



INTEROFFICE MEMO

Gary Grief, Executive Director

Alfonso D. Royal III, Charitable Bingo Operations Director

To: J. Winston Krause, Chairman
Carmen Arrieta-Candelaria, Commissioner
Peggy A. Heeg, Commissioner
Doug Lowe, Commissioner
Robert Rivera, Commissioner

From: Bob Biard, General Counsel

Date: October 13, 2016

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 in the enforcement cases presented under this item.

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2016 SEP 29 AM 1:39
EXECUTIVE ADMIN.
LOTTERY

Commission Order No. 17-0001

Date: OCTOBER 13, 2016

DOCKET NO. 362-16-4064 *et al.*

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
THE REVOCATION OF CERTAIN	§	
LOTTERY RETAILER LICENSES	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

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

The Texas Lottery Commission, after review and due consideration of the Proposals for Decision, and exceptions and replies filed, if any, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judges 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 licenses for the Lottery Retailers listed on Attachment A, which is incorporated into this Order for all purposes, are hereby revoked.

Commission Order No. 17-0001

Date: OCTOBER 13, 2016

Passed and approved at the regular meeting of the Texas Lottery Commission at Austin, Texas, on the 13TH day of OCTOBER, 2016.

Entered this 13TH day of OCTOBER, 2016.

J. WINSTON KRAUSE, CHAIRMAN

CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

PEGGY A. HEEG, COMMISSIONER

DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

Commission Order No. 17-0001

Date: OCTOBER 13, 2016

ATTACHMENT A

Tab NO.	SOAH DOCKET NO.	LOTTERY RETAILER	LOTTERY LICENSE NO.
A.	362-16-4064	Jainum, Inc. D/B/A Sunny's Beverage Zone	176036
B.	362-16-4065	Luis Vidal & Hector Vidal D/B/A Oak Hills Center	178748
C.	362-16-4066	Valley Express Mart, Inc. D/B/A Santa Fe Express Mart #2	179360
D.	362-16-4234	Edwardo N. Franco D/B/A Franco's Corner	149199
E.	362-16-4900	Bengal Mart, Inc. D/B/A Bengal Mart	175507
F.	362-16-4902	Meqbil Atta Bawaqna D/B/A Brother's \$ Store	179939
G.	362-16-5091	Azel H. Corp. D/B/A Moon Mart	177082
H.	362-16-5600	H. Shaheen, LLC D/B/A AM Food Mart	177228
I.	362-16-5601	Adawn USA, Inc. D/B/A Bellfort CITGO	180415
J.	362-16-5602	A.W. Soomro, Inc. D/B/A Price Super Mart	181195

State Office of Administrative Hearings



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LESLI G. GINN
GENERAL COUNSEL

Lesli G. Ginn
Chief Administrative Law Judge

July 5, 2016

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

VIA E-MAIL

**RE: Docket No. 362-16-4064; Texas Lottery Commission v. Janium, Inc.
DBA Sunny's Beverage Zone**

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(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "H. D. Card".

Henry D. Card
Administrative Law Judge

HDC/lg

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Janium, Inc. DBA Sunny's Beverage Zone, 2661 Midway Road, Suite 102, Carrollton, TX 75006-2348 - VIA
REGULAR MAIL

SOAH DOCKET NO. 362-16-4064

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
LOTTERY OPERATIONS DIVISION,	§	
Petitioner	§	
	§	
v.	§	
	§	OF
JAINUM, INC., AGENT D/B/A	§	
SUNNY'S BEVERAGE ZONE	§	
SALES AGENT LICENSE NO. 176036,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) seeks the revocation of a lottery sales agent's license held by Jainum, Inc., Agent d/b/a Sunny's Beverage Zone (Licensee) on the grounds that it failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On May 26, 2016, a hearing to consider Staff's allegations was conducted by ALJ Henry D. Card, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff appeared through Stephen White, Assistant General Counsel for the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice as required by law, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Jainum, Inc., Agent d/b/a Sunny's Beverage Zone (Licensee), Carrollton, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 176036.

2. On May 5, 2016, staff of the Commission sent a notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing; the notice was sent by certified mail, return receipt requested to Licensee's address as it appears in the Commission's records.
3. The notice of hearing advised Licensee in 12-point bold face type that failure to appear at the hearing would result in the factual allegations in the notice being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on May 26, 2016, in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On **April 6, 2016**, Licensee failed to have sufficient funds in the amount of **\$1,286.77** available to cover an electronic transfer of funds to the Commission's account and owed the Commission that amount for the sale of lottery tickets.
7. The amounts described in Finding of Fact No. 6 were for the sale of lottery tickets less Licensee's commissions and credits for the amounts of cash prizes Licensee paid.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Tex. Gov't Code Ann. § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Tex. Gov't Code Ann. ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.051-2001.052, § 466.155(b) of the Act, and 16 Tex. Admin. Code § 401.205(a)(4).
4. Based on Findings of Fact Nos. 3 and 5, and Conclusion of Law No. 3, a default should be entered against Respondent pursuant to 1 Tex. Admin. Code § 155.501.
5. Based on Findings of Fact Nos. 6 and 7, Licensee violated § 466.351 of the Act and 16 Tex. Admin. Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.
6. Based on Findings of Fact Nos. 6 and 7, Licensee violated 16 Tex. Admin. Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.

7. Pursuant to the Act and 16 Tex. Admin. Code §§ 401.158 and 401.352, the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Conclusions of Law.
8. Based on the foregoing Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License Number 176036, issued to Jainum, Inc., Agent d/b/a Sunny's Beverage Zone of Carrollton, Texas.

SIGNED July 5, 2016.



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

State Office of Administrative Hearings



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2016 JUL -6 AM 10:59

GENERAL COUNSEL

Lesli G. Ginn
Chief Administrative Law Judge

July 5, 2016

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

VIA E-MAIL

RE: Docket No. 362-16-4065; Texas Lottery Commission v. Luis Vidal & Hector Vidal, Agent DBA Oak Hills Center

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(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "HDC", written over a faint circular stamp.

Henry D. Card
Administrative Law Judge

HDC/lg

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Luis Vidal & Hector Vidal, Agent DBA Oak Hills Center, P.O. Box 91, Stockdale, TX 78160 - VIA REGULAR MAIL

374231

SOAH DOCKET NO. 362-16-4065

**TEXAS LOTTERY COMMISSION
LOTTERY OPERATIONS DIVISION,
Petitioner**

v.

**LUIS VIDAL & HECTOR VIDAL,
AGENT D/B/A OAK HILLS CENTER
SALES AGENT LICENSE NO. 178748,
Respondent**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) seeks the revocation of a lottery sales agent's license held by Luis Vidal and Hector Vidal, Agent d/b/a Oak Hills Center (Licensee) on the grounds that it failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On May 26, 2016, a hearing to consider Staff's allegations was conducted by ALJ Henry D. Card, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff appeared through Stephen White, Assistant General Counsel for the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice as required by law, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Luis Vidal and Hector Vidal, Agent d/b/a Oak Hills Center (Licensee), Stockdale, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 178748.

2. On May 5, 2016, staff of the Commission sent a notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing; the notice was sent by certified mail, return receipt requested to Licensee's address as it appears in the Commission's records.
3. The notice of hearing advised Licensee in 12-point bold face type that failure to appear at the hearing would result in the factual allegations in the notice being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on May 26, 2016, in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On **April 6, 2016**, Licensee failed to have sufficient funds in the amount of **\$1,138.32** available to cover an electronic transfer of funds to the Commission's account and owed the Commission that amount for the sale of lottery tickets.
7. The amounts described in Finding of Fact No. 6 were for the sale of lottery tickets less Licensee's commissions and credits for the amounts of cash prizes Licensee paid.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Tex. Gov't Code Ann. § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Tex. Gov't Code Ann. ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.051-2001.052, § 466.155(b) of the Act, and 16 Tex. Admin. Code § 401.205(a)(4).
4. Based on Findings of Fact Nos. 3 and 5, and Conclusion of Law No. 3, a default should be entered against Respondent pursuant to 1 Tex. Admin. Code § 155.501.
5. Based on Findings of Fact Nos. 6 and 7, Licensee violated § 466.351 of the Act and 16 Tex. Admin. Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.
6. Based on Findings of Fact Nos. 6 and 7, Licensee violated 16 Tex. Admin. Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.

7. Pursuant to the Act and 16 Tex. Admin. Code §§ 401.158 and 401.352, the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Conclusions of Law.
8. Based on the foregoing Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License Number 178748, issued to Luis Vidal and Hector Vidal, Agent d/b/a Oak Hills Center of Stockdale, Texas.

SIGNED July 5, 2016.



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

State Office of Administrative Hearings



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GENERAL COUNSEL

Lesli G. Ginn
Chief Administrative Law Judge

July 5, 2016

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

VIA E-MAIL

RE: Docket No. 362-16-4066; Texas Lottery Commission v. Valley Express Mart, Inc. DBA Santa Fe Express Mart #2

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(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "H. D. Card".

Henry D. Card
Administrative Law Judge

HDC/lg

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Valley Express Mart, Inc. DBA Santa Fe Express Mart #2, 101 Ave. C, Valley Mills, TX 76689 - VIA REGULAR MAIL

SOAH DOCKET NO. 362-16-4066

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
LOTTERY OPERATIONS DIVISION,	§	
Petitioner	§	
	§	
v.	§	
	§	OF
VALLEY EXPRESS MART, INC., AGENT	§	
D/B/A SANTA FE EXPRESS MART #2	§	
SALES AGENT LICENSE NO. 179360,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) seeks the revocation of a lottery sales agent's license held by Valley Express Mart, Inc., Agent d/b/a Santa Fe Express Mart #2 (Licensee) on the grounds that it failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On May 26, 2016, a hearing to consider Staff's allegations was conducted by ALJ Henry D. Card, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff appeared through Stephen White, Assistant General Counsel for the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice as required by law, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Valley Express Mart, Inc., Agent d/b/a Santa Fe Express Mart #2 (Licensee), Valley Mills, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 179360.

2. On May 5, 2016, staff of the Commission sent a notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing; the notice was sent by certified mail, return receipt requested to Licensee's address as it appears in the Commission's records.
3. The notice of hearing advised Licensee in 12-point bold face type that failure to appear at the hearing would result in the factual allegations in the notice being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on May 26, 2016, in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On the following dates Licensee failed to have sufficient funds available to cover an electronic transfer of funds to the Commission's account and owed the Commission the amounts listed below for the sale of lottery tickets:
 - (a) **September 2, 2015, in the amount of \$1,020.79;**
 - (b) **October 21, 2015, in the amount of \$1,199.10;**
 - (c) **November 12, 2015, in the amount of \$1,569.15; and**
 - (b) **April 13, 2016, in the amount of \$1,157.80.**
7. The amounts described in Finding of Fact No. 6 were for the sale of lottery tickets less Licensee's commissions and credits for the amounts of cash prizes Licensee paid.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Tex. Gov't Code Ann. § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Tex. Gov't Code Ann. ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.051-2001.052, § 466.155(b) of the Act, and 16 Tex. Admin. Code § 401.205(a)(4).
4. Based on Findings of Fact Nos. 3 and 5, and Conclusion of Law No. 3, a default should be entered against Respondent pursuant to 1 Tex. Admin. Code § 155.501.
5. Based on Findings of Fact Nos. 6 and 7, Licensee violated § 466.351 of the Act and 16 Tex. Admin. Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.

6. Based on Findings of Fact Nos. 6 and 7, Licensee violated 16 Tex. Admin. Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.
7. Pursuant to the Act and 16 Tex. Admin. Code §§ 401.158 and 401.352, the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Conclusions of Law.
8. Based on the foregoing Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License Number 179360, issued to Valley Express Mart, Inc., Agent d/b/a Santa Fe Express Mart #2 of Valley Mills, Texas.

SIGNED July 5, 2016.



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

State Office of Administrative Hearings



2016 AUG -5 AM 9:29

GENERAL COUNSEL

Lesli G. Ginn
Chief Administrative Law Judge

August 5, 2016

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

VIA E-MAIL

RE: Docket No. 362-16-4234; Texas Lottery Commission v. Edwardo N. Franco Agent, d/b/a Franco's Corner, License No. 149199

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(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary W. Elkins".

Gary W. Elkins
Administrative Law Judge
State Office of Administrative Hearings

GWE/lis

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Edwardo N. Franco, Agent, 4047 County Road 408, Fort Stockton, TX 79735 -VIA REGULAR MAIL

2016-8-2-00
376982

SOAH DOCKET NO. 362-16-4234

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
V.	§	
	§	
EDUARDO N. FRANCO, AGENT	§	
D/B/A FRANCO'S CORNER	§	OF
	§	
SALES AGENT LICENSE NO. 149199	§	
	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) requested the revocation of a lottery sales agent's license held by Eduardo N. Franco, Agent d/b/a Franco's Corner (Licensee) on the grounds that Licensee failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On June 9, 2016, in Austin, Texas, ALJ Gary W. Elkins conducted a hearing to consider Staff's allegations. Kristen Guthrie, Assistant General Counsel, represented the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice, the hearing proceeded on a default basis. The allegations and applicable law are discussed in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Eduardo N. Franco, Agent d/b/a Franco's Corner (Licensee), Fort Stockton, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 149199.
2. On May 19, 2016, staff of the Commission (Staff) sent notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing. The notice was sent by certified mail, return receipt requested, to Licensee's address as it appears in the Commission's records.


3. The notice of hearing informed Licensee in 12-point, bold face type that failure to appear at the hearing would result in the factual allegations in the notice of hearing being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on June 9, 2016, at the State Office of Administrative Hearings, located in the William P. Clements Building at 300 West 15th Street, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On **April 13, 2016**, Licensee failed to have sufficient funds available to cover an electronic transfer of funds to the Commission's account and owed the Commission **\$2,841.95** for the sale of lottery tickets.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Texas Government Code § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, as provided by Texas Government Code Chapter 2003.
3. Proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Texas Government Code §§ 2001.051-2001.052; § 466.155(b) of the Act; and 16 Texas Administrative Code § 401.205(4).
4. A default should be entered against Licensee, pursuant to 1 Texas Administrative Code § 155.501.
5. Licensee violated § 466.351 of the Act and 16 Texas Administrative Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.
6. Licensee violated 16 Texas Administrative Code §401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.
7. Pursuant to § 466.155 of the Act and 16 Texas Administrative Code §§ 401.158 and 401.352(a), the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Findings of Fact and Conclusions of Law.

8. The Commission is warranted in revoking Texas Lottery Sales Agent License No. 149199 issued to Edwardo N. Franco, Agent d/b/a Franco's Corner of Fort Stockton, Texas.

SIGNED August 5, 2016.



GARY W. ELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

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GENERAL COUNSEL

August 9, 2016

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

VIA E-MAIL

RE: Docket No. 362-16-4900; Texas Lottery Commission v. Bengal Mart Inc., Agent, d/b/a Bengal Mart, License No. 175507

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(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary W. Elkins".

Gary W. Elkins
Administrative Law Judge
State Office of Administrative Hearings

GWE/kfm

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Bengal Mart Inc., Agent, 10755 Veterans Memorial Dr., Ste. B, Cypress, TX, 77433 -VIA REGULAR MAIL

377316

SOAH DOCKET NO. 362-16-4900

TEXAS LOTTERY COMMISSION
LOTTERY OPERATIONS DIVISION,
Petitioner

v.

BENGAL MART, INC., AGENT,
D/B/A BENGAL MART
SALES AGENT LICENSE NO. 175507,
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) seeks the revocation of a lottery sales agent's license held by Bengal Mart, Inc., Agent, d/b/a Bengal Mart (Licensee) on the grounds that it failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On July 21, 2016, a hearing to consider Staff's allegations was conducted by ALJ Gary W. Elkins at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff appeared through Stephen White, Assistant General Counsel for the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice as required by law, the hearing proceeded on a default basis. The allegations and applicable law are discussed in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Bengal Mart, Inc., Agent d/b/a Bengal Mart (Licensee), Cypress, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 175507.

2. On June 30, 2016, staff of the Commission sent a notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing; the notice was sent by certified mail, return receipt requested to Licensee's address as it appears in the Commission's records.
3. The notice of hearing advised Licensee in 12-point bold face type that failure to appear at the hearing would result in the factual allegations in the notice being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on July 21, 2016, in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On the following dates Licensee failed to have sufficient funds available to cover an electronic transfer of funds to the Commission's account and owed the Commission the amounts listed below for the sale of lottery tickets:
 - (a) **February 24, 2016, in the amount of \$630.20;**
 - (b) **March 2, 2016, in the amount of \$1,240.40;**
 - (c) **April 13, 2016, in the amount of \$274.10;**
 - (d) **May 25, 2016, in the amount of \$304.07; and**
 - (b) **June 2, 2016, in the amount of \$1,130.57.**
7. The amounts described in Finding of Fact No. 6 were for the sale of lottery tickets less Licensee's commissions and credits for the amounts of cash prizes Licensee paid.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Tex. Gov't Code Ann. § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Tex. Gov't Code Ann. ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.051-2001.052, § 466.155(b) of the Act, and 16 Tex. Admin. Code § 401.205(a)(4).
4. Based on Findings of Fact Nos. 3 and 5, and Conclusion of Law No. 3, a default should be entered against Respondent pursuant to 1 Tex. Admin. Code § 155.501.
5. Based on Findings of Fact Nos. 6 and 7, Licensee violated § 466.351 of the Act and 16 Tex. Admin. Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.

6. Based on Findings of Fact Nos. 6 and 7, Licensee violated 16 Tex. Admin. Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.
7. Pursuant to the Act and 16 Tex. Admin. Code §§ 401.158 and 401.352, the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Conclusions of Law.
8. Based on the foregoing Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License Number 175507 issued to Bengal Mart, Inc., Agent d/b/a Bengal Mart of Cypress, Texas.

SIGNED August 9, 2016.



GARY W. BELKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

August 9, 2016

RECEIVED
2016 AUG 10 AM 7:07
GENERAL COUNSEL
VIA E-MAIL

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

RE: Docket No. 362-16-4902; Texas Lottery Commission v. Meqbil Atta Bawaqna, Agent, d/b/a Brother's \$ Store, License No. 179939

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(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary W. Elkins".

Gary W. Elkins
Administrative Law Judge
State Office of Administrative Hearings

GWE/kfm

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Meqbil A. Bawaqna, Agent, 2777 Briargrove Dr., #917, Houston, TX, 77057 - VIA REGULAR MAIL

200310

SOAH DOCKET NO. 362-16-4902

TEXAS LOTTERY COMMISSION § BEFORE THE STATE OFFICE
V. §
MEQBIL ATTA BAWAQNA, AGENT, § OF
D/B/A BROTHER'S \$ STORE §
SALES AGENT LICENSE NO. 179939 § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) requested the revocation of a lottery sales agent's license held by Meqbil Atta Bawaqna, Agent, d/b/a Brother's \$ Store (Licensee) on the grounds that Licensee failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On July 21, 2016, in Austin, Texas, ALJ Gary W. Elkins conducted a hearing to consider Staff's allegations. Stephen White, Assistant General Counsel, represented the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Meqbil Atta Bawaqna, Agent d/b/a Brother's \$ Store (Licensee), Houston, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 179939.
2. On June 30, 2016, staff of the Commission (Staff) sent notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing. The notice was sent by certified mail, return receipt requested, to Licensee's address as it appears in the Commission's records.

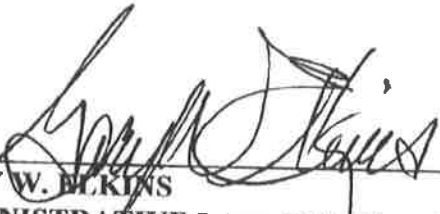
3. The notice of hearing informed Licensee in 12-point, bold face type that failure to appear at the hearing would result in the factual allegations in the notice of hearing being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on July 21, 2016, at the State Office of Administrative Hearings, located in the William P. Clements Building at 300 West 15th Street, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On May 11, 2016, Licensee failed to have sufficient funds available to cover an electronic transfer of funds to the Commission's account and owed the Commission \$488.47 for the sale of lottery tickets.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Texas Government Code § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, as provided by Texas Government Code Chapter 2003.
3. Proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Texas Government Code §§ 2001.051-2001.052; § 466.155(b) of the Act; and 16 Texas Administrative Code § 401.205(4).
4. A default should be entered against Licensee, pursuant to 1 Texas Administrative Code § 155.501.
5. Licensee violated § 466.351 of the Act and 16 Texas Administrative Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.
6. Licensee violated 16 Texas Administrative Code §401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.
7. Pursuant to § 466.155 of the Act and 16 Texas Administrative Code §§ 401.158 and 401.352(a), the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Findings of Fact and Conclusions of Law.

8. The Commission is warranted in revoking Texas Lottery Sales Agent License No. 179939, issued to Meqbil Atta Bawaqna, Agent, d/b/a Brother's \$ Store of Houston, Texas.

SIGNED August 9, 2016.



GARY W. JENKINS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



2016 AUG 18 AM 9:37

GENERAL COUNSEL

Lesli G. Ginn
Chief Administrative Law Judge

August 18, 2016

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

VIA E-MAIL

**RE: Docket No. 362-16-5091; Texas Lottery Commission v. Azel H Corp,
Agent, d/b/a Moon Mart, License No. 177082**

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(c), a SOAH rule found at <www.soah.state.tx.us>.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Frazee".

**Stephanie Frazee
Administrative Law Judge**

SF/mm

cc: Kristen N. Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA E-MAIL
Azal H. Corp, Agent, d/b/a Moon Mart 10010 La Porte Freeway, Houston, TX 77017 - VIA REGULAR MAIL

SOAH DOCKET NO. 362-16-5091

TEXAS LOTTERY COMMISSION § BEFORE THE STATE OFFICE
 §
v. § OF
 §
AZEL H CORP, AGENT §
D/B/A MOON MART §
 §
SALES AGENT LICENSE NO. 177082 § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Lottery Commission (the Commission) requested the revocation of a lottery sales agent’s license held by Azel H. Corp, Agent d/b/a Moon Mart (Licensee) on the grounds that Licensee failed to have sufficient funds available to cover an electronic funds transfer to the account of the Commission. The Administrative Law Judge (ALJ) recommends revocation of the license.

On August 4, 2016, in Austin, Texas, ALJ Stephanie Frazee conducted a hearing to consider Staff’s allegations. Kristen N. Guthrie, Assistant General Counsel, represented Staff. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Azel H Corp, Agent d/b/a Moon Mart (Licensee), Houston, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 177082.
2. On July 14, 2016, staff of the Commission (Staff) sent notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing. The notice was sent by certified mail, return receipt requested, to Licensee’s address as it appears in the Commission’s records.

3. The notice of hearing informed Licensee in 12-point, bold face type that failure to appear at the hearing would result in the factual allegations in the notice of hearing being admitted as true and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on August 4, 2016, at the State Office of Administrative Hearings, located in the William P. Clements Building at 300 West 15th Street, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On September 16, 2015, Licensee failed to have sufficient funds in the amount of \$6.55 available to cover an electronic transfer of funds to the Commission's account and owed the Commission that amount for the sale of lottery tickets.
7. On September 23, 2015, Licensee failed to have sufficient funds in the amount of \$1,306.25 available to cover an electronic transfer of funds to the Commission's account and owed the Commission that amount for the sale of lottery tickets.
8. On June 8, 2016, Licensee failed to have sufficient funds in the amount of \$380.00 available to cover an electronic transfer of funds to the Commission's account and owed the Commission that amount for the sale of lottery tickets.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act pursuant to Texas Government Code § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, as provided by Texas Government Code ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Azel H Corp, Agent d/b/a Moon Mart (Licensee) pursuant to the Texas Government Code §§ 466.155(b), 2001.051-.052 and 16 Texas Administrative Code § 401.205(4).
4. Based upon Findings of Fact Nos. 2 through 5 and Conclusion of Law No. 3, a default should be entered against Licensee, pursuant to 1 Texas Administrative Code § 155.501.
5. Based upon Finding of Fact Nos. 6 through 8, Licensee violated Texas Government Code § 466.351 and 16 Texas Administrative Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.

6. Based on Finding of Fact Nos. 6 through 8, Licensee violated 16 Texas Administrative Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover an electronic transfer of funds to the Commission.
7. Pursuant to Texas Government Code § 466.155 and 16 Texas Administrative Code §§ 401.158 and 401.352(a), the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Findings of Fact and Conclusions of Law.
8. Based upon the foregoing Findings of Fact and Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License No. 177082, issued to Azel H Corp, Agent d/b/a Moon Mart of Houston, Texas.

SIGNED August 18, 2016.



STEPHANIE FRAZEE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

September 19, 2016

RECEIVED
2016 SEP 19 AM 11:23
LEGISLATIVE
GENERAL COUNSEL

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

VIA E-MAIL

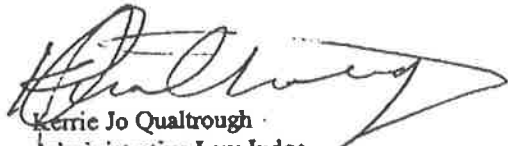
RE: Docket No. 362-16-5600; Texas Lottery Commission v. H. Shaheen, LLC, Agent, d/b/a AM Food Mart, License No. 177228

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(c), a SOAH rule found at www.soah.state.tx.us.

Sincerely,


Kerrie Jo Qualtrough
Administrative Law Judge

KJQ/hra

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701
- VIA E-MAIL

H. Shaheen LLC, Agent, d/b/a AM Food Mart, 1602 HWY 6 South, Houston, TX 77077
- VIA REGULAR MAIL

300 W. 15th Street, Suite 504, Austin, Texas 78701/P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.475.4994 (Fax)
www.soah.texas.gov

380520

SOAH DOCKET NO. 362-16-5600

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
LOTTERY OPERATIONS DIVISION,	§	
Petitioner	§	
	§	
v.	§	
	§	OF
H. SHAHEEN, LLC, AGENT	§	
D/B/A AM FOOD MART	§	
SALES AGENT LICENSE NO. 177228,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) seeks the revocation of a lottery sales agent’s license held by H. Shaheen, LLC, Agent d/b/a AM Food Mart (Licensee) on the grounds that it failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On September 1, 2016, a hearing to consider Staff’s allegations was conducted by ALJ Kerrie Qualtrough, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff appeared through Kristen Guthrie, Assistant General Counsel for the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice as required by law, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. H. Shaheen, LLC, Agent d/b/a AM Food Mart (Licensee), of Houston, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 177228.

2. On August 11, 2016, staff of the Commission sent notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing; the notice was sent by certified mail, return receipt requested to Licensee's address as it appears in the Commission's records.
3. The notice of hearing advised Licensee in 12-point bold face type that failure to appear at the hearing would result in the factual allegations in the notice being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on September 1, 2016, in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On the following dates Licensee failed to have sufficient funds available to cover an electronic transfer of funds to the Commission's account and owed the Commission the amounts listed below for the sale of lottery tickets:
 - (a) **August 26, 2015, in the amount of \$20.70;**
 - (b) **April 13, 2016, in the amount of \$3,254.52;**
 - (c) **June 22, 2016, in the amount of \$814.40; and**
 - (d) **July 7, 2016, in the amount of \$3,535.10.**
7. The amounts described in Finding of Fact No. 6 were for the sale of lottery tickets less Licensee's commissions and credits for the amounts of cash prizes Licensee paid.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Tex. Gov't Code Ann. § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Tex. Gov't Code Ann. ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.051-2001.052, § 466.155(b) of the Act, and 16 Tex. Admin. Code § 401.205(4).
4. Based on Findings of Fact Nos. 3 and 5, and Conclusion of Law No. 3, a default should be entered against Respondent pursuant to 1 Tex. Admin. Code § 155.501.
5. Based on Findings of Fact Nos. 6 and 7, Licensee violated § 466.351 of the Act and 16 Tex. Admin. Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.

6. Based on Findings of Fact Nos. 6 and 7, Licensee violated 16 Tex. Admin. Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.
7. Pursuant to the Act and 16 Tex. Admin. Code §§ 401.158 and 401.352, the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Conclusions of Law.
8. Based on the foregoing Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License Number 177228, issued to H. Shaheen, LLC, Agent d/b/a AM Food Mart of Houston, Texas.

SIGNED September 19, 2016.



**KERRIE JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

September 19, 2016

RECEIVED
2016 SEP 19 AM 9:59
LEGISLATIVE COUNSEL
GENERAL COUNSEL

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

VIA E-MAIL

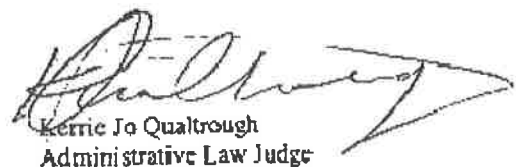
RE: Docket No. 362-16-5601; Texas Lottery Commission v. ADAWN USA, Inc., Agent, D/B/A Belfort CITGO, License No. 180415,

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(c), a SOAH rule found at www.soah.state.tx.us.

Sincerely,


Kerrie Jo Qualtrough
Administrative Law Judge

KJQ/hra

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 -
VIA E-MAIL

ADAWN USA INC, Agent, d/b/a Belfort CITGO; 7060 Belfort, Houston, TX 77087
-VIA REGULAR MAIL

300 W. 15th Street, Suite 504, Austin, Texas 78701/P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.475.4994 (Fax)
www.soah.texas.gov

380516

SOAH DOCKET NO. 362-16-5601

TEXAS LOTTERY COMMISSION
LOTTERY OPERATIONS DIVISION,
Petitioner

v.

ADAWN USA, INC., AGENT
D/B/A BELLFORT CITGO
SALES AGENT LICENSE NO. 180415,
Respondent

§
§
§
§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) seeks the revocation of a lottery sales agent's license held by Adawn USA, Inc., Agent d/b/a Bellfort Citgo (Licensee) on the grounds that it failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On September 1, 2016, a hearing to consider Staff's allegations was conducted by ALJ Kerrie Qualtrough, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff appeared through Kristen Guthrie, Assistant General Counsel for the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice as required by law, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. Adawn USA, Inc., Agent d/b/a Bellfort Citgo (Licensee), of Houston, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 180415.


2. On August 11, 2016, staff of the Commission sent a notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing; the notice was sent by certified mail, return receipt requested to Licensee's address as it appears in the Commission's records.
3. The notice of hearing advised Licensee in 12-point bold face type that failure to appear at the hearing would result in the factual allegations in the notice being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on September 1, 2016, in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On **July 7, 2016**, Licensee failed to have sufficient funds in the amount of **\$716.94** available to cover an electronic transfer of funds to the Commission's account and owed the Commission that amount for the sale of lottery tickets.
7. The amounts described in Finding of Fact No. 6 were for the sale of lottery tickets less Licensee's commissions and credits for the amounts of cash prizes Licensee paid.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Tex. Gov't Code Ann. § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Tex. Gov't Code Ann. ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.051-2001.052, § 466.155(b) of the Act, and 16 Tex. Admin. Code § 401.205(4).
4. Based on Findings of Fact Nos. 3 and 5, and Conclusion of Law No. 3, a default should be entered against Respondent pursuant to 1 Tex. Admin. Code § 155.501.
5. Based on Findings of Fact Nos. 6 and 7, Licensee violated § 466.351 of the Act and 16 Tex. Admin. Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.
6. Based on Findings of Fact Nos. 6 and 7, Licensee violated 16 Tex. Admin. Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.

7. Pursuant to the Act and 16 Tex. Admin. Code §§ 401.158 and 401.352, the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Conclusions of Law.
8. Based on the foregoing Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License Number 180415, issued to Adawn USA, Inc., Agent d/b/a Bellfort Citgo of Houston, Texas.

SIGNED September 19, 2016.



KERRIE JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

September 19, 2016

RECEIVED
2016 SEP 19 AM 8:57
LESLI G. GINN
CHIEF ADMINISTRATIVE LAW JUDGE
OF THE STATE OF TEXAS

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

VIA E-MAIL

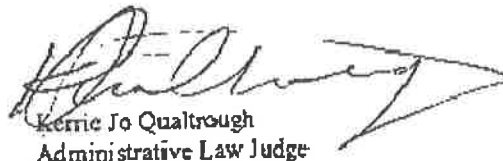
RE: Docket No. 362-16-5602; Texas Lottery Commission v. A. W. Soomro, Inc., Agent, d/b/a, Price Super Mart License No.181195

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(c), a SOAH rule found at www.soah.state.tx.us.

Sincerely,


Kerrie Jo Qualtrough
Administrative Law Judge

KJQ/hra

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 -
VIA E-MAIL

AW Soomro Inc, Agent, d/b/a Price Super Mart, P O Box 74, Price, TX 75678 -VIA REGULAR MAIL

SOAH DOCKET NO. 362-16-5602

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
LOTTERY OPERATIONS DIVISION,	§	
Petitioner	§	
	§	
v.	§	
	§	OF
A.W. SOOMRO, INC., AGENT	§	
D/B/A PRICE SUPER MART	§	
SALES AGENT LICENSE NO. 181195,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Lottery Commission (Staff) seeks the revocation of a lottery sales agent’s license held by A.W. Soomro, Inc., Agent d/b/a Price Super Mart (Licensee) on the grounds that it failed to have sufficient funds available to cover electronic funds transfers to the account of the Texas Lottery Commission (the Commission). The Administrative Law Judge (ALJ) recommends revocation of the license.

On September 1, 2016, a hearing to consider Staff’s allegations was conducted by ALJ Kerrie Qualtrough, at the State Office of Administrative Hearings, William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas. Staff appeared through Kristen Guthrie, Assistant General Counsel for the Commission. Licensee did not appear and was not represented at the hearing. After Staff established jurisdiction and notice as required by law, the hearing proceeded on a default basis. Therefore, the allegations and applicable law are discussed only in the Findings of Fact and Conclusions of Law below.

I. FINDINGS OF FACT

1. A.W. Soomro, Inc., Agent d/b/a Price Super Mart (Licensee), of Price, Texas, is a lottery sales agent licensed by the Texas Lottery Commission (the Commission). Licensee holds license number 181195.


2. On August 11, 2016, staff of the Commission sent a notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing; the notice was sent by certified mail, return receipt requested to Licensee's address as it appears in the Commission's records.
3. The notice of hearing advised Licensee in 12-point bold face type that failure to appear at the hearing would result in the factual allegations in the notice being admitted as true, and that the relief sought in the notice may be granted by default.
4. The hearing described in Finding of Fact No. 2 was held on September 1, 2016, in the William P. Clements Building, 300 W. 15th Street, Fourth Floor, Austin, Texas.
5. Licensee did not appear and was not represented at the hearing.
6. On **July 7, 2016**, Licensee failed to have sufficient funds in the amount of **\$237.50** available to cover an electronic transfer of funds to the Commission's account and owed the Commission that amount for the sale of lottery tickets.
7. The amounts described in Finding of Fact No. 6 were for the sale of lottery tickets less Licensee's commissions and credits for the amounts of cash prizes Licensee paid.

II. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (the Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act), Tex. Gov't Code Ann. § 466.155.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to Tex. Gov't Code Ann. ch. 2003.
3. Based upon Findings of Fact Nos. 2 and 3, proper and timely notice of the hearing was effected upon Licensee pursuant to the Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.051-2001.052, § 466.155(b) of the Act, and 16 Tex. Admin. Code § 401.205(4).
4. Based on Findings of Fact Nos. 3 and 5, and Conclusion of Law No. 3, a default should be entered against Respondent pursuant to 1 Tex. Admin. Code § 155.501.
5. Based on Findings of Fact Nos. 6 and 7, Licensee violated § 466.351 of the Act and 16 Tex. Admin. Code § 401.351, which require the timely deposit of lottery ticket sales proceeds into a bank account to be held in trust for and owed to the Commission.
6. Based on Findings of Fact Nos. 6 and 7, Licensee violated 16 Tex. Admin. Code § 401.352, which requires a licensee to have sufficient funds on deposit to cover electronic transfers of funds to the Commission.

7. Pursuant to the Act and 16 Tex. Admin. Code §§ 401.158 and 401.352, the Commission has authority to suspend or revoke a lottery sales agent's license for the violations described in the foregoing Conclusions of Law.
8. Based on the foregoing Conclusions of Law, the Commission is warranted in revoking Texas Lottery Sales Agent License Number 181195, issued to A.W. Soomro, Inc., Agent d/b/a Price Super Mart of Price, Texas.

SIGNED September 19, 2016.



**KERRIE JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

Commission Order No. 17-0007

Date: OCTOBER 13, 2016

DOCKET NO. 362-16-1513.B

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
PETITIONER	§	
	§	
VS.	§	
	§	
JULAM INVESTMENTS, INC.	§	
RESPONDENT	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

TO: Mr. Hayward Rigano
Attorney at Law
P.O. Box 3384
Longview, TX 75606

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

The Texas Lottery Commission, after review and due consideration of the Proposal for Decision, and exceptions and replies filed, if any, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge 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.

Commission Order No. 17-0007

Date: OCTOBER 13, 2016

NOW, THEREFORE, IT IS ORDERED that the commercial lessor license of Julam Investments, Inc. of Fort Worth, Texas is hereby revoked.

Passed and approved at the regular meeting of the Texas Lottery Commission at Austin, Texas, on the 13TH day of OCTOBER, 2016.

Entered this 13TH day of OCTOBER, 2016.

J. WINSTON KRAUSE, CHAIRMAN

CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

PEGGY A. HEEG, COMMISSIONER

DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

CASE SUMMARY

PARTY NAME/STATUS: Texas Lottery Commission Staff, Petitioner
DOCKET NO./CASE NAME: 362-16-1513.B; Julam Investments, Inc., Respondent

ISSUES:

1. Were the gaming devices operated by Respondent at the Lucky Star Bingo hall illegal gambling devices and unauthorized games of chance within the meaning of TEX. OCC. CODE ANN. §2001.416? [Yes]
2. Does it matter whether the gaming devices were on or off the bingo premises? [No]
3. Did the gaming devices at Lucky Star Bingo hall award players bingo equipment in violation of 16 TEX. ADMIN. CODE § 402.211(f)? [Yes]
4. What is an appropriate sanction for such violations? [Revocation of Respondent's license]

KEY FACTS:

Respondent, Julam Investments, Inc. is a licensed commercial lessor that leased bingo premises at the Lucky Star Bingo hall. An owner and officer of Respondent operated gaming devices in a room adjoining the Lucky Star Bingo hall. Players could exchange points won on the gaming devices for bingo pull-tabs. The owner and officer of Respondent split the proceeds from the gaming devices with the owner of the gaming devices. The charities that conducted bingo at the bingo hall did not receive any of the proceeds from the gaming devices. The Administrative Law (ALJ) found Respondent operated illegal gambling devices in violation of TEX. OCC. CODE ANN. § 2001.416 and TEX. ADMIN. CODE § 402.211(f), and recommended revocation of its license.

The ALJ recommended revoking Respondent's commercial lessor license because Respondent "after repeatedly being notified by the Commission of illegal gambling devices, Respondent continued to operate the illegal gambling devices and blatantly ignored the Commission."

LEGAL PRINCIPLES INVOLVED:

The ALJ determined the gaming devices were illegal gambling devices for three reasons: (1) because the gaming devices awarded credits exchangeable for bingo pull-tabs. Bingo pull-tabs are not "non-cash merchandise prizes, toys or novelties." (citing *Hardy v. State*, 102 S.W.3d 123 (Tex. 2003); and TEX. ATT'Y GEN. OP. No.GA-0812 (2010)); (2) because players could accrue points on a card that allowed players to play the machines in the future (citing *State v. \$1,7600.00 In U.S. Currency*, 406 S.W.3d 177 (Tex. 2013) in which the Supreme Court held "non-immediate right to replay" was "thing a value" as defined in Texas Penal Code §47.01(9)); and (3) the gaming machines were not solely for bona fide amusement purposes as required by Texas Penal Code §47.01(4)(B). The ALJ also held that it was "irrelevant" whether the devices were on or off the bingo premises. The issue in determining whether an unauthorized game of chance was allowed during a bingo occasion in violation of TEX. OCC. CODE ANN. § 2001.416 is whether the activities between the unauthorized games and the bingo operations were "impermissibly intertwined." The ALJ also held Respondent violated 16 Administrative Code § 402.211(f) because the gaming devices awarded players credits exchangeable for bingo pull-tabs.

ACTION REQUESTED:

Adopt the ALJ's proposed findings of fact and conclusions and law and recommended sanction of revocation of Respondent's license.

CASE SUMMARY

PARTY NAME/STATUS: JULAM INVESTMENTS, INC./RESPONDENT

DOCKET NO./CASE NAME: 362-16-1513.B TEX. LOTTERY COMM'N VS. JULAM INVESTMENTS, INC.

ISSUE(S): Did Julam allow other games of chance to be played during a bingo session?
Did Julam allow bingo products to be used as a prize?

KEY FACTS: Julam Investments, Inc. was the commercial lessor at the Lucky Star Bingo in White Settlement, Texas. The bingo hall was open for over 10 years. At all times since its inception, the bingo hall was separated into two rooms. One room had bingo and the other room had some type of game. The Bingo hall portion of the building would be closed off from the gameroom during bingo sessions. At no time was any type of bingo allowed into the gameroom. The gameroom allowed the patrons to win a prize called a bingo buck. This buck was then allowed to be exchanged for items in the bingo hall.

The Texas Lottery Commission audited and investigated the hall on numerous occasions. Starting in 2009, the Commission knew how the bingo hall was set up with the gameroom and the type of games being operated as well as the prize being offered. The Commission investigated the hall on three different occasions from 2009 to 2014. At no time did anyone from the Commission or the Charitable Bingo division inform Julam that there was an issue about the games or the prize being offered until three weeks before the hall closed because of economic reasons and the poor health of the owner.

LEGAL PRINCIPLES INVOLVED: Julam questions the action taken by the commission and the action requested. Why was this issue not raised prior to the August 2015 notice of violation? Julam was at this time in severe decline due to the economic situation of the hall and the declining health of its owner, Ruby Morgan. Ms. Morgan stated that had someone simply told her there was an issue with the games and the prizes, she would have corrected the problem. But for at least six years the Commission knew of the issue and simply waited until Ms. Morgan was not in any condition to contest the issue and filed this action. The legal principle of laches should have prevented the Commission from now trying to strip Ms. Morgan of the only property she now has left, her bingo lessor license held by Julam. Further, the Commission failed to prove that the game in question was even a "game of chance". They called it an eight liner, but offered no evidence as how the game was set up or how it operated.

ACTION REQUESTED: Ms. Morgan as the owner of Julam Investments, Inc. simply states that if she has violated any rule or law of the Commission that it was not intentional. She was in declining health for the last few years the hall was open. She simply wants a chance to sell Julam Investments, Inc. and recoup some of the money she used to buy Julam. She understands that rules change and she should have kept up better with what was required of her as an owner. She has no desire to ever operate or be involved in any type of bingo operation in the future and would agree to be banned from ever doing so.

DOCKET NO. 362-16-1513.B

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
V.	§	
JULAM INVESTMENTS, INC.	§	OF
	§	
	§	ADMINISTRATIVE HEARINGS
	§	
	§	

PROPOSAL FOR DECISION

I. INTRODUCTION

The Respondent in this case is Julam Investments, Inc. (Respondent or Julam). The Texas Lottery Commission's (Commission's or TLC's) allegations in this case involve the operation of illegal gaming devices. Specifically, the Commission asserts that Julam allowed the operation of illegal gambling devices during the course of numerous bingo occasions. The issues in this case are: (1) whether the gaming devices operated at the bingo hall were illegal gambling devices as defined in Texas Penal Code (Penal Code) § 47.01(4); (2) if the gaming devices were illegal gambling devices, whether Respondent conducted or allowed the operation of the illegal gambling devices during a bingo occasion in violation of Texas Occupations Code (Occupations Code) § 2001.416; (3) whether the gaming devices at Lucky Star Bingo Hall awarded players "bingo equipment" in violation of 16 Texas Administrative Code § 402.211(f); and (4) if any of the issues are decided in favor of the Commission, whether the Commission can revoke Julam's lessor license under Occupations Code §§ 2001.353 and 2001.554.¹

The Commission requests that Respondent's license be revoked in addition to administrative penalties. Respondent does not believe that it operated illegal gambling devices during a bingo occasion in violation of Occupations Code § 2001.416 and, therefore, it asserts no penalty should be assessed.

¹ The Commission has the burden to prove its allegations by a preponderance of the evidence. 1 Tex. Admin. Code § 155.427.

In summary, the gaming devices at Lucky Star Bingo Hall were illegal gambling devices that do not fall within the “fuzzy animal” exception to Penal Code § 47.01(4). Furthermore, Julam allowed or conducted unauthorized games of chance during a bingo occasion in violation of Occupations Code § 2001.416. Finally, Julam awarded the players of the gaming machines “bingo products” in violation of 16 Texas Administrative Code § 402.211(f). Therefore, the ALJ recommends revocation of Respondent’s commercial lessor license.

II. NOTICE AND JURISDICTION

The hearing convened on March 29, 2016, before ALJ Michael J. O’Malley at the State Office of Administrative Hearings (SOAH) in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. The Commission was represented by attorney Stephen White. Julam was represented by attorney Hayward Rigano. The record closed on June 10, 2016, after the parties filed post-hearing briefs.

III. BACKGROUND

Julam is licensed by the Commission as a commercial bingo lessor. Julam leased bingo premises to licensed conductors at the Lucky Star Bingo Hall, located at 7840 White Settlement Rd., Fort Worth, Texas. Ruby Morgan is an owner and the designated business contact for Julam. Ruby Morgan’s son, Donnie Morgan, Jr., is a registered bingo worker and was the bingo hall manager and a designated bingo operator at Lucky Star Bingo Hall.

Julam implemented a “Bingo Bucks” redemption process,² whereby players would: (1) pay cash to play the gaming machines, (2) accrue points on a card that could be used for either (a) future play or (b) obtaining bingo pull-tabs, and (3) if the player chose to redeem the “Bingo Bucks” for bingo pull-tabs, then the player could go from the game room to the main hall to do so.

² TLC Ex. 9 at 300-03.

The pull-tabs used by Julam were designed to award players high percentages of payouts. Play Texas Pull-Tabs, the type used by Julam, had a payout rate of 94.66 percent.³ In a package of 3,920 pull-tabs, 3,915 of those tabs were winners.⁴ Commission Investigator Anthony Kozak testified that Mark Olmstead, the lessor of the gaming machines at Lucky Star Bingo Hall, stated that the Play Texas Pull-Tab was the ideal pull-tab to play with because it provided a payout approaching a one-for-one cash basis.⁵ In other words, according to Mr. Kozak, using Play Texas Pull-Tabs was promoted as a way of almost paying cash for gaming machines.⁶

**IV. WERE THE GAMING DEVICES OPERATED AT LUCKY STAR BINGO HALL
ILLEGAL GAMBLING DEVICES AND AN UNAUTHORIZED GAME OF
CHANCE WITHIN THE MEANING OF SECTION 2001.416 OF THE BINGO
ENABLING ACT?**

Occupation Code § 2001.416 . Other Games.

- (a) A game of chance other than bingo or a raffle conducted under Chapter 2002 may not be conducted or allowed during a bingo occasion.
* * *
- (c) The commission shall adopt rules for the implementation of this section.
- (d) This section does not prohibit the exhibition and play of an amusement machine that is not a gambling device as defined by Section 47.01, Penal Code.

Penal Code § 47.01(4) defines an illegal gambling device and the “fuzzy animal” exception:

(4) “Gambling device” means any electronic, electromechanical, or mechanical contrivance not excluded under Paragraph (B) that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term:

³ Tr. at 52-53.

⁴ Tr. at 52-53.

⁵ Tr. at 52-53.

⁶ Tr. at 52-53.

(A) includes, but is not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, or similar electronic, electromechanical, or mechanical games, or facsimiles thereof, that operate by chance or partially so, that as a result of the play or operation of the game award credits or free games, and that record the number of free games or credits so awarded and the cancellation or removal of the free games or credits; and

(B) does not include any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less.

A. Commission's Position and Argument

The Commission asserts that the gaming devices operated at Lucky Star Bingo Hall were illegal gambling devices under Penal Code § 47.01(4) for three primary reasons: (1) the Texas Attorney General has held in two recent opinions that gaming devices that award players with bingo products or points redeemable for bingo products do not fall within the "fuzzy animal" exception of Penal Code § 47.01(4); (2) Lucky Star Bingo Hall used devices that were not solely for bona fide amusement purposes; and (3) Lucky Star Bingo Hall used devices that allowed players to accrue points for future play.

First, the Commission argues that the Attorney General has held in two opinions that any bingo product or credit for further play is not a "non-cash merchandise prize, toy, or novelty," and, therefore, any gaming device that awards players with such prizes is an illegal gambling device. In Tex. Att'y Gen. Op. GA-0812, the Attorney General relied on a plain reading of Penal Code § 47.01(4) and Texas Supreme Court decisions, such as *Hardy v. State*, 102 S.W.3d 123, 132 (Tex. 2003), in opining that eight-liners that allow players to exchange points or credits exchangeable for bingo products do not fall within the § 47.01(4)(B) "fuzzy animal" exception, and are per se illegal gambling devices. Tex. Att'y Gen. Op. No. GA-0812 (2010). Furthermore, the Commission argues, the Attorney General stated that "courts have consistently concluded that cash or credit to be used for further play is an award of value to the recipient and not a noncash merchandise prize, toy, or novelty falling under the 'fuzzy animal' exception of

section 47.01(4)(B),” and that “awards for bingo cards or pull-tab bingo are analogous to awarding credit for further play.” *Id.*

The Commission further asserts that Tex. Att’y Gen. Op. GA-0913 addressed the question of whether an eight-liner machine that dispenses tickets for prizes redeemable only at the bingo hall in which the machine is located is a gambling device under Penal Code § 47.01(4). There, the Attorney General concluded that the eight-liners issued tickets redeemable for items that were not noncash merchandise prizes, toys, or novelties, and therefore the machines did not meet the exception to an illegal gambling device under Penal Code § 47.01(4)(B). Tex. Att’y Gen. Op. GA-0913 (2012).

Second, the Commission argues that Penal Code § 47.01(4)(B) requires that, to fit within the exception, a gaming machine must be “designed, made and adapted solely for bona fide amusement purposes.” The Commission asserts that awarding bingo products such as instant pull-tabs has the additional effect of encouraging individuals to play bingo games. Therefore, the gaming devices used in Lucky Star Bingo Hall do not qualify for the “fuzzy animal” exception of Penal Code § 47.01(4)(B).

Third, the Commission argues that the Texas Supreme Court in *State v. \$1,760 in U.S. Currency* found that a gaming device that allows a player to accrue points for future play is an illegal gambling device even if no prizes are awarded. There, the Court observed that “thing of value” as defined in § 47.01(9) of the Texas Penal Code is “any benefit, but does not include an unrecorded and immediate right of replay not exchangeable for value.” *State v. \$1,760 in U.S. Currency*, 406 S.W.3d 177, 179-80 (Tex. 2013). The Court then held that non-immediate rights of replay for gaming machines are not “novelties” for the purposes of § 47.01(4)(B). *Id.* at 180-81. Here, the Commission asserts that it is undisputed that players of the gaming machines used in Lucky Star Bingo Hall allowed players to accrue points on a card, enabling them to play the eight-liners at a later time, which qualifies them as illegal gambling devices.

The Commission further asserts that Julam allowed games of chance to be conducted during a bingo occasion for two reasons: (1) the bingo product prize could only be claimed and

fulfilled during a bingo occasion on the bingo premises and (2) the gaming machines were located in a room in the back of Lucky Star Bingo Hall where the doors were open while bingo was being conducted. The Commission, therefore, argues that the operation of the gaming machines occurred on the actual bingo premises.⁷

B. Julam's Position and Argument

Julam argues that it did not allow games of chance to be conducted during a bingo session in violation of Occupations Code § 2001.416(a) for two reasons: (1) the Commission failed to meet its burden to prove that games of chance occurred in the game room of Lucky Star Bingo Hall; and (2) the game room of Lucky Star Bingo Hall was outside the bingo hall's premises.

Julam first claims that there is no evidence in the record to suggest the games in the game room were games of chance. Julam states that the investigators never played the gaming devices or observed how they were played by others.

Julam second argues that the room where the games were located was not part of the bingo hall premises and, therefore, not under the Commission's control. Julam supports this argument with three main points: (1) the game room was not under the control of bingo organizations or a part of bingo operations; (2) no one was allowed to play bingo in the game room; and (3) there was no impermissible intertwining of the game room and the bingo hall, primarily because the game room was separated from the bingo hall with a wall and has a door leading outdoors.

⁷ Occupations Code §2001.002(22) ("Premises" means the area subject to the direct control of and actual use by a licensed authorized organization or group of licensed authorized organizations to conduct bingo. The term includes a location or place").

C. ALJ's Analysis

The Commission must prove by a preponderance of the evidence that the gaming devices operated at Lucky Star Bingo Hall were illegal gaming devices involving a game of chance and did not qualify for the “fuzzy animal” exception found in Penal Code § 47.01(4)(B).

The Commission was correct in its assertion that the gaming devices in Lucky Star Bingo Hall were illegal gambling devices that do not fall within the “fuzzy animal” exception to § 47.01(4) for two primary reasons: (1) the machines only awarded either (a) “Bingo Bucks,” which were redeemable for Play Texas Pull-Tabs, or (b) points that the player could accrue on a card for future play; and (2) the gaming machines were not solely for bona fide amusement purposes.

First, the Attorney General, Supreme Court, and Commission have held that gaming machines that reward players with coupons redeemable for bingo cards, card-minding devices, and pull-tab bingo are illegal gambling devices that do not meet the “fuzzy animal” exception to § 47.01(4). In Tex. Att’y Gen. Op. GA-0812, the Attorney General pointed out that Texas courts have consistently concluded that cash or credit for further play is an award of value to the recipient and therefore is excluded from the “fuzzy animal” exception. Tex. Att’y Gen. Op. No. GA-0812 (2010). The Attorney General further stated that awards for bingo cards or pull-tab bingo are analogous to awarding points or credit for further play—the player would otherwise have to pay to play bingo. *Id.* The Attorney General then concluded that eight-liners that award bingo cards, card-minding devices and pull-tab bingo do not award players the noncash merchandise required by Penal Code § 47.01(4)(B). *Id.*

Similarly, in Tex. Att’y Gen. Op. GA-0913 the Attorney General addressed whether an eight-liner machine that dispenses tickets for prizes redeemable only at the bingo hall in which the machine is located is a “gambling device” under § 47.01(4). Tex. Att’y Gen. Op. GA-0913 (2012). After reviewing the law under Tex. Att’y Gen. Op. GA-0812 and available Texas court opinions, the Attorney General concluded that the machines in question did not meet the “fuzzy animal” exception because the players would be awarded valuable bingo play cards—which are not “noncash merchandise prizes, toys, or a representation of value redeemable for

those items”— and so the machines would not reward players “exclusively with noncash merchandise prizes, toys, or a representation of value redeemable for those items.” *Id.* The gaming machines were therefore illegal gambling devices under Penal Code § 47.01(4). *Id.*

The Texas Supreme Court recently addressed a scenario similar to the one here in *State v. \$1,760.00 In U.S. Currency*. There, the machines in question accepted points that the players purchased with cash, and once the player played the game, the eight-liner dispensed tickets for every five hundred points won. *State v. \$1,760 in U.S. Currency*, 406 S.W.3d 177, 179 (Tex. 2013). The players could use those tickets to either (a) redeem store merchandise that did not exceed a wholesale value of \$5 or (b) receive credits to replay another machine. *Id.* The Court construed § 47.01(4)(B) to preclude the non-immediate right of replay because both the tickets redeemable for merchandise and the non-immediate right of replay provided the player with benefits and thus counted as “things of value” as defined in Penal Code § 47.01(9). *Id.* at 179-80. Furthermore, the Court stated that the non-immediate right of replay is not a “novelty”—tangible articles similar to “noncash merchandise prizes”—and thus, the machines in question did not award players exclusively with noncash merchandise prizes, toys, or novelties as required by Penal Code § 47.01(4)(B). *Id.* at 180-81.

In addition to the Attorney General and Supreme Court, the Commission (based on a SOAH decision) also addressed similar circumstances in *Texas Lottery Commission v. Bullard*. There, the Commission asserted that the Respondents violated Occupations Code § 2001.416 by utilizing a “Bingo Bucks” redemption process, where a player of the gaming machine could purchase points for play on the machines, and play the game to accrue points on a card. *Texas Lottery Commission v. Bullard*, SOAH Docket No. 362-12-4672.B *et al.* (Feb. 11, 2013). Points accumulated in the game room could be exchanged in the game room for “Bingo Bucks.” *Id.* The “Bingo Bucks” were a representation of value awarded to players for every 500 points accrued on the eight-liner devices. *Id.* The “Bingo Bucks” could then be taken next door and exchanged for pull-tabs and other similar bingo merchandise. *Id.* The decision held that the eight-liners constituted illegal gambling devices that did not fit within the “fuzzy animal” exception:

In this case, a single play on a .50 cent wager could allow a player to win 500 points which could then be exchanged for bingo paper in which the player could then win \$750.00 cash playing bingo. Even if the bingo prize was five dollars or less, the eight-liner devices would still be illegal gambling devices because they potentially award players cash, regardless of the amount.

Id. The *Bullard* decision followed the law as framed by the Attorney General and Supreme Court to reach the conclusion that machines such as the ones used in *Bullard* are illegal gambling devices that do not award players noncash merchandise, as is required by Penal Code § 47.01(4)(B).

Julam is incorrect in its assertion that the record lacks evidence to support the Commission's claim that the machines in the game room of Lucky Star Bingo Hall involved chance as a part of their operation. Ding Ayuma's investigative report from August 2012 includes photographs of the game room, players playing the games in the game room, and the gaming machines.⁸ The photographs support the Commission's allegations that (1) players in the game room used cash to buy credit for the right to play the games (at the "recharge station"⁹) and (2) the game involved chance as a part of their operation. For example, the photograph of the "Fantasy Fortune" gaming machine illustrates the way many of the machines operated: a player uses credit to initiate the game, then pushes one of only four buttons to start/stop the wheels, and certain combinations of symbols yield certain payouts.¹⁰ Although one could argue some amount of skill is involved in the operation of such a gaming machine, Penal Code § 47.01(4) only requires that the award "is determined solely or partially by chance."

Here, there is no dispute that the gaming machines allowed players to accrue points on a card for future play in the game room or redemption for bingo products, such as instant bingo pull-tabs, in the bingo hall. The Attorney General, Texas courts, and the Commission have held that gaming machines that award players with such benefits do not qualify for the "fuzzy animal" exception. Thus, because the gaming machines in Lucky Star Bingo Hall rewarded players with

⁸ TLC Ex. 4 at 52-55.

⁹ TLC Ex. 4 at 51.

¹⁰ TLC Ex. 4 at 51, 55.

“Bingo Bucks”, a medium of exchange redeemable for merchandise that would otherwise cost money, the gaming machines were illegal gambling devices under Penal Code § 47.01(4).

Second, the gaming machines used at Lucky Star Bingo Hall were not solely for bona fide amusement purposes as required by Penal Code § 47.01(4)(B). In Tex. Att’y Gen. Op. GA-0913, the Attorney General emphasized that because of the Penal Code’s broad prohibition on gambling devices and narrow exclusionary provisions, the very nature of an eight-liner machine renders it highly suspect; therefore, to qualify for the narrow exception, it must satisfy the plain language of Penal Code § 47.01(4)(B). Tex. Att’y Gen. Op. GA-0913 (2012). The Attorney General construed Penal Code § 47.01(4)(B) to include only those machines that are in good faith intended, produced, and made fit only for the single, limited purpose of entertainment. *Id.* Furthermore, Texas courts have previously found that eight-liner machines may be used for gambling purposes and, because the machine’s sole purpose is not entertainment, it does not qualify for the exception under Penal Code § 47.01(4)(B). *Id.*

Here, the evidence proves that the machines leased to Ms. Ruby (on behalf of Julam) by Mr. Olmstead (on behalf of i Play Texas LLC) and used at the Lucky Star Bingo Hall game room were made fit for purposes other than bona fide amusement. The i Play Texas LLC website states that the machines and Bingo Buck redemption process would help bingo halls make large profits for charitable organizations.¹¹ Furthermore, in his investigative report, Mr. Kozak stated that he met with Mr. Olmstead, who explained that his machines were compliant with Texas law because his machines “never pay out more than ten times the cost of a wager, and never more than \$5.00.”¹² Lastly, as was the case in *Bullard*, awarding bingo pull-tabs encourages individuals to play other bingo games as well. Thus, the record establishes that the devices leased to Lucky Star Bingo Hall were produced and made fit for three purposes other than amusement: (1) profit-making, (2) gambling, and (3) encouraging gaming machine players to play bingo.

¹¹ TLC Ex. 6 at 87.

¹² TLC Ex. 6 at 88-89.

The evidence also shows that Julam allowed unauthorized games of chance to occur during a bingo occasion in violation of Occupations Code § 2001.416 because (1) the location of the game room is irrelevant to the analysis and (2) the activities between the game room and the bingo hall were impermissibly intertwined. First, as in *Bullard*, whether Respondent allowed operation of the gaming machines on the bingo premises is irrelevant. This argument takes away from the real issue of whether another game of chance occurred during a bingo occasion. Furthermore, although the game room may have been separated by a wall, as was the case in *Bullard*, players came to Lucky Star Bingo Hall to play both bingo and the gaming machines.

Second, the operation of the bingo hall and the game room were impermissibly intertwined for four primary reasons: (1) the only prize offered to gaming machines players were “Bingo Bucks” that could be exchanged for bingo pull-tabs only during a bingo occasion,¹³ and bingo pull-tabs are a form of bingo that can only be played on a bingo premises during an authorized bingo occasion;¹⁴ (2) the gaming machines were leased and operated by Ruby Morgan, an owner and officer of Respondent; (3) the gaming machines were in the same building as the bingo hall, separated only by a wall with two open doors leading directly to the bingo play area; and (4) the game room was open and operational while bingo was actually being conducted.¹⁵

**V. DID THE GAMING DEVICES AT LUCKY STAR BINGO HALL
AWARD PLAYERS BINGO EQUIPMENT IN VIOLATION OF
16 TEXAS ADMINISTRATIVE CODE § 402.211(f)?**

Texas Administrative Code title 16, § 402.211(f) states:

(f) A game of chance, other than bingo conducted under Chapter 2001 of the Occupations Code, a charitable raffle conducted under Chapter 2002 of the Occupations Code and a door prize game conducted under § 2001.420(c) of the Occupations Code, may not award bingo equipment, as defined in § 2001.002(5) of the Occupations Code, or entry into a bingo game as a prize.

¹³ TLC Ex. 7 at 164.

¹⁴ Tex. Occ. Code § 2001.002(6).

¹⁵ TLC Ex. 7 at 174; TLC Ex. 4 at 48.

“Bingo equipment” means equipment used, made, or sold for the purpose of use in bingo. The term:

(A) includes:

- (i) a machine or other device from which balls or other items are withdrawn to determine the letters and numbers or other symbols to be called;
- (ii) an electronic or mechanical cardminding device;
- (iii) a pull-tab dispenser;
- (iv) a bingo card;
- (v) a bingo ball; and
- (vi) any other device commonly used in the direct operation of a bingo game; and

(B) does not include:

- (i) a bingo game set commonly manufactured and sold as a child’s game for a retail price of \$20 or less unless the set or a part of the set is used in bingo subject to regulation under this chapter; or
- (ii) a commonly available component part of bingo equipment such as a light bulb or fuse.¹⁶

A. Commission’s Position and Argument

The Commission asserts that proper construction of 16 Texas Administrative Code § 402.211(f) leads to the result that gaming devices that award players “Bingo Bucks” redeemable for Texas pull-tabs award “bingo products” for three reasons. First, Texas Occupations Code § 2001.002(5) uses the term “includes,” which, according to the Code Construction Act, is a term of enlargement. Accordingly, use of the term does not create a presumption that components not expressed are excluded. Second, bingo pull-tabs meet the definition of “equipment used, made, or sold for the purpose of use in bingo.” Third, a pull-tab by its very essence is an “entry into a bingo game,” which 16 Texas Administrative Code § 402.211(f) prohibits being awarded as a prize.

B. Julam's Position and Argument

Julam asserts that the Commission has failed to prove that Julam violated 16 Texas Administrative Code § 402.211(f) for two primary reasons. First, Julam again claims that the Commission has failed to submit any evidence to suggest the gaming machines in Lucky Star

¹⁶ Tex. Occ. Code § 2001.002(5).

Bingo Hall involved any chance. Second, Julam claims that Texas Administrative Code § 402.211(f) is both penal in nature and drafted with specifically enumerated items to be included as “bingo equipment” and, therefore, the statute should be strictly construed in favor of Julam.

C. ALJ’s Analysis

The gaming devices at Lucky Star Bingo Hall awarded players “bingo equipment” for purposes of 16 Texas Administrative Code § 402.211(f). Because it has already been established that the gaming devices at Lucky Star Bingo Hall involved chance as a part of its operation, whether Julam violated 16 Texas Administrative Code § 402.211(f) turns on the interpretation of the statute.

Julam is incorrect in its assertion that, because the statute lists certain items to be included in the definition of “bingo equipment,” the legislature intended pull-tabs to be excluded from the definition of “bingo equipment.” First, the fact that the statute lists certain items that constitute “bingo equipment” is tempered by the use of the term “includes.” The Commission properly points out that the statute gives the term an expansive meaning, in that the legislature did not intend to limit “bingo equipment” to the five listed items in Occupations Code § 2001.002(5). Second, the significance behind the statute’s list of certain items that constitute “bingo equipment” is further diminished by the fact that, after listing the five items to be included as “bingo equipment,” § 2001.002(5)(vi) broadly includes under the definition “any other device commonly used in the direct operation of a bingo game.” Therefore, bingo pull-tabs meet the general definition of “equipment used, made, or sold for the purposes of use in bingo.”

Furthermore, the Commission correctly states that bingo pull-tabs operate as “entry into a bingo game as a prize.”¹⁷ This argument is bolstered by the Attorney General’s opinion in *Tex. Att’y Gen. Op. GA-0812*. The Attorney General emphasized that the gaming machines in question did not meet the “fuzzy animal” exception because, among other reasons, the awarding

¹⁷ 16 Tex. Admin. Code § 402.211(f).

of bingo pull-tabs gave the eight-liner players an opportunity to enter into a bingo game without having to pay money. Tex. Att’y Gen. Op. No. GA-0812 (2010).

VI. WHAT IS AN APPROPRIATE SANCTION IF ONE OR MORE OF THE VIOLATIONS IS FOUND TO BE TRUE?

A. Commission's Position and Argument

The Commission takes the position that revocation of Julam's license, in addition to monetary penalties, is appropriate because Julam was aware that operation of such gaming devices as found in Lucky Star Bingo Hall during a bingo occasion constituted a violation of Occupations Code § 2001.416 and 16 Texas Administrative Code § 402.211(f). The Commission points to evidence that suggests that the Commission and Charitable Bingo Operations Division provided information to all licensees regarding Attorney General opinions holding that gaming machines that award points for further play or redemption for Bingo merchandise do not fall within the “fuzzy animal” exception of Penal Code § 47.01(4). Desira Glenn, along with Jean Humes, a Commission auditor, testified how the Charitable Bingo Operations Division sent letters to all bingo licensees,¹⁸ published articles in the Division’s newsletter and website,¹⁹ as well as host public meetings²⁰ for the purpose of notifying licensees of current Attorney General opinions.

B. Julam's Position and Argument

Julam takes the position that, if the ALJ finds Julam in violation of Occupations Code § 2001.416 or Penal Code § 402.211(f), the ALJ should only assess a fine against Julam because revocation of its license would be a miscarriage of justice. Julam asserts that any violation was not willful.

¹⁸ TLC Ex. 13; TLC Ex. 14; Tr. at 64-66; 73-74

¹⁹ TLC Ex. 14; Tr. at 66-68; 73-74

²⁰ TLC Ex. 15; Tr. at 64-66; 73-74

C. ALJ's Analysis

Under Occupations Code §§ 2001.353(2) and 2001.554(a)(5), Julam's lessor license is subject to revocation or suspension. An administrative penalty is also allowed under Occupations Code §§ 2001.601. Title 16 of the Texas Administrative Code § 402.706(j) provides a list of aggravating and mitigating factors to consider in assessing a penalty, including seriousness of the violation, history of violations, efforts to correct violations, and any other matter that justice may require.

The ALJ recommends that Respondent's lessor license be revoked. After repeatedly being notified by the Commission of illegal gambling devices, Respondent continued to operate the illegal gambling devices and blatantly ignored the Commission. Ms. Glenn, along with Jean Humes, a Commission auditor, testified how the Charitable Bingo Operations Division sent letters to all bingo licensees,²¹ published articles in the Division's newsletter and website,²² as well as host public meetings²³ for the purpose of notifying licensees of current Attorney General opinions. Furthermore, in a letter dated October 14, 2014, the Commission notified all bingo licensees of the Commission's adoption of the Charitable Bingo Administrative Rule in which the Commission made it clear that it would not tolerate eight-liners that awarded bingo products.²⁴ For these reasons, the ALJ recommends that Respondent's license be revoked.²⁵

VII. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

1. Respondent Julam Investments, Inc. (Respondent) is a licensed commercial lessor. Respondent leased a bingo premises to licensed bingo conductors at the Lucky Star Bingo Hall, located at 7840 White Settlement Rd., Fort Worth Texas.

²¹ TLC Exs. 13 and 14; Tr. at 64-66; 73-74

²² TLC Ex. 14; Tr. at 66-68; 73-74

²³ TLC Ex. 15; Tr. at 64-66; 73-74

²⁴ TLC Exs. 13 and 14; Tr. at 64-66.

²⁵ The Commission did not provide evidence of a monetary/administrative penalty; therefore, the ALJ does not recommend an administrative penalty be assessed against Julam.

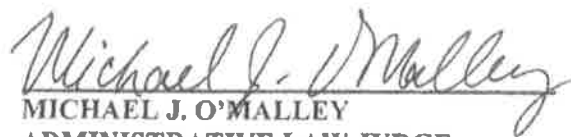
2. Ruby Morgan is an owner, officer, director, and business contact for Respondent.
3. The Texas Lottery Commission's (Commission's) allegations in this case involve the operation of illegal gaming devices, commonly referred to as "eight-liners."
4. Respondent, by and through Ruby Morgan, operated gaming devices in a room inside the Lucky Star Bingo Hall.
5. The gaming machines were operated at the Lucky Star Bingo Hall during licensed bingo occasions while bingo was being conducted.
6. Players of the gaming machines could only exchange their accrued points for bingo pull-tabs during the licensed bingo times.
7. The "Bingo Bucks" could then be exchanged for Play Texas Pull Tabs. Bingo pull-tabs are a form of bingo regulated by the Commission.
8. The Play Texas pull-tab game pays out cash prizes up to \$105.26.
9. The Commission warned Respondent that the Attorney General had held that gaming devices that awarded tickets exchangeable for regulated bingo products, including bingo pull-tabs, were illegal gambling devices and violated Texas Occupations Code § 2001.416.
10. On December 18, 2015, the Commission served a notice of hearing that included: 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 a short, plain statement of the matters asserted.
11. The hearing convened on March 29, 2016, before ALJ Michael J. O'Malley at the State Office of Administrative Hearings (SOAH) in the William P. Clements Building, 300 West 15th Street, Fourth Floor, Austin, Texas. The Commission was represented by attorney Stephen White. Julam was represented by attorney Hayward Rigano.
12. The record closed on June 10, 2016, after the parties filed post-hearing briefs.

B. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to the Bingo Enabling Act, Texas Occupations Code Ch. 2001.

2. SOAH has jurisdiction over this matter pursuant to Texas Government Code Ch. 2003.
3. Notice of the hearing was provided as required by Texas Government Code §§ 2001.051-.052.
4. The Commission had the burden to prove the allegations by a preponderance of the evidence. 1 Tex. Admin. Code § 155.427.
5. The gaming machines at the Lucky Star Bingo Hall were illegal gambling devices as defined under Texas Penal Code § 47.01(4).
6. The gaming machines operated at the Lucky Star Bingo Hall did not meet the Texas Penal Code § 47.01(4)(B) exception because the devices that award points or credits for bingo products are not “noncash merchandise prizes, toys, or novelties.”
7. Respondent conducted or allowed a game of chance other than bingo or raffle conducted under Chapter 2002 in violation of Texas Occupations Code § 2001.416.
8. The gaming machines at the Lucky Star Bingo Hall awarded players with bingo equipment, as defined in §2001.002(5) of the Texas Occupations Code, in violation of Texas Administrative Code § 402.211(f).
9. Respondent’s commercial lessor license is subject to revocation pursuant to Texas Occupations Code §§ 2001.353(1) and 2001.554(a)(5).

SIGNED June 27, 2016.



MICHAEL J. O'MALLEY

ADMINISTRATIVE LAW JUDGE

STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

July 21, 2016

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

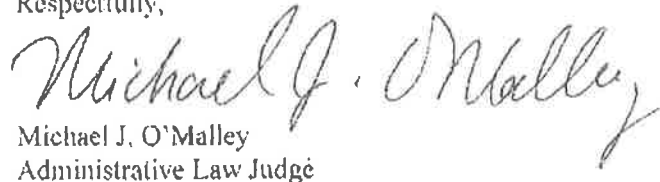
VIA FACSIMILE: (512)478-3682

RE: Docket No. 362-16-1513.B; Texas Lottery Commission v. Julam Investments, Inc.

Dear Mr. Grief:

On June 27, 2016, the Administrative Law Judge issued his Proposal for Decision in this case. No party filed exceptions to the Proposal for Decision.

Respectfully,


Michael J. O'Malley
Administrative Law Judge

MJO/ls

cc: Stephen White, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA FACSIMILE: (512)344-5189
Hayward M. Rigano, Attorney, P. O. Box 3384, Longview, TX 75606 - VIA FACSIMILE: (903)238-8273

GENERAL COUNSEL

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