




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: October 29, 2024

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

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

Date: OCTOBER 29, 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: OCTOBER 29, 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. 25-0006

Date: OCTOBER 29, 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 29TH day of OCTOBER 2024.

Entered this 29TH day of OCTOBER 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Date: OCTOBER 29, 2024

ATTACHMENT A

TAB NO.	SOAH DOCKET NO.	TICKET SALES AGENT NAME	TICKET SALES AGENT ADDRESS	LOTTERY LICENSE NO.
A.	362-24-20030	Pradhumna Gautam d/b/a Adhiguru	6411 Great Trinity Forest Way Dallas, TX 75217	195020
B.	362-24-20031	Textemp Inc. d/b/a Stop N Go	619 S. 1 st St. Temple, TX 76504	195458
C.	362-24-20905	Aris Inc. LLC d/b/a Sunshine Mart	1118 W. Gentry Pkwy. Tyler, TX 75702	195513
D.	362-24-21303	American Nour Inc. d/b/a MA Food and Gas	6134 W. U.S. Hwy. 290 Service Rd. Austin, TX 78735	188822
E.	362-24-21620	Favaez Enterprises4 LLC d/b/a Tex Mex Food Mart	10607 Pommel Ln. Richmond, TX 77407	192914
F.	362-24-22058	4 Star BDSJ Inc. d/b/a Happy Liquor	3638 Telford Ln. Missouri City, TX 77459	191735
G.	362-24-22553	Emanuel Dreams, LLC d/b/a Mr. Lube	8867 County Rd. 424 Navasota, TX 77868	193710
H.	362-24-24187	Ganaraj LLC d/b/a Gaston Paradise	1216 Rebecca Ln. Saginaw, TX 76131	195539
I.	362-24-24577	MT Foodmart, LLC d/b/a Placedo Mini Mart	2207 N. Ben Jordan St. Victoria, TX 77901	193811

FILED
362-24-20030
7/25/2024 10:29 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Amy Robles, CLERK

ACCEPTED
362-24-20030
7/25/2024 10:32:50 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Amy Robles, CLERK

SOAH Docket No. 362-24-20030

Suffix: TLC

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS LOTTERY COMMISSION,
PETITIONER
V.
PRADHUMNA GAUTAM D/B/A ADHIGURU,
RESPONDENT**

DEFAULT DISMISSAL ORDER

On July 25, 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. Pradhumna Gautam d/b/a Adhiguru (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted. Collectively, these exhibits showed proof of adequate notice to Respondent.¹ Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion was


¹ 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.²

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

Signed July 25, 2024

ALJ Signature:

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

Brent McCabe

Presiding Administrative Law Judge

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS LOTTERY COMMISSION,
PETITIONER
V.
TEXTEMP INC DBA STOP N GO,
RESPONDENT**

DEFAULT DISMISSAL ORDER

On August 22, 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 Commission. Respondent appeared but did not oppose the default dismissal. Staff Exhibits 1, 2, and 3 were admitted, and the ALJ took official notice of SOAH's file in this case, which demonstrated adequate notice to Respondent.¹ Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion was **GRANTED**, and the factual allegations detailed in the

¹ 1 Tex. Admin. Code § 155.501(b).

Notice of Hearing and the documents incorporated within that notice are deemed admitted.²

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

Signed August 22, 2024



Christiaan Siano

Presiding Administrative Law Judge

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

FILED
362-24-20905
8/9/2024 11:32 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Amy Robles, CLERK

ACCEPTED
362-24-20905
8/9/2024 11:33:46 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Amy Robles, CLERK

SOAH Docket No. 362-24-20905

Suffix: TLC

BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

DEFAULT DISMISSAL ORDER

On August 8, 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. Aris Inc LLC dba Sunshine Mart (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 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.¹ 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.²

Respondent may file a motion to set aside the default within 15 days of the date of this order.³ The motion must show good cause for resetting a hearing or show that the interests of justice require setting aside the default. If Respondent does not file a timely motion, 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.⁴

Signed AUGUST 9, 2024



AMY DAVIS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

¹ 1 Tex. Admin. Code § 155.501(b).

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS LOTTERY COMMISSION,
PETITIONER
v.
AMERICAN NOUR INC DBA MA FOOD AND GAS,
RESPONDENT**

ORDER GRANTING MOTION FOR DEFAULT

On August 15, 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. American Nour, Inc. d/b/a MA Food and Gas (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 July 3, 2024 Order Upholding Summar 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.¹ 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.²

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

Signed AUGUST 16, 2024.

ALJ Signature:



Megan Johnson

Presiding Administrative Law Judge

¹ 1 Tex. Admin. Code § 155.501(b).

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS LOTTERY COMMISSION,
PETITIONER
V.
FAVAEZ ENTERPRISES⁴ LLC DBA TEX MEX FOOD MART,
RESPONDENT**

DEFAULT DISMISSAL ORDER

On August 22, 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. 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 which demonstrated adequate notice to Respondent.¹ Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion was **GRANTED**, and the factual

¹ 1 Tex. Admin. Code § 155.501(b).

allegations detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.²

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

Signed August 22, 2024



Christiaan Siano

Presiding Administrative Law Judge

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

SOAH Docket No. 362-24-22058

Suffix: TLC

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

ACCEPTED
362-24-22058
8/29/2024 1:33:31 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

FILED
362-24-22058
8/29/2024 1:27 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

**TEXAS LOTTERY COMMISSION,
PETITIONER
V.
4 STAR BDSJ INC DBA HAPPY LIQUOR,
RESPONDENT**

DEFAULT DISMISSAL ORDER

On August 29, 2024, the undersigned 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. 4 Star BDSJ Inc. d/b/a Happy Liquor (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted, which established adequate notice to Respondent.¹ Based on this evidence, Staff moved for a default dismissal. Staff's motion was **GRANTED**, and the factual

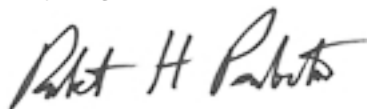
¹ 1 Tex. Admin. Code § 155.501(b).

allegations detailed in the Notice of Hearing and any documents incorporated within that notice are deemed admitted.²

Respondent may file a motion to set aside the default within 15 days of the date of this order.³ The motion must show good cause for resetting a hearing or show that the interests of justice require setting aside the default. If Respondent does not file a timely motion, 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.⁴

Signed AUGUST 29, 2024

ALJ Signature:



Robert Pemberton

Presiding Administrative Law Judge

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

SOAH Docket No. 362-24-22553

Suffix: TLC

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

FILED
362-24-22553
9/12/2024 11:42 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

**TEXAS LOTTERY COMMISSION,
PETITIONER
v.
EMANUEL DREAMS, LLC DBA MR. LUBE,
RESPONDENT**

ACCEPTED
362-24-22553
9/12/2024 11:50:13 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

DEFAULT DISMISSAL ORDER

On September 12, 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. Emanuel Dreams, LLC dba Mr. Lube (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted, Joel Garza testified on behalf of Staff regarding Respondent's email address, and the ALJ took official notice of SOAH's file in this case, including specifically the September 6, 2024 Order Continuing Hearing which set the hearing by Zoom videoconference and provided instructions for participating in the hearing.

Collectively, the testimony, exhibits, and order showed proof of adequate notice to Respondent.¹ 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.²

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

Signed SEPTEMBER 12, 2024



Meitra Farhadi
Presiding Administrative Law Judge

¹ 1 Tex. Admin. Code § 155.501(b).

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

FILED
362-24-24187
9/27/2024 11:39 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Amy Robles, CLERK

ACCEPTED
362-24-24187
9/27/2024 11:43:10 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Amy Robles, CLERK

SOAH Docket No. 362-24-24187

Suffix: TLC

BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

**TEXAS LOTTERY COMMISSION,
PETITIONER
V.
GANARAJ LLC DBA GASTON PARADISE,
RESPONDENT**

DEFAULT DISMISSAL ORDER

On September 26, 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). 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.¹ Staff moved for a default dismissal. Staff's motion was **GRANTED**,

¹ 1 Tex. Admin. Code § 155.501(b).

and the factual allegations detailed in the Notice of Hearing and the documents incorporated therein are deemed admitted.²

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

Signed September 27, 2024

ALJ Signature:



Cassandra Quinn

Presiding Administrative Law Judge

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

SOAH Docket No. 362-24-24577

Suffix: TLC

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

ACCEPTED
362-24-24577
10/3/2024 1:25:07 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

FILED
362-24-24577
10/3/2024 1:23 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

**TEXAS LOTTERY COMMISSION,
PETITIONER
V.
MT FOODMART, LLC D/B/A PLACEDO MINI MART,
RESPONDENT**

DEFAULT DISMISSAL ORDER

On October 3, 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. MT Foodmart, LLC d/b/a Placedo Mini Mart (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1, 2, and 3 were admitted, which established adequate notice to Respondent.¹ Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion was

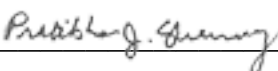
¹ 1 Tex. Admin. Code § 155.501(b).

GRANTED, and the factual allegations detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.²

Respondent may file a motion to set aside the default within 15 days of the date of this order.³ The motion must show good cause for resetting a hearing or show that the interests of justice require setting aside the default. If Respondent does not file a timely motion, 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.⁴

Signed October 3, 2024

ALJ Signature:

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

Pratibha J. Shenoy

Administrative Law Judge

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

Commission Order No. 25-0007

Date: OCTOBER 29, 2024

Docket No. 362-24-13399

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ALAA INC.	§	
D/B/A SPEEDY MINI MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184661	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and ALAA Inc. d/b/a Speedy Mini Mart (Speedy Mini Mart) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Speedy Mini Mart holds Texas Lottery Ticket Sales Agent License No. 184661.
2. Mazen Al Nemry is the president of Speedy Mini Mart, which is located at 2901 Arkansas Ln., Grand Prairie, TX 75052.
3. On February 3, 2023, the Commission received a complaint that Speedy Mini Mart charged a fee for using a debit card to purchase Texas Lottery tickets. The Commission initiated an investigation into this complaint.
4. On February 13, 2023, Lina Alrabadi, a Speedy Mini Mart employee, charged a Commission investigator an additional \$.25 for a debit card purchase of a lottery ticket.

AGREED CONCLUSIONS OF LAW

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

2. Speedy Mini Mart is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

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

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

...

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

4. 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 Speedy Mini Mart is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of Speedy Mini 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, Speedy Mini Mart agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Consent Order (Order) consistent with the terms of this Memorandum of Agreement,

including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

2. The effective date of this Memorandum of Agreement and Consent Order shall be the date the Order is signed by the Commission.

3. Speedy Mini 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, Speedy Mini Mart agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

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

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

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

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

AGREED AS TO FORM AND SUBSTANCE:

ALAA Inc.
d/b/a Speedy Mini Mart

Texas Lottery Commission
Lottery Operations Division

By:



Mazen Al Nemry
President

October 9, 2024

DATE

By:



Robert Tirloni
Director

10/9/2024

DATE

Commission Order No. 25-0007

Date: OCTOBER 29, 2024

Docket No. 362-24-13399

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ALAA INC.	§	
D/B/A SPEEDY MINI MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184661	§	LOTTERY COMMISSION

CONSENT ORDER

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

(1) IT IS ORDERED by the Commission that, in lieu of revocation of the Texas Lottery Ticket Sales Agent License of ALAA Inc. d/b/a Speedy Mini Mart (Speedy Mini Mart), the license is suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order (Order) is signed by the Commission. During the period of suspension, Speedy Mini Mart shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

Commission Order No. 25-0007

Date: OCTOBER 29, 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 Speedy Mini Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against Speedy Mini Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

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

Commission Order No. 25-0007

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0008

Date: OCTOBER 29, 2024

Docket No. 362-24-24459

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
CHAR BROTHERS INC.	§	LOTTERY COMMISSION
D/B/A CAT CORNER	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 186610	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Char Brothers Inc. d/b/a Cat Corner (Cat Corner) 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. Cat Corner holds Texas Lottery Ticket Sales Agent License No. 186610.
2. Shamsudin Charolia is the president of Cat Corner, which is located at 101 E. Walker St., League City, TX 77573.
3. On February 21, 2024, the Commission received a complaint that Cat Corner extended \$70 in credit for the purchase of lottery tickets. The Commission initiated an investigation into this complaint.
4. On February 27, 2024, Mr. Charolia admitted to a Commission investigator that he extended \$70 in credit to enable a store customer to buy Texas 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. Cat Corner 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 §466.305(a) states:

A sales agent or an employee of a sales agent commits an offense if the person intentionally or knowingly sells a ticket to another person by extending credit or lending money to the person to enable the person to purchase the ticket.

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:

...

(25) licensee intentionally or knowingly sells a ticket by extending credit or lends money to enable a person to buy a ticket....

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 Cat Corner is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Cat Corner's violation of Tex. Gov't Code §466.305(a) and 16 Tex. Admin. Code §§ 401.158(b)(25) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Cat Corner 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. Cat Corner agrees that, as a result of its violation of Tex. Gov't Code §466.305(a) and 16 Tex. Admin. Code §§ 401.158(b)(25) 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, Cat Corner 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, Cat Corner 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 Cat Corner's Ticket Sales Agent License is posted.

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

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

8. Cat Corner 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 Cat Corner will be charged for tickets sold on or before that date. Cat Corner 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:

Char Brothers Inc.
d/b/a Cat Corner

Texas Lottery Commission
Lottery Operations Division

By:

By:

Shamsudin Charolia 9/5/24
Shamsudin Charolia DATE
President

Robert Tirloni 9/6/2024
Robert Tirloni DATE
Director

Commission Order No. 25-0008

Date: OCTOBER 29, 2024

Docket No. 362-24-24459

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
CHAR BROTHERS INC.	§	LOTTERY COMMISSION
D/B/A CAT CORNER	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 186610	§	
		<u>CONSENT ORDER</u>

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 Char Brothers Inc. d/b/a Cat Corner (Cat Corner), 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, Cat Corner 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, Cat Corner 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 Cat Corner's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 25-0008

Date: OCTOBER 29, 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 Cat Corner has failed to comply with the terms of this Order, disciplinary action shall be taken against Cat Corner, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Cat Corner 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 Cat Corner will be charged for the tickets sold on or before that date. Cat Corner 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. 25-0008

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0009

Date: OCTOBER 29, 2024

Case No. 2024-435

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
NAZIF ENTERPRISES INC.	§	LOTTERY COMMISSION
D/B/A JR FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 176031	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Nazif Enterprises Inc. d/b/a JR Food Mart (JR 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. JR Food Mart holds Texas Lottery Ticket Sales Agent License No. 176031.
2. Aamir Choudhry is the president of JR Food Mart, which is located at 1114 E. Denman Ave., Lufkin, TX 75901.
3. On October 26, 2023, the Commission received a complaint that JR Food Mart charged a fee to purchase Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On November 20, 2023, Zaid Choudhry, a JR Food Mart manager, admitted to a Commission investigator that the store charged a 3% fee to purchase 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. JR 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; [and]

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

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

6. JR 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. JR 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 JR Food Mart has failed

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

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

Nazif Enterprises Inc.
d/b/a JR Food Mart

Texas Lottery Commission
Lottery Operations Division

By:



8/5/2024

Aamir Choudhry
President

DATE

By:



8/5/2024

Robert Tirloni
Director

DATE

Commission Order No. 25-0009

Date: OCTOBER 29, 2024

Case No. 2024-435

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
NAZIF ENTERPRISES INC.	§	LOTTERY COMMISSION
D/B/A JR FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 176031	§	

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 Nazif Enterprises Inc. d/b/a JR Food Mart (JR 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, JR 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, JR 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 JR Food Mart's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 25-0009

Date: OCTOBER 29, 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 JR Food Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against JR Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that JR 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 JR Food Mart will be charged for the tickets sold on or before that date. JR 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. 25-0009

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0010

Date: OCTOBER 29, 2024

Case No. 2024-515

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
HASSAN ALHUSAINI	§	
D/B/A TIGER MART #65	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 175555	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Hassan Alhusaini d/b/a Tiger Mart #65 (Tiger 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. Tiger Mart holds Texas Lottery Ticket Sales Agent License No. 175555.
2. Hassan Alhusaini is the owner of Tiger Mart, which is located at 1640 S. Cockrell Hill Rd., Glenn Heights, TX 75154.
3. On February 1, 2024, the Commission received a complaint that Tiger Mart required a \$10 minimum for debit card purchases of lottery tickets. The Commission initiated an investigation into this complaint.
4. On February 15, 2024, a Commission investigator attempted to purchase a lottery ticket with a debit card. Bertha Dollison, a Tiger Mart employee, told the investigator that there was a \$10 minimum to purchase lottery tickets with a debit card.
5. On February 21, 2024, Hassan Alhusaini, Tiger Mart owner, admitted to the investigator that he requires a \$10 minimum to purchase lottery tickets with a debit card.

AGREED CONCLUSIONS OF LAW

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

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

. . .

(5) has violated this chapter or a rule adopted under this chapter.
4. 16 Tex. Admin. Code §401.158(b) states, in pertinent part:

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

. . .

(23) licensee charges a fee for lottery ticket purchases using a debit card and/or requires a minimum dollar amount for debit card purchases of only lottery tickets.
5. 16 Tex. Admin. Code §401.366 states:

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

7. 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.).

8. 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.

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

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Tiger 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. Tiger Mart agrees that, as a result of its violation of 16 Tex. Admin. Code §§ 401.158(b)(23) and 401.366, its Ticket Sales Agent License will be suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date the Order is signed by the Commission. During the period of suspension, Tiger 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, Tiger 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 Tiger Mart's Ticket Sales Agent License is posted.

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

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

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

Hassan Alhusaini
d/b/a Tiger Mart #65

Texas Lottery Commission
Lottery Operations Division

By:



9/3/2024

Hassan Alhusaini
Owner

DATE

By:



9/3/2024

Robert Tirloni
Director

DATE

Commission Order No. 25-0010

Date: OCTOBER 29, 2024

Case No. 2024-515

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
HASSAN ALHUSAINI	§	
D/B/A TIGER MART #65	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 175555	§	LOTTERY COMMISSION

CONSENT ORDER

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

(1) IT IS ORDERED by the Commission that, in lieu of revocation of the Texas Lottery Ticket Sales Agent License of Hassan Alhusaini d/b/a Tiger Mart #65 (Tiger 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, Tiger 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, Tiger 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 Tiger Mart's Texas Lottery Ticket Sales Agent License is posted.

(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 Tiger Mart has failed to comply with

Commission Order No. 25-0010

Date: OCTOBER 29, 2024

the terms of this Order, disciplinary action shall be taken against Tiger Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Tiger 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 Tiger Mart will be charged for the tickets sold on or before that date. Tiger 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. 25-0010

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0011

Date: OCTOBER 29, 2024

Case No. 2024-578

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
GHNEY CORP.	§	LOTTERY COMMISSION
D/B/A 7-ELEVEN CONVENIENCE	§	
STORE #35420B	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 185581	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Ghney Corp. d/b/a 7-Eleven Convenience Store #35420B (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. 185581.
2. Adita Ghney is the president of 7-Eleven, which is located at 6100 S. Hulen St., Fort Worth, TX 76133.
3. On October 19, 2023, the Commission received a complaint that 7-Eleven required a customer to purchase other store merchandise when purchasing Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On November 1, 2023, a Commission investigator attempted to purchase a lottery ticket at 7-Eleven with a debit card. The investigator was told by Mohammad Ghney, a 7-Eleven employee, 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. 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 §466.155(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 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:

Ghney Corp.
d/b/a 7-Eleven Convenience Store #35420B

Texas Lottery Commission
Lottery Operations Division

By:



9/27/2024

Adita Ghney
President

DATE

By:



10/3/2024

Robert Tirloni
Director

DATE

Commission Order No. 25-0011

Date: OCTOBER 29, 2024

Case No. 2024-578

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
GHNEY CORP.	§	LOTTERY COMMISSION
D/B/A 7-ELEVEN CONVENIENCE	§	
STORE #35420B	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 185581	§	

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 Ghney Corp. d/b/a 7-Eleven Convenience Store #35420B (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. 25-0011

Date: OCTOBER 29, 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 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. 25-0011

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0012

Date: OCTOBER 29, 2024

Case No. 2024-579

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
DNS INC	§	
D/B/A ALL STAR GROCERY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 130599	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and DNS Inc d/b/a All Star Grocery (All Star Grocery) 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. All Star Grocery holds Texas Lottery Ticket Sales Agent License No. 130599.
2. Sultan Momin is the president of All Star Grocery, which is located at 4619 S. Congress Ave., Austin, TX 78745.
3. On December 8, 2023, Chandra Devkota, an All Star Grocery employee, presented a prize winning lottery ticket to the Austin Claim Center. Based on an internal review, the Commission initiated an investigation into this claim.
4. On February 20, 2024, Mr. Devokta told a Commission investigator that he purchased the prize winning ticket from a store customer.

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. All Star Grocery is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

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

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

...

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

4. Tex. Gov't Code §466.310(a) states:

A person commits an offense if the person:

- (1) induces another person to assign or transfer a right to claim a prize;
- (2) offers for sale the right to claim a prize; or
- (3) offers, for compensation, to claim the prize of another person.

5. 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:

...

(9) licensee fails to follow validation procedures, including, but not limited to, paying a claim without validating the ticket, failing to pay a valid prize after validating a customer's winning ticket, or retaining a customer's winning ticket that has not been validated.

...

(33) licensee:

- (A) induces another person to assign or transfer a right to claim a prize;
- (B) initiates or accepts an offer to sell the right to claim a prize;
- (C) initiates or accepts an offer of compensation from another person to claim a lottery prize, or
- (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

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 All Star Grocery is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of All Star Grocery’s violation of Tex. Gov’t Code §466.310(a) and 16 Tex. Admin. Code §§ 401.158(b)(9) and (33), and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, All Star Grocery 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. All Star Grocery agrees to terminate the employment of Mr. Devkota within ten (10) days of the date the Order is signed by the Commission.

4. All Star Grocery agrees that, as a result of its violation of Tex. Gov't Code §466.310(a) and 16 Tex. Admin. Code §§ 401.158(b)(9) and (33), 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, All Star Grocery 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.

5. During the entire period of suspension hereunder, All Star Grocery 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 All Star Grocery's Ticket Sales Agent License is posted.

6. All Star Grocery 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 All Star

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

7. All Star Grocery 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.

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

9. All Star Grocery 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 All Star Grocery will be charged for tickets sold on or before that date. All Star Grocery 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:

DNS Inc
d/b/a All Star Grocery

By:



9/19/2024

Sultan Momin
President

DATE

Texas Lottery Commission
Lottery Operations Division

By:



9/20/2024

Robert Tirloni
Director

DATE

Commission Order No. 25-0012

Date: OCTOBER 29, 2024

Case No. 2024-579

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
DNS INC	§	
D/B/A ALL STAR GROCERY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 596178	§	LOTTERY COMMISSION

CONSENT ORDER

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

(1) IT IS ORDERED by the Commission that DNS Inc d/b/a All Star Grocery (All Star Grocery) terminate the employment of Mr. Devkota within ten (10) days of the date this Consent Order (Order) is signed by the Commission.

(2) IT IS ORDERED by the Commission that, in lieu of revocation of the Texas Lottery Ticket Sales Agent License of All Star Grocery, 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 Order is signed by the Commission. During the period of suspension, All Star Grocery shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

(3) IT IS FURTHER ORDERED by the Commission that, during the entire period of suspension, All Star Grocery shall post a notice of suspension, in the form and at the location

Commission Order No. 25-0012

Date: OCTOBER 29, 2024

prescribed by the Commission, visible to store customers, in the same area where All Star Grocery's Texas Lottery Ticket Sales Agent License is posted.

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

(5) IT IS FURTHER ORDERED by the Commission that All Star Grocery 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 All Star Grocery will be charged for the tickets sold on or before that date. All Star Grocery 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. 25-0012

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0013

Date: OCTOBER 29, 2024

Case No. 2024-580

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
CONQUEST RETAIL LLC	§	LOTTERY COMMISSION
D/B/A VALLEY MART #EP2401	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 191749	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Conquest Retail LLC d/b/a Valley Mart #EP2401 (Valley 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. Valley Mart holds Texas Lottery Ticket Sales Agent License No. 191749.
2. Sohil Momin is the managing member of Valley Mart, which is located at 2401 Del Rio Blvd., Eagle Pass, TX 78852.
3. On January 23, 2024, a Commission investigator received a complaint that Valley Mart allowed the purchase of lottery tickets with a credit card. The Commission initiated an investigation into this matter.
4. The investigation revealed that in January 2024, Jessica Frausto, a Valley Mart employee, purchased lottery tickets at Valley Mart with a credit card belonging to a store customer.
5. Ms. Frausto has since been terminated from employment at Valley Mart.

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. Valley 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 §466.3052(a) states:

A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

(1) United States currency;

(2) a negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code;

(3) a debit made through a financial institution debit card;

(4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; or

(5) a mail order subscription on a mail order subscription form authorized by the commission.

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:

...

(27) licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.

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 Valley Mart is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of Valley Mart’s violation of Tex. Gov’t Code §466.3052(a) and 16 Tex. Admin. Code §§ 401.158(b)(27) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Valley 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. Valley Mart agrees that, as a result of its violation of Tex. Gov't Code §466.3052(a) and 16 Tex. Admin. Code §§ 401.158(b)(27) 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, Valley 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, Valley 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 Valley Mart's Ticket Sales Agent License is posted.

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

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

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

Conquest Retail LLC
d/b/a Valley Mart #EP2401

By:



10/07/2024

Sohil Momin
Managing Member

DATE

Texas Lottery Commission
Lottery Operations Division

By:



10/7/2024

Robert Tirloni
Director

DATE

Commission Order No. 25-0013

Date: OCTOBER 29, 2024

Case No. 2024-580

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
CONQUEST RETAIL LLC	§	LOTTERY COMMISSION
D/B/A VALLEY MART #EP2401	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 191749	§	

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 Conquest Retail LLC d/b/a Valley Mart #EP2401 (Valley Mart), 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, Valley 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, Valley 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 Valley Mart's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 25-0013

Date: OCTOBER 29, 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 Valley Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against Valley Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Valley 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 Valley Mart will be charged for the tickets sold on or before that date. Valley 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. 25-0013

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0014

Date: OCTOBER 29, 2024

Case No. 2024-582

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ANWAR INC.	§	LOTTERY COMMISSION
D/B/A BILLY’S FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 186895	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Anwar Inc. d/b/a Billy’s Food Mart (Billy’s 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. Billy’s Food Mart holds Texas Lottery Ticket Sales Agent License No. 186895.
2. Anwar Haifa is the president of Billy’s Food Mart, which is located at 4401 Rittiman Rd., San Antonio, TX 78218.
3. On March 5, 2024, the Commission received a complaint that Billy’s Food Mart charged a fee to purchase Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On March 21, 2024, a Commission investigator was charged an additional \$.12 for the debit card purchase of a \$3 lottery ticket at Billy’s Food Mart.

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. Billy's Food Mart is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

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

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

...

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

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

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

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

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

...

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

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

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

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

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

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

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

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

Anwar Inc.
d/b/a Billy's Food Mart

By:

Anwar Haifa

9/20/2024

Anwar Haifa
President

DATE

Texas Lottery Commission
Lottery Operations Division

By:

Robert Tirloni

9/20/2024

Robert Tirloni
Director

DATE

Commission Order No. 25-0014

Date: OCTOBER 29, 2024

Case No. 2024-582

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ANWAR INC.	§	LOTTERY COMMISSION
D/B/A BILLY’S FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 186895	§	

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 Anwar Inc. d/b/a Billy’s Food Mart (Billy’s 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, Billy’s 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, Billy’s 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 Billy’s Food Mart’s Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 25-0014

Date: OCTOBER 29, 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 Billy's Food Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against Billy's Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Billy's 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 Billy's Food Mart will be charged for the tickets sold on or before that date. Billy's 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. 25-0014

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0015

Date: OCTOBER 29, 2024

Case No. 2024-583

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
FUEL CITY HALTOM CITY LLC	§	
D/B/A FUEL CITY HALTOM CITY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 182057	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Fuel City Haltom City LLC d/b/a Fuel City Haltom City (Fuel City) 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. Fuel City holds Texas Lottery Ticket Sales Agent License No. 182057.
2. Joseph Bickham is the chief executive officer of Fuel City, which is located at 1715 Haltom Rd., Haltom City, TX 76117-5553.
3. On March 14, 2024, the Commission received a complaint that Fuel City allowed Texas Lottery tickets to be purchased with a credit card. The Commission initiated an investigation into this complaint.
4. On March 26, 2024, a Commission investigator purchased a Texas Lottery ticket at Fuel City with a credit 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. Fuel City 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 §466.3052(a) states:

A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

(1) United States currency;

(2) a negotiable instrument in the form of a check that meets the requirements of Section 3.104, Business & Commerce Code;

(3) a debit made through a financial institution debit card;

(4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; or

(5) a mail order subscription on a mail order subscription form authorized by the commission.

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:

...

(27) licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.

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 Fuel City is subject to suspension or revocation pursuant to Tex. Gov’t Code §466.155(a)(5), as a result of Fuel City’s violation of Tex. Gov’t Code §466.3052(a) and 16 Tex. Admin. Code §§ 401.158(b)(27) and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Fuel City 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. Fuel City agrees that, as a result of its violation of Tex. Gov't Code §466.3052(a) and 16 Tex. Admin. Code §§ 401.158(b)(27) 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, Fuel City 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, Fuel City 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 Fuel City's Ticket Sales Agent License is posted.

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

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

8. Fuel City 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 Fuel City will be charged for tickets sold on or before that date. Fuel City 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:

Fuel City Haltom City LLC
d/b/a Fuel City Haltom City

Texas Lottery Commission
Lottery Operations Division

By:



Joseph Bickham
Chief Executive Officer

9/30/24

DATE

By:



Robert Tirloni
Director

10/1/2024

DATE

Commission Order No. 25-0015

Date: OCTOBER 29, 2024

Case No. 2024-583

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
FUEL CITY HALTOM CITY LLC	§	
D/B/A FUEL CITY HALTOM CITY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 182057	§	LOTTERY COMMISSION

CONSENT ORDER

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

(1) IT IS ORDERED by the Commission that, in lieu of revocation of the Texas Lottery Ticket Sales Agent License of Fuel City Haltom City LLC d/b/a Fuel City Haltom City (Fuel City), 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, Fuel City 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, Fuel City 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 Fuel City's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 25-0015

Date: OCTOBER 29, 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 Fuel City has failed to comply with the terms of this Order, disciplinary action shall be taken against Fuel City, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Fuel City 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 Fuel City will be charged for the tickets sold on or before that date. Fuel City 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. 25-0015

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0016

Date: OCTOBER 29, 2024

Case No. 2024-584

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ZK 786 ENTERPRISE INC.	§	LOTTERY COMMISSION
D/B/A H. K. FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 191885	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and ZK 786 Enterprise Inc. d/b/a H. K. Food Mart (H. K. 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. H. K. Food Mart holds Texas Lottery Ticket Sales Agent License No. 191885.
2. Zaherali Momin is a director of H. K. Food Mart, which is located at 4909 W. Orem Dr., Houston, TX 77045.
3. On March 4, 2024, Mitesh Magar, a H. K. Food Mart employee, presented a winning Texas Lottery ticket to the Houston Claim Center. Based on an internal review, the Commission initiated an investigation into this claim.
4. On April 10, 2024, Mr. Magar admitted to a Commission investigator that he purchased the ticket from a store customer for \$100.
5. After H. K. Food Mart became aware of the incident, it terminated Mr. Magar'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. H. K. 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 §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

(1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or

(2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

5. Tex. Gov't Code §466.310(a) states:

A person commits an offense if the person:

(1) induces another person to assign or transfer a right to claim a prize;

(2) offers for sale the right to claim a prize; or

(3) offers, for compensation, to claim the prize of another person.

6. 16 Tex. Admin. Code §401.158(b) states, in pertinent part:

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

...

(9) licensee fails to follow validation procedures, including, but not limited to, paying a claim without validating the ticket, failing to pay a valid prize after validating a customer's winning ticket, or retaining a customer's winning ticket that has not been validated.

...

(31) licensee intentionally or knowingly claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation;

...

(33) licensee:

(A) induces another person to assign or transfer a right to claim a prize;

(B) initiates or accepts an offer to sell the right to claim a prize;

- (C) initiates or accepts an offer of compensation from another person to claim a lottery prize, or
- (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

7. 16 Tex. Admin. Code §401.366 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.

8. 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).

9. 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.).

10. 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.

11. The Texas Lottery Ticket Sales Agent License of H. K. Food Mart is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of H. K. Food Mart's violation of Tex. Gov't Code §§ 466.308(a) and 466.310(a) and 16 Tex. Admin. Code §§ 401.158(b)(9), (31), and (33), and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, H. K. 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. H. K. Food Mart agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a) and 466.310(a) and 16 Tex. Admin. Code §§ 401.158(b)(9), (31), and (33), 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, H. K. 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, H. K. 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 H. K. Food Mart's Ticket Sales Agent License is posted.

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

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


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

ZK 786 Enterprise Inc.
d/b/a H. K. Food Mart


Texas Lottery Commission
Lottery Operations Division

By:

 10-4-24
Zaherali Momin
Director

DATE

By:

 10/4/2024
Robert Tirloni
Director

DATE

Commission Order No. 25-0016

Date: OCTOBER 29, 2024

Case No. 2024-584

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ZK 786 ENTERPRISE INC.	§	LOTTERY COMMISSION
D/B/A H. K. FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 191885	§	

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 ZK 786 Enterprise Inc. d/b/a H. K. Food Mart (H. K. Food Mart), 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, H. K. 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, H. K. 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 H. K. Food Mart's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 25-0016

Date: OCTOBER 29, 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 H. K. Food Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against H. K. Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that H. K. 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 H. K. Food Mart will be charged for the tickets sold on or before that date. H. K. 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. 25-0016

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0017

Date: OCTOBER 29, 2024

Case No. 2024-722

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
BROOKS USA LLC	§	LOTTERY COMMISSION
D/B/A BROOKS FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 194591	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Brooks USA LLC d/b/a Brooks Food Mart (Brooks 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. Brooks Food Mart holds Texas Lottery Ticket Sales Agent License No. 194591.
2. Anees Charania is the member of Brooks Food Mart, which is located at 703 W. Rhapsody Dr., San Antonio, TX 78216.
3. On March 22, 2024, the Commission received a complaint that Brooks Food Mart charges a fee to purchase Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On May 10, 2024, a Commission investigator was charged an additional \$0.05 for the debit card purchase of lottery tickets at Brooks Food Mart.

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. Brooks Food Mart is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

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

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

...

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

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

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

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

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

...

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

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

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

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

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

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

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

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

Brooks USA LLC
d/b/a Brooks Food Mart

By:



9/25/2024

Anees Charania
Member

DATE

Texas Lottery Commission
Lottery Operations Division

By:



9/25/2024

Robert Tirloni
Director

DATE

Commission Order No. 25-0017

Date: OCTOBER 29, 2024

Case No. 2024-722

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
BROOKS USA LLC	§	LOTTERY COMMISSION
D/B/A BROOKS FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 194591	§	

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 Brooks USA LLC d/b/a Brooks Food Mart (Brooks 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, Brooks 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, Brooks 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 Brooks Food Mart's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 25-0017

Date: OCTOBER 29, 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 Brooks Food Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against Brooks Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Brooks 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 Brooks Food Mart will be charged for the tickets sold on or before that date. Brooks 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. 25-0017

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0018

Date: OCTOBER 29, 2024

Case No. 2024-724

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
LES INVESTMENTS INC.	§	LOTTERY COMMISSION
D/B/A EXPRESS FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 187295	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and LES Investments Inc. d/b/a Express Food Mart (Express 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. Express Food Mart holds Texas Lottery Ticket Sales Agent License No. 187295.
2. Shoaib Ahmed is the president of Express Food Mart, which is located at 10910 Will Clayton Pkwy., Humble, TX 77396.
3. On May 1, 2024, the Commission received a complaint that Express Food Mart charges a fee to purchase Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On June 6, 2024, Mohamad Rehan, an Express Food Mart manager, told a Commission investigator attempting to purchase lottery tickets that there was a \$.50 fee to purchase 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. Express Food Mart is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

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

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

...

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

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

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

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

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

...

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

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

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

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

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

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

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

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

LES Investments Inc.
d/b/a Express Food Mart

By:



10/4/2024

Shoaib Ahmed
President

DATE

Texas Lottery Commission
Lottery Operations Division

By:



10/7/2024

Robert Tirloni
Director

DATE

Commission Order No. 25-0018

Date: OCTOBER 29, 2024

Case No. 2024-724

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
LES INVESTMENTS INC.	§	LOTTERY COMMISSION
D/B/A EXPRESS FOOD MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 187295	§	

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 LES Investments Inc. d/b/a Express Food Mart (Express 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, Express 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, Express 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 Express Food Mart's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 25-0018

Date: OCTOBER 29, 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 Express Food Mart has failed to comply with the terms of this Order, disciplinary action shall be taken against Express Food Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Express 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 Express Food Mart will be charged for the tickets sold on or before that date. Express 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. 25-0018

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0019

Date: OCTOBER 29, 2024

SOAH DOCKET NO. 362-21-2282.B

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
MONICA WEBER	§	LOTTERY COMMISSION
	§	
BINGO WORKER REGISTRY	§	
NO. 100462	§	

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Charitable Bingo Operations Division (Division) of the Texas Lottery Commission (Commission) and Monica Weber, Bingo Worker Registry No. 100462, 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. Monica Weber has been on the Registry of Approved Bingo Workers (Registry) since March 15, 2004.
2. Terra Genesis of San Antonio, Ella Austin Community Center, TG 106 Inc., Sav-Baby Inc., Central Park Lions Club, and District 2-A2 Sight & Tissue Foundation (collectively, Organizations) were the members of Alamo Hills Bingo Unit (Unit), a bingo accounting unit subject to Tex. Occ. Code §§ 2001.431–.439 (Unit Accounting). The Unit dissolved on July 22, 2023.
3. The Organizations conducted bingo at Alamo Hills Daytime Bingo hall located at 11123 N. IH 35, Bldg. 2, San Antonio, TX 78233-6017.
4. Ms. Weber held the following positions with the Organizations, including start and end dates:

- a. Authorized Representative for TG 106 Inc. (September 18, 2006 – August 1, 2022);
- b. Operator for Central Park Lions Club (January 7, 2003 – May 1, 2023);
- c. Designated Operator for Terra-Genesis of San Antonio (January 14, 2003 – February 1, 2023);
- d. Designated Operator for District 2-A2 Sight & Tissue Foundation (March 21, 2003 – April 1, 2023);
- e. Officer for Terra-Genesis of San Antonio (February 12, 2013 – February 1, 2023);
- f. Bookkeeper for Central Park Lions Club (August 3, 2010 – May 1, 2023);
- g. Bookkeeper for TG 106 Inc. (June 2, 2010 – July 25, 2022);
- h. Bookkeeper for District 2-2A Sight & Tissue Foundation Inc. (March 18, 2013 – April 1, 2023);
- i. Designated Operator for TG 106 Inc. (April 30, 2012 – August 1, 2022);
- j. Bookkeeper for Ella Austin Community Center (June 7, 2010 – July 1, 2022);
- k. Operator for Ella Austin Community Center (June 16, 2005 – June 30, 2022); and
- l. Designated Operator for Terra-Genesis of San Antonio (January 14, 2003 – February 1, 2023).

5. The Division conducted a limited scope review of the Organizations for the period from July 1, 2015 through June 30, 2019. The review of bingo card/paper and pull-tab was extended to September 9, 2019, the date of the physical inventory count by audit staff, to

incorporate all necessary information. The overall objective was to determine if sales, prizes paid, and prize fees withheld were accurately reported and properly documented for the review period.

6. The Division determined that Ms. Weber, the Organizations' bookkeeper, authorized representative, operator, officer, and Alamo Hills Daytime Bingo hall manager, failed to maintain records that fully and truly record all transactions connected with the conduct of bingo. Specifically, Ms. Weber did not maintain or provide receipts for voided sales transactions of electronic card-minding devices for the period of July 1, 2015 to December 31, 2018. Ms. Weber admitted to a Division auditor that she is the person who voids the card-minding device sales at the end of each occasion. The review identified voided transactions totaling \$612,746. The electronic card-minding system reports show that the transactions were voided after the end of occasion.

7. The Division also determined that Ms. Weber failed to maintain or properly maintain a perpetual inventory of pull-tab bingo games. Specifically, Ms. Weber did not maintain a perpetual inventory of pull-tabs that contains all required information. The sampled pull-tab inventory log records provided by Ms. Weber were not complete and did not contain the following: pull-tab form numbers; number of tickets per deal; number of tickets sold, missing or damaged by occasion date; number of pull-tab tickets remaining if the deal is closed; and correct taxpayer number for the Unit. Based on the 16 sampled occasion cash reports for the second quarter of 2019, 62 pull-tab serial numbers that were sold could not be located on the perpetual inventory logs. Ms. Weber told the auditor she could not locate the perpetual inventory logs for the 62 pull-tabs. The audit review estimated at least \$434,835.38 proceeds from unaccounted for pull-tabs. This total represents funds that should have been deposited into the Unit's bingo bank account and available for the Organizations' charitable purposes.

8. The Division also determined that Ms. Weber failed to record all transactions for which she received bingo gross receipts on a cash register or point of sale station. Specifically, the point of sale receipts for 12 of 16 (75%) sampled occasion cash reports for the second quarter of 2019 did not include the gross receipts for all transactions, specifically, in 10 of 16 (63%) sampled occasion cash reports, the gross receipts for pull-tab sales, Early Bird paper, and Optional floor paper were not recorded on the point of sale system; and in 2 of 16 (13%) sampled occasion cash reports, the gross receipts for electronic card-minding device sales were not recorded on the point of sale system. Ms. Weber signed every occasion cash report sampled during the review. Ms. Weber told the auditor that the gross receipts should have been recorded on the point of sale system but were not recorded.

9. On June 21, 2023, the Commission entered into a consent order with the Organizations (Commission Order No. 23-0029), whereby the Unit agreed to terminate Ms. Weber and institute internal controls to prevent similar violations in the future.

10. Ms. Weber denies the Commission's factual allegations contained in paragraphs 6-8 above.

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. Ms. Weber is obligated to follow the provisions of the Bingo Enabling and Act and the Charitable Bingo rules in order to be included on the Registry.

3. Tex. Occ. Code §2001.313(e) states, in pertinent part:

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.

4. Tex. Occ. Code §2001.414(b) states:

An organization conducting bingo must record on a cash register all transactions for which it received bingo gross receipts in conformance with commission rules relating to transaction recording applications.

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:

...

(2) fails to maintain records that fully and accurately record each transaction connected with the conduct of bingo, the leasing of premises to be used for bingo, or the manufacture, sale, or distribution of bingo supplies or equipment;

...

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

6. 16 Tex. Admin. Code §402.300(g) states, in pertinent part:

(1) Any licensed authorized organization selling pull-tab bingo tickets must maintain a purchase log showing the date of the purchase, the form number and corresponding serial number of the purchased pull-tab bingo tickets.

(2) Licensed authorized organizations must show the sale of pull-tab bingo tickets, prizes that were paid and the form number and serial number of the pull-tab bingo tickets on the occasion cash report, except that an organization or organizations within a unit that conducts consecutive bingo occasions during one day may account for and report all of the pull-tab bingo ticket sales for the occasions as sales for the final occasion. An organization or unit that chooses to account for pull-tab bingo ticket sales for consecutive bingo occasions during one day as sales for the final occasion must also account for pull-tab bingo ticket prizes awarded over those occasions as prizes awarded for the final occasion. The aggregate total sales for the licensed authorized organization must be recorded on the cash register or point of sale station.

(3) Licensed authorized organizations must maintain a perpetual inventory of all pull-tab bingo games. They must account for all sold and unsold pull-tab bingo tickets and pull-tab bingo tickets designated for destruction. The licensed authorized organization will be responsible for the gross receipts and prizes associated with the unaccounted for pull-tab bingo tickets.

7. 16 Tex. Admin. Code §402.325(d) states, in pertinent part:

The licensed authorized organization must treat void transactions resulting in a cash refund in the following manner:

...

- (4) All voided receipts must be attached to the bingo occasion report printed at the end of each bingo occasion and maintained with the records.

8. 16 Tex. Admin. Code §402.402(a) states, in pertinent part:

Definitions. The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

...

- (2) Bookkeeper--an individual ultimately responsible for the preparation of any financial records for information reported on the Texas Bingo Conductor's Quarterly Report or for preparation and maintenance of bingo inventory records for a licensed authorized organization.

9. 16 Tex. Admin. Code §402.511(a) states:

A licensed authorized organization or unit shall maintain a perpetual inventory of:

- (1) disposable bingo cards described in subsection (d) of this section; and
(2) pull-tab bingo tickets described in subsection (e) of this section.

10. Ms. Weber's listing on the Registry is subject to suspension or revocation pursuant to Tex. Occ. Code §2001.554(a), because of Ms. Weber's violations of Tex. Occ. Code §§ 2001.414(b) and 2001.554(a)(2), (5) and 16 Tex. Admin. Code §§ 402.300(g)(1)–(3), 402.325(d)(4), and 402.511(a)(1)–(2).

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Monica Weber 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. Weber agrees to not act as a bingo chairperson, manager, operator, bookkeeper, cashier or designated agent, as those terms are defined by 16 Tex. Admin. Code §402.402(a), for any licensed bingo conductor organization for a period of eight (8) years following the effective date of this Order. Ms. Weber may deliver prize money and sell bingo cards and pull-tabs as an usher or salesperson, as those terms are defined by 16 Tex. Admin. Code §402.402(a)(9) and (10). Ms. Weber is not permitted to void any transactions but may have another bingo worker void transactions if necessary.

4. Ms. Weber 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. Weber from the Registry, for any further violations of the Bingo Enabling Act and/or the Charitable Bingo rules.

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

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

AGREED AS TO FORM AND SUBSTANCE:

Monica Weber

By: Monica Weber
Monica Weber

Date: 9/27/2024

**Texas Lottery Commission
Charitable Bingo Operations Division**

By: LaDonna Castañuela
LaDonna Castañuela, Director

Date: 9/27/2024

Date: OCTOBER 29, 2024

SOAH DOCKET NO. 362-21-2282.B

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
MONICA WEBER	§	LOTTERY COMMISSION
	§	
BINGO WORKER REGISTRY	§	
NO. 100462	§	

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 Monica Weber from the Registry of Approved Bingo Workers (Registry), Ms. Weber shall not act as a bingo chairperson, manager, operator, bookkeeper, cashier or designated agent, as those terms are defined by 16 Tex. Admin. Code §402.402(a), for a licensed bingo conductor for a period of eight (8) years from the date this Consent Order (Order) is signed by the Commission. Ms. Weber may deliver prize money and sell bingo cards and pull-tabs as an usher or salesperson, as those terms are defined by 16 Tex. Admin. Code §402.402(a)(9) and (10). Ms. Weber is not permitted to void any transactions but may have another bingo worker void transactions if necessary.

(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. Weber has failed to comply with the terms of this Order, disciplinary action shall be taken against Ms. Weber, up to and including removal of Ms. Weber from the Registry.

Commission Order No. 25-0019

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the day 29TH of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 25-0020

Date: OCTOBER 29, 2024

Docket No. 362-24-16246.B

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ELIZABETH LUCIO	§	
	§	
BINGO WORKER REGISTRY NO. 159205	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Charitable Bingo Operations Division (Division) of the Texas Lottery Commission (Commission) and Elizabeth Lucio, Bingo Worker Registry No. 159205, 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. Elizabeth Lucio has been listed on the Registry of Approved Bingo Workers (Registry) since October 4, 2023. On October 31, 2023, the Commission sent Ms. Lucio a Notice of Proposed Removal from the Registry and Notice of Opportunity for a Hearing based on a disqualifying offense.
2. On September 21, 2017, in the 226th District Court of Bexar County, Texas, in Cause No. 2017CR10189W, Ms. Lucio received deferred adjudication for Burglary of a Building with the Intent to Commit Theft, a state jail felony, and was placed on community supervision for a period of two (2) years. The date of the offense was April 18, 2017.
3. Ms. Lucio has provided the Commission three letters of recommendation: a letter from the manager of Plaza Bingo, where Ms. Lucio is currently employed, a letter from her community supervision officer, and a letter from her neighbor.

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. Elizabeth Lucio 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 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:

...

- (1) Penal Code, Chapter 30, Burglary and Criminal Trespass.

...

(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. Lucio from the Registry.

MEMORANDUM OF AGREEMENT

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

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

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

AGREED AS TO FORM AND SUBSTANCE:

Elizabeth Lucio

By: 
Elizabeth Lucio

Date: 9/18/2024

Texas Lottery Commission
Charitable Bingo Operations Division

By: 
LaDonna Castañuela, Director

Date: 9/18/2024

Commission Order No. 25-0020

Date: OCTOBER 29, 2024

Docket No. 362-24-16246.B

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ELIZABETH LUCIO	§	
	§	
BINGO REGISTRY NO. 159205	§	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 Elizabeth Lucio from the Registry of Approved Bingo Workers (Registry), Ms. Lucio 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. Lucio 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. Lucio has failed to comply with the terms of this Order, disciplinary action shall be taken against Ms. Lucio, up to and including removal of Ms. Lucio from the Registry.

Commission Order No. 25-0020

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin,
Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Date: OCTOBER 29, 2024

DOCKET NO. 362-24-20805.B

TEXAS LOTTERY COMMISSION,	§	BEFORE THE TEXAS
<i>Petitioner,</i>	§	
	§	
v.	§	
	§	
ESMERALDA SEVILLA	§	
<i>Respondent.</i>	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the above-styled case in which Esmeralda Sevilla (Respondent) 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 hearing in the referenced case before SOAH was provided to Respondent, pursuant to Tex. Gov't Code §§ 2001.051 and 2001.052 and 1 Tex. Admin. Code §§ 155.401 and 155.501(b). The 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 to Respondent, the case was heard by a SOAH Administrative Law Judge (ALJ). The Respondent did not appear at the hearing.

3. The Commission, by and through its attorney of record, filed a motion to dismiss the case from the SOAH docket and to remand the case 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).

Date: OCTOBER 29, 2024

4. The ALJ conditionally dismissed the case from the SOAH docket and remanded the case to the Commission for informal disposition under Tex. Gov't Code §2001.056, provided the Respondent did not file a motion to set aside the default no later than 15 days from the date of the ALJ's conditional order.

5. The Respondent did not file a motion to set aside the default within the 15 days from the date of the ALJ's conditional order.

II. 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 chs. 401–402.

2. The Respondent violated the Bingo Enabling Act and the Commission's Rules as set forth in the Commission's notice of hearing.

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 of the above-styled case, this matter is hereby disposed of by default, and:

1. All allegations set forth in the Commission's notice of hearing are deemed admitted; and

2. Esmeralda Sevilla's application to be placed on the Registry of Approved Bingo Workers is denied.

Commission Order No. 25-0021

Date: OCTOBER 29, 2024

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 29TH day of OCTOBER, 2024.

Entered this 29TH day of OCTOBER, 2024.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

CLARK E. SMITH, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS LOTTERY COMMISSION,
PETITIONER
V.
ESMERALDA SEVILLA,
RESPONDENT**

DEFAULT DISMISSAL ORDER

On August 5, 2024, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Kristin Guthrie appeared on behalf of the staff (Staff) of the Texas Lottery Commission. Esmeralda Sevilla (Respondent) did not appear and was not represented at the hearing. Staff Exhibit A was admitted, and the ALJ took official notice of SOAH's file in this case, including specifically the Initial Order, 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.¹ 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.²

Respondent may file a motion to set aside the default within 15 days of the date of this order.³ The motion must show good cause for resetting a hearing or show that the interests of justice require setting aside the default. If Respondent does not file a timely motion, 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.⁴

Signed AUGUST 5, 2024.

ALJ Signature:



Steve Rivas

Presiding Administrative Law Judge

¹ 1 Tex. Admin. Code § 155.501(b).

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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



Texas Lottery Commission



Commissioners:

Robert G. Rivera, Chairman

Cindy Fields • Mark A. Franz • Clark E. Smith • Jamey Steen

LaDonna Castañuela
Director

July 1, 2024

Ms. Esmeralda Sevilla
3313 Lynnwood Ln.
Corpus Christi, TX 78415-3122

via email at esmeraldasevilla25@gmail.com

**RE: NOTICE OF FINAL HEARING CONCERNING DENIAL OF APPLICATION
FOR REGISTRY OF APPROVED BINGO WORKERS
SOAH DOCKET NO. 362-24-20805.B**

Dear Ms. Sevilla:

Be advised that a formal hearing to consider the denial of your application to be placed on the Registry of Approved Bingo Workers, pursuant to the provisions of the Tex. Occ. Code ch. 2001, Tex. Gov't Code chs. 2001 and 2003; 1 Tex. Admin. Code ch. 155; and 16 Tex. Admin. Code chs. 401–402, will be held at the State Office of Administrative Hearings (SOAH) as follows:

TIME OF HEARING: 10:00 a.m.

DATE OF HEARING: August 5, 2024

LOCATION OF HEARING: Zoom or Telephonic SOAH Hearing

Join by computer or smart device:

Go to <https://soah-texas.zoomgov.com> and enter the following:

Meeting ID: 160 977 3957

Video Passcode: TCB285

Join by telephone (audio only):

Call +1 669 254 5252 and enter the following:

Meeting ID: 160 977 3957

Telephone Passcode: 403080

NOTICE OF HEARING

I.

Factual Matters Asserted

On December 18, 2023, the Charitable Bingo Operations Division (Division) received Esmeralda Sevilla's application to be placed on the Registry of Approved Bingo Workers (Registry). On April 4, 2024, the Division sent notice of intent to deny the application due to a disqualifying criminal offense that makes Ms. Sevilla ineligible for listing on the Registry, specifically:

On April 10, 2014, in the 347th District Court of Nueces County, Texas, in Case No. 10-CR-0776-H, Esmeralda Sevilla received deferred adjudication for Impersonating a Public Servant, a third-degree felony, and was placed on community supervision for a period of five (5) years. The date of the offense was November 29, 2009.

On April 9, 2024, Ms. Sevilla requested a hearing to contest the Division's denial of the application.

II.

Legal Authority and Jurisdiction

The Texas Lottery Commission (Commission) has jurisdiction over this matter pursuant to Tex. Occ. Code ch. 2001 (Bingo Enabling Act) and 16 Tex. Admin. Code chs. 401–402.

The State Office of Administrative Hearings (SOAH) has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 2003 and 1 Tex. Admin. Code ch. 155.

III.

Applicable Statutes and Rules

Tex. Occ. Code §2001.0541 states:

The Commission shall adopt rules and guidelines as necessary to comply with Chapter 53 when using criminal history record information under this chapter to issue or renew a bingo license or to list or renew the listing of an individual in the registry of approved bingo workers.

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.

Tex. Occ. Code §53.021 states, in pertinent parts:

(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.

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.

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).

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

(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:

...

- (6) Penal Code, Chapter 37, Perjury and Other Falsification.

(f) In determining whether a criminal conviction directly relates to the duties and responsibilities of the licensed or registered activity under the BEA, the following factors will be considered:

- (1) The nature and seriousness of the crime;
- (2) The relationship of the crime to the purposes for which the individual seeks to engage in the regulated conduct;
- (3) The extent to which the regulated conduct might offer an opportunity to engage in further criminal activity of the same type as the previous conviction;
- (4) The relationship of the conviction to the capacity required to perform the regulated conduct; and
- (5) Any other factors appropriate under Chapters 53 or the BEA, including whether a history of multiple convictions or serious conviction(s) would cause an applicant to pose a threat to the safety of bingo participants or workers.

...

(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.

(i) Upon notification of the Commission's intent to deny a new or renewal application or registry listing, an applicant may provide documentation of mitigating factors that the applicant would like the Commission to consider regarding its application. Such documentation must be provided to the Commission no later than 30 days after the Commission provides notice to an applicant of a denial, unless the deadline is extended in writing or through e-mail by authorized Commission staff.

If you do not oppose the denial of your application to be placed on the Registry of Approved Bingo Workers (Registry), you will be removed from the Registry and your appearance at the SOAH hearing is not required. If you do oppose the denial of your application to be placed on the Registry, you have the right to appear and present evidence. You are entitled to be represented by a lawyer at the SOAH hearing, but it is your responsibility to obtain and pay for such representation. A court reporter may be present, and a record of the proceedings will be created. It is, however, the sole and exclusive responsibility of each party to request and pay for any printed transcript.

The hearing is conducted under authority of Tex. Occ. Code ch. 2001, Tex. Gov't Code ch. 2001, and 16 Tex. Admin. Code §§ 401.201–.227.

All hearings are formal due process matters governed by and conducted in accordance with law, including Chapter 2001 of the Texas Occupations Code, Chapter 2001 of the Texas Government

Code, the Texas Rules of Civil Procedure, the Texas Rules of Evidence, and Chapters 401 and 402 of Title 16 of the Texas Administrative Code.

AT LEAST TEN (10) CALENDAR DAYS BEFORE THE DATE OF THE HEARING, YOU ARE REQUIRED TO FILE A WRITTEN ANSWER TO THE ALLEGATIONS IN THIS NOTICE OF HEARING WITH SOAH. *SEE* 16 TEX. ADMIN. CODE §401.207(d). A GENERAL DENIAL OF THE ALLEGATIONS SHALL BE A SUFFICIENT ANSWER.

FAILURE TO FILE A WRITTEN ANSWER BY THIS DATE AND/OR TO APPEAR AT THE HEARING MAY RESULT IN THE ALLEGATIONS BEING ADMITTED AS TRUE AND THE RELIEF REQUESTED BEING GRANTED BY DEFAULT.

IF YOU WISH TO HAVE AN IN-PERSON SOAH HEARING INSTEAD OF A TELEPHONIC SOAH HEARING, YOU MUST REQUEST AN IN-PERSON HEARING BY FILING A MOTION FOR CONTINUANCE THAT COMPLIES WITH SOAH'S RULES OR ANY APPLICABLE EMERGENCY ORDERS.

ANY WRITTEN ANSWER OR MOTION FOR CONTINUANCE MUST ALSO BE SENT TO THE COMMISSION. THE ANSWER OR MOTION CAN BE SENT VIA FAX AT 512-344-5189 OR EMAIL AT legal.input@lottery.state.tx.us.

PARTIES THAT ARE NOT REPRESENTED BY AN ATTORNEY MAY OBTAIN INFORMATION REGARDING CONTESTED CASE HEARINGS ON THE PUBLIC WEBSITE OF SOAH AT WWW.SOAH.TEXAS.GOV, OR IN PRINTED FORMAT UPON REQUEST TO SOAH.

FOR UNREPRESENTED PARTIES WHO CANNOT FILE DOCUMENTS ELECTRONICALLY WITH SOAH, DOCUMENTS MAY BE FILED: (1) BY MAIL ADDRESSED TO SOAH AT P.O. BOX 13025, AUSTIN, TEXAS 78711-3025; (2) BY HAND-DELIVERY TO SOAH AT 300 WEST 15TH STREET, ROOM 504; (3) BY FAX TO SOAH AT (512) 322-2061; OR (4) AT THE SOAH FIELD OFFICE WHERE THE CASE IS ASSIGNED, USING THE FIELD OFFICE ADDRESS OR FAX NUMBER, WHICH ARE AVAILABLE AT SOAH'S WEBSITE.

TO VIEW YOUR PUBLIC CASE FILE, GO TO THE SOAH WEBSITE (WWW.SOAH.TEXAS.GOV), CLICK THE "E-SERVICES" TAB, AND THEN CLICK THE "Public and Secure Case File Search" LINK.

The Commission reserves the right to amend this Notice of Hearing.

Respectfully,

/s/ Kristen Guthrie
KRISTEN GUTHRIE
Assistant General Counsel
Texas Lottery Commission

CERTIFICATE OF SERVICE

I certify that on July 1, 2024, a true and correct copy of this *Notice of Final Hearing Denial of Application for Registry of Approved Bingo Workers* has been sent to Ms. Esmeralda Sevilla at 3313 Lynnwood Ln., Corpus Christi, TX 78415-3122, via certified and regular mail.

/s/ Kristen Guthrie
KRISTEN GUTHRIE
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Texas Lottery Commission
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cc: SOAH
Charitable Bingo Operations Division