





# INTEROFFICE MEMO

*Ryan Mindell, 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 

**Date:** June 6, 2024

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

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



Date: JUNE 6, 2024

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

**ORDER OF THE COMMISSION**

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the license revocation cases listed on Attachment A hereto, in which the Texas Lottery Ticket Sales Agent (Respondent) in each referenced case did not appear at the scheduled hearing before the State Office of Administrative Hearings (SOAH) to respond to the allegations set forth in the Commission's notice of hearing.

**I. Findings of Fact**

1. Timely and adequate notice of the hearings in the referenced cases before SOAH was provided to each Respondent, pursuant to Tex. Gov't Code §§ 2001.051 and 2001.052, and 1 Tex. Admin. Code §§ 155.401 and 155.501(b). Each notice of hearing included a disclosure in at least 12-point, bold-face type, that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against the party that fails to appear at hearing.

2. After timely and adequate notice was given in each case, each case was heard by a SOAH Administrative Law Judge (ALJ). In each case, the Respondent did not appear at the hearing.

3. The Commission, by and through its attorney of record, filed a motion in each case requesting the ALJ issue a conditional order of default dismissal and remand to the Commission for informal disposition, in accordance with Tex. Gov't Code §2001.058(d-1) and 1 Tex. Admin. Code §155.501(d)-(e).

**Date: JUNE 6, 2024**

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. 24-0034**

**Date: JUNE 6, 2024**

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 6<sup>TH</sup> day of JUNE 2024.

Entered this 6<sup>TH</sup> day of JUNE 2024.

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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: **JUNE 6, 2024**

**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.	362-24-10316	El Mercadito Corner Store LLC d/b/a El Mercadito Corner Store LLC	4709 Swan Dr. El Paso, TX 79922	192766
B.	362-24-11208	786 SSM LLC d/b/a SSM Quickstop	6942 Green Embers Ln. Richmond, TX 77469	193463
C.	362-24-12670	A2V LLC d/b/a 24/7 Food Mart	506 Dominion Dr. Euless, TX 76039	183930
D.	362-24-12671	Rancho Viejo Market LLC d/b/a Rancho Viejo Market	101 Carmen Ave., Ste. B Rancho Viejo, TX 78575	183954
E.	362-24-13235	Saphire Trading LLC d/b/a New Dairy Way 2	1800 N. Galloway Ste. 200 Mesquite, TX 75149	189553
F.	362-24-13237	Pak Nepal LLC d/b/a Country Express	500 WL Doc Dodson E. Naples, TX 75568	179492
G.	362-24-13746	West Main Market LLC d/b/a West Main Market	1203 W. Main St. Tomball, TX 77375	193552
H.	362-24-14371	Dankira LLC d/b/a Dankira LLC	2120 N. St. Augustine Rd., Ste. 130 Dallas, TX 75227	193862
I.	362-24-14945	Snapo Mart Inc. d/b/a Snapo Mart	2613 S. Lancaster Rd. Dallas, TX 75216	185236





FILED  
362-24-10316  
3/14/2024 1:57 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK

ACCEPTED  
362-24-10316  
3/14/2024 2:36:30 pm  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK

**SOAH Docket No. 362-24-10316**

**Suffix: TLC**

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

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
v.  
EL MERCADITO CORNER STORE LLC DBA EL MERCADITO  
CORNER STORE LLC,  
RESPONDENT**

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## **DEFAULT DISMISSAL ORDER**

On March 14, 2024, 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 (Commission). El Mercadito Corner Store LLC d/b/a El Mercadito Corner Store LLC (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted showing proof of adequate notice to Respondent.<sup>1</sup> Upon establishing adequate notice, Staff moved for a default

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

dismissal. Staff's motion is **GRANTED**, and the factual allegations detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.<sup>2</sup>

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

**Signed MARCH 14, 2024.**

ALJ Signature:

A handwritten signature in cursive script, reading "Katerina DeAngelo", is written over a horizontal line.

Katerina DeAngelo

Presiding Administrative Law Judge

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

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

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



SOAH Docket No. 362-24-11208

Suffix: TLC

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# BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

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TEXAS LOTTERY COMMISSION,  
PETITIONER  
v.  
786 SSM LLC D/B/A SSM QUICKSTOP,  
RESPONDENT

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## ORDER GRANTING MOTION FOR DEFAULT

On March 21, 2024, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Tyler Vance appeared on behalf of the staff (Staff) of the Texas Lottery Commission. 786 SSM d/b/a SSM Quickstop (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted and demonstrated adequate notice to Respondent.<sup>1</sup> Thereafter, Staff moved for a default dismissal. Staff's motion is

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

**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> Such 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 MARCH 21, 2024.**



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Heather D. Hunziker

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).



**SOAH Docket No. 362-24-12670**

**Suffix: TLC**

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**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
V.  
A2V LLC D/B/A 24/7 FOOD MART,  
RESPONDENT**

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**DEFAULT DISMISSAL ORDER**

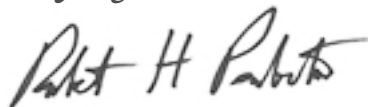
On April 11, 2024, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Kyle Wolfe appeared on behalf of the staff (Staff) of the Texas Lottery Commission. A2V LLC d/b/a 24/7 Food Mart (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted, and the ALJ took official notice of SOAH's file in this case, including specifically the March 1, 2024, Order Upholding Summary Suspension, 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 APRIL 11, 2024**

ALJ Signature:



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Robert Pemberton

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  
362-24-12671  
4/11/2024 12:35 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK**SOAH Docket No. 362-24-12671****Suffix: TLC**

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

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**TEXAS LOTTERY COMMISSION,  
PETITIONER**

**V.**

**RANCHO VIEJO MARKET LLC D/B/A RANCHO VIEJO MARKET,  
RESPONDENT**

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## **DEFAULT DISMISSAL ORDER**

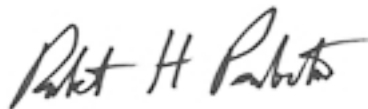
On April 11, 2024, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Kyle Wolfe appeared on behalf of the staff (Staff) of the Texas Lottery Commission. Rancho Viejo Market Inc. d/b/a Rancho Viejo Market (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted, and the ALJ took official notice of SOAH's file in this case, including specifically the March 1, 2024, Order Upholding Summary Suspension, 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 APRIL 11, 2024**

ALJ Signature:



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Robert Pemberton

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  
362-24-13235  
4/19/2024 8:42 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Julian Jaramillo, CLERK

ACCEPTED  
362-24-13235  
4/19/2024 8:45:10 am  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Julian Jaramillo, CLERK

**SOAH Docket No. 362-24-13235**

**Suffix: TLC**

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

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**TEXAS LOTTERY COMMISSION,  
PETITIONER**

**V.**

**SAPHIRE TRADING LLC D/B/A NEW DAIRY WAY 2,  
RESPONDENT**

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## **DISMISSAL ORDER**

On April 18, 2024, the Administrative Law Judge 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. Rajeevan Krishnan appeared on behalf of Sapphire Trading LLC d/b/a New Dairy Way 2 (Respondent) and requested to waive the hearing. Staff Exhibits 1, 2, and 3 were admitted, and Staff moved for dismissal. Staff's motion was **GRANTED**. This case is **DISMISSED** from the docket of the State Office of Administrative Hearings and

remanded to the Commission for informal disposition in accordance with the Administrative Procedure Act.<sup>1</sup>

**SIGNED April 18, 2024.**

ALJ Signature:

A handwritten signature in cursive script, appearing to read "Cassandra Quinn", is written over a horizontal line.

Cassandra Quinn

Presiding Administrative Law Judge

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<sup>1</sup> Tex. Gov't Code § 2001.056.



FILED  
362-24-13237  
4/19/2024 11:22 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK

ACCEPTED  
362-24-13237  
4/19/2024 11:24:43 am  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK

**SOAH Docket No. 362-24-13237**

**Suffix: TLC**

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

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
V.  
PAK NEPAL LLC D/B/A COUNTRY EXPRESS,  
RESPONDENT**

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## **DEFAULT DISMISSAL ORDER**

On April 18, 2024, 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. Pak Nepal LLC d/b/a Country Express (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted and demonstrated 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

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

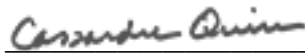


the Notice of Hearing and the documents incorporated within that notice are deemed admitted.<sup>2</sup>

**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 Commission for informal disposition on a default basis in accordance with the Administrative Procedure Act.<sup>4</sup>

**SIGNED April 19, 2024.**

ALJ Signature:



Cassandra Quinn

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).



SOAH Docket No. 362-24-13746

Suffix: TLC

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# BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

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TEXAS LOTTERY COMMISSION,  
PETITIONER

V.

WEST MAIN MARKET LLC D/B/A WEST MAIN MARKET,  
RESPONDENT

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## ORDER GRANTING MOTION FOR DEFAULT

On April 25, 2024, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. 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 Respondent. Upon establishing adequate notice, Staff moved for a default dismissal. Staff’s motion is **GRANTED**, and the factual allegations

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

detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.<sup>2</sup>

**Respondent may file a motion to set aside the default within 15 days of the date of this order.**<sup>3</sup> The motion must show good cause for resetting a hearing or show that the interests of justice require setting aside the default. If Respondent does not file a timely motion, 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 APRIL 26, 2024**



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Rachelle Nicolette Robles  
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).



**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
v.  
DANKIRA LLC DBA DANKIRA LLC,  
RESPONDENT**

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**DEFAULT DISMISSAL ORDER**

On May 2, 2024, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Kyle Wolf appeared on behalf of the staff (Staff) of the Texas Lottery Commission. Dankira LLC d/b/a Dankira LLC (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 upholding summary suspension 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 MAY 3, 2024.**

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).





**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS LOTTERY COMMISSION,  
PETITIONER  
V.  
SNAPO MART INC DBA SNAPO MART,  
RESPONDENT**

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**DEFAULT DISMISSAL ORDER**

On May 9, 2024, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Tyler Vance appeared on behalf of the staff (Staff) of the Texas Lottery Commission. SNAPO Mart Inc DBA SNAPO Mart (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted. Collectively, these exhibits and 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

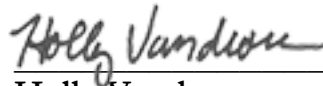
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<sup>1</sup> 1 Tex. Admin. Code § 155.501(b).

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 May 10, 2024**



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Holly Vandrovec  
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).



**Commission Order No. 24-0035**

**Date: JUNE 6, 2024**

**SOAH Docket No. 362-24-10081**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>ATKINSON EXPRESS INC.</b>	<b>§</b>	
<b>D/B/A BIG'S 3817</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 179982</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Atkinson Express Inc. d/b/a Big's 3817 (Big's 3817) 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. Big's 3817 holds Texas Lottery Ticket Sales Agent License No. 179982.
2. Noor Ali is the vice president of Big's 3817, which is located at 3122 Atkinson Dr., Lufkin, TX 75901.
3. On May 14, 2022, the Commission received a complaint that Big's 3817 sold a Texas Lottery scratch ticket that had been partially scratched. The Commission initiated an investigation into this complaint.
4. On June 1, 2022, Joyce Anderson, Big's 3817 manager, informed a Commission investigator that she reviewed store surveillance video and determined that Bernard White, a Big's 3817 employee, had partially scratched multiple lottery scratch tickets to identify winning tickets. Ms. Anderson also provided the investigator with the partially scratched tickets.
5. After Big's 3817 became aware of the partially scratched tickets, it terminated Mr. White's employment.

## **AGREED CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (State Lottery Act) and 16 Tex. Admin. Code ch. 401 (Commission rules).
2. Big's 3817 is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.
3. Tex. Gov't Code §466.155(a) states, in pertinent part:

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

...

(5) has violated this chapter or a rule adopted under this chapter.
4. Tex. Gov't Code §466.307(a) states:

A person commits an offense if the person intentionally or knowingly influences or attempts to influence the selection of the winner of a lottery game.
5. 16 Tex. Admin. Code §401.158(b) states, in pertinent part:

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

...

(30) licensee intentionally or knowingly influences or attempts to influence the selection of a winner of a lottery game.
6. 16 Tex. Admin. Code §401.366 states:

Each retailer agrees to operate in a manner consistent with the State Lottery Act, applicable federal laws, Texas laws, local ordinances, with all terms and conditions related to the retailer's license, with all requirements set forth in the most recent Retailer Manual, the rules and regulations promulgated by the commission, and with his/her or its license from the Texas Lottery.
7. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity,

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

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

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

10. The Texas Lottery Ticket Sales Agent License of Big’s 3817 is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of Big’s 3817’s violation of Tex. Gov’t Code §466.307(a) and 16 Tex. Admin. Code §§ 401.158(b)(30) and 401.366.

### **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, Big’s 3817 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. Big's 3817 agrees that, as a result of its violation of Tex. Gov't Code §466.307(a) and 16 Tex. Admin. Code §§ 401.158(b)(30) and 401.366, its Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date the Order is signed by the Commission. During the period of suspension, Big's 3817 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, Big's 3817 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 Big's 3817's Ticket Sales Agent License is posted.

5. Big's 3817 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 Big's 3817's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Big's 3817 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. Big's 3817 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 Big's 3817 has failed to

comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Big's 3817, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Big's 3817 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 Big's 3817 will be charged for tickets sold on or before that date. Big's 3817 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:

Atkinson Express Inc.  
d/b/a Big's 3817

Texas Lottery Commission  
Lottery Operations Division

By:



5/21/2024

Noor Ali  
Vice President

DATE

By:



5/21/2024

Robert Tirloni  
Director

DATE



**Commission Order No. 24-0035**

**Date: JUNE 6, 2024**

**SOAH Docket No. 362-24-10081**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>ATKINSON EXPRESS INC.</b>	<b>§</b>	
<b>D/B/A BIG'S 3817</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 179982</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 Atkinson Express Inc. d/b/a Big's 3817 (Big's 3817), the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order (Order) is signed by the Commission. During the period of suspension, Big's 3817 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, Big's 3817 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 Big's 3817's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 24-0035**

**Date: JUNE 6, 2024**

(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 Big's 3817 has failed to comply with the terms of this Order, disciplinary action shall be taken against Big's 3817, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Big's 3817 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 Big's 3817 will be charged for the tickets sold on or before that date. Big's 3817 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. 24-0035**

**Date: JUNE 6, 2024**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 6<sup>TH</sup> day of JUNE, 2024.

Entered this 6<sup>TH</sup> day of JUNE, 2024.

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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. 24-0036**

**Date: JUNE 6, 2024**

**Case No. 2024-267**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>TIGER MAI KHANH LLC</b>	<b>§</b>	
<b>D/B/A SHELBY’S LIQUOR II</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 180437</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Tiger Mai Khanh LLC d/b/a Shelby’s Liquor II (Shelby’s Liquor) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

**AGREED FINDINGS OF FACT**

1. Shelby’s Liquor holds Texas Lottery Ticket Sales Agent License No. 180437.
2. Mai Pham is a managing member of Shelby’s Liquor, which is located at 515 S. Fry. Rd., Ste. U, Katy, TX 77450.
3. On July 16, 2023, the Commission received a complaint that Shelby’s Liquor charged a fee to purchase Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On August 8, 2023, a Commission investigator attempted to purchase a lottery ticket with a debit card at Shelby’s Liquor. Txu Nguyen, a Shelby’s Liquor employee, told the investigator that he had to purchase other store merchandise to buy lottery tickets with a debit card.

**AGREED CONCLUSIONS OF LAW**

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

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

3. Tex. Gov't Code §466.155(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.

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 Shelby’s Liquor is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of Shelby’s Liquor’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, Shelby’s Liquor 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. Shelby's Liquor 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, Shelby's Liquor agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

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

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

7. Shelby's Liquor agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Shelby's Liquor has failed



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

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

AGREED AS TO FORM AND SUBSTANCE:

Tiger Mai Khanh LLC  
d/b/a Shelby's Liquor II

Texas Lottery Commission  
Lottery Operations Division

By:

*Mai Pham*

5/22/2024

Mai Pham  
Managing Member

DATE

By:

*Robert Tirloni*

5/22/2024

Robert Tirloni  
Director

DATE

**Commission Order No. 24-0036**

**Date: JUNE 6, 2024**

**Case No. 2024-267**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>TIGER MAI KHANH LLC</b>	<b>§</b>	
<b>D/B/A SHELBY’S LIQUOR II</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 180437</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 Tiger Mai Khanh LLC d/b/a Shelby’s Liquor II (Shelby’s Liquor), 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, Shelby’s Liquor shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

**Commission Order No. 24-0036**

**Date: JUNE 6, 2024**

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

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

**Commission Order No. 24-0036**

**Date: JUNE 6, 2024**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 6<sup>TH</sup> day of JUNE, 2024.

Entered this 6<sup>TH</sup> day of JUNE, 2024.

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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. 24-0037**

**Date: JUNE 6, 2024**

**Case No. 2024-269**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>HEMPHILL EXPRESS MART LLC</b>	<b>§</b>	
<b>D/B/A HEMPHILL EXPRESS MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 193158</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Hemphill Express Mart LLC d/b/a Hemphill Express Mart (Hemphill Express 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. Hemphill Express Mart holds Texas Lottery Ticket Sales Agent License No. 193158.
2. Anish Manjani is the managing member of Hemphill Express Mart, which is located at 5408 State Highway 21 E, Hemphill, TX 75948.
3. On August 7, 2023, the Commission received a complaint that Hemphill Express Mart required customers to purchase other store merchandise when purchasing Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On September 5, 2023, a Commission investigator attempted to purchase Texas Lottery tickets at Hemphill Express Mart with a debit card. The investigator was told by Chipanjeevi Ramgoni, a Hemphill Express Mart employee, that she had to purchase other store merchandise to buy lottery tickets with a debit card.

## AGREED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 466 (State Lottery Act) and 16 Tex. Admin. Code ch. 401 (Commission rules).
2. Hemphill Express 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.
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 Hemphill Express Mart is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of Hemphill Express Mart’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, Hemphill Express 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. Hemphill Express 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 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, Hemphill Express 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, Hemphill Express 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 Hemphill Express Mart's Ticket Sales Agent License is posted.

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

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

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

Hemphill Express Mart LLC  
d/b/a Hemphill Express Mart

Texas Lottery Commission  
Lottery Operations Division

By:



4/22/2024

Anish Manjani  
President

DATE

By:



4/25/2024

Robert Tirloni  
Director

DATE

**Commission Order No. 24-0037**

**Date: JUNE 6, 2024**

**Case No. 2024-269**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>HEMPHILL EXPRESS MART LLC</b>	<b>§</b>	
<b>D/B/A HEMPILL EXPRESS MART</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 193158</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 Hemphill Express Mart LLC d/b/a Hemphill Express Mart (Hemphill Express 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, Hemphill Express 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, Hemphill Express 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 Hemphill Express Mart's Texas Lottery Ticket Sales Agent License is posted.

**Commission Order No. 24-0037**

**Date: JUNE 6, 2024**

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

(4) IT IS FURTHER ORDERED by the Commission that Hemphill Express 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 Hemphill Express Mart will be charged for the tickets sold on or before that date. Hemphill Express 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. 24-0037**

**Date: JUNE 6, 2024**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 6<sup>TH</sup> day of JUNE, 2024.

Entered this 6<sup>TH</sup> day of JUNE, 2024.

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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. 24-0038**

**Date: JUNE 6, 2024**

**Case No. 2024-159**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>JENNIFER NUNO</b>	<b>§</b>	
	<b>§</b>	
<b>BINGO WORKER REGISTRY NO. 122762</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 Nuno, Bingo Worker Registry No. 122762, 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 Nuno has been listed on the Registry of Approved Bingo Workers (Registry) since July 7, 2020. On November 8, 2023, the Commission sent Ms. Nuno a Notice of Proposed Removal from the Registry and Notice of Opportunity for a Hearing based on a disqualifying criminal offense.

2. On July 2, 2015, in the District Court of Montgomery County, Texas, 221st Judicial District, in Cause No. 15-04-03405-CR, Ms. Nuno received deferred adjudication for Forgery, a state jail felony, and was placed on probation for a period of four (4) years. The date of the offense was December 9, 2014.

3. Ms. Nuno has provided the Commission three letters of recommendation: a letter from her supervisor and assistant director at Hospital Housekeeping Systems (HHS), where Ms. Nuno is currently employed, a letter from an administrative assistant at HHS, and a letter from the bingo chairperson of American Legion Unit 618 Aux., where Ms. Nuno 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 Administrative Rules).

2. Jennifer Nuno is obligated to follow the provisions of the Bingo Enabling Act and the Charitable Bingo Administrative 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:

...

(d) For offenses that do not fall under subsection (b) or (c) of this section, such as offenses for which a person pleaded nolo contendere and/or received deferred adjudication and court supervision, and except as provided in subsection (a) of this section, the Commission may apply the provisions of Chapter 53, Occupations Code, to determine whether or not the applicant is eligible for a new or renewal license, or registry listing, under the BEA. For purposes of applying Chapter 53, the Commission may consider an applicant's deferred adjudication for a gambling or gambling-related offense, or a criminal fraud offense, to be a conviction in accordance with §53.021(d), Occupations Code.

...

(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. Nuno from the Registry.

## **MEMORANDUM OF AGREEMENT**

1. By signing this Memorandum of Agreement, Jennifer Nuno 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. Nuno 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. Nuno 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. Nuno 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. Nuno from the Registry, for any further violations of the Bingo Enabling Act and/or the Charitable Bingo rules.

5. Ms. Nuno 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. Nuno in any future Registry renewal applications absent other alleged violations.

6. Ms. Nuno 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. Nuno has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action will be taken against Ms. Nuno, up to and including removal of Ms. Nuno from the Registry.

AGREED AS TO FORM AND SUBSTANCE:

**Jennifer Nuno**

By:   
Jennifer Nuno

Date: 4/16/2024

**Texas Lottery Commission  
Charitable Bingo Operations Division**

By:   
LaDonna Castañuela, Director

Date: 4/17/2024

**Commission Order No. 24-0038**

**Date: JUNE 6, 2024**

**Case No. 2024-159**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>JENNIFER NUNO</b>	<b>§</b>	
	<b>§</b>	
<b>BINGO WORKER REGISTRY NO. 122762</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 Jennifer Nuno from the Registry of Approved Bingo Workers (Registry), Ms. Nuno 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. Nuno 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. Nuno has failed to comply with the terms of this Order, disciplinary action shall be taken against Ms. Nuno, up to and including removal of Ms. Nuno from the Registry.

**Commission Order No. 24-0038**

**Date: JUNE 6, 2024**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,  
Texas, on the 6<sup>TH</sup> day of JUNE, 2024.

Entered this 6<sup>TH</sup> day of JUNE, 2024.

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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