



INTEROFFICE MEMO

Gary Grief, Executive Director Ed Rogers, Acting Charitable Bingo Operations Director

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

From: Bob Biard, General Counsel *AB*

Date: June 21, 2018

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

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

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REGULATORY
LOTTERY

Date: JUNE 21, 2018

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

ORDER OF THE COMMISSION

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

I. Findings of Fact

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

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

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

Commission Order No. 18-0070

Date: JUNE 21, 2018

the Commission for informal disposition, in accordance with TEX. GOV'T CODE ANN. § 2001.058(d-1) and 1 TEX. ADMIN. CODE § 155.501(d).

4. The ALJ conditionally dismissed the referenced cases from the SOAH docket and remanded these cases to the Commission for informal disposition under TEX. GOV'T CODE ANN. § 2001.056, provided the Respondent in each case did not file a motion to set aside the default within 15 days from the date of the ALJ's Order Remanding Case to Commission.

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

II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to TEX. GOV'T CODE ANN. § 466.155; and 16 TEX. ADMIN. CODE, Chapter 401.

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

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

Date: JUNE 21, 2018

III. Order

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

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

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

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 21ST day of JUNE, 2018.

Entered this 21ST day of JUNE, 2018.

J. WINSTON KRAUSE, CHAIRMAN

CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

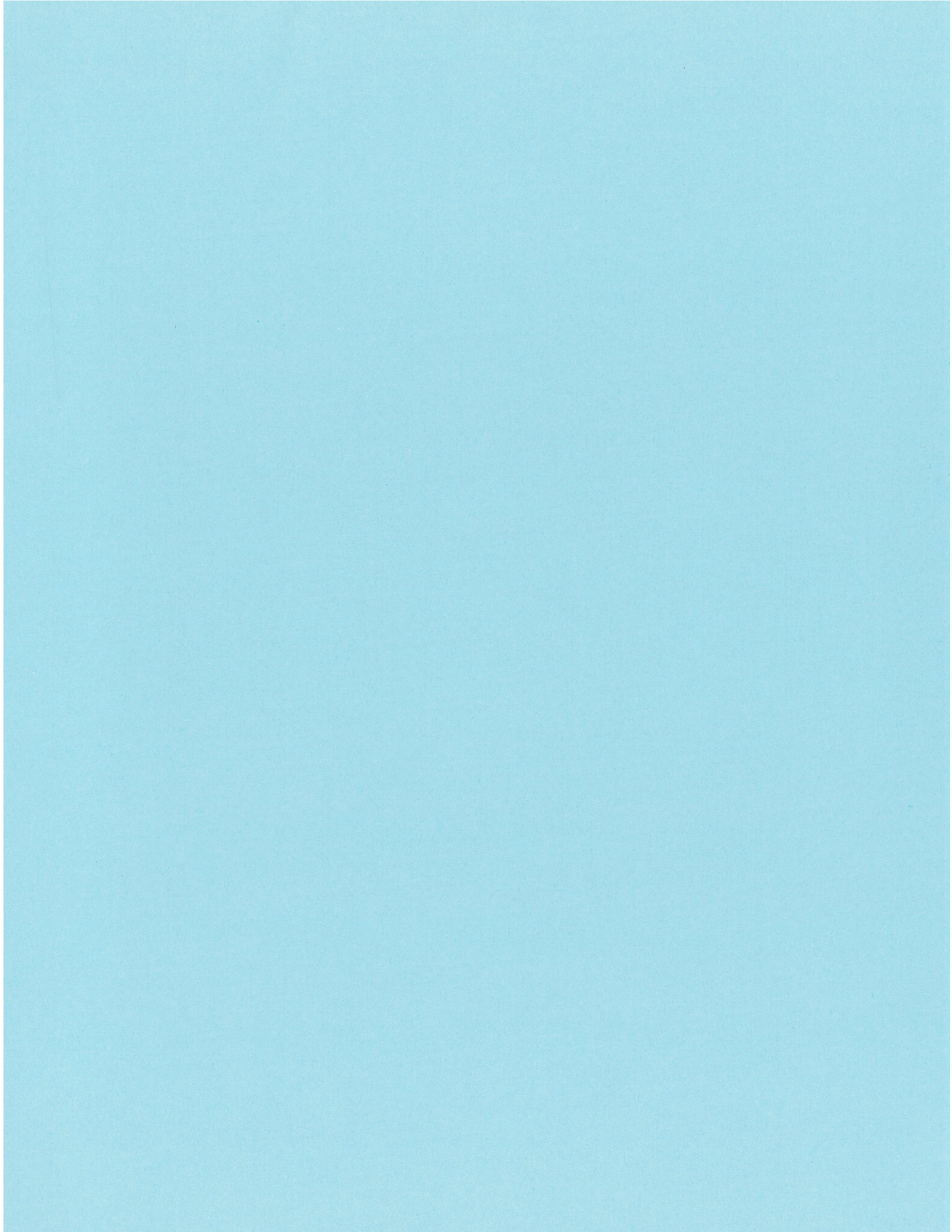
DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

Date: JUNE 21, 2018

ATTACHMENT A

TAB NO.	SOAH DOCKET NO.	TICKET SALES AGENT NAME	TICKET SALES AGENT ADDRESS	LOTTERY LICENSE NO.
A.	362-18-2178	Tanks Works, Inc. d/b/a Brazos Bend Home & Ranch	22930 FM 1462 Needville, TX 77461	138980
B.	362-18-2179	Z & B Stop and Shop, LLC d/b/a Ferry Mobil	502 Ferry Road Galveston, TX 77550	182264
C.	362-18-2578	H A S A Investment Inc. d/b/a Mt. Selman Mart	1820 Shiloh Rd., Ste. 1209 Tyler, TX 75703	180470
D.	362-18-2828	BSSG Enterprises LLC d/b/a Cowboy #11	2720 E. Marshall Avenue Longview, TX 75601	175943



SOAH DOCKET NO. 362-18-2178

TEXAS LOTTERY COMMISSION,
Petitioner

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BEFORE THE STATE OFFICE

v.

OF

BRAZOS BEND HOME & RANCH,
Respondent

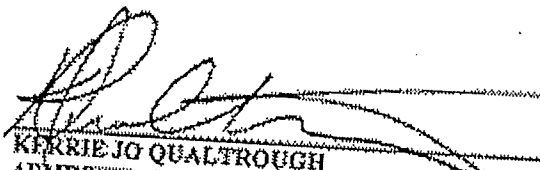
ADMINISTRATIVE HEARINGS

ORDER NO. 1
CONDITIONAL ORDER OF
DEFAULT DISMISSAL AND REMAND

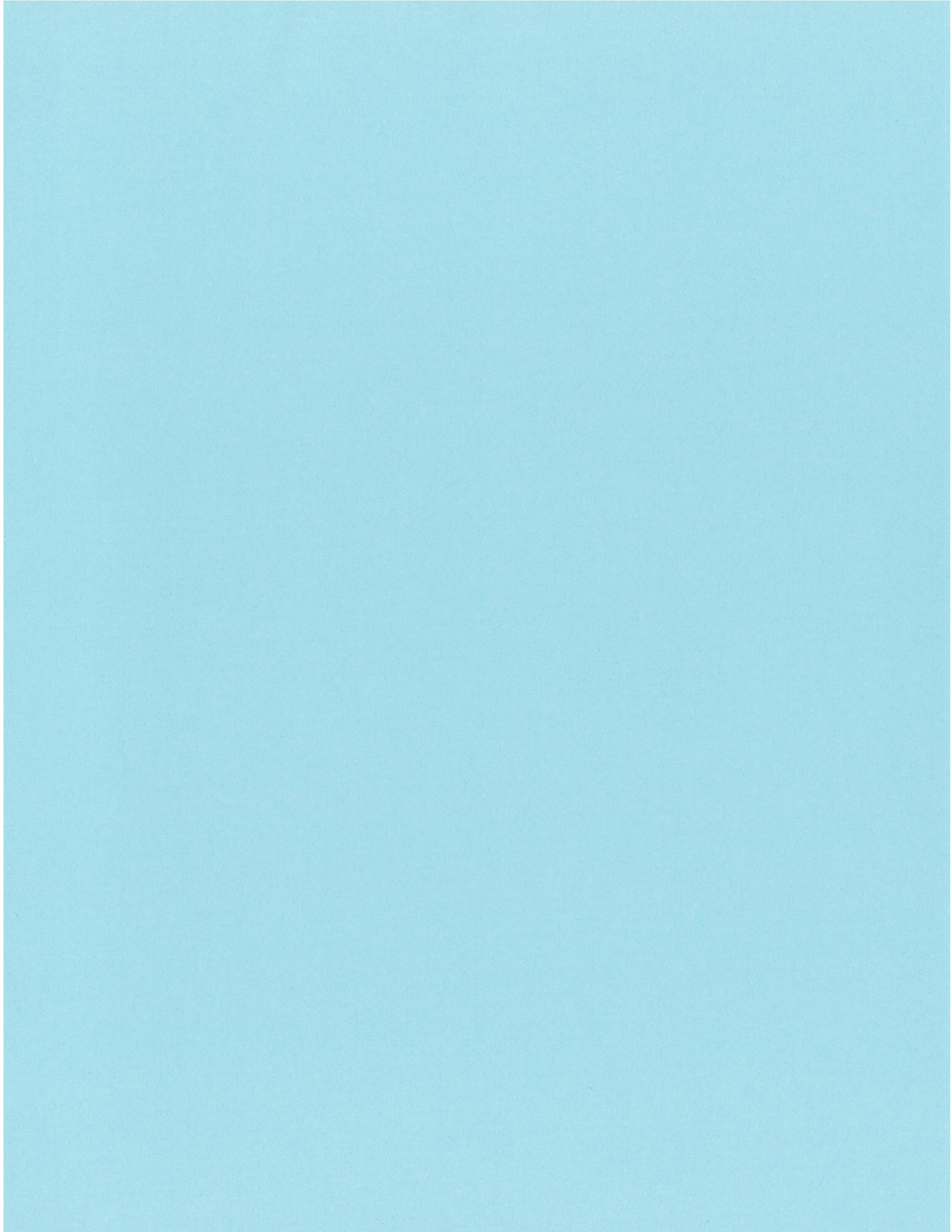
This matter was set for hearing on March 1, 2018, before Administrative Law Judge (ALJ) Kerrie Qualtrough. Assistant General Counsel Stephen White appeared on behalf of the staff (Staff) of the Texas Lottery Commission (Commission). Brazos Bend Home & Ranch (Respondent) did not appear and was not represented at the hearing. Upon receiving Staff's Exhibits A, B, and C showing proof of adequate notice to Respondent, the ALJ granted Staff's oral motion for default.¹

Due to Respondent's failure to appear, this matter may be dismissed from the docket of the State Office of Administrative Hearings and returned to the Commission for informal disposition on a default basis in accordance with Texas Government Code § 2001.056, in which case the factual allegations listed in the notice of hearing could be deemed admitted and the relief sought in the notice of hearing might be granted. **IT IS, THEREFORE, ORDERED** that this case is **CONDITIONALLY DISMISSED AND REMANDED** pursuant to 1 Texas Administrative Code § 155.501(d)(1). **This order of dismissal will become final, without further action by the ALJ, unless Respondent files a motion to set aside the default not later than 15 days from the date of this order.** Such a motion must show good cause for reopening the hearing, or show that the interests of justice require setting aside the default dismissal.

SIGNED March 14, 2018.


KERRIE JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

¹ 1 Tex. Admin. Code § 155.501(d)(1). The ALJ only reviewed the adequacy of the notice and not the sufficiency of Staff's factual allegations.



SOAH DOCKET NO. 362-18-2179

TEXAS LOTTERY COMMISSION,
Petitioner

BEFORE THE STATE OFFICE

v.

FERRY MOBIL,
Respondent

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OF

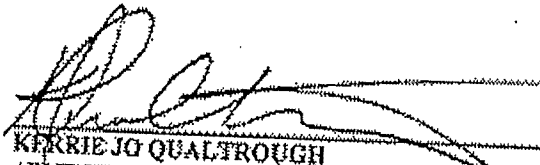
ADMINISTRATIVE HEARINGS

ORDER NO. 1
CONDITIONAL ORDER OF
DEFAULT DISMISSAL AND REMAND

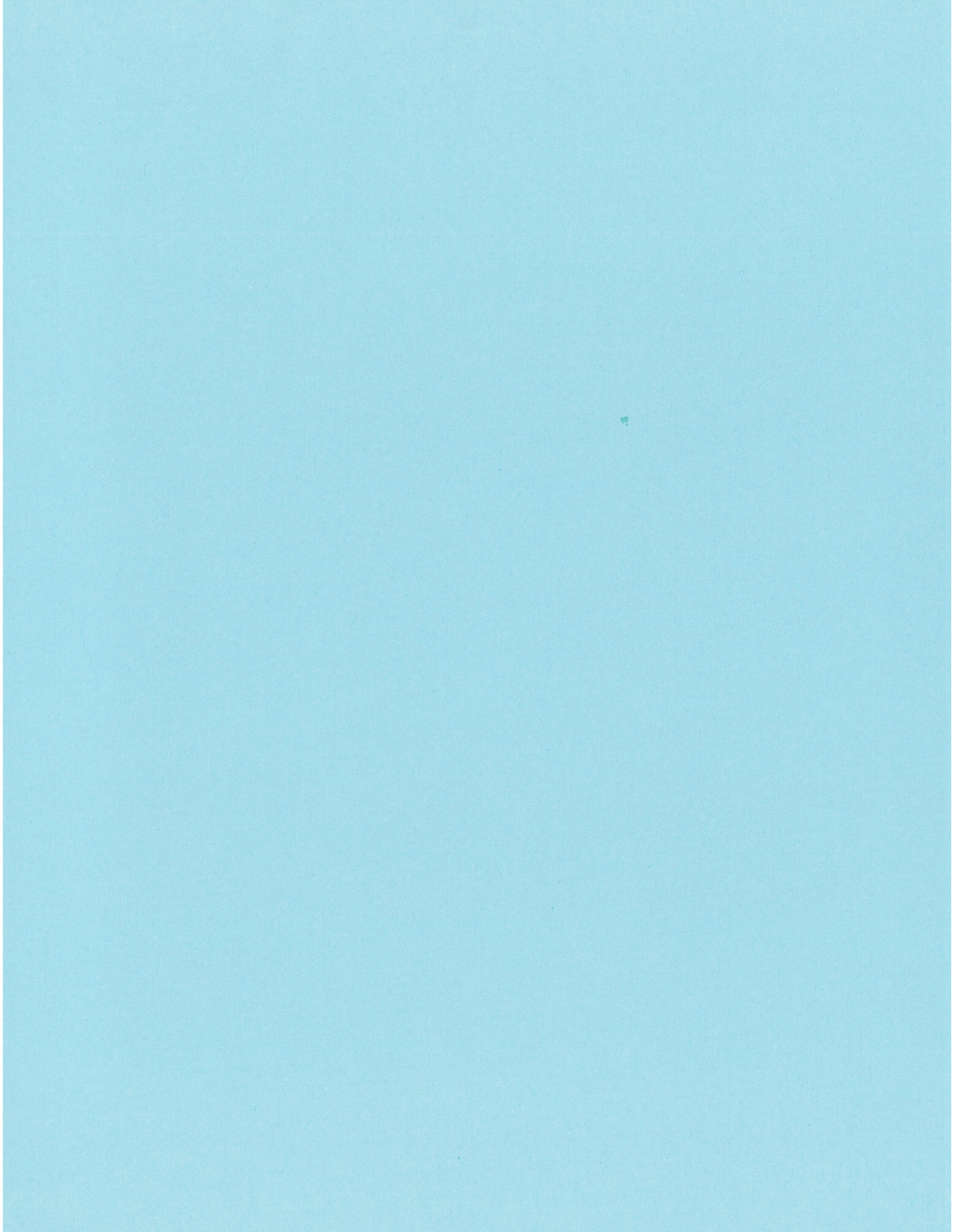
This matter was set for hearing on March 1, 2018, before Administrative Law Judge (ALJ) Kerrie Qualtrough. Assistant General Counsel Stephen White appeared on behalf of the staff (Staff) of the Texas Lottery Commission (Commission). Ferry Mobil (Respondent) did not appear and was not represented at the hearing. Upon receiving Staff's Exhibits A, B, and C showing proof of adequate notice to Respondent, the ALJ granted Staff's oral motion for default.¹

Due to Respondent's failure to appear, this matter may be dismissed from the docket of the State Office of Administrative Hearings and returned to the Commission for informal disposition on a default basis in accordance with Texas Government Code § 2001.056, in which case the factual allegations listed in the notice of hearing could be deemed admitted and the relief sought in the notice of hearing might be granted. **IT IS, THEREFORE, ORDERED** that this case is **CONDITIONALLY DISMISSED AND REMANDED** pursuant to 1 Texas Administrative Code § 155.501(d)(1). This order of dismissal will become final, without further action by the ALJ, unless Respondent files a motion to set aside the default not later than 15 days from the date of this order. Such a motion must show good cause for reopening the hearing, or show that the interests of justice require setting aside the default dismissal.

SIGNED March 14, 2018.


KERRIE JO QUALTROUGH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

¹ 1 Tex. Admin. Code § 155.501(d)(1). The ALJ only reviewed the adequacy of the notice and not the sufficiency of Staff's factual allegations.



DOCKET NO. 362-18-2578

<p>IN THE MATTER OF THE REVOCATION OF HASA INVESTMENT, INC. D/B/A MT. SELMAN MART LOTTERY LICENSE NO. 180470</p>	<p>§ § § § §</p>	<p>BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS</p>
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ORDER REMANDING CASE TO COMMISSION

This matter was set for hearing on March 29, 2018, before Administrative Law Judge (ALJ) Michael J. O'Malley at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Assistant General Counsel Kristin Guthrie represented the staff (Staff) of the Texas Lottery Commission (Commission). HASA Investment, Inc. d/b/a Mt. Selman Mart, Lottery License No. 180470 (Retailer) did not appear and was not represented at the hearing. Staff filed a motion to dismiss without prejudice and to remand to the Commission on a default basis (the motion).

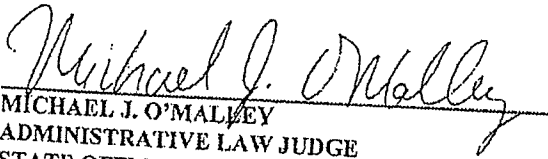
Staff attached exhibits to the motion that were offered and admitted into evidence to establish jurisdiction and proper notice of the hearing. Commission Retailer Services Specialist Joel Garza testified that the information in the exhibits remained true and correct. These exhibits proved that Staff provided Retailer timely and adequate notice of the hearing in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Commission served the notice of hearing via certified mail at Retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4).

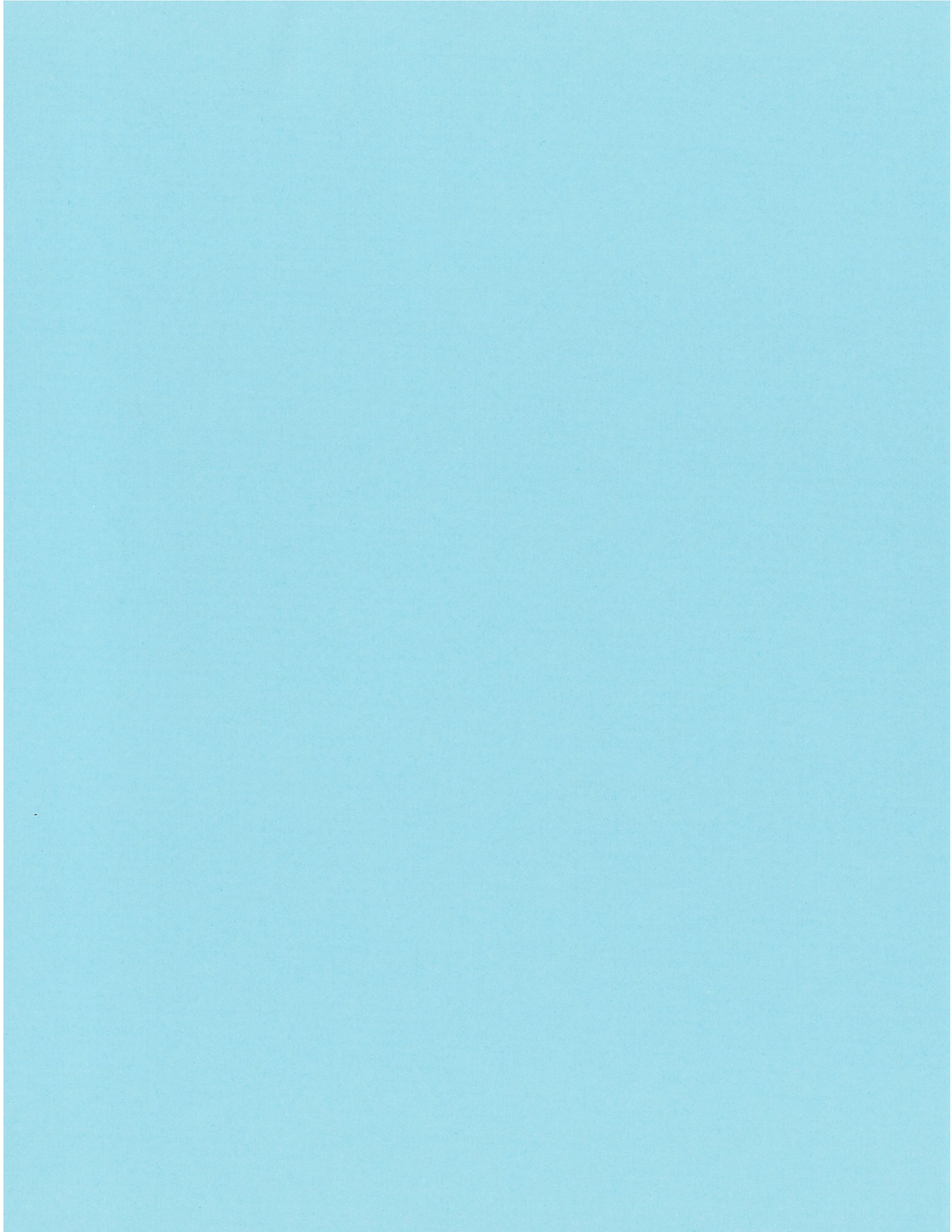
The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the factual matters asserted. It also included a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

Due to the Retailer's failure to appear at the hearing, this matter may be dismissed from SOAH's docket and returned to the Commission for informal disposition on a default basis in accordance with Texas Government Code §§ 2001.056, .058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

It is, therefore, **ORDERED** that this case is **CONDITIONALLY DISMISSED AND REMANDED** to the Commission pursuant to 1 Texas Administrative Code § 155.501(d)(1). **This order of dismissal will become final, without further action by the ALJ, unless the Retailer files a motion to set aside the default not later than 15 days from the date of this order.** Such a motion must show good cause for reopening the hearing, or show that the interests of justice require setting aside the default dismissal.

SIGNED April 2, 2018.


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



SOAH DOCKET NO. 362-18-2828

TEXAS LOTTERY COMMISSION, Petitioner	§ § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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v.

BSSG ENTERPRISES, LLC,
 D/B/A COWBOY #11,
 Respondent

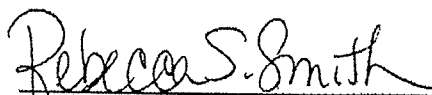
ORDER NO. 1
 CONDITIONAL ORDER DISMISSING AND REMANDING CASE

On April 12, 2018, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by Respondent. Notice of the hearing was provided to Respondent in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail to Respondent’s last known address as it appears in the Commission’s records, as authorized by 16 Texas Administrative Code § 401.205(4). The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission’s staff (Staff) appeared at the hearing. Respondent did not appear. Based on Respondent’s failure to appear, Staff filed a motion to dismiss the case from SOAH’s docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

Accordingly, the motion to dismiss and remand this case is **CONDITIONALLY GRANTED**, and the case is **CONDITIONALLY DISMISSED** from SOAH’s docket and **REMANDED** to the Commission for informal disposition under Texas Government Code § 2001.056. Respondent may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

Signed April 16, 2018.



 REBECCA S. SMITH
 ADMINISTRATIVE LAW JUDGE
 STATE OFFICE OF ADMINISTRATIVE HEARINGS

