOAH Docket No. 362-22-2473.B**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
	<b>§</b>	
<b>JOSEPH M. DOWNS</b>	<b>§</b>	
<b>TAXPAYER NO. 18336299542</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Charitable Bingo Operations Division (Division) of the Texas Lottery Commission (Commission) and Joseph M. Downs 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. Joseph M. Downs is licensed by the Commission as a bingo manufacturer under taxpayer number 18336299542.
2. Joseph M. Downs is the sole owner of Joseph M. Downs, located at 5003 Walzem Rd., Box 547, San Antonio, TX 78218.
3. On February 10, 2022, the Commission approved an agreement entered into by the Division and Joseph M. Downs (Commission Order No. 22-0021).
4. As part of the agreement, Joseph M. Downs was required, among other things, to pay a \$1,000 administrative penalty within thirty (30) days following the date the Commission Order No. 22-0021 was signed by the Commission. The penalty was due on or before March 14, 2022 (due date).
5. Joseph M. Downs failed to timely pay the \$1,000 administrative penalty before the due date. The Commission received the penalty payment on March 30, 2022 and declined to accept it due to late payment.

6. As part of Commission Order No. 22-0021, Joseph M. Downs was also required to timely and accurately file all quarterly reports and all supplements, as required by the Bingo Enabling Act and the Charitable Bingo administrative rules for a period of one (1) year following the effective date of Commission Order No. 22-0021, February 10, 2022.

7. Joseph M. Downs failed to timely file a bingo manufacturer quarterly report for the second quarter of 2022, and due by July 31, 2022, as required by Commission Order No. 22-0021. Joseph M. Downs filed the form on September 13, 2022.

### **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 administrative rules).

2. Joseph M. Downs is required to follow the Bingo Enabling Act and the Charitable Bingo administrative rules to maintain its license.

3. Tex. Occ. Code §2001.312 states:

A person is not eligible for a license . . . unless all required reports and requested information have been filed under this chapter.

4. 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.

5. 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.

6. 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.

7. 16 Tex. Admin. Code §402.600(f) states, in pertinent part:

(1) A manufacturer or distributor shall file a report on a form prescribed by the Commission or in an electronic format prescribed by the Commission, reflecting each sale or lease of bingo equipment, and the total sales of cards, sheets, pads and instant bingo to a person or organization in this state or for use in this state.

(2) The report and supplements shall be filed with regard to each calendar quarter and is due on or before the last day of the month following the end of the quarter.

...

(4) The Commission will . . . revoke a license of a manufacturer . . . where the licensee has failed to timely file with the Commission the required reports or supplements three times within four consecutive quarters.

(5) Failure to file a required report or supplement by the due date may result in an administrative penalty.

8. Joseph M. Downs' manufacturer license is subject to suspension or revocation pursuant to Tex. Occ. Code §2001.554(a), as a result of Joseph M. Down's violations of Tex. Occ. Code §2001.312 and 16 Tex. Admin. Code §402.600(f).

### **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, Joseph M. Downs agrees to its terms, acknowledges understanding them, and waives its right to all 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. Joseph M. Downs agrees to pay a \$5,000 administrative penalty within thirty (30) days of the effective date of the Order.

4. For one (1) year following the effective date of the Order, Joseph M. Downs agrees

to timely and accurately file all quarterly reports and all supplements, as required by the Bingo Enabling Act and the Charitable Bingo administrative rules.


5. Joseph M. Downs agrees that if it fails to comply with any requirement of this Memorandum of Agreement and Consent Order, then, upon notice by the Division, Joseph M. Downs agrees to surrender its manufacturer license within ten (10) days of the notice without further notice or hearing.

6. Joseph M. Downs agrees that if it is required to surrender its manufacturer license pursuant to the above paragraph 5 and fails to do so within ten (10) days of being notified by the Division, Joseph M. Downs' manufacturer license will be immediately revoked, and its bond or other authorized form of security will be immediately forfeited without further notice or hearing.

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

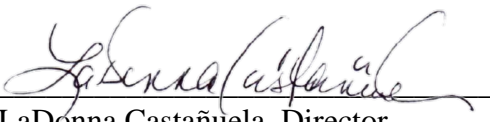
AGREED AS TO FORM AND SUBSTANCE:

Joseph M. Downs

By:   
Joseph M. Downs, Sole Owner

Date: 10 OCT 22

**Texas Lottery Commission**  
**Charitable Bingo Operations Division**

By:   
LaDonna Castañuela, Director

Date: 10/12/2022



**Commission Order No. 23-0007**

**Date: DECEMBER 12, 2022**

**SOAH Docket No. 362-22-2473.B**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
	<b>§</b>	
<b>JOSEPH M. DOWNS,</b>	<b>§</b>	
<b>TAXPAYER NO. 18336299542</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 Joseph M. Downs shall pay a \$5,000 administrative penalty within thirty (30) days following the date this Consent Order (Order) is signed by the Commission (effective date).

(2) IT IS FURTHER ORDERED by the Commission that for one (1) year following the effective date, Joseph M. Downs shall timely and accurately file all quarterly reports and all supplements, as required by the Bingo Enabling Act and the Charitable Bingo administrative rules.

(3) IT IS FURTHER ORDERED by the Commission that if Joseph M. Downs fails to comply with any requirement of this Order, then, upon notice by the Charitable Bingo Operations Division (Division), Joseph M. Downs shall surrender its manufacturer license within ten (10) days of the notice without further notice and hearing.

(4) IT IS FURTHER ORDERED by the Commission that if Joseph M. Downs is required to surrender its license pursuant to the above paragraph 3 and fails to do within ten (10) days of being notified by the Division, Joseph M. Downs' manufacturer license shall be

**Commission Order No. 23-0007**

**Date: DECEMBER 12, 2022**

immediately revoked, and its bond or other authorized form of security shall be immediately forfeited without further notice or hearing.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 12<sup>TH</sup> day of DECEMBER, 2022.

Entered this 12<sup>TH</sup> day of DECEMBER, 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