



INTEROFFICE MEMO

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

To: Robert G. Rivera, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Erik C. Saenz, Commissioner
Jamey Steen, Commissioner

From: Bob Biard, General Counsel *RBB*

Date: October 12, 2023

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

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

Date: OCTOBER 12, 2023

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

ORDER OF THE COMMISSION

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

I. Findings of Fact

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

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

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

Commission Order No. 24-0002

Date: OCTOBER 12, 2023

4. The ALJ dismissed the referenced cases from the SOAH docket and remanded these cases to the Commission for informal disposition under Tex. Gov't Code §2001.056, provided the Respondent in each case did not file a motion to set aside the default within 15 days from the date of the ALJ's order remanding the case to the Commission.

5. In each case, Respondent did not file a motion to set aside the default within 15 days from the date of the ALJ's order.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code §466.155 (State Lottery Act) and 16 Tex. Admin. Code Chapter 401 (Commission Rules).

2. The Respondent in each of the cases listed on Attachment A violated the State Lottery Act and the Commission's Rules as set forth in the Commission's notice of hearing applicable to such Respondent. Specifically, each Respondent failed to deposit money due to the State received from lottery ticket sales under the State Lottery Act, in violation of Tex. Gov't Code §466.351 and 16 Tex. Admin. Code §§ 401.351 and 401.352.

3. The relief sought by the Commission Staff is fair, reasonable, and adequately protects the public.

III. Order

NOW, THEREFORE, IT IS ORDERED that, after review and due consideration of the administrative record, each of the cases listed on Attachment A hereto, which is incorporated into this Order for all purposes, is hereby disposed by default, and:

1. All allegations set forth in each notice of hearing in the cases listed on Attachment A are deemed admitted; and

Commission Order No. 24-0002

Date: OCTOBER 12, 2023

2. The Texas Lottery Ticket Sales Agent License for each Respondent in the cases listed on Attachment A is hereby revoked.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 12TH day of OCTOBER 2023.

Entered this 12TH day of OCTOBER 2023.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 24-0002

Date: OCTOBER 12, 2023

ATTACHMENT A

TAB NO.	SOAH DOCKET NO.	TICKET SALES AGENT NAME	TICKET SALES AGENT ADDRESS	LOTTERY LICENSE NO.
A.	362-23-23812	Ameripak Traders Corp. d/b/a Sam's Corner Store	613 N. 2 nd St. Conroe, TX 77301	192132
B.	362-23-24974	BGB Corner Store, LLC d/b/a BGB Corner Store, LLC	720 Talbert St. Texarkana, TX 75501	189501
C.	362-23-24979	Real Estate Development Acquisitions L. L. C. d/b/a Doctor's Pantry	1619 E. 5 th St. Tyler, TX 75701	192920

ACCEPTED
362-23-23812
8/31/2023 1:21:26 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

FILED
362-23-23812
8/31/2023 1:19 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

SOAH Docket No. 362-23-23812

Suffix: TLC

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS LOTTERY COMMISSION,
PETITIONER
v.
AMERIPAK TRADERS CORP
D/B/A SAM'S CORNER STORE,
RESPONDENT**

DEFAULT DISMISSAL ORDER

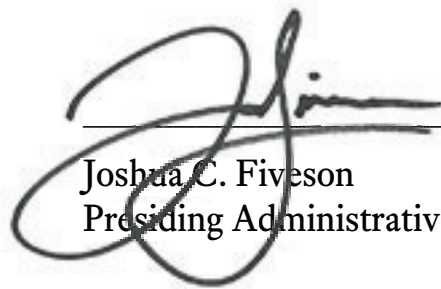
On August 31, 2023, the Presiding Administrative Law Judge convened a hearing on the merits. Tyler Vance appeared for the Texas Lottery Commission, and Respondent Ameripak Traders Corp d/b/a Sam's Corner Store did not appear—either personally or through counsel.

The Commission subsequently moved for a default dismissal and, in support thereof, offered Exhibits 1-3 to establish adequate notice. That motion is **GRANTED**, and the factual allegations in the Notice of Hearing and associated

documents are deemed admitted.¹

Respondent may file a motion to set aside this default within fifteen days of this order.² That motion must show good cause for resetting a hearing or demonstrate that the interests of justice require setting aside the default. If Respondent does not timely file such motion, or if the motion is denied, this case will be remanded to the Commission for informal disposition in accordance with the Administrative Procedure Act.³

Signed August 31, 2023



Joshua C. Fiveson
Presiding Administrative Law Judge

¹ 1 Tex. Admin. Code § 155.501(d)(1).

² 1 Tex. Admin. Code § 155.501(e).

³ Tex. Gov't Code § 2001.056.

SOAH Docket No. 362-23-24974

Suffix: TLC

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

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

DEFAULT DISMISSAL ORDER

On September 14, 2023, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Tyler Vance appeared on behalf of the staff (Staff) of the Texas Lottery Commission. BGB CORNER STORE, LLC DBA BGB CORNER STORE, LLC (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted, including specifically the Notice of Hearing which set the hearing by Zoom videoconference and provided instructions for participating in the hearing. Collectively, these exhibits showed proof of adequate notice to Respondent.¹ Upon

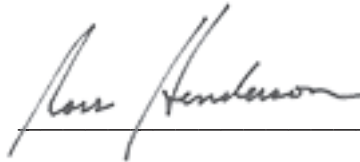
¹ 1 Tex. Admin. Code § 155.501(b).

establishing adequate notice, Staff moved for a default dismissal. Staff's motion was **GRANTED**, and the factual allegations detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.²

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

Signed SEPTEMBER 14, 2023.

ALJ Signature:



Ross Henderson

Presiding Administrative Law Judge

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

FILED
362-23-24979
9/14/2023 3:26 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Crystal Rosas, CLERK

ACCEPTED
362-23-24979
9/14/2023 3:28:43 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Crystal Rosas, CLERK

SOAH Docket No. 362-23-24979

Suffix: TLC

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS LOTTERY COMMISSION,
PETITIONER
v.
REAL ESTATE DEVELOPMENT ACQUISITIONS L. L. C. DBA
DOCTOR'S PANTRY,
RESPONDENT**

DEFAULT DISMISSAL ORDER

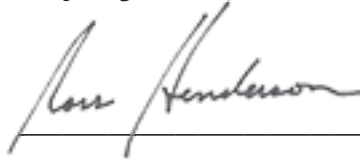
On September 14, 2023, the Administrative Law Judge (ALJ) convened a hearing on the merits in this matter via Zoom videoconference. Attorney Tyler Vance appeared on behalf of the staff (Staff) of the Texas Lottery Commission. REAL ESTATE DEVELOPMENT ACQUISITIONS L.L.C. DBA DOCTOR'S PANTRY (Respondent) did not appear and was not represented at the hearing. Staff Exhibits 1-3 were admitted, including specifically the Notice of Hearing which set the hearing by Zoom videoconference and provided instructions for participating in the hearing. Collectively, these exhibits showed proof of adequate

notice to Respondent.¹ Upon establishing adequate notice, Staff moved for a default dismissal. Staff's motion was **GRANTED**, and the factual allegations detailed in the Notice of Hearing and the documents incorporated within that notice are deemed admitted.²

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

Signed SEPTEMBER 14, 2023.

ALJ Signature:



Ross Henderson

Presiding Administrative Law Judge

¹ 1 Tex. Admin. Code § 155.501(b).

² 1 Tex. Admin. Code § 155.501(d)(1).

³ 1 Tex. Admin. Code § 155.501(e).

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

Commission Order No. 24-0003

Date: OCTOBER 12, 2023

Case No. 2023-25

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
A S TEXAS RETAIL INC.	§	
D/B/A CHECKERED FLAG #29	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 187099	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Texas Lottery Commission (Commission) and A S Texas Retail Inc. d/b/a Checkered Flag #29 (Checkered Flag #29) 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. Checkered Flag #29 holds Texas Lottery Ticket Sales Agent License No. 187099.
2. Alex Chedid is the president of Checkered Flag #29, which is located at 9505 E. US Highway 377, Cresson, TX 76035.
3. On April 21, 2021, at the Fort Worth Claim Center, Ghattas Chedid, a Checkered Flag #29 employee, claimed a \$1,000 Texas Lottery scratch ticket prize. Based on an internal review, the Commission initiated an investigation into this claim.
4. On June 9, 2021, Alex Chedid admitted to a Commission investigator that Ghattas Chedid purchased the ticket from a store customer. On the same day, Ghattas Chedid also admitted to the investigator that he purchased the ticket from a store customer.

AGREED CONCLUSIONS OF LAW

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

2. Checkered Flag #29 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 an amount of \$600 or more may be made only by the director.

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

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

...

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

...

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

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

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

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

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

9. The Texas 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).

10. 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.).

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

necessary to fulfill the Commission's express duty to exercise strict control and supervision over the lottery.

12. The Texas Lottery Ticket Sales Agent License of Checkered Flag #29 is subject to suspension or revocation pursuant to Tex. Gov't Code §466.155(a)(5), as a result of Checkered Flag #29's violation of Tex. Gov't Code §§ 466.308(a), .310(a), and .402(b) and 16 Tex. Admin. Code §§ 401.158(b)(31), (33), .360 and .366.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Checkered Flag #29 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. Checkered Flag #29 agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a), .310(a), and .402(b) and 16 Tex. Admin. Code §§ 401.158(b)(31), (33), .360 and .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, Checkered Flag #29 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, Checkered Flag #29 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 Checkered Flag #29's Ticket Sales Agent License is posted.

5. Checkered Flag #29 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 Checkered Flag #29's Ticket Sales Agent License, for any further violations of the State Lottery Act or Commission rules.

6. Checkered Flag #29 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. Checkered Flag #29 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 Checkered Flag #29 has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary action shall be taken against Checkered Flag #29, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

8. Checkered Flag #29 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 Checkered Flag #29 will be charged for tickets sold on or before that date. Checkered Flag #29 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:

A S Texas Retail Inc.
d/b/a Checkered Flag #29

Texas Lottery Commission
Lottery Operations Division

By:



8.31.2023

Alex Chedid
President

DATE

By:



9/5/2023

Robert Tirloni
Director

DATE

Commission Order No. 24-0003

Date: OCTOBER 12, 2023

Case No. 2023-25

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
A S TEXAS RETAIL INC.	§	
D/B/A CHECKERED FLAG #29	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 187099	§	LOTTERY COMMISSION

CONSENT ORDER

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

(1) IT IS ORDERED by the Commission that, in lieu of revocation of the Texas Lottery Ticket Sales Agent License of A S Texas Retail Inc. d/b/a Checkered Flag #29 (Checkered Flag #29), 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, Checkered Flag #29 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, Checkered Flag #29 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 Checkered Flag #29's Texas Lottery Ticket Sales Agent License is posted.

Commission Order No. 24-0003

Date: OCTOBER 12, 2023

(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 Checkered Flag #29 has failed to comply with the terms of this Order, disciplinary action shall be taken against Checkered Flag #29, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

(4) IT IS FURTHER ORDERED by the Commission that Checkered Flag #29 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 Checkered Flag #29 will be charged for the tickets sold on or before that date. Checkered Flag #29 will be credited for any tickets that have been paid for in previous sweeps and that are returned to and received by the Commission on or before the date the suspension begins.

Commission Order No. 24-0003

Date: OCTOBER 12, 2023

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 12TH day of OCTOBER, 2023.

Entered this 12TH day of OCTOBER, 2023.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 24-0004

Date: OCTOBER 12, 2023

Case No. 2023-897

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ELLYAN BUSINESS INC.	§	
D/B/A COUNTRY MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 136629	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

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

AGREED FINDINGS OF FACT

1. Country Mart holds Texas Lottery Ticket Sales Agent License No. 136629.
2. Shaheen Pervez is the managing member of Country Mart, which is located at 8526 FM 359, Fulshear, TX 77441.
3. On February 21, 2023, the Commission received a complaint that Country Mart required a \$30 minimum when purchasing Texas Lottery tickets with a debit card. The Commission initiated an investigation into this complaint.
4. On March 20, 2023, a Commission investigator attempted to purchase Texas Lottery tickets with a debit card at Country Mart. Ali Karim, a Country Mart employee, refused to sell the tickets and told the investigator there was a \$30 minimum to purchase the lottery tickets with a debit card.

AGREED CONCLUSIONS OF LAW

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

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

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

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

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

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

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

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

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

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

6. The Texas Legislature has mandated that the Commission "exercise strict control and close supervision over all lottery games conducted in this state to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery." Tex. Gov't Code §466.014(a).

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

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

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

MEMORANDUM OF AGREEMENT

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

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

3. Country Mart agrees that, as a result of its violation of 16 Tex. Admin. Code §§ 401.158(b)(23) and 401.366, its Ticket Sales Agent License will be suspended for a period of ten (10) consecutive days. The suspension period will begin within seven (7) days from the date the Order is signed by the Commission. During the period of suspension, Country Mart agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

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

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

7. Country Mart agrees that if, after a formal hearing on the sole issue of compliance with the Memorandum of Agreement and Consent Order, it is found that Country Mart has failed to comply with the terms of the Memorandum of Agreement and Consent Order, disciplinary

action shall be taken against Country Mart, up to and including revocation of its Texas Lottery Ticket Sales Agent License.

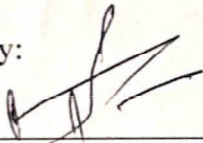
8. Country Mart agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Country Mart will be charged for tickets sold on or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

AGREED AS TO FORM AND SUBSTANCE:

Ellyan Business Inc.
d/b/a Country Mart

Texas Lottery Commission
Lottery Operations Division

By:



Shaheen Pervez
Managing Member

9-20-23

DATE

By:



Robert Tirloni
Director

9/22/2023

DATE

Commission Order No. 24-0004

Date: OCTOBER 12, 2023

Case No. 2023-897

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
ELLYAN BUSINESS INC.	§	
D/B/A COUNTRY MART	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 136629	§	LOTTERY COMMISSION

CONSENT ORDER

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

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

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

Commission Order No. 24-0004

Date: OCTOBER 12, 2023

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

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

Commission Order No. 24-0004

Date: OCTOBER 12, 2023

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 12TH day of OCTOBER, 2023.

Entered this 12TH day of OCTOBER, 2023.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER

Commission Order No. 24-0005

Date: OCTOBER 12, 2023

Case No. 2023-778

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
	§	
AMERICAN GI FORUM - ROCKPORT	§	
TAXPAYER NO. 12370528916	§	LOTTERY COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The Charitable Bingo Operations Division (Division) of the Texas Lottery Commission (Commission) and American GI Forum - Rockport (American GI Forum) 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. American GI Forum is licensed by the Division as a bingo conductor under taxpayer number 12370528916.
2. The Division conducted a compliance audit of American GI Forum for the period from January 1, 2022 through March 31, 2022 and determined the following:
 - a. American GI Forum failed to properly report the following items to the Commission on a quarterly report:
 - i. Outstanding checks at end of quarter (*line 38*) was over-reported by \$1,309.75 (2021-4 quarterly report).
 - ii. Previous quarter bingo funds balance (*line 33*) was under-reported by \$1,309.75 (2022-1 quarterly report).
 - iii. Total number of persons attending this quarter (*line 2*) was under-reported by 76 (2022-1 quarterly report).
 - iv. Regular bingo – paper/hard cards – Gross Receipts (*line 3*) was under reported by \$326.00 (2022-1 quarterly report).
 - v. Total bingo activity (*line 8*) was under-reported by \$326.00 (2022-1 quarterly report).

- vi. Regular bingo – paper/hard cards – Prizes Awarded over \$50 (line 3) was under-reported by \$1,200.00 (2022-1 quarterly report).
- vii. Prizes awarded subject to prize fee (*line 8b*) was under-reported by \$1,200.00 (2022-1 quarterly report).
- viii. Prize fees collected (*line 28d*) was under-reported by \$60.00 (2022-1 quarterly report).
- ix. Other expenses (*line 25*) were over-reported by \$63.50 (2022-1 quarterly report).

b. American GI Forum failed to report on the sales journal the information recorded on the occasion cash reports; failed to report cash overages/shortages on the quarterly report or on the cash disbursements journal; and failed to provide requested records to support sales, prizes paid, prize fees withheld, and inventory information for the schedule of prizes, cash register tapes, and disposable bingo card perpetual inventory. Additionally, American GI Forum's bank deposits did not agree with the deposits on the sales journal.

c. American GI Forum deposited \$750.00 in American GI Forum's bingo bank account, which could not be traced to any occasion cash reports or to the conduct of bingo.

d. American GI Forum failed to provide paid invoices and supporting documentation for check withdrawals, documentation for bank transfers, ATM withdrawals, cash withdrawals, documentation for other electronic funds transfer withdrawals, and payroll records for employee expenses.

e. American GI Forum's cash disbursement journal was not totaled and did not provide expense categories that correspond to the categories on the Texas Bingo Quarterly Report. The total of expenses recorded on the cash disbursements journal and withdrawn from the bingo checking account did not match the information reported on the quarterly report.

f. American GI Forum failed to provide documentation to support a withdrawal of \$9,674.45 from American GI Forum's bingo bank account.

AGREED CONCLUSIONS OF LAW

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

2. American GI Forum is obligated to follow the provisions of the Bingo Enabling and Act and the Charitable Bingo rules to maintain its conductor license.

3. Tex. Occ. Code §2001.451(d) states, in pertinent part:

[A] licensed authorized organization may not commingle gross receipts derived from the conduct of bingo with other funds of the organization.

4. Tex. Occ. Code §2001.453 states, in pertinent part:

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

(1) the payment of necessary or reasonable bona fide expenses, including compensation of personnel, as permitted under Section 2001.458 incurred and paid in connection with the conduct of bingo....

5. 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.

6. 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.

7. Tex. Occ. Code §2001.505 states:

(a) A licensed authorized organization conducting bingo shall submit quarterly to the commission a report under oath stating:

- (1) the amount of the gross receipts derived from bingo;
- (2) each item of expense incurred or paid;
- (3) each item of expenditure made or to be made, the name and address of each person to whom each item has been paid or is to be paid, and a detailed description of the merchandise purchased or the services rendered;
- (4) the net proceeds derived from bingo;
- (5) the use to which the proceeds have been or are to be applied; and
- (6) a list of prizes offered and given, with their respective values.

(b) A license holder shall maintain records to substantiate the contents of each report.

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

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

- ...
- (2) fails to maintain records that fully and accurately record each transaction connected with the conduct of bingo ...; or.
 - (5) violates this chapter or a term of a license issued under this chapter.

9. Tex. Occ. Code §2001.560(c) states:

The commission or a person authorized in writing by the commission may examine the books, papers, records, equipment, and place of business of a license holder and may investigate the character of the license holder's business to verify the accuracy of a return, statement, or report made, or, if no return is made by the license holder, to ascertain and determine the amount required to be paid.

10. 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.

11. 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.

12. 16 Tex. Admin. Code §402.500(c) states:

Upon request of the Commission, a licensee shall provide any information required to be maintained by the Bingo Enabling Act and the Charitable Bingo Administrative Rules. Except in cases of emergency, the Commission shall provide reasonable advance notice of the specific information and records needed and the time and location at which they must be made available.

13. 16 Tex. Admin. Code §402.506(e) states:

All expenses from the bingo checking account must be listed on a Cash Disbursements Journal on forms provided by the Commission or in another format that shows the information for each check written, electronic fund transfers, bank fees, and cash shortages or overages. If any licensed authorized organized organization maintains its records on a commercially available accounting software package (e.g. Quicken), use of the standard accounting features of the package shall meet the requirements of this section.

(1) A Cash Disbursements Journal shall be maintained on a cash basis and include information for checks written, electronic fund transfers, bank fees and cash shortages or overages that are dated during the calendar quarter.

(2) Cash Disbursement Journal Required Information:

(A) date of check, withdrawal or electronic funds transfer transaction;

(B) check number, transaction number or confirmation number;

(C) name of payee;

(D) amount of expense;

(E) expense category--each expense item shall correspond to the category on the Texas Bingo Quarterly Report; and

(F) totals--Each expense category shall be totaled quarterly and match the information reported to the Commission on the Texas Bingo Quarterly Report. Any changes made on the Texas Bingo Quarterly Report shall be documented on the Cash Disbursements Journal.

14. 16 Tex. Admin. Code §402.600(d)(1) states:

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

15. American GI Forum's conductor license is subject to suspension or revocation pursuant to Tex. Occ. Code §2001.554(a), as a result of American GI Forum's violations of Tex. Occ. Code §§ 2001.451(d), 2001.453(1), 2001.458(a), 2001.459(a), 2001.505, and 2001.560(c) and 16 Tex. Admin. Code §§ 402.500(c), 402.506(e), and 402.600(d)(1).

MEMORANDUM OF AGREEMENT

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

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

3. American GI Forum agrees to pay \$800.00 as an administrative penalty within thirty (30) days of the date the Order is signed by the Commission.

4. American GI Forum agrees to redeposit \$8,924.45 into American GI Forum's bingo bank account and provide proof of redeposit within six (6) months of the date the Order is signed by the Commission.

5. American GI Forum agrees to redeposit a minimum of \$1000.00 each month

beginning within thirty (30) days after the date the Order is entered by the Commission and provide proof of the monthly redeposit within thirty (30) days of the redeposit until the full amount of \$8,924.45 has been redeposited.

6. American GI Forum agrees to timely and accurately file all quarterly reports and all supplements, as required by the Bingo Enabling Act and the Charitable Bingo rules for a period of one (1) year following the date the Order is signed by the Commission.

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


8. American GI Forum agrees that if it is required to surrender its conductor license pursuant to the above paragraph 7 and fails to do so within ten (10) days of being notified by the Division, American GI Forum's conductor license will be immediately revoked.

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

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

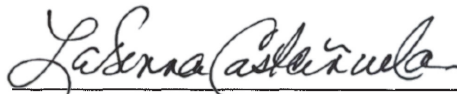
AGREED AS TO FORM AND SUBSTANCE:

American GI Forum - Rockport

By: 
Richard Dominguez, Chairperson

Date: 08|15|2023

**Texas Lottery Commission
Charitable Bingo Operations Division**

By: 
LaDonna Castañuela, Director

Date: 9/6/2023

Commission Order No. 24-0005

Date: OCTOBER 12, 2023

Case No. 2023-778

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
	§	
AMERICAN GI FORUM - ROCKPORT	§	
TAXPAYER NO. 12370528916	§	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 American GI Forum - Rockport (American GI Forum) shall pay \$800.00 as an administrative penalty within thirty (30) days of the date this Consent Order (Order) is signed by the Commission (effective date).

(2) IT IS FURTHER ORDERED by the Commission that American GI Forum shall redeposit \$8,924.45 into American GI Forum’s bingo bank account and provide proof of redeposit within six (6) months of the effective date.

(3) IT IS FURTHER ORDERED by the Commission that American GI Forum shall redeposit a minimum of \$1000.00 each month beginning within thirty (30) days after the date the Order is entered by the Commission and provide proof of the monthly redeposit within thirty (30) days of the redeposit until the full amount of \$8,924.45 has been redeposited.

(4) IT IS FURTHER ORDERED by the Commission that American GI Forum shall timely and accurately file all quarterly reports and all supplements, as required by the Bingo Enabling Act and the Charitable Bingo rules for a period of one (1) year following the effective

Commission Order No. 24-0005

Date: OCTOBER 12, 2023

date.

(5) IT IS FURTHER ORDERED by the Commission that if American GI Forum fails to comply with any requirement of this Memorandum of Agreement and Consent Order, then, upon notice by the Division, American GI Forum will surrender its conductor license within ten (10) days of the notice without further notice or hearing.

(6) IT IS FURTHER ORDERED by the Commission that if American GI Forum is required to surrender its conductor license pursuant to the above paragraph 5 and fails to do so within ten (10) days of being notified by the Division, American GI Forum's conductor license will be immediately revoked.

Commission Order No. 24-0005

Date: OCTOBER 12, 2023

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 12TH day of OCTOBER, 2023.

Entered this 12TH day of OCTOBER, 2023.

ROBERT G. RIVERA, CHAIRMAN

CINDY FIELDS, COMMISSIONER

MARK A. FRANZ, COMMISSIONER

ERIK C. SAENZ, COMMISSIONER

JAMES H. C. STEEN, COMMISSIONER