





# INTEROFFICE MEMO

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

**To:** Robert G. Rivera, Chairman  
Cindy Fields, Commissioner  
Mark A. Franz, Commissioner  
Clark E. Smith, 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 14, 2023

**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 14, 2023**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
	<b>§</b>	
	<b>§</b>	<b>OF</b>
<b>THE REVOCATION OF CERTAIN</b>	<b>§</b>	
<b>LOTTERY RETAILER LICENSES</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**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 14, 2023**

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. 24-0005**

**Date: DECEMBER 14, 2023**

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 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 24-0005

Date: DECEMBER 14, 2023

**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.	362-23-26515	Sajha Family LLC d/b/a Amigos Grocery	3205 W. Walnut Hill Ln. Apt. 2007 Irving, TX 75038	187135
B.	362-24-00392	Aris Inc. LLC d/b/a Sunshine Mart	1118 W. Gentry Pkwy. Tyler, TX 75702	188771
C.	362-24-01660	Murray's Quick Stop LLC d/b/a Murray's Quick Stop	301 S. Wheeler St. Colmesneil, TX 75938	189277
D.	362-24-02074	Amigo GP Inc. d/b/a Amigo Liquor Beer and Wine	6840 Wilderness Way Dr. Grand Prairie, TX 75054	190217





**SOAH Docket No. 362-23-26515****Suffix: TLC**

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

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
v.  
SAJHA FAMILY LLC DBA AMIGOS GROCERY,  
RESPONDENT**

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## **DEFAULT DISMISSAL ORDER**

On October 5, 2023, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Kyle Wolfe appeared on behalf of the staff (Staff) of the Texas Lottery Commission. Sajha Family LLC dba Amigos Grocery (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted. Collectively, these exhibits and orders showed proof of adequate notice to Respondent.<sup>1</sup> Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion

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

was **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, or if the ALJ finds that a filed motion should be denied, the contested case will be remanded to the Texas Lottery Commission for informal disposition on a default basis in accordance with the Administrative Procedure Act.<sup>4</sup>

**Signed OCTOBER 5, 2023**

  
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AMY DAVIS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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<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, .058(d-1).



**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
v.  
ARIS INC LLC DBA SUNSHINE MART,  
RESPONDENT**

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**DEFAULT DISMISSAL ORDER**

On October 19, 2023, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Kyle Wolfe appeared on behalf of the staff (Staff) of the Texas Lottery Commission. Aris Inc. LLC d/b/a Sunshine Mart (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted into evidence, which established adequate notice to Respondent.<sup>1</sup> Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion was **GRANTED**, and

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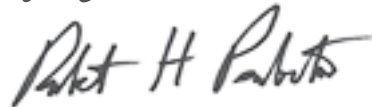
<sup>1</sup> 1 Tex. Admin. Code § 155.501(b).

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, or if the ALJ finds that a filed motion should be denied, the contested case will be remanded to the Board for informal disposition on a default basis in accordance with the Administrative Procedure Act.<sup>4</sup>

**Signed OCTOBER 19, 2023**

ALJ Signature:



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Robert Pemberton

Presiding Administrative Law Judge

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<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, .058(d-1).



FILED  
362-24-01660  
11/2/2023 11:47 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Crystal Rosas, CLERK

ACCEPTED  
362-24-01660  
11/2/2023 11:49:56 am  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Crystal Rosas, CLERK

**SOAH Docket No. 362-24-01660**

**Suffix: TLC**

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**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
V.  
MURRAY'S QUICK STOP LLC DBA MURRAY'S QUICK STOP,  
RESPONDENT**

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**DEFAULT DISMISSAL ORDER**

On November 2, 2023, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Kyle Wolfe appeared on behalf of the staff (Staff) of the Texas Lottery Commission. Murray's Quick Stop LLC d/b/a Murray's Quick Stop (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted, and the ALJ took official notice of SOAH's file in this case, including specifically the order setting hearing on the merits, which set the hearing by Zoom videoconference and provided instructions for participating in the hearing. Collectively, these exhibits and orders showed proof of adequate notice to

Respondent.<sup>1</sup> Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion was **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, or if the ALJ finds that a filed motion should be denied, the contested case will be remanded to the Board for informal disposition on a default basis in accordance with the Administrative Procedure Act.<sup>4</sup>

**Signed NOVEMBER 2, 2023.**

ALJ Signature:



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Steve Rivas

Presiding Administrative Law Judge

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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).

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

<sup>4</sup> Tex. Gov't Code §§ 2001.056, .058(d-1).





FILED  
362-24-02074  
11/9/2023 9:44 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Crystal Rosas, CLERK

ACCEPTED  
362-24-02074  
11/9/2023 9:46:10 am  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Crystal Rosas, CLERK

**SOAH Docket No. 362-24-02074**

**Suffix: TLC**

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**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
V.  
AMIGO GP INC DBA AMIGO LIQUOR BEER AND WINE,  
RESPONDENT**

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**ORDER GRANTING MOTION FOR DEFAULT**

On November 9, 2023, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in this matter. Staff was represented by Tyler Vance, and Respondent did not appear—either personally or through counsel. Staff Exhibits 1–3 were admitted and demonstrated adequate notice to Respondent.<sup>1</sup> Staff thereafter moved for a default dismissal. That motion is **GRANTED**, and the factual allegations detailed in the Notice of Hearing and the incorporated 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).

Respondent may file a motion to set aside this default within 15 days of the date of this order.<sup>3</sup> Such motion must demonstrate 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 the motion should be denied, this 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 NOVEMBER 9, 2023**

ALJ Signature:

A handwritten signature in black ink, appearing to read "Rachelle Robles", written over a horizontal line.

Rachelle Nicolette Robles  
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.



**Commission Order No. 24-0006**

**Date: DECEMBER 14, 2023**

**Case No. 2023-873**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>LDH 2020 LLC</b>	<b>§</b>	
<b>D/B/A DIAMOND FOOD MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 188693</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and LDH 2020 LLC d/b/a Diamond Food Mart (Diamond 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. Diamond Food Mart holds Texas Lottery Ticket Sales Agent License No. 188693.
2. Vipandeep Gorla is the managing member of Diamond Food Mart, which is located at 3404 Washington Blvd., Beaumont, TX 77705.
3. On March 30, 2022, the Commission received a complaint that Diamond Food Mart charged a customer a fee to purchase lottery tickets. The Commission initiated an investigation into this complaint.
4. On June 14, 2022, Amar Gorla, a Diamond Food Mart manager, told a Commission investigator that the store's customers may only purchase lottery tickets with cash. If a customer does not have cash, the store offers the customer an option to pay the store a fee to get cash back from their debit card to purchase 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. Diamond 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 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 close supervision over the lottery.

10. The Texas Lottery Ticket Sales Agent License of Diamond Food Mart is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of Diamond 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, Diamond 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. Diamond 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, Diamond 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, Diamond 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 Diamond Food Mart's Ticket Sales Agent License is posted.

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



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

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

LDH 2020 LLC  
d/b/a Diamond Food Mart

Texas Lottery Commission  
Lottery Operations Division

By:

By:

*Vipandeep Singh* 11-1-2023  
Vipandeep Gorla DATE  
Managing Member

*Robert Tirloni* 11/2/2023  
Robert Tirloni DATE  
Director

**Commission Order No. 24-0006**

**Date: DECEMBER 14, 2023**

**Case No. 2023-873**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>LDH 2020 LLC</b>	<b>§</b>	
<b>D/B/A DIAMOND FOOD MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 188693</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 LDH 2020 LLC d/b/a Diamond Food Mart (Diamond 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, Diamond 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, Diamond 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 Diamond Food Mart's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 24-0006**

**Date: DECEMBER 14, 2023**

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

(4) IT IS FURTHER ORDERED by the Commission that Diamond 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 Diamond Food Mart will be charged for the tickets sold on or before that date. Diamond 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. 24-0006**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 24-0007**

**Date: DECEMBER 14, 2023**

**Case No. 2023-875**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>FALCO PROPERTIES INC.</b>	<b>§</b>	
<b>D/B/A FALCOS C STORE</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 101544</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Falco Properties Inc. d/b/a Falcos C Store (Falcos C Store) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

**AGREED FINDINGS OF FACT**

1. Falcos C Store holds Texas Lottery Ticket Sales Agent License No. 101544.
2. Comal Zaidi is a vice president of Falcos C Store, which is located at 1901 Sycamore Ave., Huntsville, TX 77340.
3. On September 21, 2022, the Commission received a complaint that Falcos C Store charged a fee for using a debit card to purchase lottery tickets. The Commission initiated an investigation into this complaint.
4. On September 29, 2022, a Commission investigator was charged an additional \$0.50 for the debit card purchase of two draw tickets at Falcos C Store. The Falcos C Store vice president, David DeShaw, also admitted to the investigator that Falcos C Store charged a fee for debit card purchases of 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. Falcos C Store is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.
3. Tex. Gov't Code §466.155(a) states, in pertinent part:

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

...

(5) has violated this chapter or a rule adopted under this chapter.
4. Tex. Gov't Code §466.302(a) states:

A person commits an offense if the person intentionally or knowingly sells a ticket at a price the person knows is greater than that fixed by the commission or by the lottery operator authorized to set that price.
5. 16 Tex. Admin. Code §401.158(b) states, in pertinent part:

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

...

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

(23) licensee charges a fee for lottery ticket purchases using a debit card and/or requires a minimum dollar amount for debit card purchases of only lottery tickets.
6. 16 Tex. Admin. Code §401.366 states:

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



7. The Texas Lottery Ticket Sales Agent License of Falcos C Store is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Falcos C Store'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, Falcos C Store 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. Falcos C Store agrees that, as a result of its violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(22) 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, Falcos C Store agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

5. Falcos C Store agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take

additional disciplinary action, up to and including suspension or revocation of Falcos C Store's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

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

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

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

AGREED AS TO FORM AND SUBSTANCE:

Falco Properties Inc.  
d/b/a Falcos C Store

By:



11.07.2023

Comal Zaidi  
Vice president

DATE

Texas Lottery Commission  
Lottery Operations Division

By:



11/8/2023

Robert Tirloni  
Director

DATE

**Commission Order No. 24-0007**

**Date: DECEMBER 14, 2023**

**Case No. 2023-875**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>FALCO PROPERTIES INC.</b>	<b>§</b>	
<b>D/B/A FALCOS C STORE</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 101544</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 Falco Properties Inc. d/b/a Falcos C Store (Falcos C Store), the license is suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order (Order) is signed by the Commission. During the period of suspension, Falcos C Store shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

**Commission Order No. 24-0007**

**Date: DECEMBER 14, 2023**

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

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

**Commission Order No. 24-0007**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 24-0008**

**Date: DECEMBER 14, 2023**

**Case No. 2023-899**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>CHIMP FEET INVESTMENTS LLC</b>	<b>§</b>	
<b>D/B/A 7-ELEVEN STORE #33690</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 149862</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Chimp Feet Investments LLC d/b/a 7-Eleven Store #33690 (7-Eleven Store) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

**AGREED FINDINGS OF FACT**

1. 7-Eleven Store holds Texas Lottery Ticket Sales Agent License No. 149862.
2. Victor Simpson is the president of 7-Eleven Store, which is located at 7818 Rowlett Rd., Rowlett, TX 75089.
3. On March 22, 2023, the Commission received a complaint that 7-Eleven Store requires an additional purchase of store merchandise when buying Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On April 19, 2023, a Commission investigator attempted to purchase a lottery ticket with a debit card at 7-Eleven Store. Jas Kaur, a 7-Eleven Store employee, told the investigator that he had to make an additional store purchase if he wanted to use his debit card to buy lottery tickets.
5. Shadia Omar, a 7-Eleven Store manager, told the investigator that it is store policy to require customers to make an additional store purchase if they use a debit card to purchase 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. 7-Eleven Store is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

3. Tex. Gov't Code §466.155(a) states, in pertinent part:

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

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

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

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

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

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

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

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

6. 16 Tex. Admin. Code §401.366 states:

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



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

### **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, 7-Eleven Store 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. 7-Eleven Store agrees that, as a result of its violation of Tex. Gov't Code §466.302(a) and 16 Tex. Admin. Code §§ 401.158(b)(22), (23) and 401.366, its Ticket Sales Agent License will be suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date the Order is signed by the Commission. During the period of suspension, 7-Eleven Store agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

5. 7-Eleven Store agrees this Memorandum of Agreement and Consent Order applies only to the facts and circumstances stated herein. The Commission reserves the right to take

additional disciplinary action, up to and including suspension or revocation of 7-Eleven Store's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

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

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

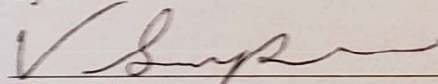
8. 7-Eleven Store agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and 7-Eleven Store will be charged for tickets sold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

AGREED AS TO FORM AND SUBSTANCE:

Chimp Feet Investments LLC  
d/b/a 7-Eleven Store #33690

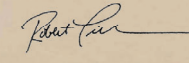
Texas Lottery Commission  
Lottery Operations Division

By:

  
Victor Simpson  
President

10/2/23  
DATE

By:

  
Robert Turloni  
Director

10/3/2023

DATE

**Commission Order No. 24-0008**

**Date: DECEMBER 14, 2023**

**Case No. 2023-899**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>CHIMP FEET INVESTMENTS LLC</b>	<b>§</b>	
<b>D/B/A 7-ELEVEN STORE #33690</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 149862</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 Chimp Feet Investments LLC d/b/a 7-Eleven Store #33690 (7-Eleven Store), the license is suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order (Order) is signed by the Commission. During the period of suspension, 7-Eleven Store shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

**Commission Order No. 24-0008**

**Date: DECEMBER 14, 2023**

(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 7-Eleven Store has failed to comply with the terms of this Order, disciplinary action shall be taken against 7-Eleven Store, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

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

**Commission Order No. 24-0008**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 24-0009**

**Date: DECEMBER 14, 2023**

**Case No. 2023-900**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>MAMTA INC.</b>	<b>§</b>	
<b>D/B/A SHOP N SHOP</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 187524</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Mamta Inc. d/b/a Shop N Shop (Shop N Shop) 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. Shop N Shop holds Texas Lottery Ticket Sales Agent License No. 187524.
2. Zareena Lalani is the president of Shop N Shop, which is located at 1306 Basse Rd., San Antonio, TX 78212-1013.
3. On March 25, 2023, the Commission received information from a complainant that Shop N Shop required a \$20 minimum for debit card purchases of lottery tickets. The Commission initiated an investigation into this complaint.
4. On April 27, 2023, Ms. Lalani admitted to a Commission investigator that Shop N Shop requires a \$20 minimum to purchase lottery tickets on 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. Shop N Shop 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 Shop N Shop is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Shop N Shop's violation of 16 Tex. Admin. Code §§ 401.158(b)(23) and 401.366.

### **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, Shop N Shop 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. Shop N Shop 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, Shop N Shop 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, Shop N Shop 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 Shop N Shop's Ticket Sales Agent License is posted.

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

6. Shop N Shop 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. Shop N Shop 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 Shop N Shop has failed

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


8. Shop N Shop 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 Shop N Shop will be charged for tickets sold on or before that date. Shop N Shop 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:

Mamta Inc.  
d/b/a Shop N Shop

Texas Lottery Commission  
Lottery Operations Division

By:

 11/8/2023  
\_\_\_\_\_  
Zareena Lalani DATE  
President

By:

 11/8/2023  
\_\_\_\_\_  
Robert Tirloni DATE  
Director

**Commission Order No. 24-0009**

**Date: DECEMBER 14, 2023**

**Case No. 2023-900**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>MAMTA INC.</b>	<b>§</b>	
<b>D/B/A SHOP N SHOP</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 187524</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 Mamta Inc. d/b/a Shop N Shop (Shop N Shop), 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, Shop N Shop 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, Shop N Shop 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 Shop N Shop's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 24-0009**

**Date: DECEMBER 14, 2023**

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

(4) IT IS FURTHER ORDERED by the Commission that Shop N Shop 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 Shop N Shop will be charged for the tickets sold on or before that date. Shop N Shop 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. 24-0009**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 24-0010**

**Date: DECEMBER 14, 2023**

**Case No. 2023-979**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>ABAY LLC</b>	<b>§</b>	
<b>D/B/A 7-ELEVEN CONVENIENCE</b>	<b>§</b>	
<b>STORE #37211B</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 190587</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Abay LLC d/b/a 7-Eleven Convenience Store #37211B (7-Eleven) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

**AGREED FINDINGS OF FACT**

1. 7-Eleven holds Texas Lottery Ticket Sales Agent License No. 190587.
2. Yonas Selassie is a managing member of 7-Eleven, which is located at 490 S. FM 548, Forney, TX 75126.
3. On November 8, 2022, the Commission received a complaint that 7-Eleven requires customers to purchase other store merchandise to purchase Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On January 3, 2023, Mr. Selassie admitted to a Commission investigator that if a store customer wants to purchase lottery tickets with a debit card, the customer must purchase other store merchandise with a debit card, request cash back, and then use that cash to pay for 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. 7-Eleven is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

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

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

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

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

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

5. 16 Tex. Admin. Code §401.366 states:

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

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



## **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, 7-Eleven agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the 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. 7-Eleven 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 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, 7-Eleven agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

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

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

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

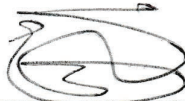
8. 7-Eleven agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and 7-Eleven will be charged for tickets sold on or before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

AGREED AS TO FORM AND SUBSTANCE:

Abay LLC  
d/b/a 7-Eleven Convenience Store #37211B

Texas Lottery Commission  
Lottery Operations Division

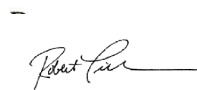
By:



11/10/2023

Yonas Selassie  
Managing Member

DATE



11/10/2023

Robert Tirloni  
Director

DATE

**Commission Order No. 24-0010**

**Date: DECEMBER 14, 2023**

**Case No. 2023-979**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>ABAY LLC</b>	<b>§</b>	
<b>D/B/A 7-ELEVEN CONVENIENCE</b>	<b>§</b>	
<b>STORE #37211B</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 190587</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 Abay LLC d/b/a 7-Eleven Convenience Store #37211B (7-Eleven), 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, 7-Eleven shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

**Commission Order No. 24-0010**

**Date: DECEMBER 14, 2023**

(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 7-Eleven has failed to comply with the terms of this Order, disciplinary action shall be taken against 7-Eleven, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

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

**Commission Order No. 24-0010**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



Date: DECEMBER 14, 2023

**DOCKET NO. 362-23-18503**

<b>TEXAS LOTTERY COMMISSION,</b>	§	<b>BEFORE THE TEXAS</b>
<i>Petitioner,</i>	§	
	§	
v.	§	
	§	
<b>ZAHRANI INVESTMENTS INC.</b>	§	
<b>D/B/A S &amp; M FOOD STORE</b>	§	
<b>RETAILER NO. 157342,</b>	§	
<i>Respondent,</i>	§	<b>LOTTERY COMMISSION</b>

**ORDER OF THE COMMISSION**

TO: Zahrani Investments Inc.  
d/b/a S & M Food Store  
2517 S. Beckley Ave.  
Dallas, TX 75224

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) finds that, after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge (ALJ) who made and filed a Proposal for Decision (PFD) containing the ALJ's Findings of Fact and Conclusions of Law. The PFD was properly served, and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Commission, after review and due consideration of the PFD and exceptions and replies filed, if any, adopts the ALJ's Findings of Fact and Conclusions of Law as if fully set out and separately stated herein. All proposed Findings of Fact and Conclusions of Law not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that the Texas Lottery Ticket Sales Agent License of Zahrani Investments Inc. d/b/a S & M Food Store is hereby revoked.

**Commission Order No. 24-0011**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER





# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

October 6, 2023

Kyle Wolfe  
Texas Lottery Commission

**VIA EFILE TEXAS**

Zahrani Investments Inc.  
d/b/a S & M Food Store

**VIA EFILE TEXAS**  
**VIA REGULAR MAIL**

**RE: Docket Number 362-23-18503.TLC; Texas Lottery Commission v.  
Zahrani Investmenbts Inc. d/b/a S & M Food Store**

Dear Parties:

Please find attached a Proposal for Decision in this case.

Exceptions and replies may be filed by any party in accordance with 1 Texas Administrative Code section 155.507(b), a SOAH rule which may be found at [www.soah.texas.gov](http://www.soah.texas.gov).

CC: Service List

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
v.  
ZAHRANI INVESTMENTS INC DBA S & M FOOD STORE,  
RESPONDENT**

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**PROPOSAL FOR DECISION**

The staff of the Texas Lottery Commission (Staff) seeks to revoke a lottery sales agent's license held by Zahrani Investments Inc. d/b/a S & M Food Store (Respondent) on the grounds that Respondent failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of Respondent's license.

## **I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY**

Notice and jurisdiction were not disputed and are discussed only in the Findings of Fact and Conclusions of Law below.

On May 4, 2023, Staff referred this case to the State Office of Administrative Hearings (SOAH) for assignment of an ALJ to conduct a hearing on Staff's proposed revocation of Respondent's license. On July 13, 2023, SOAH ALJ Meaghan Bailey conducted the hearing on the merits. Kyle Wolfe, Assistant General Counsel, represented Staff. Respondent was represented by its principal, Abir Y. Madi. The hearing adjourned and the record closed the same day.

## **II. APPLICABLE LAW**

Pursuant to 16 Texas Administrative Code section (Rule) 401.353(b), each lottery retailer or licensee shall maintain an account balance sufficient to cover monies due to the Commission for lottery ticket sales during each established billing period. The monies are collected by electronic funds transfers that occur when the retailer's account is "swept" by the Commission.

In the event a retailer fails to maintain a sufficient account balance to cover an electronic sweep for a billing period, the retailer's license shall be summarily suspended.<sup>1</sup> Such failure shall also be cause for suspension, summary suspension, and revocation of the retailer's license at each location where such retailer is

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<sup>1</sup> 16 Tex. Admin. Code § 401.353(e).

licensed.<sup>2</sup> Additionally, if the retailer fails to pay the full amount of money owed to the Commission after a nonsufficient funds transfer, the Commission may suspend or revoke the retailer's license.<sup>3</sup>

After a hearing, the Commission shall suspend or revoke a license if the director of the Commission or the Commission, as applicable, finds that the sales agent<sup>4</sup> has violated chapter 466 of the Texas Government Code (State Lottery Act) or a rule adopted under that chapter.<sup>5</sup>

Staff has the burden to prove the alleged violations and that the requested relief is proper.<sup>6</sup> The burden of proof is by a preponderance of the evidence.<sup>7</sup>

### **III. EVIDENCE**

At the hearing Staff offered Exhibits 1 through 9, which were admitted, and presented the testimony of Joel Garza, Retailer Service Specialist with the Commission. Mr. Madi testified on behalf of the Respondent.

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<sup>2</sup> 16 Tex. Admin. Code § 401.352(a).

<sup>3</sup> 16 Tex. Admin. Code § 401.158(b)(41).

<sup>4</sup> “Sales agent” means a person who is licensed under chapter 466 of the Texas Government Code (State Lottery Act) to sell tickets. Tex. Gov’t Code § 466.002(9). Respondent is a sales agent.

<sup>5</sup> Tex. Gov’t Code § 466.155(5).

<sup>6</sup> 1 Tex. Admin. Code § 155.427.

<sup>7</sup> *Granek v. Tex. St. Bd. of Med. Exam’rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

Mr. Garza explained that Staff seeks revocation of Respondent's lottery sales agent's license due to insufficient funds. Specifically, the Commission swept Respondent's account on October 5, 2022, and April 19, 2023, and both times the account did not contain sufficient funds to cover the amount owed for sold lottery tickets. Respondent currently has an outstanding balance for lottery tickets sold totalling \$2,922.19.<sup>8</sup> Mr. Garza confirmed that the Respondent's failure to have sufficient funds on the two dates referenced above was not the result of a bank error.

Additionally, the Commission previously performed two unsuccessful sweeps of Respondent's account on November 3, 2018, and December 20, 2014, in which the account did not contain sufficient funds to cover the amount owed for sold lottery tickets.<sup>9</sup> These attempted sweeps are not the focus of Staff's current recommendation for revocation but represent a history of Respondent's failure to maintain sufficient funds in its account.

Based on the facts of this case, Mr. Garza recommended Respondent's license be revoked. If revocation is granted, he stated Respondent would be able to reapply for a license once the outstanding balance is paid in full. Based on his experience, Mr. Garza noted that if Respondent were to reapply after revocation, the Commission may require Respondent to make a security deposit to guarantee that sufficient funds will be retained in its account for future sweeps.

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<sup>8</sup> TLC Ex. 9.

<sup>9</sup> TLC Ex. 3.

Mr. Madi briefly testified that he needed an “extension” or “some time” to pay the outstanding balance.

#### **IV. ALJ’S ANALYSIS**

Respondent’s lottery sales agent license should be revoked. It is uncontested that Respondent’s account failed to contain sufficient funds to cover the monies owed for sold lottery tickets during two sweeps by the Commission, in violation of Rules 401.351 and .353. As such, revocation is proper under Rules 401.158(b)(41) and .352(a).

Rule 401.351 states, in part:

All proceeds from the sale of lottery tickets received by a retailer shall constitute a trust fund until paid to the commission either directly or through the commission’s authorized collection representative. A retailer shall have a fiduciary duty to preserve and account for lottery proceeds and retailers shall be personally liable for all proceeds. ... Retailers shall place all lottery proceeds due the commission in accounts in institutions insured by the United States government not later than the close of the next banking day after the date of their collection by the retailer until the date that they are paid over to the commission.

Thus, Respondent has a duty to maintain the Commission’s funds held in trust until such time as the Commission sweeps the funds. During the Commission’s October 2022 and April 2023 sweeps, Respondent failed to have sufficient funds to transfer to the Commission to cover the amount of sold lottery tickets for the applicable billing periods. As such, Respondent violated Rule 401.352 and .353(b).

As of the date of hearing, Respondent had not yet paid the Commission the outstanding amount owed in sold lottery tickets which totals \$2,922.19.

Staff presented a compelling argument for revocation under Rules 401.158(b)(41) and .352(a), which was unrebutted by Respondent. Accordingly, the ALJ concludes that Staff proved its burden in this proceeding.

## **V. FINDINGS OF FACT**

1. Zahrani Investments Inc. d/b/a S & M Food Store (Respondent) is a retail lottery sales agent licensed by the Texas Lottery Commission (Commission). Respondent holds license number 157342.
2. On the following dates, Respondent failed to electronically transfer funds to the Commission for the following amounts owed to the Commission for the sale of lottery tickets:
  - (a) October 5, 2022, in the amount of \$2,118.60; and
  - (b) April 19, 2023, in the amount of \$1,356.44.
3. On May 18, 2023, Respondent's retailer license was summarily suspended for failure to deposit money received from ticket sales into its account.
4. Respondent's current outstanding balance owed to the Commission for the sale of lottery tickets is \$2,922.19.
5. On June 29, 2023, the Commission's staff (Staff) issued its first amended notice of hearing to Respondent. The notice of hearing advised Respondent of the time, place, and nature of the hearing; the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted. Respondent received the notice.
6. The hearing convened and closed before Administrative Law Judge Meaghan Bailey on July 13, 2023. Abir Y. Madi appeared at the hearing on



behalf of Respondent. Staff appeared and was represented by Kyle Wolfe assistant general counsel.

## VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this case pursuant to Texas Government Code chapter 466.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with Findings of Fact and Conclusions of Law, as provided by Texas Government Code chapter 2003. Tex. Gov't Code § 466.155(b-1).
3. Proper and timely notice of the hearing was effected upon Respondent pursuant to Texas Government Code §§ 466.155(b), 2001.051-.052, and 16 Texas Administrative Code § 401.205(4).
4. Staff of the Commission has the burden of burden of proving the alleged violations and that the requested relief is proper. 1 Tex. Admin. Code § 155.427.
5. The burden of proof is by a preponderance of the evidence. *Granek v. Tex. St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
6. Respondent violated 16 Texas Administrative Code § 401.351, which requires a lottery retailer to hold all proceeds from the sale of lottery tickets in trust until such time as the Commission sweeps the funds.
7. Respondent violated 16 Texas Administrative Code § 401.353(b), which requires a lottery retailer to have sufficient funds on deposit to cover electronic sweeps conducted by the Commission.
8. Pursuant to Texas Government Code § 466.155(a)(5) and 16 Texas Administrative Code §§ 401.158(b)(41) and .352(a), the Commission is authorized to revoke a lottery sales agent's license for the violations described in the Findings of Fact and Conclusions of Law.

9. Respondent's retail license should be revoked as provided under 16 Texas Administrative Code §§ 401.158(b)(41) and .352(a).

**Signed October 6, 2023**

ALJ Signature:

A handwritten signature in black ink, reading "Meaghan Bailey", written over a horizontal line.

Meaghan Bailey

Presiding Administrative Law Judge



Date: DECEMBER 14, 2023

DOCKET NO. 362-23-23969

TEXAS LOTTERY COMMISSION,	§	BEFORE THE TEXAS
<i>Petitioner,</i>	§	
	§	
v.	§	
	§	
LP1 INVESTMENTS LLC	§	
D/B/A QUICK CHEK FOOD STORE	§	
RETAILER NO. 193433,	§	
<i>Respondent,</i>	§	LOTTERY COMMISSION

**ORDER OF THE COMMISSION**

TO: LP1 Investments LLC  
d/b/a Quick Chek Food Store  
2301 E. Berry St.  
Fort Worth, TX 76119

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) finds that, after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge (ALJ) who made and filed a Proposal for Decision (PFD) containing the ALJ's Findings of Fact and Conclusions of Law. The PFD was properly served, and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Commission, after review and due consideration of the PFD and exceptions and replies filed, if any, adopts the ALJ's Findings of Fact and Conclusions of Law as if fully set out and separately stated herein. All proposed Findings of Fact and Conclusions of Law not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that the Texas Lottery Ticket Sales Agent License of LP1 Investments LLC d/b/a Quick Chek Food Store is hereby revoked.

**Commission Order No. 24-0012**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

September 28, 2023

Texas Lottery Commission

VIA EFILE TEXAS

Thu Pham

VIA EFILE TEXAS

**RE: Docket Number 362-23-23969.TLC; *Texas Lottery Commission v. LP1 Investments LLC d/b/a Quick Chek Food Store***

Dear Parties:

Please find attached a Proposal for Decision in this case.

Exceptions and replies may be filed by any party in accordance with 1 Texas Administrative Code section 155.507(b), a SOAH rule which may be found at [www.soah.texas.gov](http://www.soah.texas.gov).

CC: Service List

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
v.  
LP1 INVESTMENTS LLC DBA QUICK CHEK FOOD STORE,  
RESPONDENT**

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**PROPOSAL FOR DECISION**

The Texas Lottery Commission's Staff seeks to revoke the Texas Lottery Sales Agent License held by Respondent LP1 Investments LLC d/b/a Quick Chek Food Store. Staff contends that Respondent failed to pay a debt owed to the Commission after two insufficient funds transfers. After considering the evidence and arguments presented by the parties, the Administrative Law Judge (ALJ) concludes that Staff proved its allegations and that Respondent's license should be revoked.



## I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

The hearing in this case was conducted by Zoom videoconference on August 31, 2023, before ALJ Joshua C. Fiveson with the State Office of Administrative Hearings. Staff was represented by Attorney Tyler Vance, and Ms. Tsu Pham appeared *pro se* on behalf of Respondent. The record closed that same day. Neither notice nor jurisdiction were disputed and are discussed only in the Findings of Fact and Conclusions of Law below.

## II. APPLICABLE LAW

The Texas Lottery Commission requires that each licensed retailer “maintain an account balance sufficient to cover monies due to the [C]ommission.”<sup>1</sup> If the Commission attempts to collect these funds by electronic funds transfer and the associated account has insufficient funds, the retailer’s license is subject to summary suspension.<sup>2</sup> Furthermore, if the retailer fails to pay the full amount due after an insufficient funds transfer, the Commission may revoke the retailer’s license.<sup>3</sup>

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<sup>1</sup> 16 Tex. Admin. Code § 401.353(b); *see also id.* § 401.353(a) (requiring authorization for electronic funds transfers from designated accounts). *See generally* Tex. Gov’t Code § 466.353(b) (“Money received by a sales agent . . . shall be held in trust for the benefit of the state . . .”).

<sup>2</sup> 16 Tex. Admin. Code § 401.353(e); *see also* Tex. Gov’t Code § 466.160(c)–(d).

<sup>3</sup> 16 Tex. Admin. Code § 401.158(b)(41); *accord id.* § 401.160(h) (standard penalty chart, noting that “revocation” is the standard penalty for a failure to pay the full amount due after an insufficient funds transfer).

### III. EVIDENCE

#### A. STAFF'S CASE

Staff offered, and the ALJ admitted, eight exhibits.<sup>4</sup> Exhibit 1 contained Respondent's notice of hearing, Exhibits 2 to 7 contained records pertaining to Respondent's failure to maintain sufficient funds, and Exhibit 8 contained written testimony from Mr. Joel Garza—an account examiner with the Commission.

Staff also solicited testimony from Mr. Garza. He explained that the Commission unsuccessfully attempted to “sweep” Respondent's bank account on July 6 and July 12, 2023, but the transfers failed due to insufficient funds.<sup>5</sup> Mr. Garza also testified regarding the general procedures following an insufficient funds transfer and explained that the Commission will seek to freeze a retailer's bank accounts when they owe money to the Commission.

#### B. RESPONDENT'S CASE

Respondent offered, and the ALJ admitted, one exhibit.<sup>6</sup> That exhibit contained an email in which Mr. Garza stated “we will not continue with the revocation process as long as you pay the full current balance prior to the hearing.”<sup>7</sup>

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<sup>4</sup> Staff Ex. 1–8.

<sup>5</sup> Mr. Garza testified that the balance due is now \$55,529.09. *Accord* Staff Ex. 2 (same figure). Though the underlying notice of hearing asserted that Respondent failed to pay \$29,483.16, Mr. Garza explained that this discrepancy is attributable to additional debts that were discovered during the accounting that follows failed electronic funds transfers.

<sup>6</sup> Respondent Ex. 1.

<sup>7</sup> *Id.*

Respondent also testified on her own behalf. In relevant part, Ms. Pham acknowledged that she still owes money to the Commission. She explained that a friend stole the Commission’s money and that she was attempting to secure a loan to repay this balance but, in advance of the hearing, her bank accounts were frozen—precluding her from repaying the balance due. Ms. Pham concluded by tearfully emphasizing that her business may have to close due to this situation.

#### IV. ANALYSIS

This case is both straightforward and uncontested. The Commission twice attempted to collect funds from Respondent’s designated bank account, and both electronic funds transfers failed due to insufficient funds. Respondent thereby violated its obligation to “maintain an account balance sufficient to cover monies due to the [C]ommission.”<sup>8</sup> Furthermore, as of present day, Respondent has not satisfied its \$29,483.16 debt to the Commission.<sup>9</sup> Neither was Respondent excused from satisfying this debt simply because the Commission successfully froze its bank account during prehearing collection efforts.

As a result, Respondent’s license is subject to revocation.<sup>10</sup>

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<sup>8</sup> 16 Tex. Admin. Code § 401.353(b); *see also id.* § 401.353(a) (requiring authorization for electronic funds transfers from designated accounts). *See generally* Tex. Gov’t Code § 466.353(b) (“Money received by a sales agent . . . shall be held in trust for the benefit of the state . . .”).

<sup>9</sup> Though Mr. Garza testified that the debt is now higher—*i.e.*, roughly \$55,000.00 as of the contested-case hearing—the ALJ’s focus belongs to the figures pleaded in the underlying notice of hearing. Either way, Respondent concedes that she has not paid any of her debt to the Commission. This is, of course, dispositive.

<sup>10</sup> 16 Tex. Admin. Code §§ 401.158(b)(41), .353(b); *id.* § 401.160(h) (standard penalty chart, endorsing revocation).

## **V. FINDINGS OF FACT**

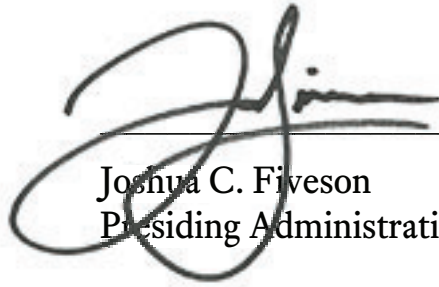
1. Respondent LP1 Investments LLC d/b/a Quick Chek Food Store (License No. 193433) is a retail lottery sales agent supervised by the Texas Lottery Commission.
2. Respondent failed to electronically transfer funds to the Commission on (a) July 6, 2023, in the amount of \$17,163.24; and (b) July 12, 2023, in the amount of \$12,319.92. Both transfers failed due to insufficient funds.
3. On August 3, 2023, the Commission sent Respondent a notice of hearing that contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
4. A hearing on the merits was convened by Zoom videoconference on August 31, 2023, before Administrative Law Judge Joshua C. Fiveson with the State Office of Administrative Hearings. Staff was represented by Attorney Tyler Vance, and Ms. Tsu Pham appeared *pro se* on behalf of Respondent. The record closed that same day.
5. As of August 31, 2023, Respondent has not satisfied any of its debt to the Commission.

## **VI. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter. Tex. Gov't Code ch. 466.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
3. Respondent received proper, timely notice. Tex. Gov't Code §§ 2001.051-.52.

4. Respondent was obligated to maintain a bank account with sufficient funds “to cover monies due to the [C]ommission.” 16 Tex. Admin. Code § 401.353(b). *See generally* Tex. Gov’t Code § 466.353(b).
5. Respondent’s license is subject to revocation because it failed to pay the full amount due to the Commission after two insufficient funds transfers. 16 Tex. Admin. Code § 401.158(b)(41); *accord id.* § 401.160(h).

**Signed September 28, 2023**



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Joshua C. Fiveson  
Presiding Administrative Law Judge



Date: DECEMBER 14, 2023

**DOCKET NO. 362-23-26516**

<b>TEXAS LOTTERY COMMISSION,</b>	§	<b>BEFORE THE TEXAS</b>
<i>Petitioner,</i>	§	
	§	
v.	§	
	§	
<b>AMERICAN KGB INC.</b>	§	
<b>D/B/A EZ TRIP BEER &amp; WINE</b>	§	
<b>RETAILER NO. 188940,</b>	§	
<i>Respondent,</i>	§	<b>LOTTERY COMMISSION</b>

**ORDER OF THE COMMISSION**

TO: American KGB Inc.  
d/b/a EZ Trip Beer & Wine  
318 Moss Hill Rd.  
Irving, TX 75063

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) finds that, after proper and timely notice was given, the above-styled case was heard by an Administrative Law Judge (ALJ) who made and filed a Proposal for Decision (PFD) containing the ALJ's Findings of Fact and Conclusions of Law. The PFD was properly served, and all parties were given an opportunity to file exceptions and replies as part of the record herein.

The Commission, after review and due consideration of the PFD and exceptions and replies filed, if any, adopts the ALJ's Findings of Fact and Conclusions of Law as if fully set out and separately stated herein. All proposed Findings of Fact and Conclusions of Law not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that the Texas Lottery Ticket Sales Agent License of American KGB Inc. d/b/a EZ Trip Beer & Wine is hereby revoked.

**Commission Order No. 24-0013**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER





# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

November 14, 2023

Kyle Wolfe  
Assistant General Counsel  
Texas Lottery Commission

**VIA EFILE TEXAS**

American KGB Inc.  
d/b/a EZ Trip Beer and Wine

**VIA EFILE TEXAS**

**RE: Docket Number 362-23-26516.TLC; *Texas Lottery Commission v. American KGB Inc d/b/a EZ Trip Beer and Wine***

Dear Parties:

Please find attached an Amended Proposal for Decision in this case.

Exceptions and replies may be filed by any party in accordance with 1 Texas Administrative Code section 155.507(b), a SOAH rule which may be found at [www.soah.texas.gov](http://www.soah.texas.gov).

CC: Service List

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
v.  
AMERICAN KGB INC. D/B/A EZ TRIP BEER AND WINE,  
RESPONDENT**

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**AMENDED PROPOSAL FOR DECISION**

The Staff of the Texas Lottery Commission (Staff) seeks to revoke the lottery sales agent's license held by American KGB Inc. d/b/a EZ Trip Beer and Wine of Irving, Texas (Licensee) because Licensee failed to pay the full amount of money owed to the Commission after a non-sufficient funds transfer or non-transfer of funds to the Commission's account. The Administrative Law Judge (ALJ) recommends revocation of the license.

## **I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY**

Jurisdiction and notice were not contested and are discussed in the Findings of Fact and Conclusions of Law. On October 5, 2023, the hearing to consider Staff's allegations was conducted by ALJ Amy Davis via Zoom videoconference. Kyle Wolfe, Assistant General Counsel, represented Staff. Licensee was represented by Bidhan Gautam.<sup>1</sup> The hearing adjourned that day, but at Licensee's request, the record remained opened until November 1, 2023, to allow Licensee the opportunity to resolve its outstanding balance of \$18,218.74 with the Texas Lottery Commission. On November 1, 2023, Staff filed a status report indicating that Licensee had not made any payments.

## **II. APPLICABLE LAW**

Pursuant to 16 Texas Administrative Code section 401.353(b), each lottery retailer shall maintain an account balance sufficient to cover monies due the Commission for ticket sales during the established billing period. 16 Texas Administrative Code section 401.351 requires retailers to place all lottery proceeds due the Commission in accounts in institutions insured by the United States government not later than the close of the next banking day after the date of their collection by the retailer until the date that they are paid over to the Commission. In addition, "[f]ailure to have sufficient funds available to cover an electronic funds transfer to the commission's account shall be cause for suspension, summary

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<sup>1</sup> Mr. Gautam's first name is spelled phonetically.

suspension and revocation of a retailer's license at each location where such retailer is licensed.”<sup>2</sup>

The monies are collected by electronic funds transfers that occur when the account is “swept” by the Commission. In the event the retailer fails to maintain a sufficient account balance to cover an electronic sweep for the established billing period, the retailer's license shall be summarily suspended.<sup>3</sup> If a retailer fails to pay the full amount of money owed to the Commission after a nonsufficient funds transfer or non-transfer of funds to the commission's account, the retailer's license shall be revoked.<sup>4</sup> The Commission has adopted a standard penalty chart for violations.<sup>5</sup> Under the standard penalty chart, the Commission's standard penalty for a licensee failing to pay the full amount of money owed to the Commission after a non-sufficient funds transfer or non-transfer of funds to the Commission's account is revocation of the license.<sup>6</sup>

### **III. EVIDENCE AND ARGUMENT**

Joel Garza, a retail services specialist with the Commission, testified and presented documentary evidence<sup>7</sup> that on August 9, 2023, Licensee failed to have sufficient funds in the amount of \$1,037.80 available to cover an electronic funds

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<sup>2</sup> 16 Tex. Admin. Code § 401.352(a).

<sup>3</sup> Tex. Gov't Code § 466.160; 16 Tex. Admin. Code § 401.353(e).

<sup>4</sup> 16 Tex. Admin. Code § 401.158(b)(41).

<sup>5</sup> 16 Tex. Admin. Code § 401.160.

<sup>6</sup> 16 Tex. Admin. Code § 401.160(h).

<sup>7</sup> Staff Exs. 1-7.

transfer to the Commission's account.<sup>8</sup> He testified that Licensee has not paid the amount owed.

Licensee did not contest Staff's allegations and instead testified that in August and September, the business was impacted by two large expenses: (1) its business tax; and (2) the unexpected expense of repairing and ultimately replacing a broken air conditioner. Between the two expenses, Licensee was unable to maintain sufficient funds in its accounts. Licensee then requested additional time to allow the business to pay its balance.

#### **IV. ANALYSIS AND RECOMMENDATION**

Licensee's lottery sales agent license should be revoked. Staff proved—and Licensee did not contest—that Licensee has violated the statutes and rules set forth above. As alleged by Staff, Licensee failed to have sufficient funds available to cover an electronic funds transfer to the Commission. Under the applicable statutes and rules, the Commission has the authority and the obligation to revoke Licensee's license. The ALJ concludes that it should do so.

#### **V. FINDINGS OF FACT**

1. American KGB Inc. d/b/a EZ Trip Beer and Wine of Irving, Texas (Licensee) holds a lottery sales agent license issued by the Texas Lottery Commission (Commission).

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<sup>8</sup> Staff Exs. 2-5.

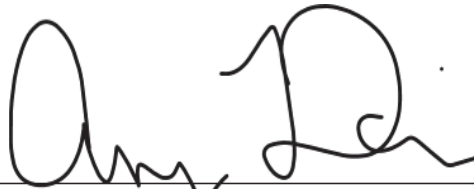
2. On September 7, 2023, Commission staff (Staff) sent a notice of hearing to Licensee. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted, or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
3. On August 24, 2023, the Commission docketed this case at the State Office of Administrative Hearings (SOAH). On October 5, 2023, the hearing to consider Staff's allegations was conducted by Administrative Law Judge Amy Davis via Zoom videoconference. Staff appeared through Kyle Wolfe, Assistant General Counsel for the Commission. Licensee appeared through Bidhan Gautam. After the presentation of evidence and arguments, the hearing was adjourned. At Licensee's request, the record of the case remained open until November 1, 2023, to allow Licensee to pay its outstanding balance to the Commission.
4. On November 1, 2023, Staff filed a status report indicating that Licensee had not made any payments to the Commission.
5. Licensee failed to pay the full amount of money owed to the Commission after a non-sufficient funds transfer or non-transfer of funds to the Commission's account.

## **VI. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter pursuant to Texas Government Code § 466.155.
2. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Texas Government Code ch. 2003.
3. Proper and timely notice of the hearing was effected upon Licensee pursuant to Texas Government Code §§ 2001.051-.052 and 16 Texas Administrative Code § 401.205(4).

4. Licensee's actions were in violation of Texas Government Code § 466.351 and 16 Texas Administrative Code §§ 401.158(b)(41), 401.351-.352.
5. Pursuant to Texas Government Code § 466.155(a)(5) and 16 Texas Administrative Code § 401.352(a), the Commission has authority to suspend or revoke a lottery sale agent's license for the violations described in the Findings of Fact and Conclusions of Law.
6. Because Licensee failed to pay the full amount of money owed to the Commission after a non-sufficient funds transfer or non-transfer of funds to the Commission's account, Licensee's license should be revoked pursuant to Texas Government Code § 466.155(a) and 16 Texas Administrative Code §§ 401.158(b)(41), 401.353.

**Signed November 14, 2023.**

A handwritten signature in black ink, appearing to read 'Amy Davis', is written over a horizontal line.

AMY DAVIS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS





Commission Order No. 24-0014

Date: DECEMBER 14, 2023

DOCKET NO. 362-23-07187.B

IN THE MATTER OF

VFW POST 3966 DEVINE

TAXPAYER NO. 17461715884

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BEFORE THE TEXAS

LOTTERY COMMISSION

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Charitable Bingo Operations Division (Division) of the Texas Lottery Commission (Commission) and VFW Post 3966 Devine (VFW Post 3966) 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. VFW Post 3966 is licensed by the Division as a bingo conductor under taxpayer number 17461715884.

2. VFW Post 3966 failed to timely file amended quarterly reports, failed to timely provide supplemental information, and/or failed to timely provide justification for the reported irregularities for the second quarter ending June 30, 2021 and for the first quarter ending March 31, 2022 through the second quarter ending June 30, 2023. The Division found the following irregularities:

- a. Quarterly report for the quarter ending June 30, 2021:
  - Previous quarter bingo funds balance (line 33) (\$135.00) did not match Bingo funds at end of quarter – per bank balance (line 42 on previous quarterly report) in the amount of \$2,878.00.
  - The quarterly report for the quarter ending June 30, 2021 was accurately amended on September 27, 2023.

- b. Quarterly report for the quarter ending March 31, 2022:
- Line 3b, Prize fee due to State, was reported in the amount of \$1,215.88 on the 2021-4 quarterly report, but line 28a, Prize fees paid to State on the 2022-1 quarterly report shows \$963.00.
  - Previous quarter bingo funds balance (line 33) (\$5,530.00) did not match Bingo funds at end of quarter – per bank balance (line 42 on previous quarterly report) in the amount of (\$4,930.00).
  - The quarterly report for the quarter ending March 31, 2022 was accurately amended on September 27, 2023.
- c. Quarterly report for the quarter ending June 30, 2022:
- Line 3b, Prize fee due to State, was reported in the amount of \$1,027.80 on the 2022-1 quarterly report, but line 28a, Prize fees paid to State on the 2022-2 quarterly report shows \$558.00.
  - Previous quarter bingo funds balance (line 33) (\$135.00) did not match Bingo funds at end of quarter – per bank balance (line 42 on previous quarterly report) in the amount of (\$3,729.00).
  - The quarterly report for the quarter ending June 30, 2022 was accurately amended on September 27, 2023.
- d. Quarterly report for the quarter ending September 30, 2022:
- Line 3b, Prize fee due to State, was reported in the amount of \$884.60 on the 2022-2 quarterly report, but line 28a, Prize fees paid to State on the 2022-3 quarterly report shows \$1,330.00.
  - Previous quarter bingo funds balance (line 33) (\$2,872.00) did not match Bingo funds at end of quarter – per bank balance (line 42 on previous quarterly report) in the amount of (\$2,878.00).
  - The quarterly report for the quarter ending September 30, 2022 was accurately amended on October 3, 2023.
- e. Quarterly report for the quarter ending December 31, 2022:
- Previous quarter bingo funds balance (line 33) (0) did not match Bingo funds at end of quarter – per bank balance (line 42 on previous quarterly report) in the amount of (\$5,781.00).
  - The quarterly report for the quarter ending December 31, 2022 was accurately amended on September 27, 2023.
- f. Quarterly report for the quarter ending March 31, 2023:
- Previous quarter bingo funds balance (line 33) (\$5,240.00) did not match Bingo funds at end of quarter – per bank balance (line 42 on previous quarterly report) in the amount of (\$5,781.00).
  - Line 28a, Prize fee paid to the State, of the 2023-1 quarterly report shows \$1,343.00. Line 28a should show \$1,799.33.
  - The quarterly report for the quarter ending March 31, 2023 was accurately amended on September 27, 2023.

- g. Quarterly report for the quarter ending June 30, 2023:
  - Line 3b, Prize fee due to State, was reported in the amount of \$1,266.33 on the 2023-1 quarterly report, but line 28a, Prize fees paid to State on the 2023-2 quarterly report shows \$1,271.00.
  - The quarterly report for the quarter ending June 30, 2023 was accurately amended on September 27, 2023.

3. VFW Post 3966 failed to timely submit a surety bond in the amount of \$7,030.00 as required by 16 Tex. Admin. Code §402.603. VFW Post 3966 submitted the outstanding surety bond on September 28, 2023.

### **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. VFW Post 3966 is obligated to follow the provisions of the Bingo Enabling and Act and the Charitable Bingo rules to maintain its conductor license.

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 §2001.312 states:

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

5. 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.

6. 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.

7. 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.

8. 16 Tex. Admin. Code §402.600(d)(1) states:

An authorized organization holding an annual license, temporary license, or a temporary authorization to conduct bingo must file on a form prescribed by the Commission or in an electronic format prescribed by the Commission a quarterly report for financial and statistical information relating to the conduct of bingo. The report and supplements must be filed with the Commission on or before the 25th day of the month following the end of the calendar quarter even if there were no games conducted during that quarter. Failure to file a required report or supplement by the due date may result in an administrative penalty.

9. 16 Tex. Admin. Code §402.603(a)(1) states:

(a) Bond or Other Security Required.

(1) An applicant for a regular license to conduct charitable bingo must submit security consistent with the provisions of this section. A licensed authorized organization must maintain the security until the organization ceases to conduct bingo and the license is relinquished or revoked.

10. VFW Post 3966's conductor license is subject to suspension or revocation pursuant to Tex. Occ. Code §2001.554(a), as a result of VFW Post 3966's violations of Tex. Occ. Code §§ 2001.302 and 2001.312 and 16 Tex. Admin. Code §§ 402.600(d)(1) and 402.603(a)(1).

### **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, VFW Post 3966 agrees to its 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. VFW Post 3966 agrees to pay \$200.00 as an administrative penalty within thirty (30) days of the effective date of the Order.

4. VFW Post 3966 agrees to hire a bookkeeper and provide documentation to the Division reflecting the bookkeeper hired within thirty (30) days of the effective date of the Order.

5. Jesse Rodriguez, the VFW Post 3966's bingo chairperson, agrees to retake the bingo chairperson training and provide a certificate of completion to the Division within thirty (30) days of the effective date of the Order.

6. VFW Post 3966 agrees to accurately amend all outstanding quarterly reports, provide supplemental information, and/or provide justification for the reported irregularities within thirty (30) days of the effective date of the Order.

7. VFW Post 3966 agrees to timely and accurately file all quarterly reports and all supplements, as required by the Bingo Enabling Act and the Charitable Bingo rules, for a period of one (1) year following the effective date of the Order.

8. VFW Post 3966 agrees that if it fails to comply with any requirement of this Memorandum of Agreement and Consent Order, then, upon notice by the Division, VFW Post 3966 agrees to surrender its conductor license within ten (10) days of the notice without further notice or hearing.

9. VFW Post 3966 agrees that if it is required to surrender its conductor license pursuant to the above paragraph 8 and fails to do so within ten (10) days of being notified by the Division, VFW Post 3966's conductor license will be immediately revoked without further notice or hearing.

10. VFW Post 3966 agrees this Memorandum of Agreement and Consent Order apply only to the facts and circumstances stated herein. The Commission reserves the right to take additional disciplinary action, up to and including revocation of its license, for any further violations of the Bingo Enabling Act and/or the Charitable Bingo rules.

11. VFW Post 3966 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 VFW Post 3966 by the Commission. This Memorandum of Agreement and Consent Order shall not, however, form the basis for, nor be used as, evidence against VFW Post 3966 in any future renewal applications absent other alleged violations.

AGREED AS TO FORM AND SUBSTANCE:

**VFW Post 3966 Devine**

By: *Jesse Rodriguez*  
Jesse Rodriguez, Chairperson

Date: 10/5/2023

**Texas Lottery Commission  
Charitable Bingo Operations Division**

By: *LaDonna Castañuela*  
LaDonna Castañuela, Director

Date: 10/10/2023

**Commission Order No. 24-0014**

**Date: DECEMBER 14, 2023**

**DOCKET NO. 362-23-07187.B**

**IN THE MATTER OF**

**VFW POST 3966 DEVINE  
TAXPAYER NO. 17461715884**

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§

**BEFORE THE TEXAS**

**LOTTERY COMMISSION**

**CONSENT ORDER**

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

(1) IT IS ORDERED by the Commission that VFW Post 3966 Devine (VFW Post 3966) shall pay \$200.00 as an administrative penalty within thirty (30) days of the date this Consent Order (Order) is signed by the Commission (effective date).

(2) IT IS FURTHER ORDERED by the Commission that VFW Post 3966 shall hire a bookkeeper and provide documentation to the Charitable Bingo Operations Division (Division), reflecting the bookkeeper hired within thirty (30) days of the effective date of this Order.

(3) IT IS FURTHER ORDERED by the Commission that Jesse Rodriguez, the VFW Post 3966's bingo chairperson, shall retake the bingo chairperson training and provide a certificate of completion to the Division within thirty (30) days of the effective date of this Order.

(4) IT IS FURTHER ORDERED by the Commission that VFW Post 3966 shall accurately amend all outstanding quarterly reports, provide supplemental information, and/or provide justification for the reported irregularities within thirty (30) days of the effective date of this Order.



**Commission Order No. 24-0014**

**Date: DECEMBER 14, 2023**

(5) IT IS FURTHER ORDERED by the Commission that VFW Post 3966 shall timely and accurately file all quarterly reports and all supplements, as required by the Bingo Enabling Act and the Charitable Bingo rules, for a period of one (1) year following the effective date of this Order.

(6) IT IS FURTHER ORDERED by the Commission that if VFW Post 3966 fails to comply with any requirement of this Order, then, upon notice by the Division, VFW Post 3966 shall surrender its conductor license within ten (10) days of the notice without further notice or hearing.

(7) IT IS FURTHER ORDERED by the Commission that if VFW Post 3966 is required to surrender its conductor license pursuant to the above paragraph 6 and fails to do so within ten (10) days of being notified by the Division, VFW Post 3966's conductor license shall be immediately revoked without further notice or hearing.

**Commission Order No. 24-0014**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 24-0015**

**Date: DECEMBER 14, 2023**

**Case No. 2023-840**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>JENNIFER SEALE</b>	<b>§</b>	
	<b>§</b>	
<b>BINGO WORKER REGISTRY NO. 158449</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 Jennifer Seale, Bingo Worker Registry No. 158449, 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. Jennifer Seale has been listed on the Registry of Approved Bingo Workers (Registry) since April 28, 2023. On July 7, 2023, the Commission sent Ms. Seale a Notice of Proposed Removal from the Registry and Notice of Opportunity for a Hearing, based on a disqualifying conviction, discussed below.
2. On March 6, 2014, in the 402nd Judicial District Court of Wood County, Texas, in Case No. 21,967-2013, Ms. Seale was convicted of Organized Retail Theft, \$500 or More, Less than \$1,500, state jail felony, and was sentenced to eight (8) months in the State Jail Division of the Texas Department of Criminal Justice. The date of the offense was April 25, 2013.
3. Ms. Seale has provided the Commission three letters of recommendation, including a letter from the owner and co-owner of the venue that operates Hot Shot Bingo, and a letter from

the manager of Dimensions Central Marble, the two businesses where Ms. Seale is currently employed.

### **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. Jennifer Seale is obligated to follow the provisions of the Bingo Enabling Act and the Charitable Bingo rules to maintain her bingo worker listing on the Registry.

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

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

(a) To minimize duplicate criminal history background checks by the commission and the costs incurred by organizations and individuals, the commission shall maintain a registry of individuals on whom the commission has conducted a criminal history background check and who are approved to be involved in the conduct of bingo or to act as a bingo operator.

...

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

...

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

5. Tex. Occ. Code §53.021(a) states, in pertinent part:

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

(1) an offense that directly relates to the duties and responsibilities of the licensed occupation.

6. Tex. Occ. Code §53.022 states:

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

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

7. Tex. Occ. Code §53.023 states:

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

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

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

8. 16 Tex. Admin. Code §402.702 states, in pertinent parts:

(a) The Commission shall determine, consistent with the requirements of Chapters 53 and 2001, Occupations Code, whether criminal convictions affect the eligibility of an applicant for a new or renewal license or listing in the registry of approved

bingo workers under the Bingo Enabling Act (BEA). The Director of the Charitable Bingo Operations Division (Director) shall have the authority to make such determinations pursuant to this section.

...

(c) For criminal convictions that do not fall under the categories addressed in subsection (b) of this section, the Commission may determine an applicant to be ineligible for a new or renewal license or a registry listing based on a criminal conviction for:

(1) An offense that directly relates to the duties and responsibilities of the licensed or registered activity.

...

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

...

(2) Penal Code, Chapter 31, Theft.

...

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

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

9. In accordance with Tex. Occ. Code §§ 2001.313, 53.021, 53.022 and 53.023 and 16 Tex. Admin. Code §402.702, the Commission has discretionary authority to remove Ms. Seale from the Registry.

## **MEMORANDUM OF AGREEMENT**

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

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

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



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

AGREED AS TO FORM AND SUBSTANCE:

**Jennifer Seale**

By: Jennifer Seale  
Jennifer Seale

Date: 10/11/23

**Texas Lottery Commission  
Charitable Bingo Operations Division**

By: LaDonna Castañuela  
LaDonna Castañuela, Director

Date: 10/12/2023

**Commission Order No. 24-0015**

**Date: DECEMBER 14, 2023**

**Case No. 2023-840**

**IN THE MATTER OF**

**JENNIFER SEALE**

**BINGO REGISTRY NO. 158449**

§  
§  
§  
§  
§

**BEFORE THE TEXAS**

**LOTTERY COMMISSION**

**CONSENT ORDER**

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

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

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

**Commission Order No. 24-0015**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER



**Commission Order No. 24-0016**

**Date: DECEMBER 14, 2023**

**Case No. 2023-859**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>CHARLENE MARTIN</b>	<b>§</b>	
	<b>§</b>	
<b>BINGO WORKER REGISTRY NO. 158480</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 Charlene Martin, Bingo Worker Registry No. 158480, 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. Charlene Martin has been listed on the Registry of Approved Bingo Workers (Registry) since May 5, 2023. On June 29, 2023, the Commission sent Ms. Martin a Notice of Proposed Removal from the Registry and Notice of Opportunity for a Hearing, based on a disqualifying conviction, discussed below.

2. On March 3, 2023, in the County Court at Law Number Two/Three of Bell County, Texas, in Cause No. MR2C2006037, Ms. Martin received deferred adjudication for Theft Prop  $\geq \$750 < \$2,500$ , a Class A Misdemeanor, and was placed on probation for a period of nine (9) months. The date of the offense was December 15, 2019.

3. Ms. Martin has provided the Commission three letters of recommendation, including a letter from her probation officer, a letter from the general manager of KMS, Redman

Bingo, and Jackpot Bingo, where Ms. Martin is currently employed, and a letter from the assistant general manager of KMS and Jackpot Bingo.

### **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. Charlene Martin is obligated to follow the provisions of the Bingo Enabling Act and the Charitable Bingo rules to maintain her bingo worker listing on the Registry.

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

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

(a) To minimize duplicate criminal history background checks by the commission and the costs incurred by organizations and individuals, the commission shall maintain a registry of individuals on whom the commission has conducted a criminal history background check and who are approved to be involved in the conduct of bingo or to act as a bingo operator.

...

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

...

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

5. Tex. Occ. Code §53.021 states, in pertinent part:

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

(1) an offense that directly relates to the duties and responsibilities of the licensed occupation.

...

(d) A licensing authority may consider a person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if:

(1) the person was charged with:

(A) any offense described by Article 62.001(5), Code of Criminal Procedure;  
or

(B) an offense other than an offense described by Paragraph (A) if:

(i) the person has not completed the period of supervision or the person completed the period of supervision less than five years before the date the person applied for the license; or

(ii) a conviction for the offense would make the person ineligible for the license by operation of law; and

(2) after consideration of the factors described by Sections 53.022 and 53.023(a), the licensing authority determines that:

(A) the person may pose a continued threat to public safety; or

(B) employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

6. Tex. Occ. Code §53.022 states:

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

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;

(4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and

(5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

7. Tex. Occ. Code §53.023 states:

(a) If a licensing authority determines under Section 53.022 that a criminal conviction directly relates to the duties and responsibilities of a licensed

occupation, the licensing authority shall consider the following in determining whether to take an action authorized by Section 53.021:

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

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

8. 16 Tex. Admin. Code §402.702 states, in pertinent parts:

(a) The Commission shall determine, consistent with the requirements of Chapters 53 and 2001, Occupations Code, whether criminal convictions affect the eligibility of an applicant for a new or renewal license or listing in the registry of approved bingo workers under the Bingo Enabling Act (BEA). The Director of the Charitable Bingo Operations Division (Director) shall have the authority to make such determinations pursuant to this section.

...

(c) For criminal convictions that do not fall under the categories addressed in subsection (b) of this section, the Commission may determine an applicant to be ineligible for a new or renewal license or a registry listing based on a criminal conviction for:

- (1) An offense that directly relates to the duties and responsibilities of the licensed or registered activity.

...

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

...

- (2) Penal Code, Chapter 31, Theft.

...

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



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

9. In accordance with Tex. Occ. Code §§ 2001.313, 53.021, 53.022 and 53.023 and 16 Tex. Admin. Code §402.702, the Commission has discretionary authority to remove Ms. Martin from the Registry.

### **MEMORANDUM OF AGREEMENT**

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

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

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

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

AGREED AS TO FORM AND SUBSTANCE:

**Charlene Martin**

By: Charlene Martin  
Charlene Martin

Date: 10/12/23

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

By: LaDonna Castañuela  
LaDonna Castañuela, Director

Date: 10/16/2023

**Commission Order No. 24-0016**

**Date: DECEMBER 14, 2023**

**Case No. 2023-859**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>CHARLENE MARTIN</b>	<b>§</b>	
	<b>§</b>	
<b>BINGO REGISTRY NO. 158480</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, in lieu of removal of Charlene Martin from the Registry of Approved Bingo Workers (Registry), Ms. Martin shall not act as a bingo chairperson, manager, operator, bookkeeper, cashier or designated agent for a licensed bingo conductor for a period of three (3) years from the date this Consent Order (Order) is signed by the Commission. Ms. Martin may deliver prize money and sell bingo cards and pull-tabs as an usher or salesperson, but she shall not be responsible for recording those transactions.

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

**Commission Order No. 24-0016**

**Date: DECEMBER 14, 2023**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 14<sup>TH</sup> day of DECEMBER 2023.

Entered this 14<sup>TH</sup> day of DECEMBER 2023.

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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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CLARK E. SMITH, COMMISSIONER

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JAMES H. C. STEEN, COMMISSIONER