



INTEROFFICE MEMO

Gary Grief, Executive Director Michael P. Farrell, Charitable Bingo Operations Director

To: J. Winston Krause, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Robert Rivera, Commissioner
Erik C. Saenz, Commissioner

From: Bob Biard, General Counsel *RSB*

Date: February 13, 2020

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: FEBRUARY 13, 2020

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 to dismiss each of the referenced cases from the SOAH docket and to remand each 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: FEBRUARY 13, 2020

4. The ALJ conditionally 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 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 and 16 Tex. Admin. Code Chapter 401.

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. 20-0033

Date: FEBRUARY 13, 2020

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 13TH day of FEBRUARY 2020.

Entered this 13TH day of FEBRUARY 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

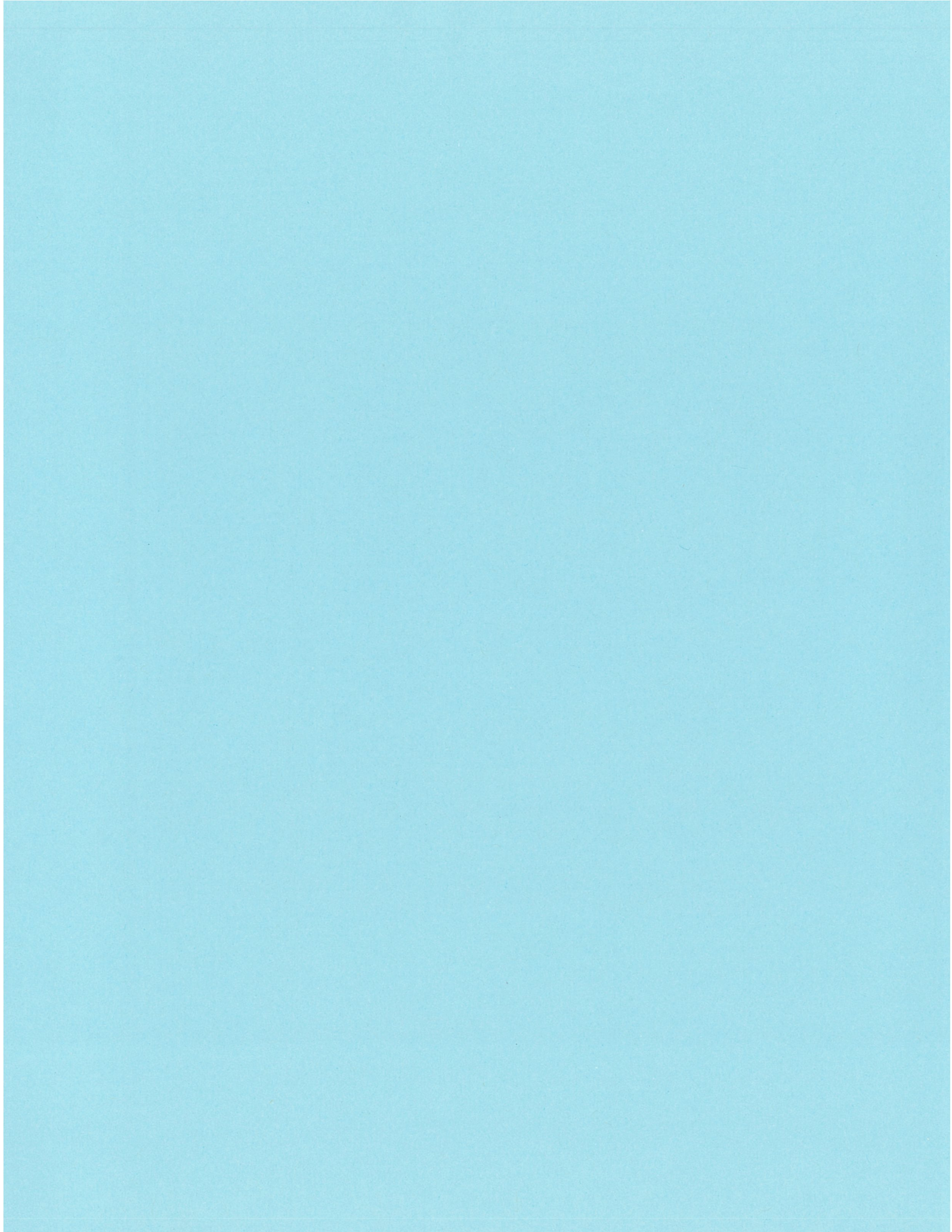
ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

Date: FEBRUARY 13, 2020

ATTACHMENT A

TAB NO.	SOAH DOCKET NO.	TICKET SALES AGENT NAME	TICKET SALES AGENT ADDRESS	LOTTERY LICENSE NO.
A.	362-20-0229	PRS Business Inc. d/b/a Peterson Food Mart	8851 N. Hwy. 77 Lexington, TX 78947	183693
B.	362-20-0374	Ali Roshan Inc. d/b/a Preston Citgo	3490 Preston Pasadena, TX 77505	122588
C.	362-20-0516	DRD Food Mart LLC d/b/a DRD Food Mart	25289 FM 2090 Splendora, TX 77372	184500
D.	362-20-0653	Guillermo Perez, Jr. d/b/a La Herradura Drive-Thru	18100 N FM 493 La Blanca, TX 78558	186430
E.	362-20-0755	Sarsal Inc. d/b/a Shadowlake Food Store	3533 S. Dairy Ashford A Houston, TX 77082	185283
F.	362-20-0756	Sirban USA Enterprise Inc. d/b/a S K Quick Mart	6643 Cullen Blvd. Houston, TX 77021	186724
G.	362-20-0841	Ayasa Investments Inc. d/b/a Ruiz Foods	1054 Ruiz San Antonio, TX 78207	173928
H.	362-20-0842	JAS Partners LLC d/b/a Howdy Mart	4625 S. Buckner Blvd. Dallas, TX 75227	185338
I.	362-20-0948	MCV Atascocita LLC d/b/a MCV Atascocita LLC	4803 Russett Lane Sugarland, TX 77479	177063
J.	362-20-1071	AAI Commercial Real Estate LLC d/b/a Almeda Market	9705 Telephone Rd., Ste. A Houston, TX 77075	183525
K.	362-20-1297	DAUD Properties LLC d/b/a Champs Convenience Store	329 N. Bolton St. Jacksonville, TX 75766	182392
L.	362-20-1419	Kamana Khadka d/b/a Lucky Food Mart	519 E. Veterans Memorial Blvd. Harker Heights, TX 76548	181420
M.	362-20-1420	Mahi Kaur Inc. d/b/a Timber Path Grocery	18530 South Hwy. 123 Seguin, TX 78156	187394



DOCKET NO. 362-20-0229

IN THE MATTER § BEFORE THE STATE OFFICE
§
OF THE REVOCATION OF § OF
LOTTERY RETAILER LICENSE OF §
PETERSON FOOD MART § ADMINISTRATIVE HEARINGS

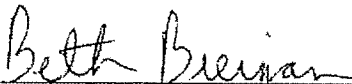
ORDER NO. 1
CONDITIONAL ORDER DISMISSING CASE FROM SOAH
AND REMANDING CASE TO COMMISSION

On October 31, 2019, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held Peterson Food Mart (the retailer). Notice of the hearing was provided to the retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at the retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

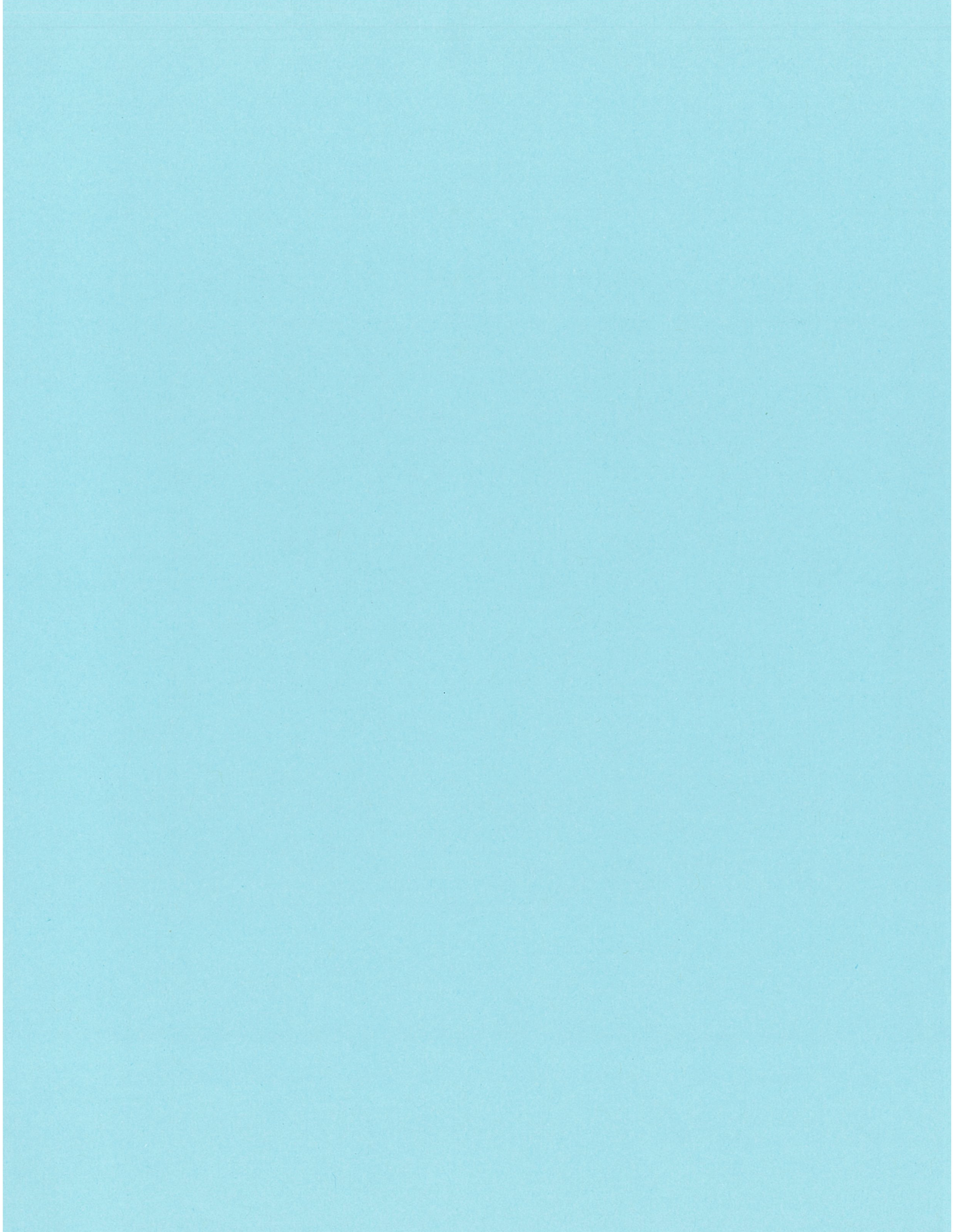
The Commission's staff (Staff) appeared at the hearing. The retailer failed to appear at the hearing. Based on the retailer's failure to appear, Staff filed a motion to dismiss the case from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand is conditionally granted, and the case is conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. The retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

SIGNED November 12, 2019.



BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



DOCKET NO.: SEE ATTACHMENT A

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

**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On November 7, 2019, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed November 12, 2019.



LINDA H. BRITE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS LOTTERY COMMISSION

REVOCATION HEARING

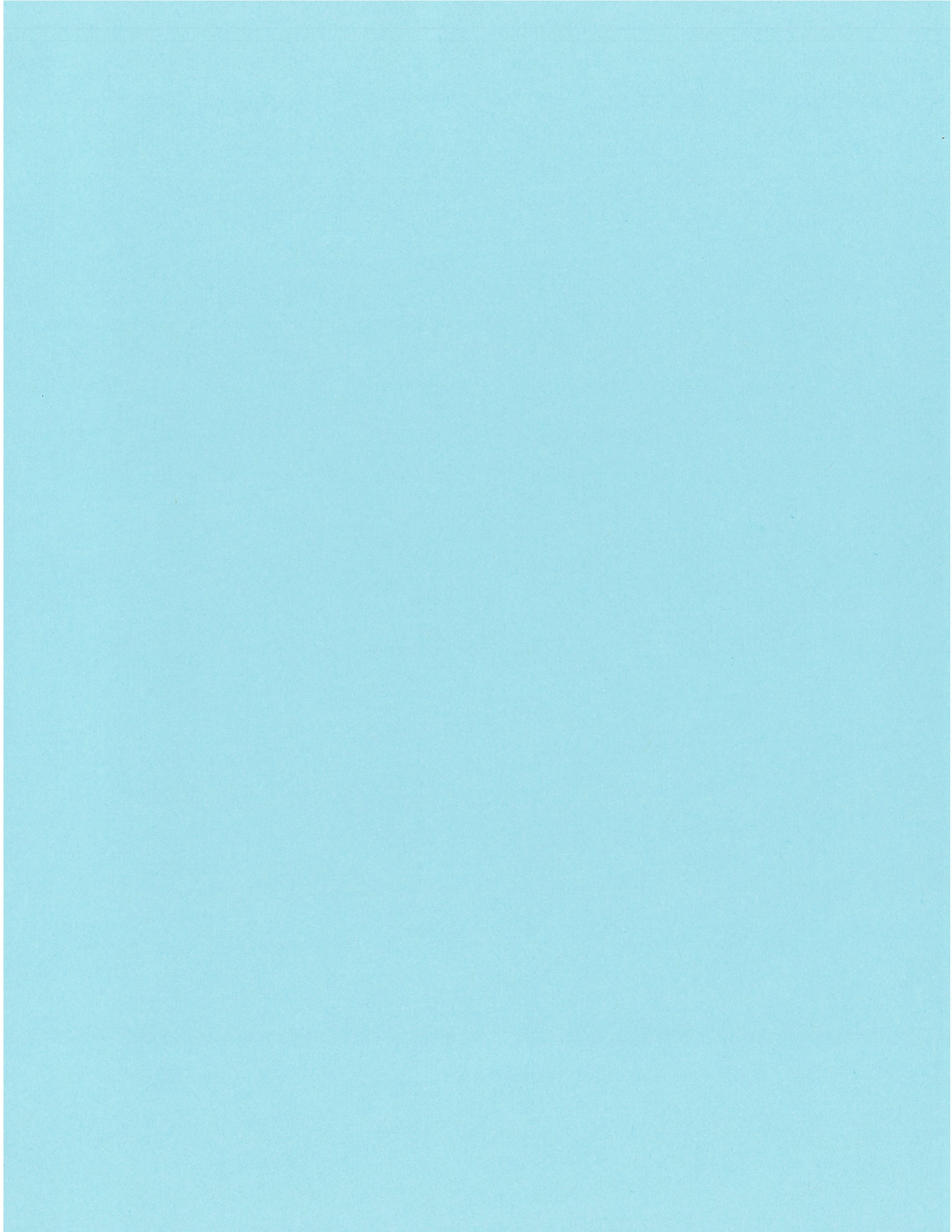
STATE OFFICE OF ADMINISTRATIVE HEARINGS

EXHIBIT 1

HEARING HELD: November 7, 2019

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-0374	Ali Roshan Inc. d/b/a Preston Citigo	3490 Preston Pasadena, TX	122588
362-20-0376	Swarna Enterprises Inc. d/b/a DMJ Groceries	815 North New Braunfels San Antonio, TX 78202	180500

362-20-0374



DOCKET NO.: SEE ATTACHMENT A

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


CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION

On November 14, 2019, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed November 18, 2019.


DANIEL WISEMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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TEXAS LOTTERY COMMISSION

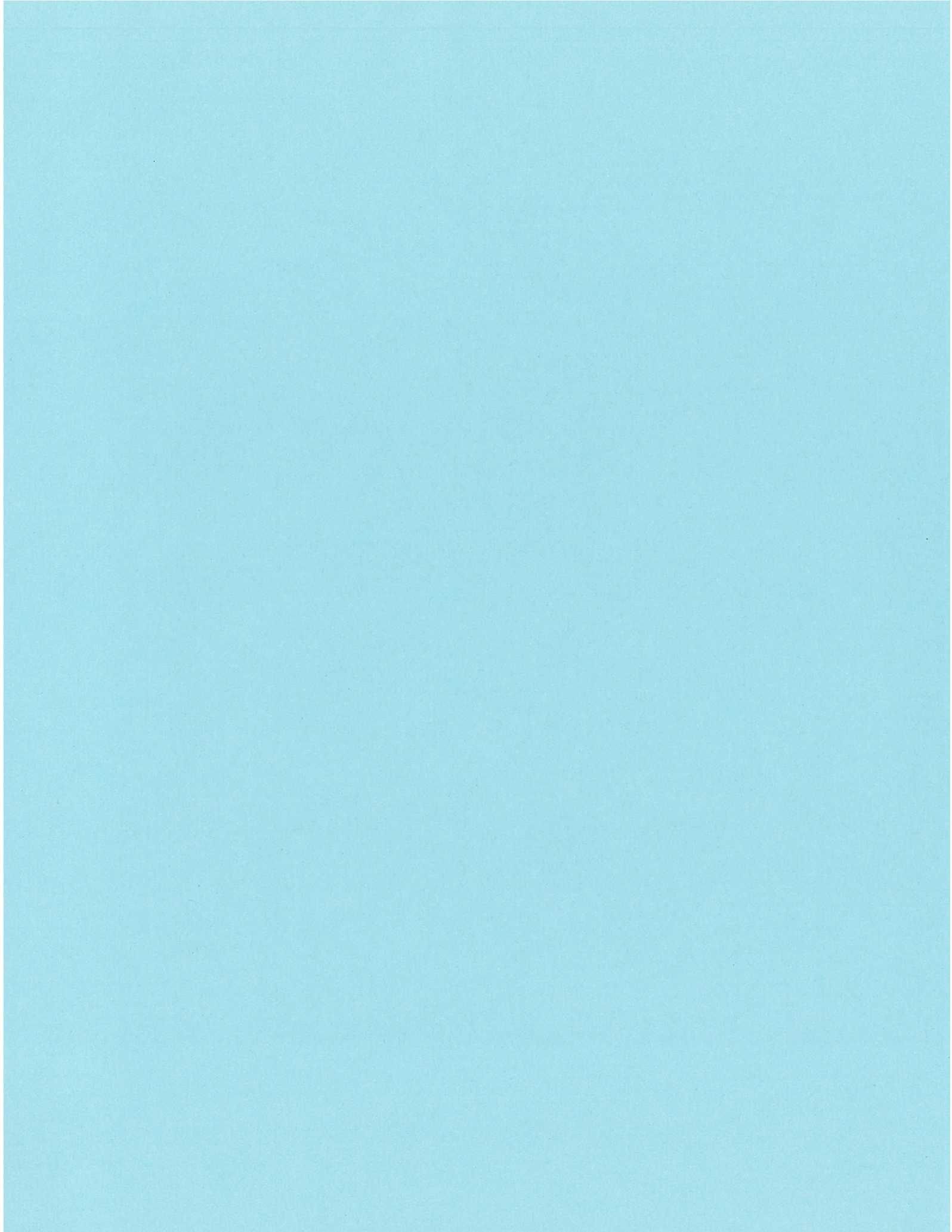
REVOCATION HEARING

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: November 14, 2019

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-0516	DRD FOOD MART LLC	25289 FM 2090	184500
	DRD FOOD MART	SPLENDORA, TX 77372	



DOCKET NO.: SEE ATTACHMENT A

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

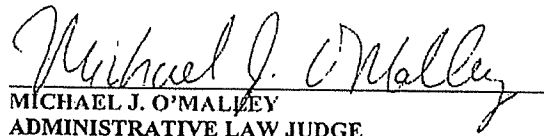
**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On November 21, 2019, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

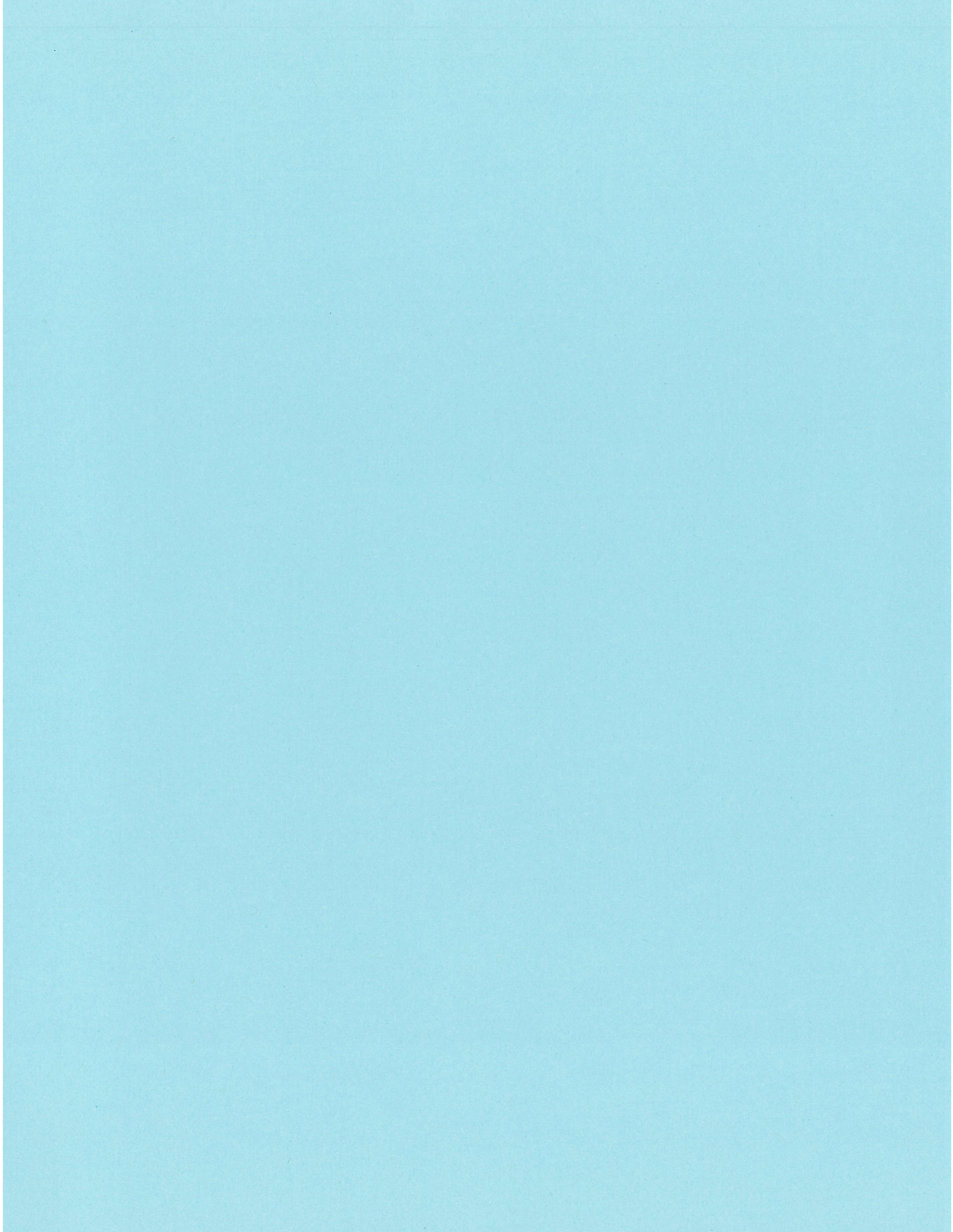
Signed November 25, 2019.


MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING

TEXAS LOTTERY COMMISSION
REVOCATION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTACHMENT A

HEARING HELD: November 21, 2019

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-0653	Guillermo Perez Jr, Agent d/b/a La Herradura Drive-Thru	18100 NFM 493 La Blanca, TX 78558	186430



DOCKET NO.: SEE ATTACHMENT A

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

**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On November 26, 2019, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed December 6, 2019.

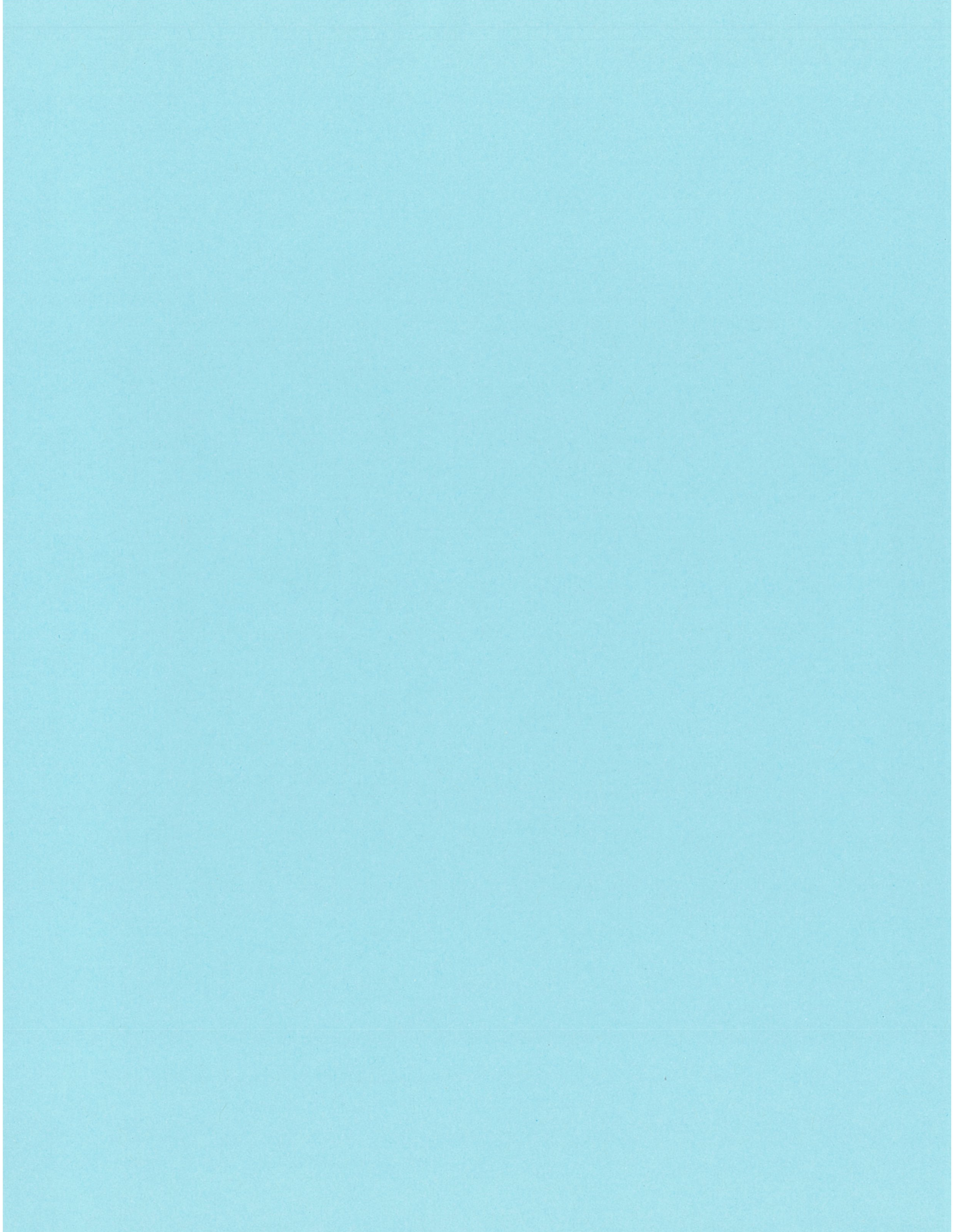
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LINDA H. BRITE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS LOTTERY COMMISSION
REVOCAION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTACHMENT A

HEARING HELD: November 26, 2019

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-0755	Sarsal Inc. d/b/a Shadowlake Food Store	3533 S. Dairy Ashford A, Houston, TX 77082	185283
362-20-0756	Sirban USA Enterprise, Inc. d/b/a S K Quick Mart	6643 Cullen Blvd., Houston, TX 77021	186724



DOCKET NO.: SEE ATTACHMENT A

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

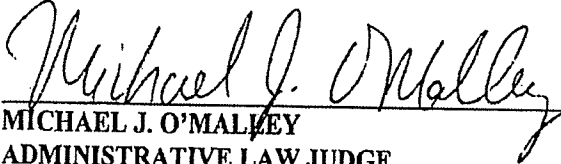
**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On December 5, 2019, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by the retailers listed on Attachment A. Notice of the hearing was provided to the retailers in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at the retailers' last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. The referenced retailers failed to appear at the hearing. Based on the retailers' failure to appear, Staff filed a motion to dismiss the cases from SOAH's docket and to remand the cases to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The Administrative Law Judge concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand for the case listed on Attachment A is conditionally granted, and the case is conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. The retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

SIGNED December 6, 2019.

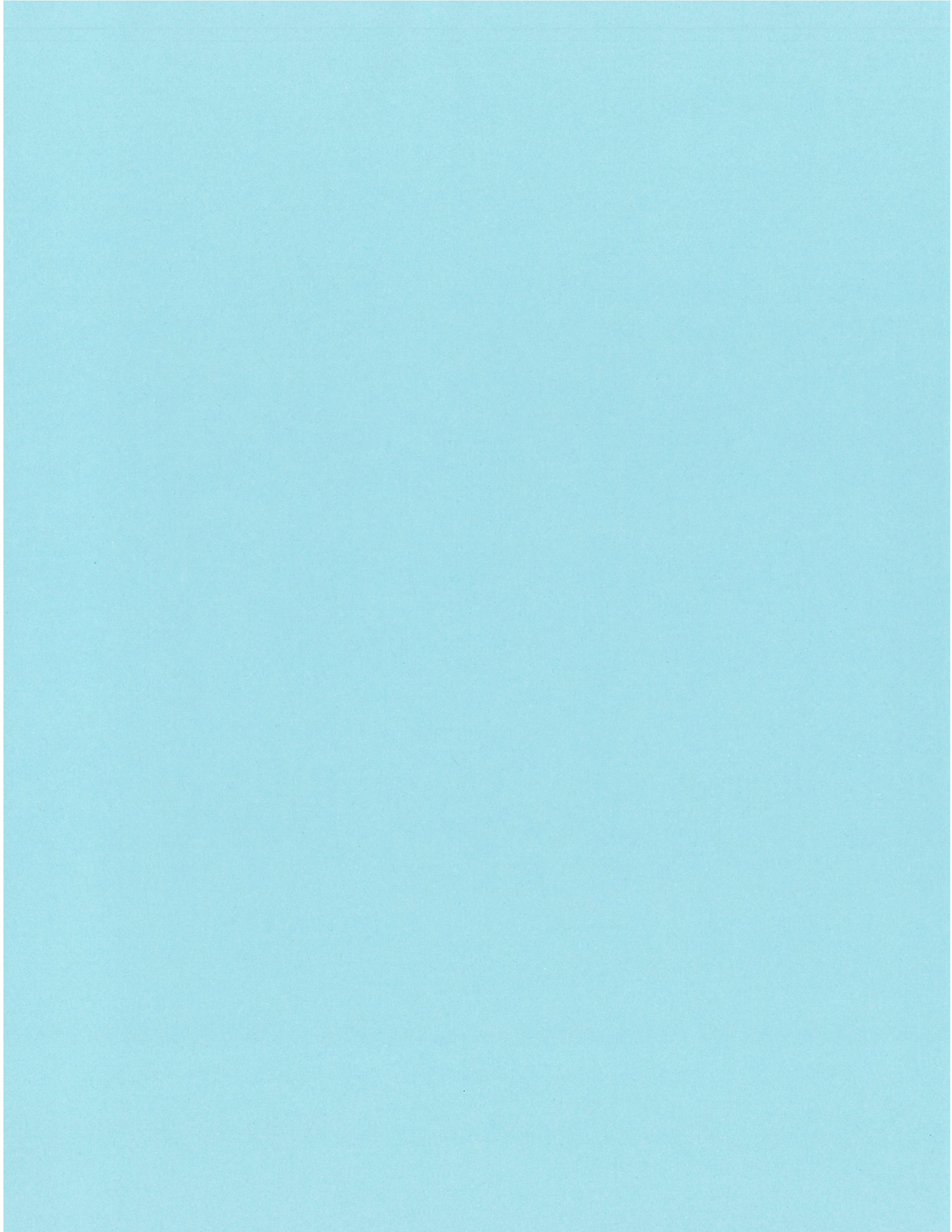

MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING

TEXAS LOTTERY COMMISSION
SUMMARY SUSPENSION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: December 5, 2019

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-0841	AYASA INVESTMENTS INC. d/b/a RUIZ FOODS	1054 RUIZ SAN ANTONIO, TX 78207	173928
362-20-0842	JAS PARTNERS LLC d/b/a HOWDY MART	4625 S. BUCKNER BLVD DALLAS, TX 75227	185338



DOCKET NO.: SEE ATTACHMENT A

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

**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On December 12, 2019, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed December 23, 2019.

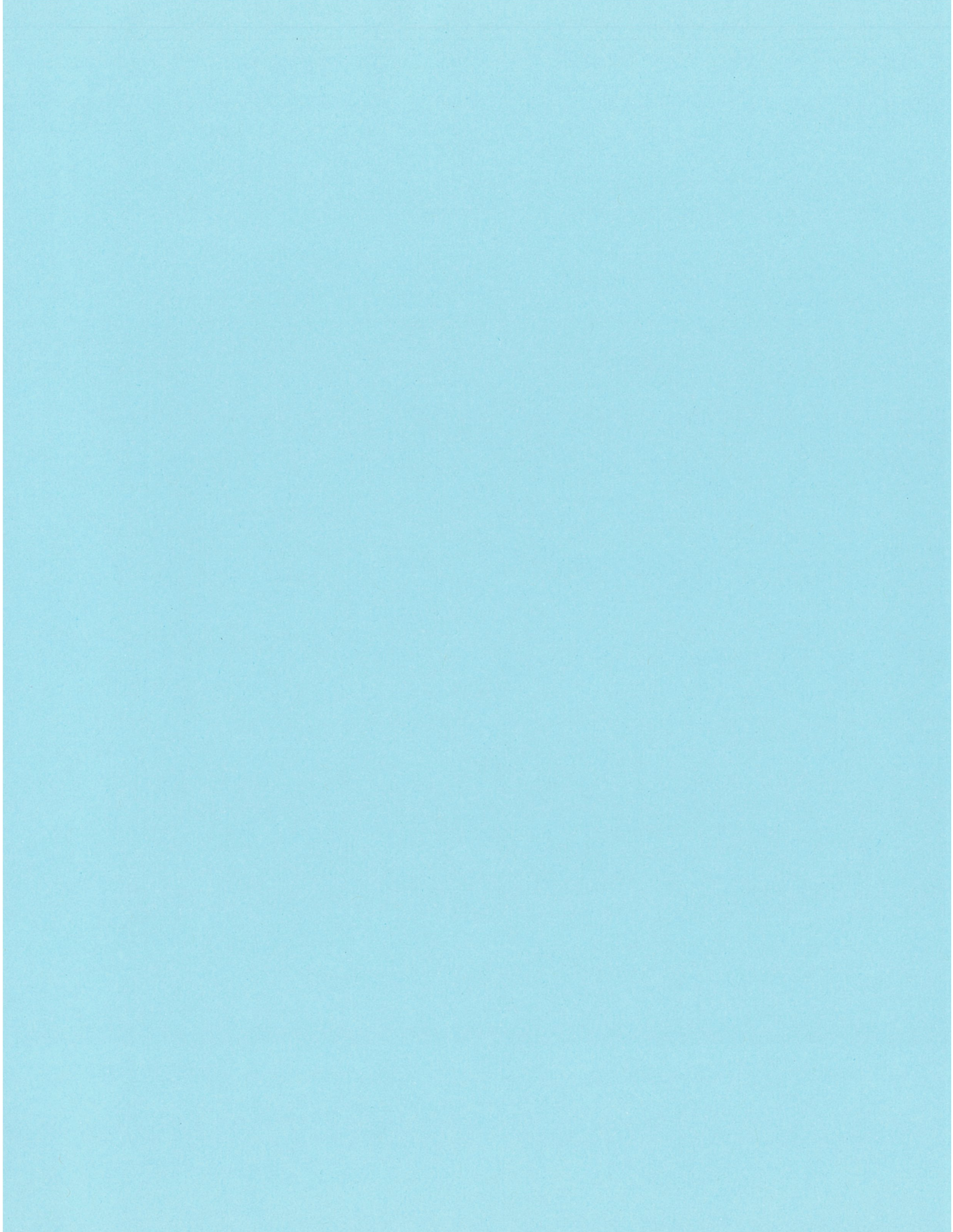


CHRISTIAAN SIANO
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS LOTTERY COMMISSION
REVOCAION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTACHMENT A

HEARING HELD: December 12, 2019

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-0948	MCV Atascocita LLC d/b/a MCV Atascocita LLC	4803 Russett Lane Sugarland, Texas 77479	177063



DOCKET NO.: SEE ATTACHMENT A

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

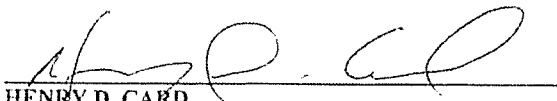
**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION**

On December 19, 2019, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed December 20, 2019.

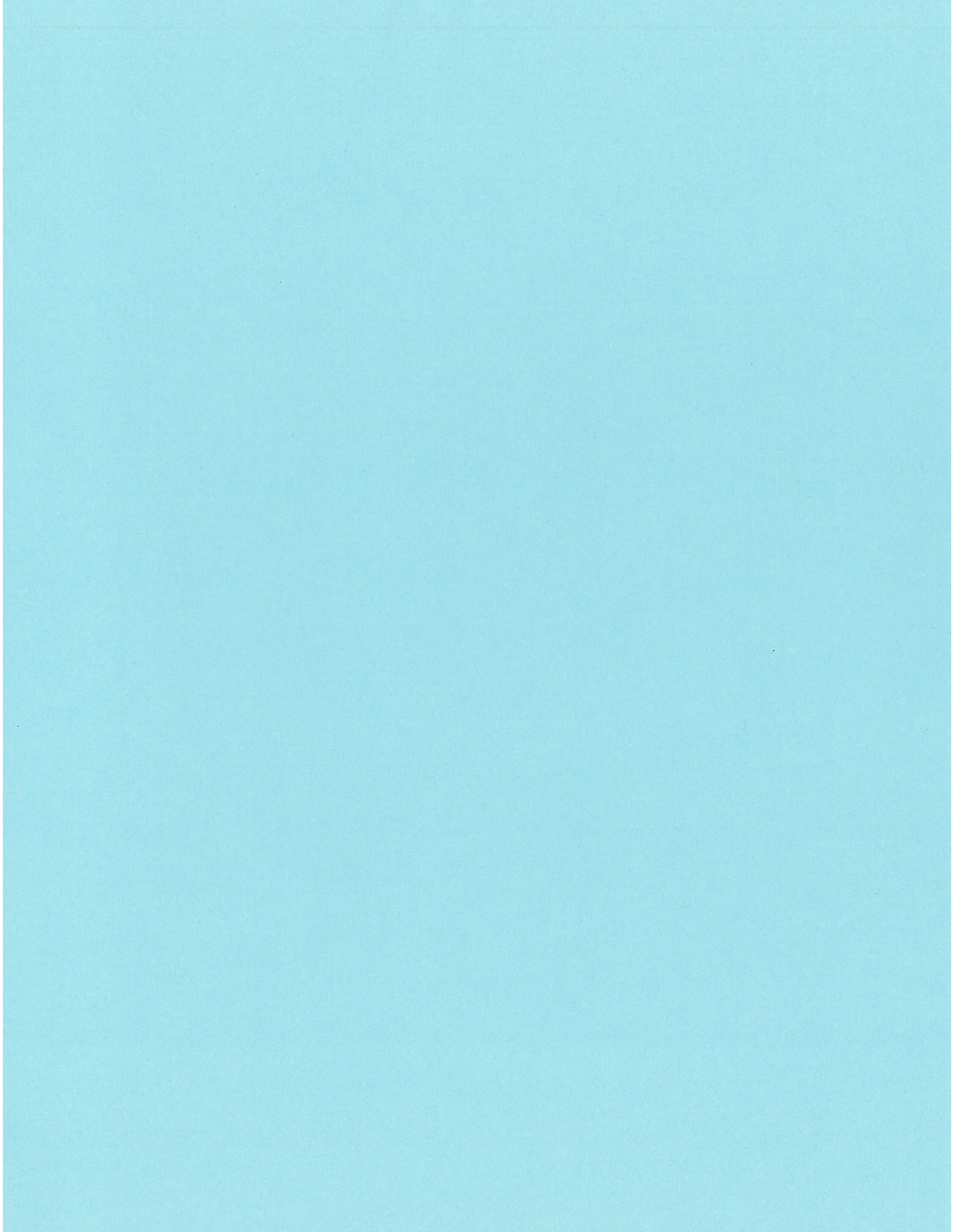

HENRY D. CARD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS LOTTERY COMMISSION
REVOCATION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: December 19, 2019

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-1071	AALI Commercial Real Estate LLC d/b/a Almeda Market	9705 Telephone Rd, Ste. A Houston, TX 77075	183525



DOCKET NO. 362-20-1297

IN THE MATTER § BEFORE THE STATE OFFICE
 §
OF THE REVOCATION OF § OF
LOTTERY RETAILER LICENSE OF §
CHAMPS CONVENIENCE STORE § ADMINISTRATIVE HEARINGS

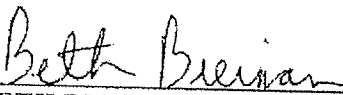
ORDER NO. 1
CONDITIONAL ORDER DISMISSING CASE FROM SOAH
AND REMANDING CASE TO COMMISSION

On January 2, 2020, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held Champs Convenience Store (the retailer). Notice of the hearing was provided to the retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at the retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

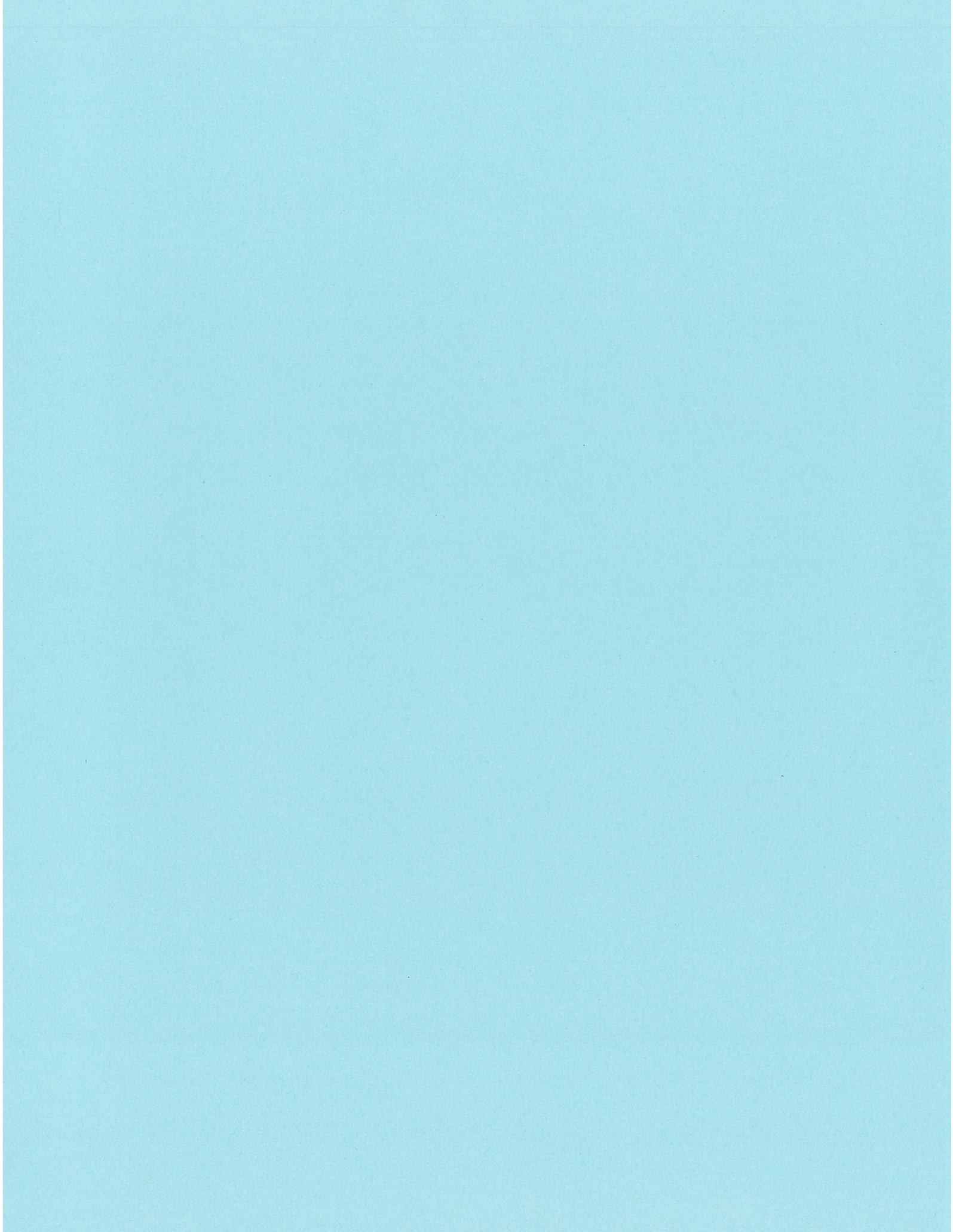
The Commission's staff (Staff) appeared at the hearing. The retailer failed to appear at the hearing. Based on the retailer's failure to appear, Staff filed a motion to dismiss the case from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand is conditionally granted, and the case is conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. The retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

SIGNED January 7, 2020.



BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



DOCKET NO.: SEE ATTACHMENT A

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

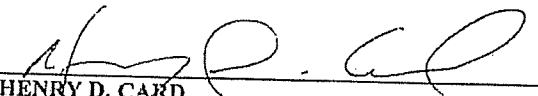
CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH
AND REMANDING CASE(S) TO COMMISSION

On January 9, 2020, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on a retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand each case listed on Attachment A is conditionally granted, and the case(s) are conditionally dismissed from SOAH's docket and remanded to the Commission for informal disposition under Texas Government Code § 2001.056. Each retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed January 13, 2020.


HENRY D. CARD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS LOTTERY COMMISSION
REVOCAION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS
ATTACHMENT A

HEARING HELD: January 9, 2020

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-1419	Kamana Khadka, d/b/a Lucky Food Mart	519 E. Veterans Memorial Blvd, Harker Heights, TX 76548	181420
362-20-1420	Mahi Kaur Inc., d/b/a Timber Path Grocery	18530 South Hwy 123, Seguin, Tx 78156	187394

Commission Order No. 20-0034

Date: FEBRUARY 13, 2020

Case No. 2019-909

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
CHOWDHURY'S BUSINESS INC.	§	
D/B/A J'S FOOD STORE	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184335	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Chowdhury's Business Inc. d/b/a J's Food Store (J's Food Store) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. J's Food Store holds Texas Lottery Ticket Sales Agent License No. 184335.
2. Akram Chowdhury is the owner of J's Food Store, which is located at 8475 Mansfield Hwy., Kennedale, TX 76060.
3. On March 9, 2019, the Commission received a complaint that, on March 7, 2019, a customer presented a Texas Lottery scratch ticket with a prize value of \$500 for validation at J's Food store, and Mr. Chowdhury paid the customer \$400 for the ticket and kept the remaining \$100 for "taxes."
4. On April 10, 2019, a Commission investigator spoke to Mr. Chowdhury about the incident. Mr. Chowdhury stated he paid the customer \$400 for the \$500 prize because he did not have enough money to pay the full prize.

AGREED CONCLUSIONS OF LAW

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

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

3. Tex. Gov't Code §466.310(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.

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

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:

- ...
- (12) license fails to pay a valid prize in the amount specified on the validation slip generated on the licensee's terminal or to pay the authorized amount;
- (13) licensee fails to pay a valid prize the licensee is required to pay;

...

(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.
- (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

5. 16 Tex. Admin. Code §401.360 states:

Retailers may pay any lottery prize of less than \$600, after complying with established validation procedures. However, if a retailer validates a ticket of up to \$600, that retailer shall pay the prize amount on the ticket. Prizes of \$600 or more shall be paid by the Texas Lottery by mail or at a designated lottery claim center.

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 agreements with the Texas Lottery.

7. The Texas Lottery Ticket Sales Agent License of J's Food Store is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of J's Food Store's violation of Tex. Gov't Code §§ 466.310(a); and 16 Tex. Admin. Code §§ 401.158(b)(12), (13), and (33), 401.360, and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, J's Food Store agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

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

3. J's Food Store agrees that, as a result of its violation of Tex. Gov't Code §§ 466.310(a), and 16 Tex. Admin. Code §§ 401.158(b)(12), (13) and (33), 401.360, and 401.366, its Ticket Sales Agent License will be suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, J's Food Store agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

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

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

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

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

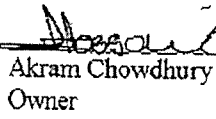
AGREED AS TO FORM AND SUBSTANCE:

Chowdhury's Business Inc.
d/b/a J's Food Store

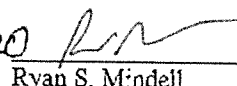
Texas Lottery Commission
Lottery Operations Division

By:

By:


Akram Chowdhury
Owner

JAN 07 2020
DATE


Ryan S. Mindell
Director

1-7-2020
DATE

Commission Order No. 20-0034

Date: FEBRUARY 13, 2020

Case No. 2019-909

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
CHOWDHURY'S BUSINESS INC.	§	
D/B/A J'S FOOD STORE	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184335	§	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 revocation of Chowdhury's Business Inc. d/b/a J's Food Store's (J's Food Store) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, J's Food Store shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

Commission Order No. 20-0034

Date: FEBRUARY 13, 2020

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

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

Commission Order No. 20-0034

Date: FEBRUARY 13, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 13TH day of FEBRUARY, 2020.

Entered this 13TH day of FEBRUARY, 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

Commission Order No. 20-0035

Date: FEBRUARY 13, 2020

Case No. 2020-39

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ANNAPURNA BUSINESS LLC	§	
D/B/A HUNTINGTON TRAVEL CENTER	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184734	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Annapurna Business LLC d/b/a Huntington Travel Center (Huntington Travel Center) 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. Huntington Travel Center holds Texas Lottery Ticket Sales Agent License No. 184734.
2. Kishor Ghimire is the president of Huntington Travel Center, which is located at 191 S. U.S. Highway 69, Huntington, TX 75949.
3. On May 17, 2019, the Commission received a complaint that Huntington Travel Center sold three Texas Lottery “Winning Millions” scratch tickets that had been partially scratched.
4. On May 29, 2019, a Commission investigator traveled to Huntington Travel Center and found two scratch tickets that had been partially scratched.
5. On June 25, 2019, the investigator reviewed the store video footage from April 22, 2019 and May 1, 2019. In both videos, Huntington Travel Center employee Hazel Jensen was seen

scratching lottery tickets and returning non-winning tickets to the store ticket dispensers to be sold to customers.

AGREED CONCLUSIONS OF LAW

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

2. Huntington Travel Center 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 §466.307(a) states:

A person commits an offense if the person intentionally or knowing influences or attempts to influence the selection of the winner of a lottery game.

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:

...

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

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 agreements with 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 reasonably necessary to fulfill the Commission’s express duty to exercise strict control and supervision over the lottery, and is within the Commission’s implied authority.

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

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Huntington Travel Center agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

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

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

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

6. Huntington Travel Center 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. Huntington Travel Center 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 Huntington Travel Center has failed to comply with the terms of the Memorandum of Agreement and Consent

Order, disciplinary action shall be taken against Huntington Travel Center, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

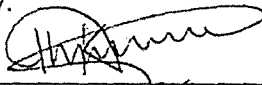
8. Huntington Travel Center agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Huntington Travel Center will be charged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

Annapurna Business LLC
d/b/a Huntington Travel Center

Texas Lottery Commission
Lottery Operations Division

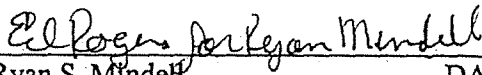
By:



Kishor Ghimire
President

12/29/19
DATE

By:



Ryan S. Mindell
Director

12-30-19
DATE

Commission Order No. 20-0035

Date: FEBRUARY 13, 2020

Case No. 2020-39

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ANNAPURNA BUSINESS LLC	§	
D/B/A HUNTINGTON TRAVEL CENTER	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184734	§	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 Annapurna Business LLC d/b/a Huntington Travel Center’s (Huntington Travel Center) Texas Lottery Ticket Sales Agent License, 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 is signed by the Commission. During the period of suspension, Huntington Travel Center 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, Huntington Travel Center 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 Huntington Travel Center’s Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 20-0035

Date: FEBRUARY 13, 2020

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

(4) IT IS FURTHER ORDERED by the Commission that Huntington Travel Center 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 Huntington Travel Center will be charged for the tickets sold on or before that date. Huntington Travel Center 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. 20-0035

Date: FEBRUARY 13, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 13TH day of FEBRUARY, 2020.

Entered this 13TH day of FEBRUARY, 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

Commission Order No. 20-0036

Date: FEBRUARY 13, 2020

Case No. 2020-40

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
HAMRO INC.	§	
D/B/A BAKER BEVERAGE	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 176842	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and Hamro Inc. d/b/a Baker Beverage (Baker Beverage) 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. Baker Beverage holds Texas Lottery Ticket Sales Agent License No. 176842.
2. Sunil Shrestha is the owner of Baker Beverage, which is located at 7457 Baker Blvd., Richland Hills, TX 76118.
3. On June 25, 2019, Mr. Shrestha presented a Texas Lottery scratch ticket with a prize value of \$1,000 to the Fort Worth Claim Center for payment. Based on an internal review, the Commission initiated an investigation of Baker Beverage.
4. On August 28, 2019, a Commission investigator spoke with Mr. Shrestha, who admitted to purchasing the prize-winning scratch ticket from a customer for less than its \$1,000 prize value.

AGREED CONCLUSIONS OF LAW

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

2. Baker Beverage 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 §466.308(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.

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

A person commits an offense if the person:

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

5. Tex. Gov't Code §466.402(b) states:

The payment of a prize in the amount of \$600 or more may be made only by the director.

6. 16 Tex. Admin. Code §401.158 states, in pertinent parts:

(b) 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:

...

(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.
- (D) purchases a lottery ticket from a person who is not a licensed lottery retailer.

7. 16 Tex. Admin. Code §401.360 states:

Retailers may pay any lottery prize of less than \$600, after complying with established validation procedures. However, if a retailer validates a ticket of up to \$600, that retailer shall pay the prize amount on the ticket. Prizes of \$600 or more shall be paid by the Texas Lottery by mail or at a designated lottery claim center.

8. 16 Tex. Admin. Code §401.366 states:

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

9. The Texas Lottery Ticket Sales Agent License of Baker Beverage is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Baker Beverage's violation of Tex. Gov't Code §§ 466.308(a), 466.310(a) and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Baker Beverage agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

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

3. Baker Beverage agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a), 466.310(a) and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366, its Ticket Sales Agent License will be suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period

of suspension, Baker Beverage 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, Baker Beverage 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 Baker Beverage's Ticket Sales Agent License is posted.

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

6. Baker Beverage 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.

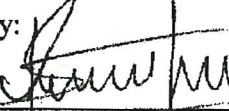
7. Baker Beverage agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Baker Beverage has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against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


8. Baker Beverage 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 Baker Beverage will be charged for tickets sold on or before that date. Baker Beverage 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:

Hamro Inc.
d/b/a Baker Beverage

Texas Lottery Commission
Lottery Operations Division

By:  1-21-2020
Sunil Shrestha DATE
Owner

By:  1-24-2020
Ryan S. Mindell DATE
Director

Commission Order No. 20-0036

Date: FEBRUARY 13, 2020

Case No. 2020-40

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
HAMRO INC.	§	
D/B/A BAKER BEVERAGE	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 176842	§	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 Hamro Inc. d/b/a Baker Beverage’s (Baker Beverage) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Baker Beverage 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, Baker Beverage 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 Baker Beverage’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 Consent Order, it is found that Baker Beverage has failed to

Commission Order No. 20-0036

Date: FEBRUARY 13, 2020

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

(4) IT IS FURTHER ORDERED by the Commission that Baker Beverage 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 Baker Beverage will be charged for the tickets sold on or before that date. Baker Beverage 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.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 13TH day of FEBRUARY, 2020.

Entered this 13TH day of FEBRUARY, 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

Commission Order No. 20-0037

Date: FEBRUARY 13, 2020

Case No. 2020-55

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
MAFS ENTERPRISE LLC	§	
D/B/A THE ROCKIN G OIL COMPANY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184633	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and MAFS Enterprise LLC d/b/a The Rockin G Oil Company (The Rockin G Oil Company) 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. The Rockin G Oil Company holds Texas Lottery Ticket Sales Agent License No. 184633.
2. Malik Hemani is the owner of The Rockin G Oil Company store, which is located at 1515 W. Highway 21, Caldwell, TX 77836.
3. On June 20, 2019, the Commission received a complaint that The Rockin G Oil Company charged a \$0.50 service fee on lottery purchases when using a debit card.
4. On August 7, 2019, a Commission investigator traveled to the Rockin G Oil Company store and spoke with Mr. Hemani, who confirmed the store charges \$0.50 for lottery purchases made with a debit card.

AGREED CONCLUSIONS OF LAW

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

2. The Rockin G Oil Company is obligated to follow the provisions of the State Lottery Act and the Commission rules to maintain its Texas Lottery Ticket Sales Agent License.

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

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

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

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

...

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

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

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

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

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, The Rockin G Oil Company agrees to these terms, acknowledges understanding them, and waives all rights to procedural requirements

for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing, and any right to seek judicial review of the Order.

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

3. The Rockin G Oil Company agrees that, as a result of its violation of Tex. Gov't Code §466.302(a) and 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 this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, The Rockin G Oil Company 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, The Rockin G Oil Company 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 The Rockin G Oil Company's Ticket Sales Agent License is posted.

5. The Rockin G Oil Company 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 The Rockin G Oil Company's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

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

8. The Rockin G Oil Company 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 The Rockin G Oil Company will be charged for tickets sold on or before that date. The Rockin G Oil Company 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:

MAFS Enterprise LLC
d/b/a The Rockin G Oil Company

Texas Lottery Commission
Lottery Operations Division

By:

By:

Malik Hemani
Owner

DATE

Ryan S. Mindell
Director

DATE

Commission Order No. 20-0037

Date: FEBRUARY 13, 2020

Case No. 2020-55

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
MAFS ENTERPRISE LLC	§	
D/B/A THE ROCKIN G OIL COMPANY	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184633	§	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 MAFS Enterprise LLC d/b/a The Rockin G Oil Company’s (The Rockin G Oil Company) Texas Lottery Ticket Sales Agent License, 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 is signed by the Commission. During the period of suspension, The Rockin G Oil Company 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, The Rockin G Oil Company 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 The Rockin G Oil Company’s Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 20-0037

Date: FEBRUARY 13, 2020

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

(4) IT IS FURTHER ORDERED by the Commission that The Rockin G Oil Company 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 The Rockin G Oil Company will be charged for the tickets sold on or before that date. The Rockin G Oil Company 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. 20-0037

Date: FEBRUARY 13, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 13TH day of FEBRUARY, 2020.

Entered this 13TH day of FEBRUARY, 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

Commission Order No. 20-0038

Date: FEBRUARY 13, 2020

DOCKET NO. 362-20-0048

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
Petitioner	§	
	§	
v.	§	
	§	
MOHAMMAD HADI ZGHOUL	§	
D/B/A MEGA MART	§	
RETAILER NO. 178398	§	
Respondent	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

TO: Mohammad Hadi Zghoul
d/b/a Mega Mart
9385 Marbach Road
San Antonio, TX 78245
hadi589@hotmail.com

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

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

NOW, THEREFORE, IT IS ORDERED that the Texas Lottery Ticket Sales Agent License of Mohammad Hadi Zghoul d/b/a Mega Mart is hereby revoked.

Commission Order No. 20-0038

Date: FEBRUARY 13, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 13TH day of FEBRUARY, 2020.

Entered this 13TH day of FEBRUARY, 2020.

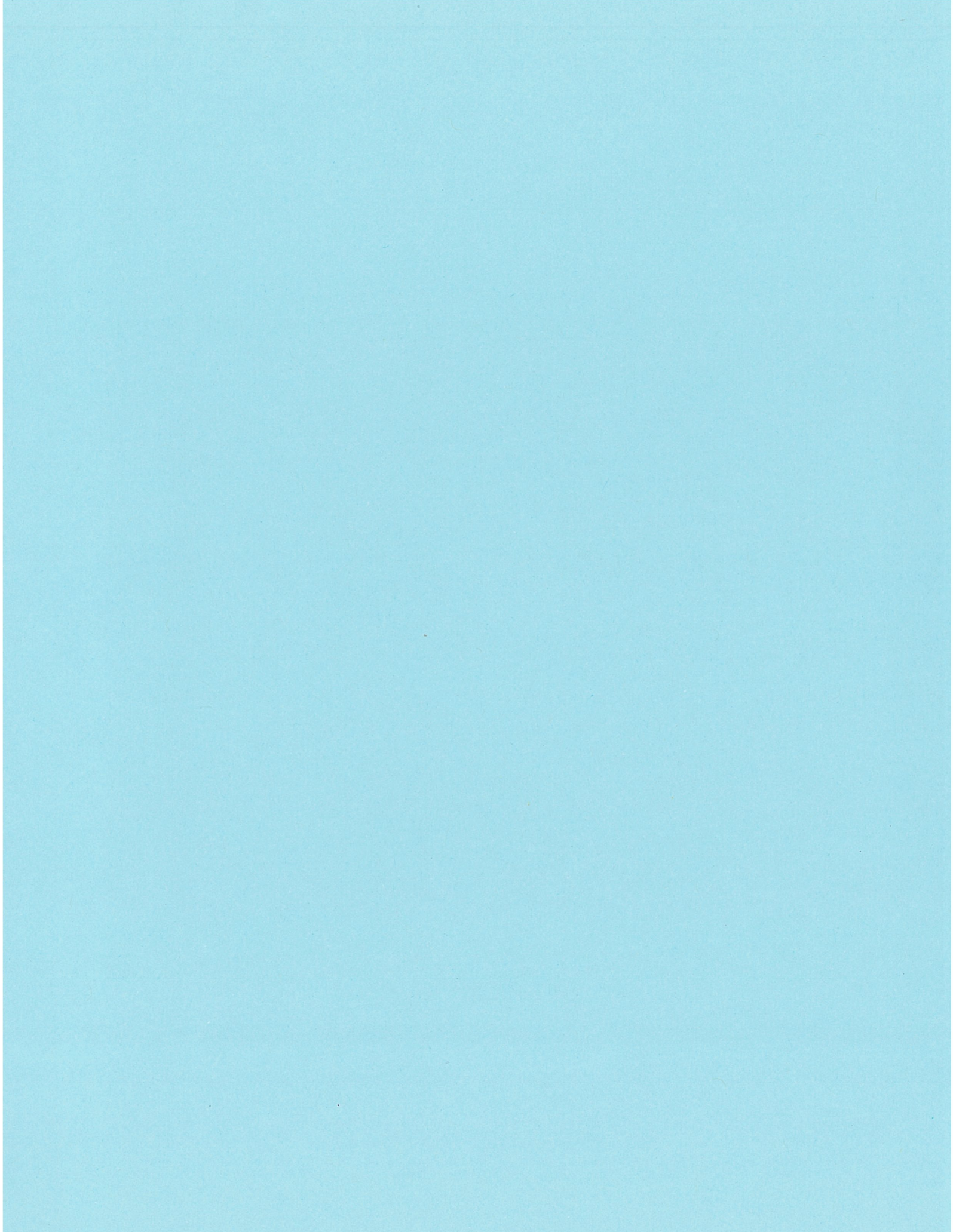
J. WINSTON KRAUSE, CHAIRMAN

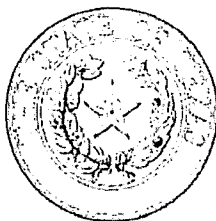
CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER





State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

November 18, 2019

Gary Grief
Executive Director
Texas Lottery Commission
611 East 6th Street
Austin, Texas 78701

VIA E-MAIL

RE: Docket No. 362-20-0048; Texas Lottery Commission v. Mohammad Hadi Zghoul, d/b/a, License No. 178398

Dear Mr. Grief:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with Texas Administrative Code title 1, § 155.507, a SOAH rule found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "HDC" followed by a flourish.

Henry D. Card
Administrative Law Judge

HDC/nm

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Mohammad Hadi Zghoul, 9385 Marbach Road, San Antonio, Texas 78245 - VIA REGULAR MAIL

P.O. Box 13025 Austin, Texas 78711-3025 | 300 W. 15th Street Austin, Texas 78701
Phone: 512-475-4993 | Fax: 512-475-4994
www.soah.texas.gov

SOAH DOCKET NO. 362-20-0048

TEXAS LOTTERY COMMISSION
LOTTERY OPERATIONS DIVISION,
Petitioner

v.

MOHAMMAD HADI ZGHOUL
D/B/A MEGA MART
OF SAN ANTONIO, TEXAS
SALES AGENT LICENSE NO. 178398,
Respondent

§
§
§
§
§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff/Commission) seeks to revoke the lottery sales agent's license held by Mohammad Hadi Zghoul d/b/a Mega Mart of San Antonio, Texas (Licensee) because Licensee has failed to have sufficient funds available to cover electronic funds transfers to the Commission four times within a 12-month period.¹ The Administrative Law Judge (ALJ) recommends revocation of the license.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Jurisdiction and notice were not contested and are discussed in the Findings of Fact and Conclusions of Law. On October 24, 2019, the hearing to consider Staff's allegations was conducted by ALJ Henry D. Card at the State Office of Administrative Hearings in Austin, Texas. Staff appeared through Kristen Guthrie, Assistant General Counsel for the Commission. Licensee appeared through Sahal Mohammed Zghoul, the son of the co-owners. After the presentation of evidence and arguments, the hearing was adjourned and the record closed the same day.

¹ At the time of the hearing, Licensee owed money to the Commission. That balance was paid later that day, however, and Staff no longer cites that as a basis for revocation.

II. EVIDENCE AND ANALYSIS

Joel Garza, retail services specialist with the Commission, testified and presented documentary evidence that Licensee has failed to have sufficient funds available to cover an electronic funds transfer to the Commission on four occasions within the 12-month period, for reasons other than bank error. Those amounts and dates are as follows:

August 21, 2019:	\$6,279.65
March 6, 2019:	\$6,003.77
December 19, 2018:	\$5,145.62
October 24, 2018:	\$8,232.52 ²

Mr. Garza testified that Licensee's actions were in violation of Texas Government Code § 466.351 and 16 Texas Administrative Code (TAC) §§ 401.351-.352, which require licensees to have adequate funds available through electronic funds transfer. The Commission's rule at 16 TAC § 401.353 also requires retailers to maintain sufficient funds for electronic funds transfers and further provides that if a retailer's license has been summarily suspended for insufficient funds four times in a 12-month period, that license shall be revoked. Texas Government Code § 466.155(a) also states that a license may be revoked if a licensee has violated that chapter of the Government Code or a rule adopted pursuant to that chapter.

Mr. Zghoul testified that Chase Bank closed Licensee's previous account without explaining why. In informing the Commission of the new account number with Wells Fargo Bank, his father, who is out of the country assisting another brother who is ill, sent an account number that was mistaken by one number; therefore the Commission's August 21st sweep was unsuccessful. That error has been fixed. Mr. Zghoul also observed that the earliest instance of insufficient funds cited by Staff was more than one year ago and therefore should not count against Licensee.

² Staff Exhibits 1, 4, 5, 8.

Mr. Zghoul testified that any errors were inadvertent and that the lottery license was important to their store, which has seen business decline since the suspension of the license. His testimony was confirmed by the store manager, Shoja Ramani, and by his mother, Aruj Rafati, who is co-owner of the store.

In rebuttal, Mr. Garza testified that the standard for revocation is four instances of insufficient funds in a 12-month period, regardless of the calendar year. He stated that although the Commission makes allowances for bank errors, it does not make allowances for retailer errors, which apparently is what happened with the transcription of the bank account number. He also observed that Licensee can reapply immediately after revocation, subject to requirements set out by the Commission.

The ALJ appreciates that Licensee is interested in retaining its lottery sales agent license and that the most recent instance of insufficient funds was the result of an unfortunate error. Staff proved, however, that Licensee has violated the statutes and rules set forth above. As alleged by Staff, Licensee failed to have sufficient funds available to cover electronic funds transfers to the Commission four or more times within a 12-month period. Under the applicable statutes and rules, the Commission has the authority and the obligation to revoke Licensee's license. The ALJ concludes that it should do so.

III. FINDINGS OF FACT

1. Mohammed Hadi Zghoul d/b/a Mega Mart of San Antonio, Texas (Licensee), is a lottery sales agent licensed by the Texas Lottery Commission (Commission). Licensee holds license number 178398.
2. On September 18, 2019, the Commission staff (Staff) sent a notice of hearing to Licensee.
3. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted, or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.

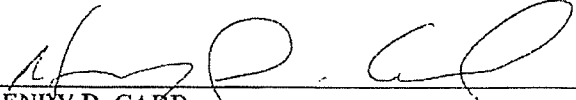
4. On October 24, 2019, the hearing to consider Staff's allegations was conducted by Administrative Law Judge Henry D. Card, at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Staff appeared through Kristen Guthrie, Assistant General Counsel for the Commission. Licensee appeared through Sahal Mohammed Zghoul, the son of the co-owners. After the presentation of evidence and arguments, the hearing was adjourned and the record closed the same day.
5. Licensee has failed to have sufficient funds available to cover an electronic funds transfer to the Commission on four occasions within a 12-month period, for reasons other than bank error. Those amounts and dates are as follows:

August 21, 2019:	\$6,279.65
March 6, 2019:	\$6,003.77
December 19, 2018:	\$5,145.62
October 24, 2018:	\$8,232.52

IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Texas Government Code § 466.155.
2. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Texas Government Code ch. 2003.
3. Proper and timely notice of the hearing was effected upon Licensee pursuant to Texas Government Code §§ 2001.051-52 and 16 Texas Administrative Code (TAC) § 401.205(a)(4).
4. Licensee's actions were in violation of Texas Government Code § 466.351 and 16 TAC §§ 401.351-.352.
5. Licensee's license should be revoked pursuant to Texas Government Code § 466.155(a) and 16 TAC § 401.353.

SIGNED November 18, 2019.


HENRY D. CARD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

Commission Order No. 20-0039

Date: FEBRUARY 13, 2020

**CASE NOS. 2019-713, 2019-714, 2019-715,
2019-716, 2019-717, 2019-958**

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
GROUNDING IN MUSIC INC.,	§	
PARASPORTS WHEELCHAIR SPORTS	§	
ORGANIZATION INC., LIONS CLUB OF	§	
MANOR, CITY WIDE CLUB CHAPTER	§	
82 FOOD BANK DISTRIBUTION,	§	
CAMP YOUNG JUDAEA INC., AND	§	
BALCONES BINGO ASSN.	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Charitable Bingo Operations Division (Division) of the Texas Lottery Commission (Commission); Grounded In Music Inc., ParaSports Wheelchair Sports Organization Inc., Lions Club of Manor, City Wide Club Chapter 82 Food Bank Distribution, and Camp Young Judaea Inc. (Authorized Organizations); and Balcones Bingo Assn. (Lessor) 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. Authorized Organizations are members of the New Balcones Bingo Unit (Unit), a bingo accounting unit subject to Tex. Occ. Code §§ 2001.431–.439. Each Authorized Organization is licensed by the Commission to conduct bingo under the following taxpayer numbers: Grounded In Music Inc., Taxpayer No. 12089922251; ParaSports Wheelchair Sports Organization Inc., Taxpayer No. 18106479837; Lions Club of Manor, Taxpayer No. 17429008018; City Wide Club Chapter 82 Food Bank Distribution, Taxpayer No. 17603168208, and Camp Young Judaea Inc., Taxpayer No. 17460634300.

2. Lessor is licensed by the Commission as a commercial lessor to lease bingo premises to authorized organizations licensed to conduct bingo under Taxpayer No. 12739925050. Lessor is comprised of Grounded In Music Inc. and ParaSports Wheelchair Sports Organization Inc.

3. Lessor leases bingo premises at the Balcones Bingo hall, located at 13096 Research Blvd., Austin, TX 78750-3253 for the purpose of conducting charitable bingo.

NEW BALCONES BINGO UNIT

4. The Division conducted a compliance audit of the Unit for the third quarter of 2017 (July 1 through September 30) and determined the Unit incurred or paid items of expense in connection with the conduct of a game of bingo that were not reasonable or necessary.

5. The Division further reviewed the fourth quarter of 2017 (September 1 through December 31), the first quarter of 2018 (January 1 through March 31), and the second quarter of 2018 (April 1 through June 30). From its review, the Division determined the Unit incurred or paid items of expense in connection with the conduct of a game of bingo that were not reasonable or necessary.

6. Specifically, in each of the aforementioned quarters, the Unit paid the Lessor for rental expenses incurred well before the quarter in which payment was made:

(a) In the third quarter of 2017, the Unit paid rent for November 2016, December 2016, January 2017, and part of February 2017 in the amount of \$118,800. It is the Division's position that these expenses were not reasonable because they were paid more than six months after the expenses were past due. During the audit process, bookkeeper Melissa Baxter-Kosub stated the arrangements with the landlord were for the Unit to pay the outstanding rent by paying at least a month and a half in rent every month and possibly more if sufficient funds were available in the account.

(b) In the fourth quarter of 2017, the Unit paid rent of \$69,000 more than six (6) months after the relevant bingo occasions and \$88,200 more than four months after the relevant bingo occasions;

(c) In the first quarter of 2018, the Unit paid rent of \$147,600 more than six (6) months after the relevant bingo occasions; and

(d) In the second quarter of 2018, the Unit paid rent of \$118,200 more than four (4) months after the first day of the month following the relevant bingo occasions.

7. The Commission has alleged that the Unit's payments to the Lessor for expenses incurred more than 120 days earlier were not reasonable and necessary. The Unit denies they paid the Lessor for any unreasonable or unnecessary bingo expenses.

BALCONES BINGO ASSN.

8. Additionally, during the compliance audit of the Unit, the Division determined that Lessor loaned money to the Unit by deferring the collection of overdue rent until the Unit had sufficient proceeds to pay the overdue rent. Lessor only collected past due rent from the Unit in the calendar quarters when the Unit had sufficient proceeds to pay the past due rent.

9. Examples of Lessor's practice of collecting past due rent from subsequent proceeds earned by the Unit include the following:

(a) Lessor deferred the collection of rent, in the amount of \$118,800 for bingo occasions occurring in November 2016, December 2016, January 2017, and February 2017, until third quarter of 2017 (July 1 through September 30), which was more than six (6) months after the expenses were incurred.

(b) In the fourth quarter of 2017, Lessor collected from the Unit past due rent in the amount of \$69,000 (more than six (6) months after the relevant bingo occasions) and \$88,200 (more than four (4) months after the relevant bingo occasions);

(c) In the first quarter of 2018, Lessor collected from the Unit past due rent in the amount of \$147,600 (more than six (6) months after the bingo occasions); and

(d) In the second quarter of 2018, Lessor collected from the Unit past due rent in the amount of \$118,200 (more than four (4) months after the bingo occasions).

10. In total (the fourth quarter of 2016 through the second quarter of 2018), Lessor collected from the Unit past due rent in the amount of \$541,800, more than four (4) months after the occasions. During the audit process, Bookkeeper Melissa Baxter-Kosub stated the Unit was currently about six (6) months behind in paying rent and the last rent paid was in April 2018 for November 2017.

11. The Commission has alleged that the Lessor's delayed collection of rent for bingo occasions was not fair and reasonable. Lessor denies that its rent collection practice was unfair or unreasonable. Moreover, the Commission alleged that the payment of rent for bingo occasions that occurred more than four (4) months earlier is not a necessary or reasonable bingo expense. Lessor denies that the Unit paid Lessor for any unreasonable or unnecessary bingo expenses.

AGREED CONCLUSIONS OF LAW

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

2. The Authorized Organizations and the Lessor are required to follow the Bingo Enabling Act and Commission rules to maintain their respective licenses.

3. Tex. Occ. Code §2001.154(a) states, in pertinent part:

The commission may not issue a commercial lessor license to or renew a commercial license of:

...

(3) a person who loans money to an authorized organization.

4. Tex. Occ. Code §2001.159(a) states, in pertinent parts:

The commission shall issue or renew a commercial lessor license if the commission determines that:

...

(3) the rent to be charged is fair and reasonable;

...

(6) the applicant will lease the premises for the conduct of bingo in accordance with this chapter.

5. Tex. Occ. Code §2001.353(a) states:

After a hearing, the commission may suspend, revoke, or refuse to renew a license or registration issued under this chapter for:

(1) failure to comply with this chapter or a commission rule; or

(2) a reason that would allow or require the commission to refuse to issue or renew a license or registration of the same class.

6. Tex. Occ. Code §2001.405 states:

Bingo may not be conducted at a leased premises if rental under the lease is to be paid, in whole or part, on the basis of a percentage of the receipts or net proceeds derived from the operation of the game or by reference to the number of people attending a game.

7. Tex. Occ. Code §2001.453 states:

A licensed authorized organization may withdraw funds from its bingo account only for:

(1) the payment of necessary or reasonable bona fide expenses . . .; or

(2) the disbursement of net proceeds derived from the conduct of bingo as provided by this subchapter.

8. Tex. Occ. Code §2001.458(a) states:

An item of expense may not be incurred or paid in connection with the conduct of bingo except an expense that is reasonable or necessary to conduct bingo, including an expense for:

(1) advertising, including the cost of printing bingo gift certificates;

(2) security;

(3) repairs to premises and equipment;

(4) bingo supplies and equipment;

(5) prizes;

(6) stated rental or mortgage and insurance expenses;

- (7) bookkeeping, legal, or accounting services related to bingo;
- (8) bingo chairpersons, operators, managers, salespersons, callers, cashiers, ushers, janitorial services, and utility supplies and services;
- (9) health insurance or health insurance benefits for bingo chairpersons, operators, managers, salespersons, callers, cashiers, and ushers, as provided by Subsection (b);
- (10) attending a bingo seminar or convention required under Section 2001.107; and
- (11) debit card transaction fees and electronic funds transfer fees.

9. Tex. Occ. Code §2001.459(a) states:

The following items of expense incurred or paid in connection with the conduct of bingo must be paid from an organization's bingo account:

- (1) advertising, including the cost of printing bingo gift certificates;
- (2) security during a bingo occasion;
- (3) the purchase or repair of bingo supplies and equipment;
- (4) prizes, other than authorized cash prizes;
- (5) stated rental expenses;
- (6) bookkeeping, legal, or accounting services;
- (7) fees for callers, cashiers, and ushers; and
- (8) janitorial services.

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

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

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

11. Tex. Occ. Code §2001.601 states:

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

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

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

13. Tex. Gov't Code §2001.056 states, in pertinent part:

Unless precluded by law, an informal disposition may be made of a contested case by:

...
(2) agreed settlement.

14. Each Authorized Organization's license to conduct bingo could be subject to suspension or revocation because of the Unit's alleged violations of Tex. Occ. Code §§ 2001.453 and 2001.458-.459.

15. Under Tex. Occ. Code §2001.353(a), Lessor's license could be subject to suspension or revocation because of Lessor's alleged violations of Tex. Occ. Code §§ 2001.154(a)(3), 2001.159(a)(3) and (6), and 2001.405.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, the Authorized Organizations and Lessor agree to its terms, acknowledge understanding them, and waive their right to all procedural requirements for the entry of the Order consistent with the terms of this Memorandum of Agreement, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing and any right to seek judicial review of the Order.

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

3. The Authorized Organizations agree to accept a warning violation determination. Additionally, the Authorized Organizations agree that, upon the effective date of this Consent Order, the Unit will not make rental payments that are more than one hundred twenty (120) days past due to any commercial lessor, including Balcones Bingo Assn. The 120-day period will begin on the first day of the month following the month in which the bingo occasion was held.

4. Lessor agrees that, upon the effective date of this Consent Order, Lessor will not collect or accept delinquent rental payments that are more than one hundred twenty (120) days past due from any accounting unit or Authorized Organizations. Rent not paid within one hundred

twenty (120) days will be deemed forgiven. The 120-day period will begin on the first day of the month following the month in which the bingo occasion was held.

5. Moreover, Lessor agrees to waive \$66,600 in rent owed by the Authorized Organizations in the Unit. As of January 3, 2020, the Authorized Organizations still owed rent to Lessor, from October 2019 to January 2020, in the amount of \$163,200. Lessor agrees to forgive \$66,600 of this amount. Therefore, the remaining balance due for rent will be \$96,600.

6. The total rent forgiven by Lessor hereunder shall be \$66,600. Lessor agrees to not attempt to charge or collect at any point in the future the forgiven rent of \$66,600.

7. The Authorized Organizations and Lessor agree that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and Agreed Conclusions of Law contained herein, may be admitted in any future administrative action initiated against any of them by the Commission. This Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and Agreed Conclusions of Law, shall not, however, form the basis for, nor be used as, evidence against the Authorized Organizations and/or Lessor in a future license renewal application, absent other alleged violations.

8. The Authorized Organizations and Lessor agree that if, after a formal hearing on the sole issue of compliance with this Memorandum of Agreement and Consent Order, it is found that the Authorized Organizations and/or Lessor have failed to comply with the terms of this Memorandum of Agreement and Consent Order, the Commission may seek any and all authorized remedies, including license revocation.

AGREED AS TO FORM AND SUBSTANCE:

Grounded In Music Inc.

By: *Natalie Blahuta*
Natalie Blahuta (Jan 7, 2020)
Natalie Blahuta, Bingo Chairperson
Jan 7, 2020
Date: _____

Camp Young Judaea Inc.

By: *Sarah Shapiro*
Sarah Shapiro (Jan 8, 2020)
Sarah Shapiro, Bingo Chairperson
Jan 8, 2020
Date: _____

ParaSports Wheelchair Sports Organization Inc.

By: *Willie Jackson*
Willie Jackson (Jan 6, 2020)
Willie Jackson, Bingo Chairperson
Jan 6, 2020
Date: _____

City Wide Club Chapter 82 Food Bank Distribution

By: *Stephanie Lewis*
Stephanie Lewis (Jan 7, 2020)
Stephanie Lewis, Bingo Chairperson
Jan 7, 2020
Date: _____

Lions Club of Manor

By: *Anne Weir*
Anne Weir (Jan 7, 2020)
Anne Weir, Bingo Chairperson
Jan 7, 2020
Date: _____

Balcones Bingo Assn.

By: *Melissa Baxter-Kosub*
Melissa Baxter-Kosub, Authorized Rep.
Jan 8, 2020
Date: _____

**Texas Lottery Commission
Charitable Bingo Operations Division**

By: *Michael P. Farrell*
Michael P. Farrell, Director
Date: *1/10/2020*

Commission Order No. 20-0039

Date: FEBRUARY 13, 2020

**CASE NOS. 2019-713, 2019-714, 2019-715,
2019-716, 2019-717, 2019-958**

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
GROUNDING IN MUSIC INC.,	§	
PARASPORTS WHEELCHAIR SPORTS	§	
ORGANIZATION INC., LIONS CLUB OF	§	
MANOR, CITY WIDE CLUB CHAPTER	§	
82 FOOD BANK DISTRIBUTION,	§	
CAMP YOUNG JUDAEA INC., AND	§	
BALCONES BINGO ASSN.	§	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 Grounded In Music Inc., ParaSports Wheelchair Sports Organization Inc., Lions Club of Manor, City Wide Club Chapter 82 Food Bank Distribution, and Camp Young Judaea Inc. (collectively, "Authorized Organizations") shall be issued a warning violation determination. Additionally, the Authorized Organizations shall not make rental payments that are more than one hundred twenty (120) days past due to any commercial lessor, including Balcones Bingo Assn. (Lessor). The 120-day period shall begin on the first day of the month following the month in which the bingo occasion was held.

(2) IT IS FURTHER ORDERED by the Commission that Lessor shall not collect or accept delinquent rental payments from any accounting unit or any authorized organization that are more than one hundred twenty (120) days overdue. Rent not paid within one hundred twenty

Commission Order No. 20-0039

Date: FEBRUARY 13, 2020

(120) days shall be deemed forgiven. The 120-day period shall begin on the first day of the month following the month in which the bingo occasion was held.

(3) IT IS FURTHER ORDERED that Lessor shall forgive \$66,600 in rent owed by the Authorized Organizations. Lessor agrees to not attempt to charge or collect at any point in the future the forgiven rent of \$66,600.

(4) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Authorized Organizations and/or Balcones Bingo Assn. have failed to comply with the terms of this Consent Order, the Commission may seek any and all authorized remedies, including revocation of their respective licenses.

Commission Order No. 20-0039

Date: FEBRUARY 13, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 13TH day of FEBRUARY, 2020.

Entered this 13TH day of FEBRUARY, 2020.

J. WINSTON KRAUSE, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

Commission Order No. 20-0040

Date: FEBRUARY 13, 2020

DOCKET NO. 362-20-0114.B

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
Petitioner	§	
	§	
v.	§	
	§	
SOUTH TEXAS BONECRUSHERS	§	
Respondent	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

TO: Mr. James Wallace
South Texas Bonecrushers
702 S. Clarkwood Road, Lot 204
Corpus Christi, TX 78406

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

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

NOW, THEREFORE, IT IS ORDERED that the Charitable Bingo Conductor License of South Texas Bonecrushers is hereby revoked.

Commission Order No. 20-0040

Date: FEBRUARY 13, 2020

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 13TH day of FEBRUARY 2020.

Entered this 13TH day of FEBRUARY 2020.

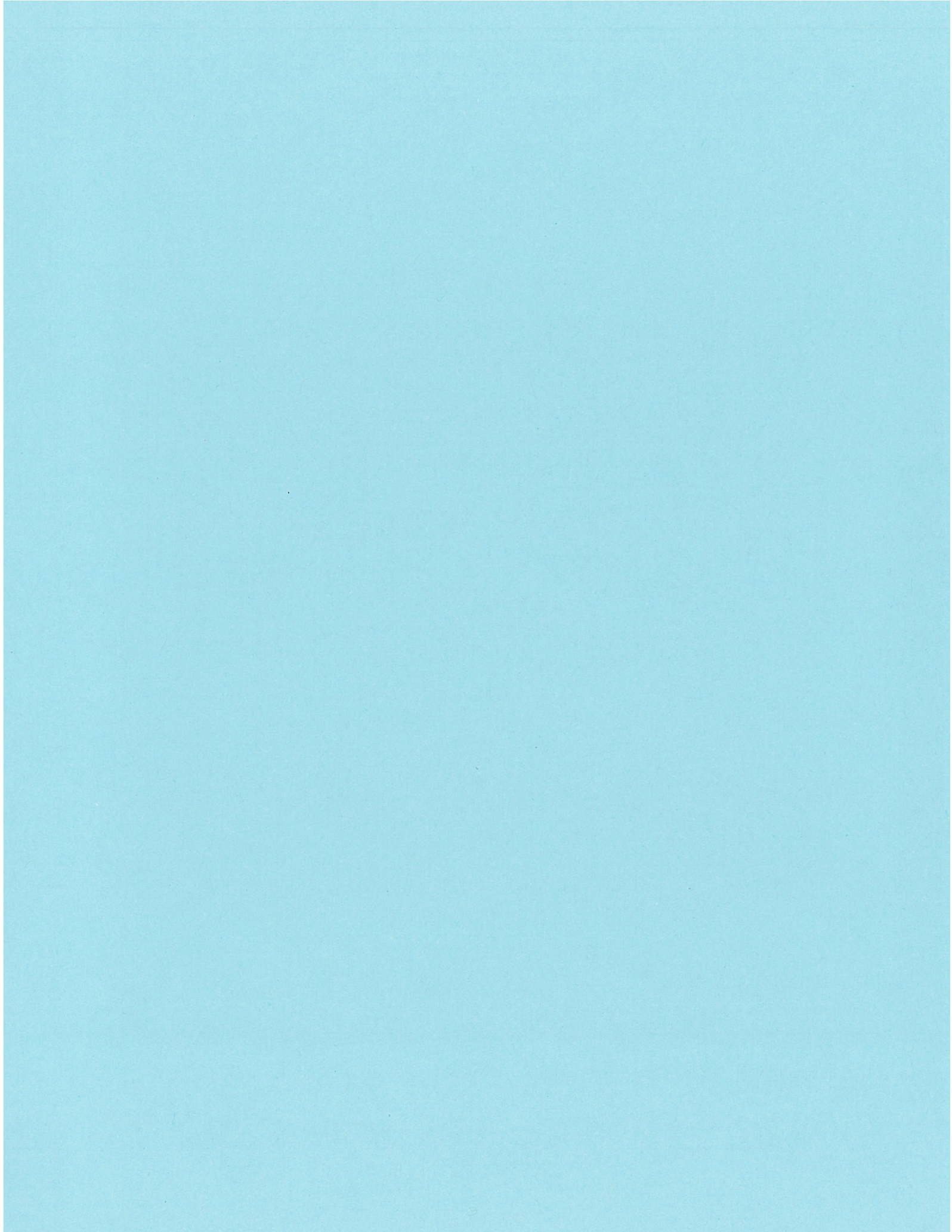
J. WINSTON KRAUSE, CHAIRMAN

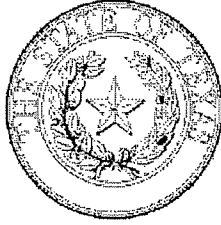
CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER





State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

December 18, 2019

Gary Grief
Executive Director
Texas Lottery Commission
611 East 6th Street
Austin, Texas 78701

VIA E-MAIL

**RE: Docket No. 362-20-0114.B; Texas Lottery Commission v. South Texas
Bonecrushers**

Dear Mr. Grief:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with Texas Administrative Code title 1, § 155.507, a SOAH rule found at www.soah.state.tx.us.

Sincerely,

Sarah Starnes
Administrative Law Judge

SS/db

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Mr. James Wallace, South Texas Bonecrushers, 702 S. Clarkwood Road, Lot 204, Corpus Christi, TX 78406 -VIA REGULAR MAIL

P.O. Box 13025 Austin, Texas 78711-3025 | 300 W. 15th Street Austin, Texas 78701
Phone: 512-475-4993 | Fax: 512-475-4994
www.soah.texas.gov

SOAH DOCKET NO. 362-20-0114.B

<p>TEXAS LOTTERY COMMISSION, Petitioner</p> <p>v.</p> <p>SOUTH TEXAS BONECRUSHERS, Respondent</p>	<p>§ § § § § § §</p>	<p>BEFORE THE STATE OFFICE</p> <p>OF</p> <p>ADMINISTRATIVE HEARINGS</p>
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PROPOSAL FOR DECISION

The staff (Staff) of the Charitable Bingo Operations Division (Bingo Division) of the Texas Lottery Commission (Commission) proposes to revoke the license to conduct charitable bingo operations held by the South Texas Bonecrushers (Respondent). Staff proposes to revoke the license because Respondent failed to remit its fee on prizes for the first quarter of 2019, in violation of the Bingo Enabling Act (the Act).¹ The Administrative Law Judge (ALJ) concludes Staff proved the violations alleged and recommends that the Commission revoke the license.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There is no dispute about notice or jurisdiction and those issues are addressed in the findings of fact and conclusions of law.

The hearing was held on December 4, 2019, before ALJ Sarah Starnes at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Staff was represented by Assistant General Counsel Kristen Guthrie. Respondent was represented by Michelle Garza, its co-owner, who appeared telephonically. The record closed on December 6, 2019, which was the deadline for Respondent to file objections to Staff’s exhibits.

¹ Tex. Occ. Code ch. 2001.

II. APPLICABLE LAW

The Act authorizes the Commission to license and regulate “authorized organizations,” such as nonprofit or fraternal organizations that wish to conduct charitable bingo operations in Texas.² Licenses are generally effective for one year.³

The Act requires a licensed authorized organization to collect a 5% prize fee from any person who wins a bingo prize of more than \$5.00, and to remit the prize fee to the Commission.⁴ The prize fee must be submitted with a quarterly report, and is due and payable to the Commission on or before the 25th day of the month succeeding each calendar quarter.⁵ If the quarterly report is not timely filed, or if the prize fee is not timely remitted, then the license holder forfeits 5% of the amount due as a penalty, and forfeits an additional 5% after the first 30 days.⁶ A delinquent prize-fee payment also begins accruing interest beginning 60 days after the due date.⁷ If the Commission believes that collection or remittance of a prize fee will be jeopardized by delay, the Commission will make a jeopardy determination that renders the determined amount due and payable to the Commission immediately.⁸

After a hearing, the Commission may suspend or revoke a license if the licensee has violated any provision of the Act or Commission rules adopted pursuant to the Act.⁹ Staff has the burden of proving the violations alleged by a preponderance of the evidence.¹⁰

² Tex. Occ. Code §§ 2001.051, .101(a).

³ Tex. Occ. Code § 2001.105(c).

⁴ Tex. Occ. Code § 2001.502. Some of the statutes relating to prize fees were recently amended by the Legislature. *See* Acts 2019, 86th Leg., R.S., Ch. 1051 (H.B. 914), §§ 5-6, 13, eff. September 1, 2019 and January 1, 2020. Though the amendments would not have changed the result in this case, this Proposal for Decision cites to the versions in effect when the underlying violations were committed.

⁵ Tex. Occ. Code § 2001.504.

⁶ Tex. Occ. Code § 2001.508(a).

⁷ Tex. Occ. Code § 2001.508(b).

⁸ Tex. Occ. Code § 2001.511.

⁹ Tex. Occ. Code § 2001.353(a).

¹⁰ 1 Tex. Admin. Code § 155.457.

III. EVIDENCE

At the hearing on the merits, Staff presented testimony of Karen Hoffman, an accountant for the Bingo Division, and had nine exhibits admitted into evidence without objection. Ms. Garza testified on behalf of Respondent.

A. Staff's Evidence

Respondent is a nonprofit, adult football organization that has been licensed to conduct charitable bingo operations since the third quarter (Q3) of 2018. Staff contends that Respondent's license should be revoked for failure to pay prize fees and associated penalties for the first quarter (Q1) of 2019. Staff's evidence includes repeated notices sent to Respondent regarding the prize fees due for Q1 2019:

- On May 3, 2019, the Bingo Division sent a Texas Notice of Tax/Fee Due and Jeopardy Determination, informing Respondent that it owed \$12,255.95 in prize fees and \$612.80 in penalties for bingo prize fees, for a total of \$12,868.75 owed to the Commission for Q1 2019.¹¹
- On May 24, 2019, the Bingo Division sent a Texas Notice of Tax/Fee Due and Jeopardy Determination, informing Respondent that it still owed \$12,255.95 in prize fees and additionally owed \$1,838.40 in penalties, for a total of \$14,094.35 owed for Q1 2019.¹²
- On June 12, 2019, the Bingo Division sent a Notice of Opportunity to Show Compliance to Respondent, warning Respondent that the Bingo Division intended to initiate disciplinary action for the outstanding prize fees and penalties for Q1 2019, which then totaled \$14,707.15.¹³
- On July 2, 2019, the Bingo Division sent a Texas Notice of Tax/Fee Due and Jeopardy Determination, informing Respondent that it still owed \$12,103.91 in prize fees, \$2,541.20 in penalties, and \$12.93 in interest, for a total of \$14,568.04 owing for Q1 2019.¹⁴

¹¹ Staff Ex. 7.

¹² Staff Ex. 6.

¹³ Staff Ex. 5.

¹⁴ Staff Ex. 4. Ms. Hoffman's testimony did not explain why the July notice showed a slightly lower amount of prize fees owed than is shown in the other exhibits.

At the hearing, Ms. Hoffman testified that Respondent has still not paid the full amount owing for Q1 2019. In July 2019, Respondent's bond was forfeited and \$7,000 was paid toward the Q1 balance, but the bond was not enough to pay the full amount owed. An account ledger dated December 1, 2019, showed Respondent owed \$12,255.95 in prize fees, \$2,451.20 in penalties, and \$169.48 in interest; \$7,000 had been paid with the bond proceeds, which left a total balance of \$7,876.63 still owing for Q1 2019.

Further, Ms. Hoffman testified that Respondent's difficulties in paying prize fees were not isolated to Q1 2019. In the last quarter (Q4) of 2018, Respondent had also been unable to timely pay its prize fees, and had to forfeit its bond to satisfy the debt to the Bingo Division for that quarter. More recently, on November 25, 2019, the Bingo Division sent a Texas Notice of Tax/Fee Due and Jeopardy Determination, informing Respondent that it still owed \$5,871.90 in prize fees and \$1,174.39 in penalties for the third quarter (Q3) of 2019.¹⁵ According to Ms. Hoffman, this shows that Respondent is continuing to experience financial problems. Ms. Hoffman also testified that Respondent has not contacted the Bingo Division to address the June 2019 show-compliance notice, nor has Respondent responded to discovery in this disciplinary action¹⁶ or otherwise tried to resolve the case prior to the hearing.

In her testimony at the hearing, Ms. Garza pointed out that in addition to the \$7,000 bond forfeiture in July 2019, Respondent also made a \$7,257.40 payment to the Bingo Division that month. Had that payment been applied to the Q1 balance, according to Ms. Garza, the violations at issue in this case would have been resolved. Ms. Hoffman testified that the \$7,257.40 was the amount that Respondent owed for prize fees in the second quarter (Q2) of 2019, and the payment was applied to that balance instead of the older Q1 balance because of how Respondent designated the funds in the Commission's electronic system.

¹⁵ Staff Ex. 3.

¹⁶ Staff Ex. 8.

According to Ms. Hoffman, prize fees owed to the Bingo Division are the first bill any bingo operation should pay, before satisfying any other creditors. While Respondent has been collecting prize fees from bingo winners, it has used the funds to satisfy other debts instead of remitting the fees to the Bingo Division. In Ms. Hoffman's opinion, Respondent's bingo license should be revoked because of Respondent's ongoing inability to satisfy its debts and pay its prize fees to the Bingo Division in a timely manner.

Ms. Hoffman was also concerned by Respondent's reliance on its bonds to pay its debts to the Bingo Division. She asserted that "the bond is not meant to pay [Respondent's] bills," and forfeiting bonds prevents the charity from raising money. According to Ms. Hoffman, a bingo license is granted so an organization can raise funds to make charitable distributions. An organization that cannot pay its bills is not going to be able to make charitable contributions, and an organization that cannot make charitable contributions should not hold a bingo license.

B. Ms. Garza's Testimony

In her testimony, Ms. Garza did not dispute that Respondent has not paid the full amount owed for Q1 2019. She also did not dispute that Respondent had to rely on bonds to pay the prize fees owed in Q4 2018 and part of what was owed in Q1 2019, and that Respondent has not yet paid the prize fees and penalties owed for Q3 2019.

Ms. Garza explained that when it began bingo operations, Respondent found itself in a bad situation with its landlord. She said that the landlord insisted that his rent be paid before Respondent paid any other bills, including taxes and payroll, and he would not give them a break on rent when bingo attendance was low. The landlord did not care that Respondent was not making enough from bingo games to pay its bills, telling them "you pay rent or you don't host [bingo]." Because of this contentious relationship, Respondent prioritized paying rent, realizing they would not be able to raise any funds at all if they lost the lease and had no place to host bingo games.

When the lease ended, Respondent stopped hosting bingo altogether, so it is no longer incurring any bills, according to Ms. Garza. She said that Respondent has not hosted bingo since September 2019, so it will not owe any prize fees for Q4 2019. Respondent is working hard to pay its bills and get back on its feet, then plans to resume bingo games in a new venue.

Ms. Garza emphasized that Respondent never intended to rely on bonds to pay its debts. She said they have repeatedly asked for guidance from the Bingo Division on how the bond can be used and what Respondent could do to retain the license. Ms. Garza suggested that the Bingo Division could put Respondent's license "on hold," rather than revoking it, so they could still host bingo in the future, when their debts have been paid. Respondent wants to continue its charitable efforts in local schools and the community, and to raise funds for those charitable causes through bingo operations.

IV. ANALYSIS

The evidence is undisputed that Respondent has failed to pay the prize fees, penalties, and interest it owes for Q1 2019. This failure violated §§ 2001.502, .504, .508, and .511 of the Act. For this reason, the Commission is authorized to revoke Respondent's license.¹⁷

While the Commission has authority to suspend, rather than revoke, a license,¹⁸ under the circumstances the ALJ agrees that revocation is warranted. Since receiving its bingo operator license in Q3 2018, Respondent has shown a consistent inability to raise enough funds to pay its debts. As a consequence, Respondent was unable to timely pay its prize fees in three of the last four quarters, and has already had to forfeit its bond twice to pay the amounts owed to the Bingo Division. As Ms. Hoffman explained in her testimony, bingo licenses are intended to enable organizations to raise money for charitable purposes. Respondent has not been able to cover its expenses with its bingo operations, let alone raise additional funds for charitable distributions.

¹⁷ Tex. Occ. Code § 2001.353(a)(1).

¹⁸ Tex. Occ. Code § 2001.353(a)(1).

Therefore, based on the evidence presented and the applicable legal standards, the ALJ recommends that Respondent's license be revoked.

V. FINDINGS OF FACT

1. The South Texas Bonecrushers (Respondent) is a charitable organization that holds an annually-renewed license to conduct charitable bingo operations.
2. The license held by Respondent was issued by the Charitable Bingo Operations Division (Bingo Division) of the Texas Lottery Commission (Commission) in the third quarter (Q3) of 2018.
3. In the last quarter (Q4) of 2018, Respondent failed to timely pay its prize fees, and had to forfeit its bond to satisfy the debt to the Bingo Division for that quarter.
4. For the first quarter (Q1) of 2019, Respondent owed \$12,255.95 in prize fees to the Commission.
5. The Bingo Division sent notices to Respondent on May 3, May 24, June 12, and July 2, 2019, informing Respondent that the Q1 2019 prize fees were past due and that statutory penalties and interest were accruing.
6. In July 2019, Respondent's bond was forfeited and \$7,000 was paid toward the Q1 balance, but the bond was not enough to pay the full amount owed.
7. As of December 1, 2019, Respondent still owed \$7,875.63 in prize fees, penalties, and interest for Q1 2019.
8. For the second quarter (Q2) of 2019, Respondent timely paid \$7,257.40 in prize fees to the Bingo Division.
9. Respondent failed to timely pay its prize fees in the third quarter (Q3) of 2019. As of November 25, 2019, Respondent owed \$5,871.90 in prize fees and \$1,174.39 in penalties to the Bingo Division for Q3 2019.
10. Respondent has been collecting prize fees from bingo winners, but has used the funds to pay its rent and satisfy other debts before remitting the fees to the Bingo Division.
11. Respondent stopped hosting bingo in September 2019, but hopes to resume bingo operations after paying its debts and finding a new venue to hold games.
12. A notice of hearing was sent to Respondent on September 23, 2019. The notice stated the time, place, and nature of the hearing; the legal authority and jurisdiction under which the

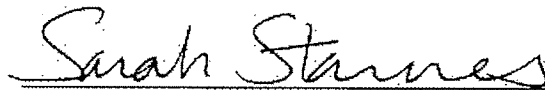
hearing was to be held; the particular sections of the statutes and rules involved; and the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition.

13. The hearing was held on December 4, 2019, before Administrative Law Judge Sarah Starnes at the State Office of Administrative Hearings (SOAH) in Austin, Texas. The Staff of the Commission was represented by Assistant General Counsel Kristen Guthrie. Respondent was represented by Michelle Garza, its co-owner, who appeared telephonically. The record closed on December 6, 2019.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter. Tex Occ. Code ch. 2001.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
3. Staff has the burden of proving that the Commission is authorized to revoke Respondent's license. 1 Tex. Admin. Code § 155.427.
4. Adequate and timely notice of the hearing was provided. Tex. Gov't Code §§ 2001.051-.052.
5. The Commission may revoke a license if the licensee has violated any provision of the Bingo Enabling Act or any Commission rules adopted pursuant to the Act. Tex. Occ. Code § 2001.353(a).
6. By failing to pay the prize fees, penalties, and interest it owes for Q1 2019, Respondent violated Texas Occupations Code §§ 2001.502, .504, .508, and .511.
7. Respondent's license should be revoked.

SIGNED December 18, 2019.



SARAH STARNES
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS