



INTEROFFICE MEMO

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

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

From: Bob Biard, General Counsel *RSB*

Date: October 3, 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.

RECEIVED
2018 SEP 20 AM 11:58
EXECUTIVE ADMIN
LOTTERY

Commission Order No. 18-0001

Date: OCTOBER 3, 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.

Commission Order No. 18-0001

Date: OCTOBER 3, 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 3RD day of OCTOBER 2018.

Entered this 3RD day of OCTOBER 2018.

J. WINSTON KRAUSE, CHAIRMAN

CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

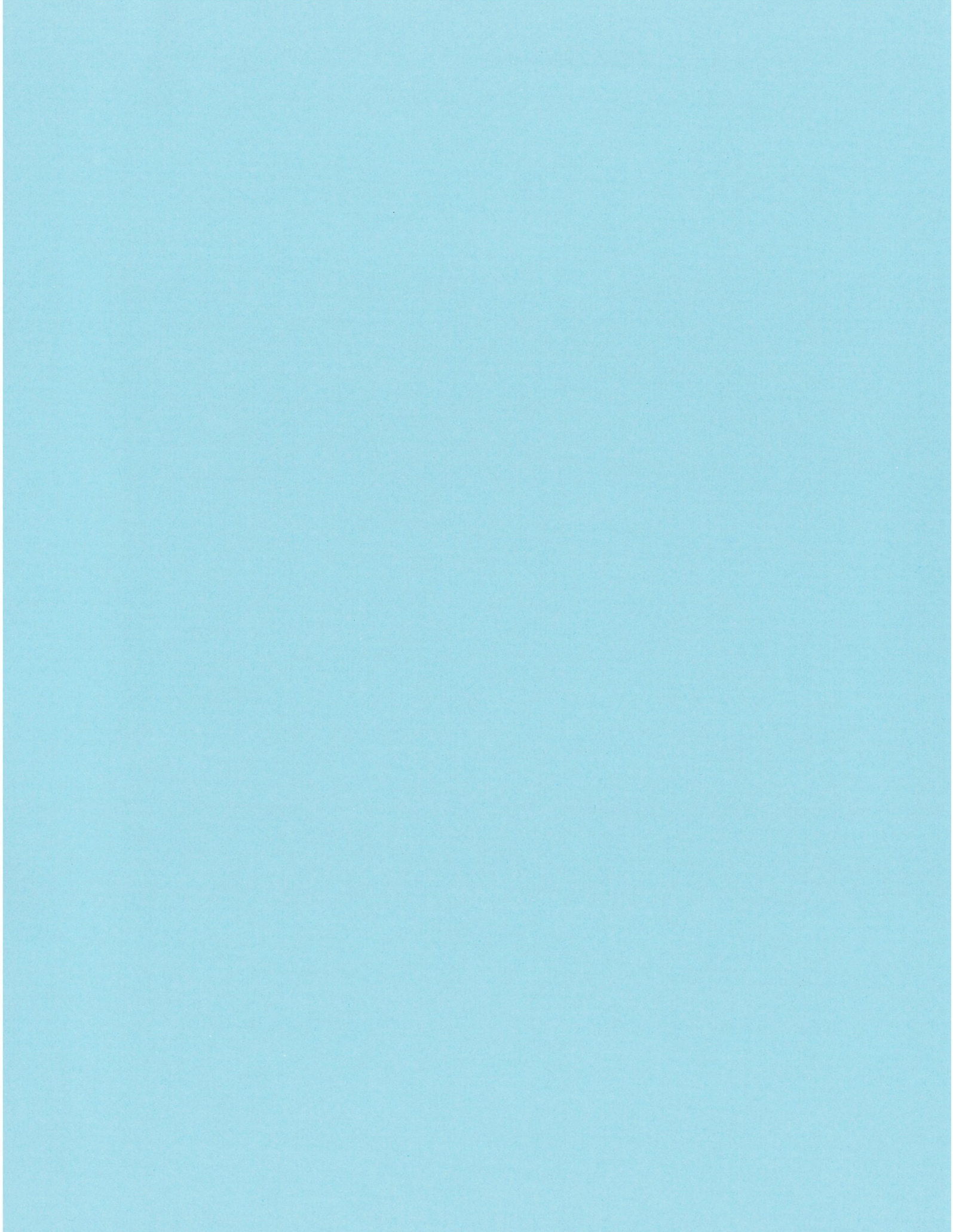
DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER

Date: OCTOBER 3, 2018

ATTACHMENT A

TAB NO.	SOAH DOCKET NO.	TICKET SALES AGENT NAME	TICKET SALES AGENT ADDRESS	LOTTERY LICENSE NO.
A.	362-18-2121	Tanoli Enterprises Inc. d/b/a Super Star #2	3180 Merriman St. Port Neches, TX 77651-6003	134394
B.	362-18-2122	Hafeez Sehgal LLC d/b/a Z Grocery and Deli	5000 Edinburgh Dr., Apt. #801 Tyler, TX 75703	176512
C.	362-18-3352	Linda Whitaker Hillis d/b/a Grapeland K.B. Xpress	P.O. Box 709 Crockett, TX 75835	133180
D.	362-18-3354	JMKIM Enterprise, LLC d/b/a Start Mart	305 E. Stan Schlueter Loop Killeen, TX 76542	184382
E.	362-18-3989	Sofra Austin Inc. d/b/a Oak Hills Food Mart 2	13677 W. State Hwy. 29 Liberty Hill, TX 78642	184038
F.	362-18-4253	Seguin Business, LLC d/b/a Park Place #1	101 Meadow Lake Seguin, TX 78155	177185
G.	362-18-4442	Tiny Stores Inc. d/b/a Tiny Stop	P.O. Box 145 Porter, TX 77365	177658
H.	362-18-4443	ZAEEM LLC d/b/a Fast Track	1700 Timber Creek Drive Tyler, TX 75703	181308
I.	362-18-4534	La Haciendita Groceries and Meat Market, Inc. d/b/a La Haciendita Groceries and Meat Market, Inc.	12 Palo Alto Dr. Von Ormy, TX 78703	140049
J.	362-18-4535	D M USA Business Inc. d/b/a Texas Travel Plaza	6290 Highway 347 Beaumont, TX 77705	181563



TEXAS LOTTERY COMMISSION

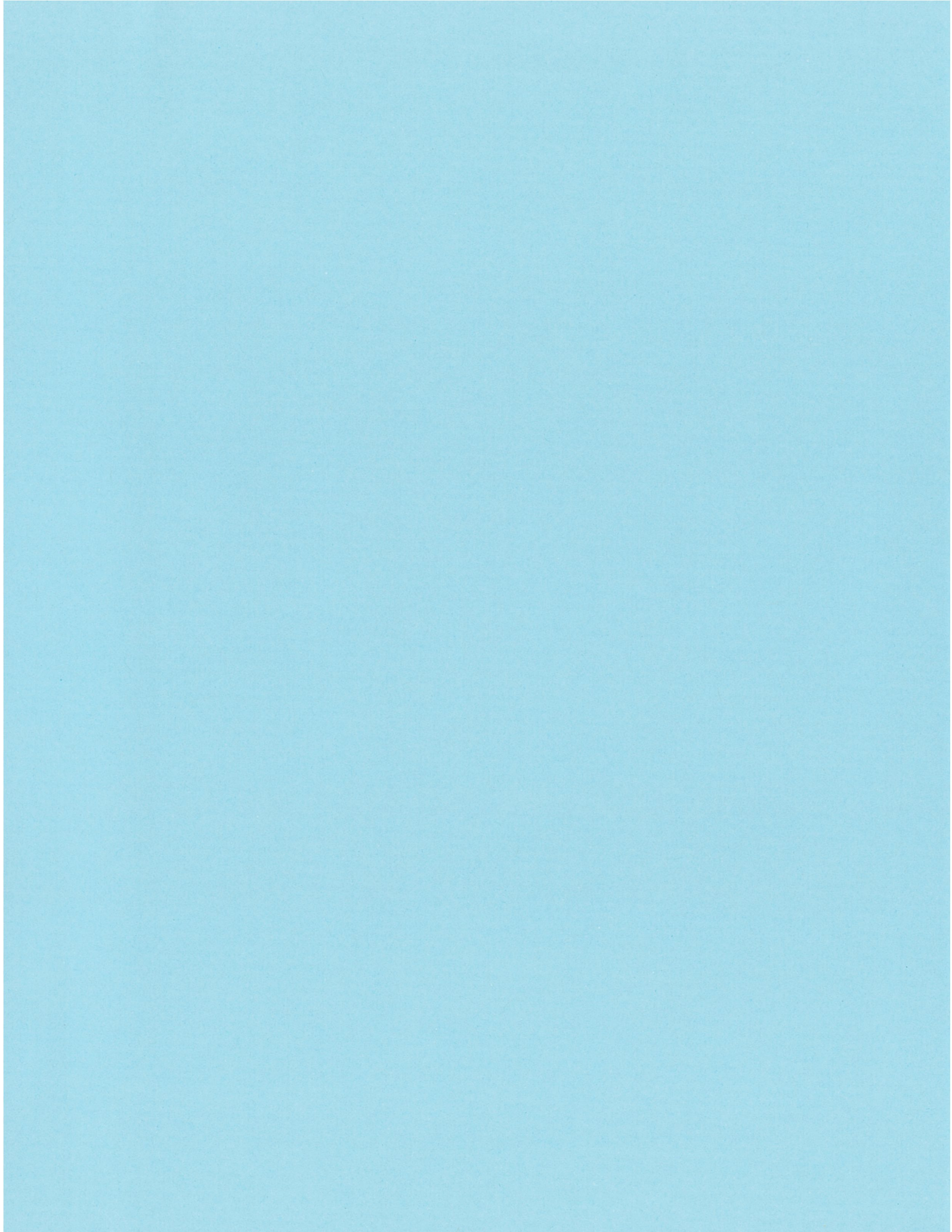
REVOCACTION HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: July 19, 2018

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-18-2121	Tanoli Enterprises Inc., Agent DBA Super Star #2	3180 Merriman St. Port Neches, TX 77651-6003	134394
362-18-2122	Hafeez Sehgal LLC, Agent DBA Z Grocery and Deli	5000 Edinburgh Dr., Apt. #801 Tyler, TX 75703	176512



DOCKET NO.: SEE ATTACHMENT A

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

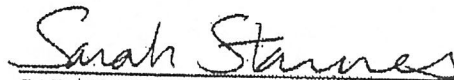
**CONDITIONAL ORDER DISMISSING CASES FROM SOAH
AND REMANDING CASES TO COMMISSION**

On June 14, 2018, hearings were convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

The Commission's staff (Staff) appeared at the hearings. Neither of the referenced retailers appeared. Based on each retailer's failure to appear, Staff filed a motion to dismiss the case(s) from SOAH's docket and to remand the case to the Commission for informal disposition in accordance with Texas Government Code § 2001.058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that the motion has merit and should be granted.

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

Signed June 14, 2018.

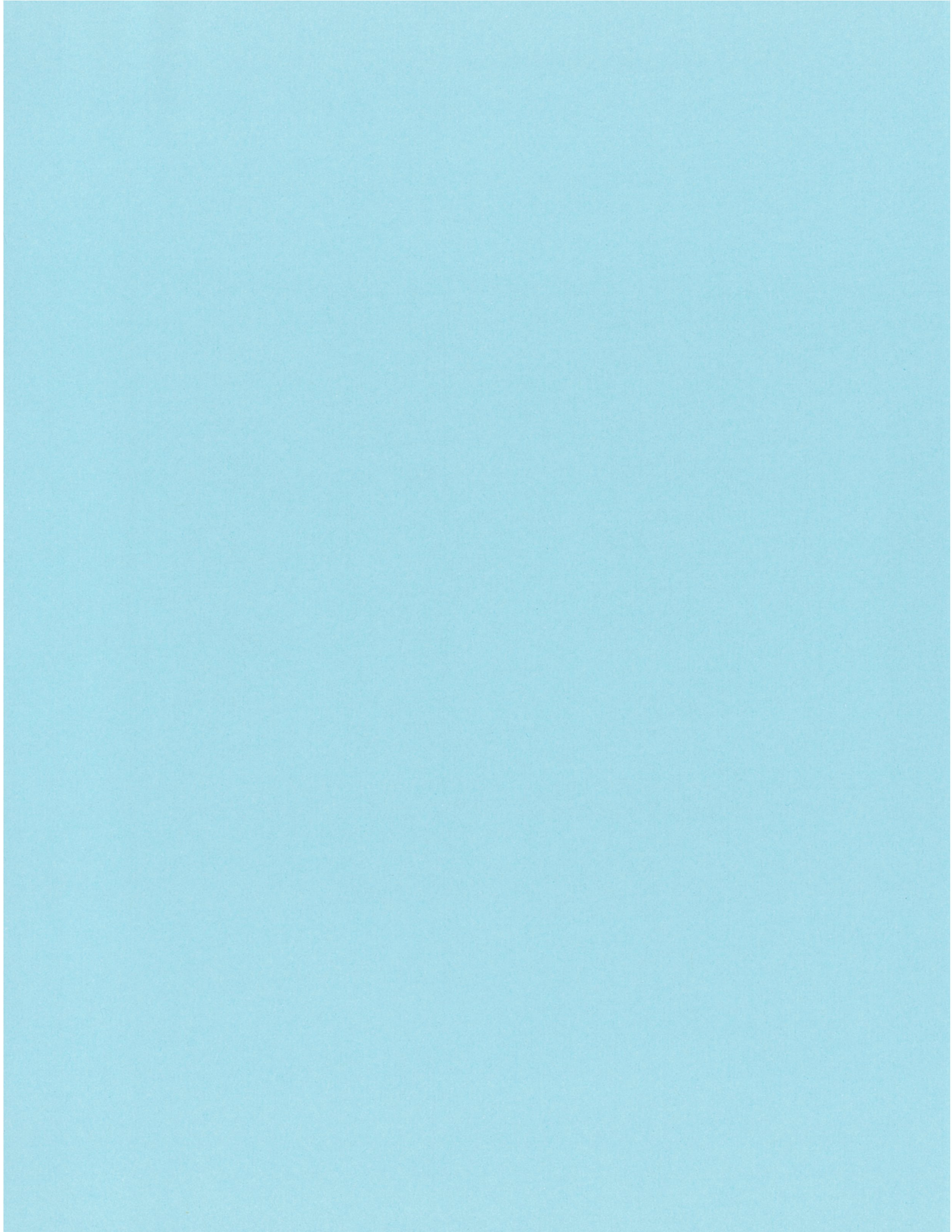

SARAH STARNES
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**TEXAS LOTTERY COMMISSION
REVOCATION HEARINGS
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

ATTACHMENT A

HEARING HELD: June 14, 2018

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-18-3352	Linda Whitaker Hillis d/b/a Grapeland K.B. Xpress	PO Box 709 Crockett, TX 75835	133180
362-18-3354	JMKIN Enterprise, LLC d/b/a Start Mart	305 E. Stan Schlueter Loop Killeen, TX 76542	184382



DOCKET NO.: SEE ATTACHMENT A

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

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

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

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

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

Signed July 30, 2018.



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

TEXAS LOTTERY COMMISSION

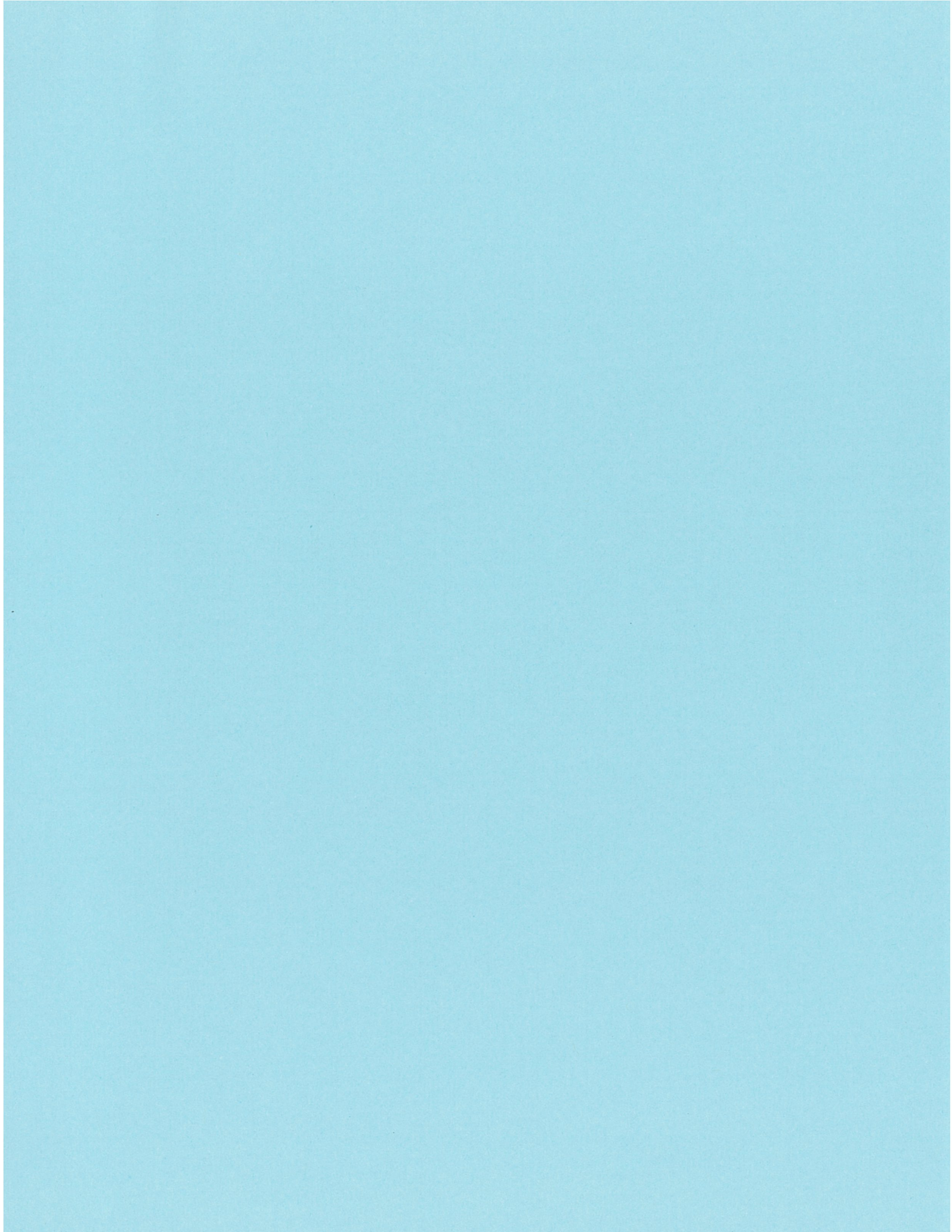
REVOCACTION HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: July 12, 2018

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-18-3989	Sofra Austin Inc. DBA Oak Hills Food Mart 2	13677 W. State Hwy 29 Liberty Hill, TX 78642	184038



SOAH DOCKET NO. 362-18-4253


TEXAS LOTTERY COMMISSION, Petitioner	§	BEFORE THE STATE OFFICE
	§	
	§	
v.	§	OF
	§	
SEGUIN BUSINESS, LLC, DBA PARK PLACE #1 Respondent	§	ADMINISTRATIVE HEARINGS

ORDER NO. 1
GRANTING MOTION TO DISMISS WITHOUT PREJUDICE

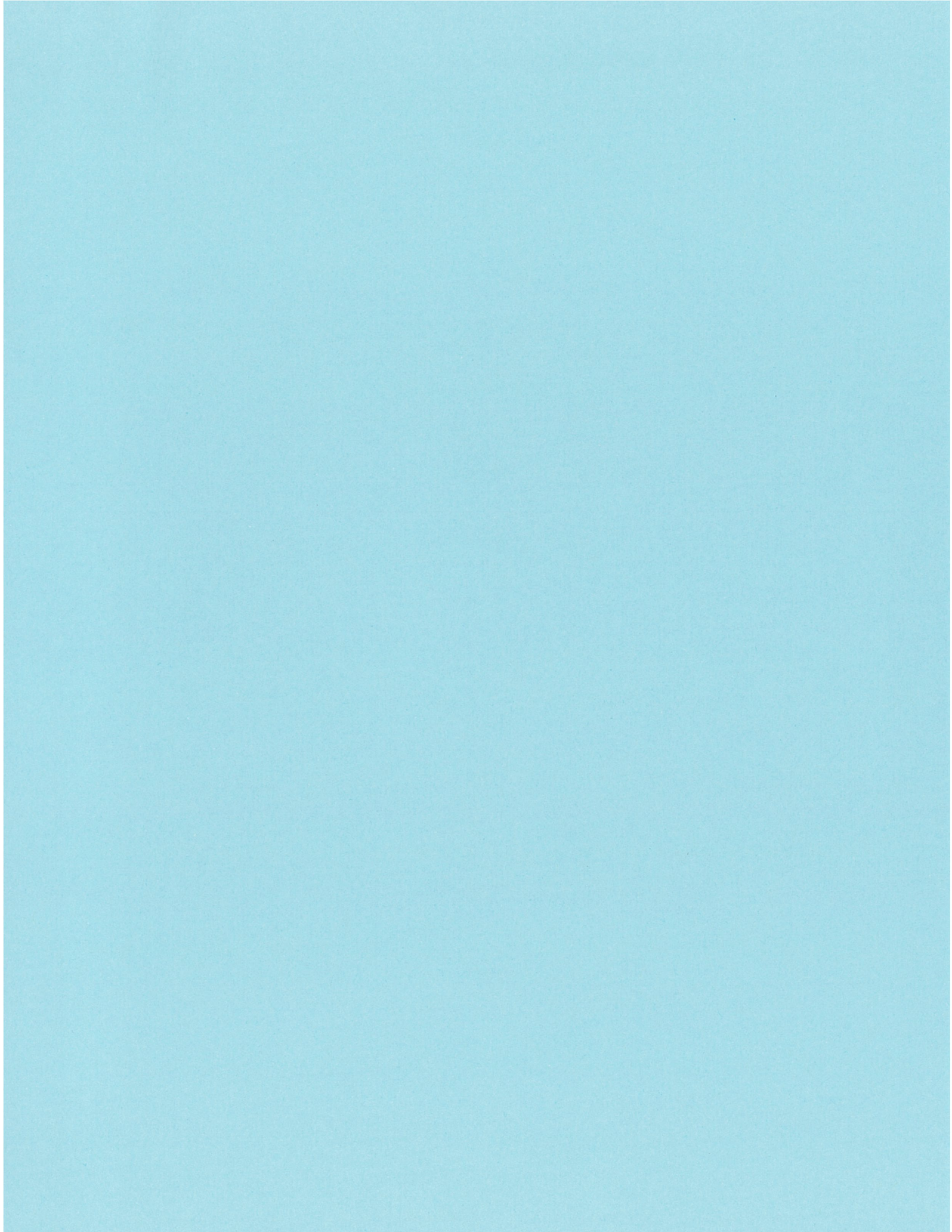
On July 26, 2018, the hearing in this case was convened. The Staff (Staff) of the Texas Lottery Commission (Commission) appeared and announced ready. The Respondent did not appear in person or through counsel. After discussing the posture and circumstances of the case, Staff orally requested that the case be dismissed. Staff also filed with the Administrative Law Judge (ALJ) a Motion to Dismiss without Prejudice and Remand to the Commission (Motion). Having considered the Motion, the ALJ concludes that it has merit.

THEREFORE, the Motion is granted. The hearing scheduled this day, July 26, 2018, at 9:00 a.m., is CANCELED and this matter is DISMISSED from the docket of the State Office of Administrative Hearings and REMANDED to the Commission for informal disposition of this case.

SIGNED July 26, 2018.



FERNANDO RODRIGUEZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS



SOAH DOCKET NO.: SEE ATTACHMENT A

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

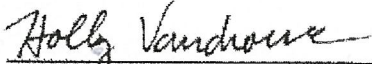
**CONDITIONAL ORDER DISMISSING CASES FROM SOAH
AND REMANDING CASES TO COMMISSION**

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

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

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

SIGNED August 31, 2018.



HOLLY VANDROVEC
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

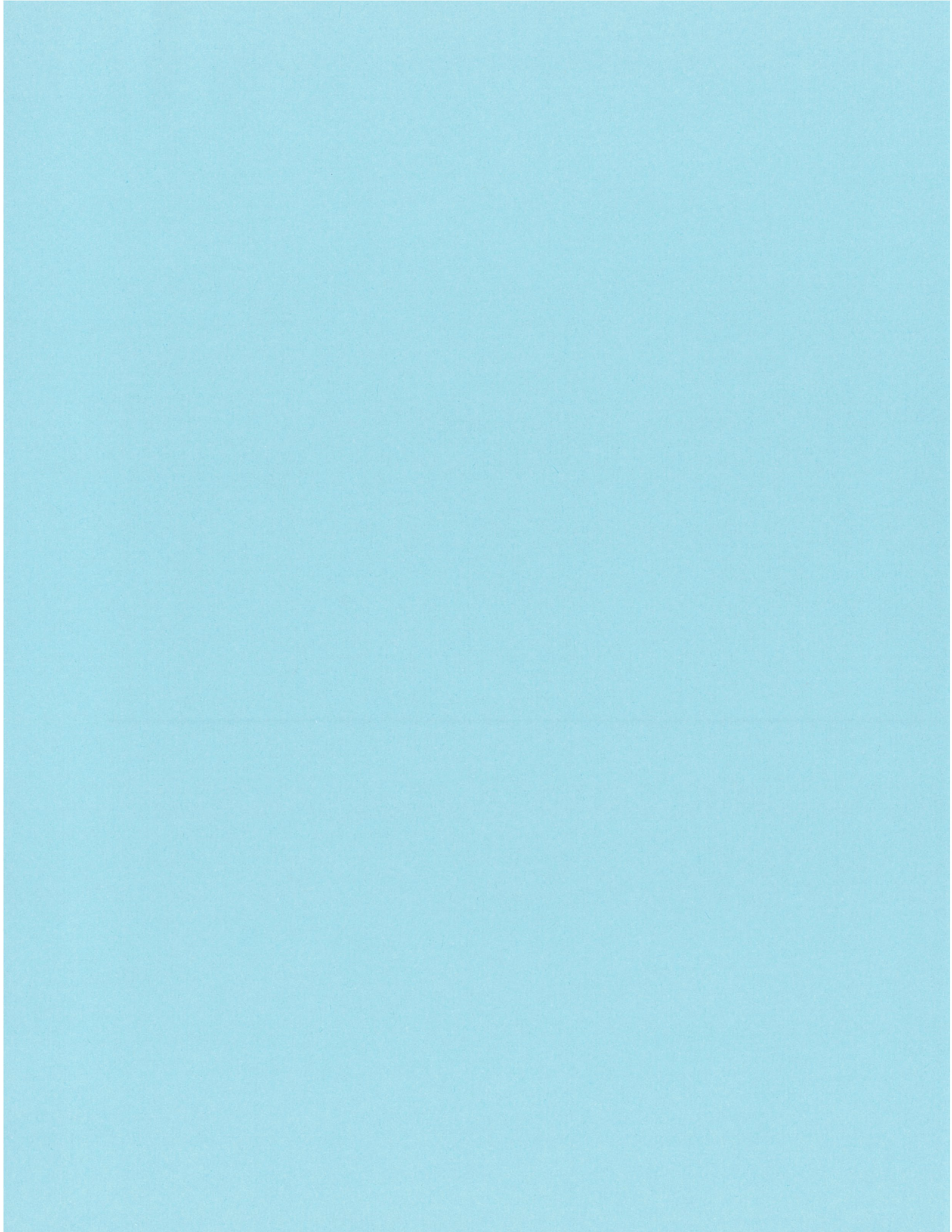
**TEXAS LOTTERY COMMISSION
REVOCATION HEARINGS**

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: August 2, 2018

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-18-4442	Tiny Stores Inc., Agent DBA Tiny Stop	P.O. Box 145 Porter, TX 77365	177658
362-18-4443	ZAEEM LLC, Agent DBA Fast Track	1700 Timber Creek Drive Tyler, TX 75703	181308



TEXAS LOTTERY COMMISSION

REVOCAION HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

ATTACHMENT A

HEARING HELD: August 9, 2018

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-18-4534	La Haciendita Groceries Meat Mkt Dba La Haciendita Groceries Mat	12 Palo Alto Dr. Von Ormy, TX 78703	140049
362-18-4535	D M USA Business Inc. Dba Texas Travel Plaza	6290 Highway 347 Beaumont, TX 77705	181563



INTEROFFICE MEMO

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

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

From: Bob Biard
General Counsel

Date: October 3, 2018

Re: Case Nos. 2018-791 and 2018-792 – Petromart #113 and #114

There are no documents associated with this tab. Information regarding this matter will be presented at the Commission meeting.

Commission Order No. 18-0005

Date: OCTOBER 3, 2018

DOCKET NO. 362-18-2379 and 362-18-2380

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
PETITIONER	§	
	§	
V.	§	
	§	
NAVEED A. SUNNY	§	
D/B/A JIF-E MART	§	
RETAILER NO. 130176	§	
	§	
NAVEED A. SUNNY	§	
D/B/A QUICK STOP CENTER	§	
RETAILER NO. 126675	§	
RESPONDENTS	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

TO: Naveed A. Sunny
d/b/a Jif-E Mart
1233 11th Street
Huntsville, TX 77340

Naveed A. Sunny
d/b/a Quick Stop Center
101 N. May
Madisonville, TX 77864

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

The Commission, after review and due consideration of the PFD and exceptions and replies filed, if any, adopts the ALJ's Findings of Fact and Conclusions of Law as if

Commission Order No. 18-0005

Date: OCTOBER 3, 2018

DOCKET NO. 362-18-2379 and 362-18-2380

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
PETITIONER	§	
	§	
V.	§	
	§	
NAVEED A. SUNNY	§	
D/B/A JIF-E MART	§	
RETAILER NO. 130176	§	
	§	
NAVEED A. SUNNY	§	
D/B/A QUICK STOP CENTER	§	
RETAILER NO. 126675	§	
RESPONDENTS	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

TO: Naveed A. Sunny
d/b/a Jif-E Mart
1233 11th Street
Huntsville, TX 77340

Naveed A. Sunny
d/b/a Quick Stop Center
101 N. May
Madisonville, TX 77864

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

The Texas Lottery Commission, after review and due consideration of the PFD and exceptions and replies filed, if any, adopts the ALJ's Findings of Fact and Conclusions of

Commission Order No. 18-0005

Date: OCTOBER 3, 2018

Law as if fully set out and separately stated herein. All proposed Findings of Fact and Conclusions of Law not specifically adopted herein are hereby denied.

NOW, THEREFORE, IT IS ORDERED that the Texas Lottery Ticket Sales Agent License of Naveed A. Sunny d/b/a Jif-E Mart is hereby revoked, and the Texas Lottery Ticket Sales Agent License renewal application of Naveed A. Sunny d/b/a Quick Stop Center is hereby denied.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 3RD day of OCTOBER 2018.

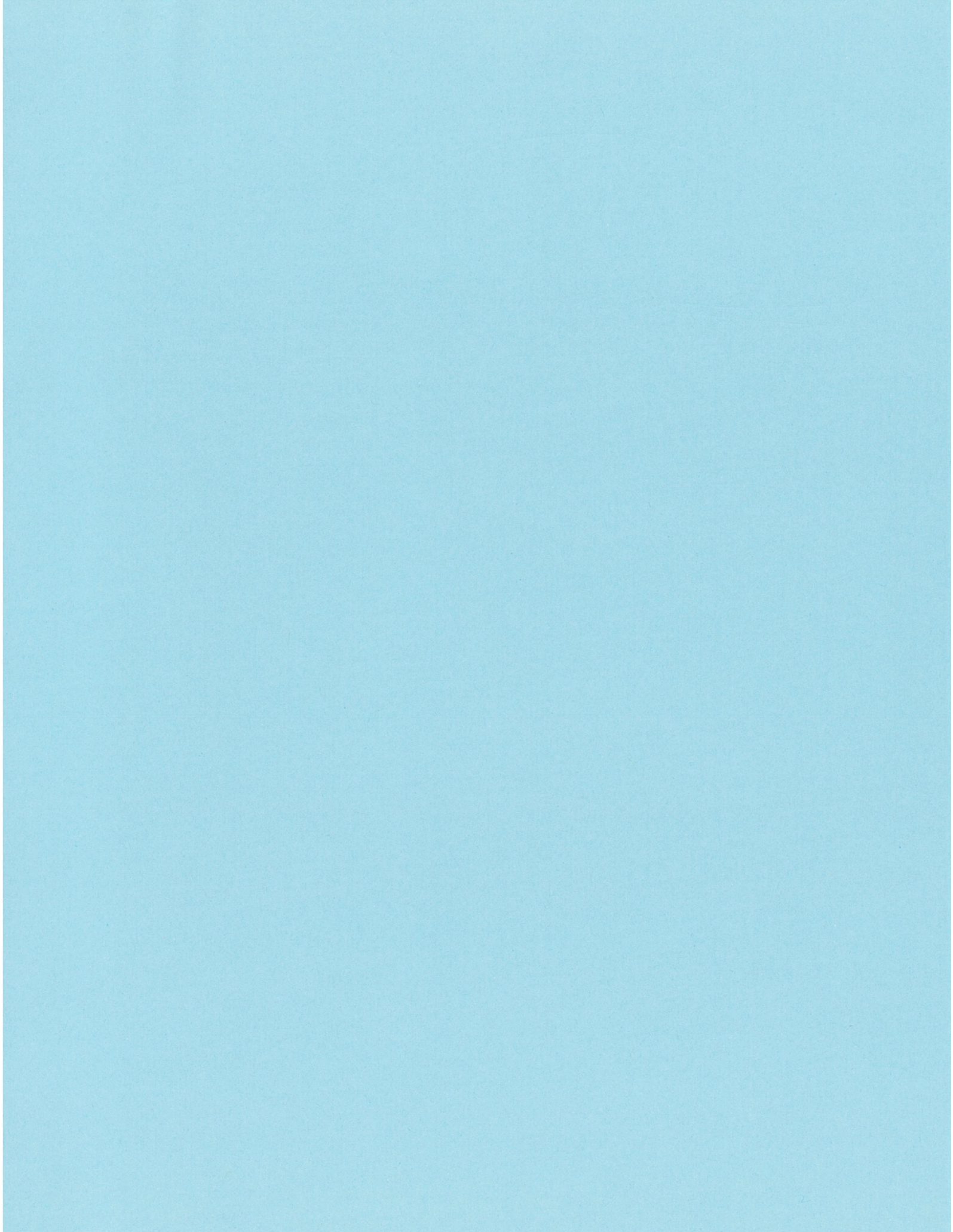
Entered this 3RD day of OCTOBER 2018.

J. WINSTON KRAUSE, CHAIRMAN

CARMEN ARRIETA-CANDELARIA,
COMMISSIONER

DOUG LOWE, COMMISSIONER

ROBERT RIVERA, COMMISSIONER



State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

August 13, 2018

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

VIA INTERAGENCY

RE: SOA Docket No. 362-18-2379; *Texas Lottery Commission v. Naveed A. Sunny d/b/a JIF-E Mart*, License No. 130176

SOA Docket No. 362-18-2380; *Texas Lottery Commission v. Naveed A. Sunny d/b/a Quick Stop Center*, License No. 126675

Dear Mr. Grief:

Please find enclosed a Proposal for Decision in these cases.

Sincerely,

A handwritten signature in cursive script that reads "Holly Vandrovec".

Holly Vandrovec
Administrative Law Judge

HV/vg
Enclosure

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - VIA INTERAGENCY
Naveed A. Sunny, 101 N. May, Madisonville, Texas 77864 -VIA REGULAR MAIL

SOAH DOCKET NO. 362-18-2379

TEXAS LOTTERY COMMISSION, Petitioner	§	BEFORE THE STATE OFFICE
	§	
v.	§	OF
	§	
NAVEED A. SUNNY d/b/a JIF-E MART, LICENSE NO. 130176, Respondent	§	ADMINISTRATIVE HEARINGS

SOAH DOCKET NO. 362-18-2380

TEXAS LOTTERY COMMISSION, Petitioner	§	BEFORE THE STATE OFFICE
	§	
v.	§	OF
	§	
NAVEED A. SUNNY d/b/a QUICK STOP CENTER, LICENSE NO. 126675, Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Lottery Commission (Staff/Commission) requested the revocation of a lottery sales agent's license held by Naveed A. Sunny d/b/a Jif-E-Mart (Jif-E-Mart) and the denial of a lottery sales agent's license held by Naveed A. Sunny d/b/a Quick Stop Center (Quick Stop) (collectively referred to as Licensees). Both entities have the same owner and operator, Naveed A. Sunny, whose actions are the basis of Staff's requested actions. After considering the evidence and arguments presented, the Administrative Law Judge (ALJ) recommends revocation of Jif-E-Mart's license and denial of Quick Stop's license.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Matters of jurisdiction and notice were not disputed and are discussed only in the Findings of Fact and Conclusions of Law. On April 24, 2018, ALJ Holly Vandrovec convened a hearing on the merits in these matters. Kristen Guthrie, Assistant General Counsel, represented Staff. Licensees did not appear and were not represented. As a result, the ALJ granted Staff's motion for conditional default dismissal. Licensees then filed a motion to set aside default and

Staff filed an agreed motion to set a new hearing date. The ALJ granted the motions, and on June 12, 2018, convened the hearing as rescheduled. Ms. Guthrie represented Staff. Licensees appeared and were represented at the hearing by Naveed A. Sunny. After the presentation of evidence and arguments by the parties, the record closed the same day.

II. APPLICABLE LAW

The relevant statutory provision in this case is found in Chapter 466 of the Texas Government Code. Specifically, Texas Government Code § 466.155 states, in pertinent part:

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

(1) is an individual who:

(A) has been convicted of a felony, criminal fraud, gambling or a gambling-related offense, or a misdemeanor involving moral turpitude, if less than 10 years has elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the offense;

* * * *

(2) is not an individual, and an individual described in Subdivision (1):

(A) is an officer or director of the applicant or sales agent;

(B) holds more than 10 percent of the stock in the applicant or sales agent;

* * * *

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

* * * *

- (c) At a hearing, an applicant or sales agent must show by a preponderance of the evidence why the application should not be denied or the license suspended or revoked.

The Commission's rules at 16 Texas Administrative Code §§ 401.153 and 401.158 contain similar provisions.

Therefore, if the sole owner of a licensee is found guilty of a criminal offense related to gambling, the Commission is required to deny their application for a license or, as applicable, suspend or revoke their license. If a hearing is requested, the burden of proof is on the licensee to show that the application should not be denied, or the license should not be suspended or revoked.

III. DISCUSSION

The evidence in this case is essentially undisputed. Licensees hold Texas Lottery Ticket Sales License numbers 130176 (for Jif-E-Mart) and 126675 (for Quick Stop), issued by the Commission. Naveed A. Sunny is the sole owner of both Licensees. On June 6, 2017, in the County Court at Law, Walker County, Texas, Mr. Sunny entered a plea of guilty and was found guilty of the misdemeanor offense of gambling. Mr. Sunny was assessed a fine of \$500 and court costs of \$261 and ordered to forfeit \$7,435 in cash seized by the Walker County Sheriff's Office.¹ After the conviction, Mr. Sunny filed renewal applications on behalf of both Licensees. As part of the renewal applications, Mr. Sunny signed Eligibility Statements in which he certified that Licensees were eligible to hold the licenses. Specifically, the Eligibility Statements stated that "None of the owners [] ha[ve] been convicted of a felony, criminal fraud, gambling or gambling related offense whose sentence, parole, mandatory supervision or probation ended less than ten (10) years ago."² Staff approved the renewal application for Jif-E-Mart³ and denied the renewal application for Quick Stop.

¹ Staff Ex. 3.

² Staff Exs. 6, 7.

³ Staff's witness Nancy Guerrero testified that the renewal application for Jif-E-Mart was approved in error.

As a result of Mr. Sunny's guilty plea to the offense of gambling, Staff seeks to revoke the license for Jif-E-Mart and uphold the denial of the application for Quick Stop on the basis of Mr. Sunny being the sole owner of Licensees. Licensees requested a hearing on Staff's proposed actions. At the hearing, Licensees presented the testimony of Mr. Sunny, who denied that his actions were illegal or constituted gambling, and who asked that the ALJ exercise discretion and not recommend revocation of his licenses. Licensees also presented the testimony of Frank Blazek, Mr. Sunny's attorney in the criminal case, who testified that he advised Mr. Sunny to take the generous plea offered by prosecutors and that they did not discuss collateral consequences of the guilty plea. Mr. Blazek also testified that Mr. Sunny's case was a winnable case because Mr. Sunny was seldom in the stores and that the offending gambling machines were installed by others while Mr. Sunny was out of the country. Additionally, the Sheriff's Office had already returned much of Mr. Sunny's property seized in the raid of Licensees, including computers, video equipment, and games they claimed were gambling machines. Staff argues that no such discretion exists, pointing out that the statute says "the director *shall* deny an application for a license or the [C]ommission *shall* suspend or revoke a license" if the necessary underlying conviction has been shown.⁴

The ALJ agrees with Staff's reading of the statute and finds that it requires the Commission to suspend or revoke the license or deny an application for a license under the circumstances here. It is undisputed that Mr. Sunny is the sole owner of both Licensees and that he was convicted of gambling on June 6, 2017. The statute provides that the Commission "shall" suspend or revoke a license or deny the application for a license. This language is mandatory. Therefore, the only question is whether suspension or revocation of Jif-E-Mart's license is appropriate.

Ultimately, the ALJ finds it unnecessary to determine whether the statute gives discretion to the Commission to decide between suspension and revocation. The burden of proof is on Licensees to show why the licenses should not be denied or revoked. In this case, Licensees

⁴ Tex. Gov't Code § 466.155(a) (emphasis added).

have presented no persuasive evidence on this point. Mr. Sunny's assertion that he did not commit the offense of gambling is belied by the fact that he pleaded guilty to gambling and later signed certifications as to Licensees' eligibility to hold the licenses when they were not in fact eligible due to Mr. Sunny's convictions. His lack of persuasive justification for why denial and revocation are not appropriate in this case make it unnecessary for the ALJ to decide between revocation or suspension, assuming arguendo that both are available as alternate sanctions for Jif-E-Mart. Put simply, Mr. Sunny has provided no basis for the ALJ to find that the licenses should not be revoked or denied. Accordingly, the ALJ recommends that the Commission revoke Jif-E-Mart's license and deny the renewal application for Quick Stop, based on the gambling conviction of their sole owner, Mr. Sunny.

IV. FINDINGS OF FACT

1. Naveed A. Sunny d/b/a Jif-E-Mart (Jif-E-Mart) holds Texas Lottery Ticket Sales License number 130176 and Naveed A. Sunny d/b/a Quick Stop Center (Quick Stop) (collectively referred to as Licensees) holds Texas Lottery Ticket Sales License number 126675 issued by the Texas Lottery Commission (Commission).
2. Naveed A. Sunny is the sole owner of Licensees.
3. On June 6, 2017, in the County Court at Law, Walker County, Texas, Mr. Sunny entered a guilty plea and was convicted of the misdemeanor offense of gambling. He was assessed a fine of \$500 and court costs of \$261 and ordered to forfeit \$7,435 in cash seized by the Walker County Sheriff's Office.
4. Mr. Sunny signed an Eligibility Statement attached to the renewal application for Jif-E-Mart certifying that it was eligible to hold a license and that "None of the owners [] ha[ve] been convicted of a felony, criminal fraud, gambling or gambling related offense whose sentence, parole, mandatory supervision or probation ended less than ten (10) years ago."
5. Mr. Sunny signed an Eligibility Statement attached to the renewal application for Quick Stop certifying that it was eligible to hold a license and that "None of the owners [] ha[ve] been convicted of a felony, criminal fraud, gambling or gambling related offense whose sentence, parole, mandatory supervision or probation ended less than ten (10) years ago."

6. As a result of Mr. Sunny's guilty plea to the offense of gambling, Commission staff (Staff) denied the renewal application of Quick Stop and initiated proceedings to revoke the license of Jif-E-Mart on the basis of Mr. Sunny's role as sole owner of both Licensees.
7. After a hearing was requested, the matters were referred to the State Office of Administrative Hearings (SOAH) for assignment of an Administrative Law Judge (ALJ).
8. On February 20, 2018, Staff sent Licensees each a notice of hearing by certified mail to the addresses on file with the Commission.
9. The notices 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 was to be held; a reference to the particular sections of the statutes and rules involved; and either a short plain statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
10. ALJ Holly Vandrovec convened a joint hearing in the two matters on April 24, 2018, at SOAH, located in the William P. Clements Building at 300 West 15th Street, Austin, Texas. Kristen Guthrie, Assistant General Counsel, represented Staff. Licensees did not appear and were not represented. As a result, the ALJ granted Staff's motion for conditional default dismissal. Licensees then filed a motion to set aside default and Staff filed an agreed motion to set a new hearing date. The ALJ granted the motions and on June 12, 2018, convened the hearing as rescheduled. Ms. Guthrie represented Staff. Licensees appeared and were represented at the hearing by Naveed A. Sunny. After the presentation of evidence and arguments by the parties, the record closed the same day.

V. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to the Texas Lottery Act. Tex. Gov't Code §§ 466.151, .155.
2. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, as provided by Texas Government Code ch. 2003.
3. Timely and adequate notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051 and 2001.052.

4. The Commission shall deny an application for a license or revoke a license if the applicant or license holder has been convicted of gambling. Tex. Gov't Code § 466.155(a).
5. An applicant or license holder has the burden of proof, by a preponderance of the evidence, to show why the application should not be denied or the license should not be revoked. Tex. Gov't Code § 466.155(c).
6. The lottery sales agent license of Jif-E-Mart (License No. 130176) should be revoked and the lottery sales agent license application of Quick Stop should be denied, pursuant to Texas Government Code § 466.155 and 16 Texas Administrative Code §§ 401.153 and 401.158.

SIGNED August 13, 2018.

Holly Vandrovec

HOLLY VANDROVEC

ADMINISTRATIVE LAW JUDGE

STATE OFFICE OF ADMINISTRATIVE HEARINGS

