





## INTEROFFICE MEMO

*Gary Grief, Executive Director      Tom Hanson, Charitable Bingo Operations Director*

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

**From:** Bob Biard, General Counsel

*RSB*

**Date:** August 6, 2020

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

---

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



**Date: AUGUST 6, 2020**

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE STATE OFFICE</b>
	§	
	§	<b>OF</b>
<b>THE REVOCATION OF CERTAIN</b>	§	
<b>LOTTERY RETAILER LICENSES</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**ORDER OF THE COMMISSION**

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

**I. Findings of Fact**

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

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

3. The Commission, by and through its attorney of record, filed a motion to dismiss each of the referenced cases from the SOAH docket and to remand each case to the Commission for informal disposition, in accordance with Tex. Gov't Code §2001.058(d-1) and 1 Tex. Admin. Code §155.501(d).

**Commission Order No. 20-0060**

**Date: AUGUST 6, 2020**

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

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

**II. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code §466.155 and 16 Tex. Admin. Code Chapter 401.

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

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

**III. Order**

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

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

**Commission Order No. 20-0060**

**Date: AUGUST 6, 2020**

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

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

MARK A. FRANZ, COMMISSIONER

---

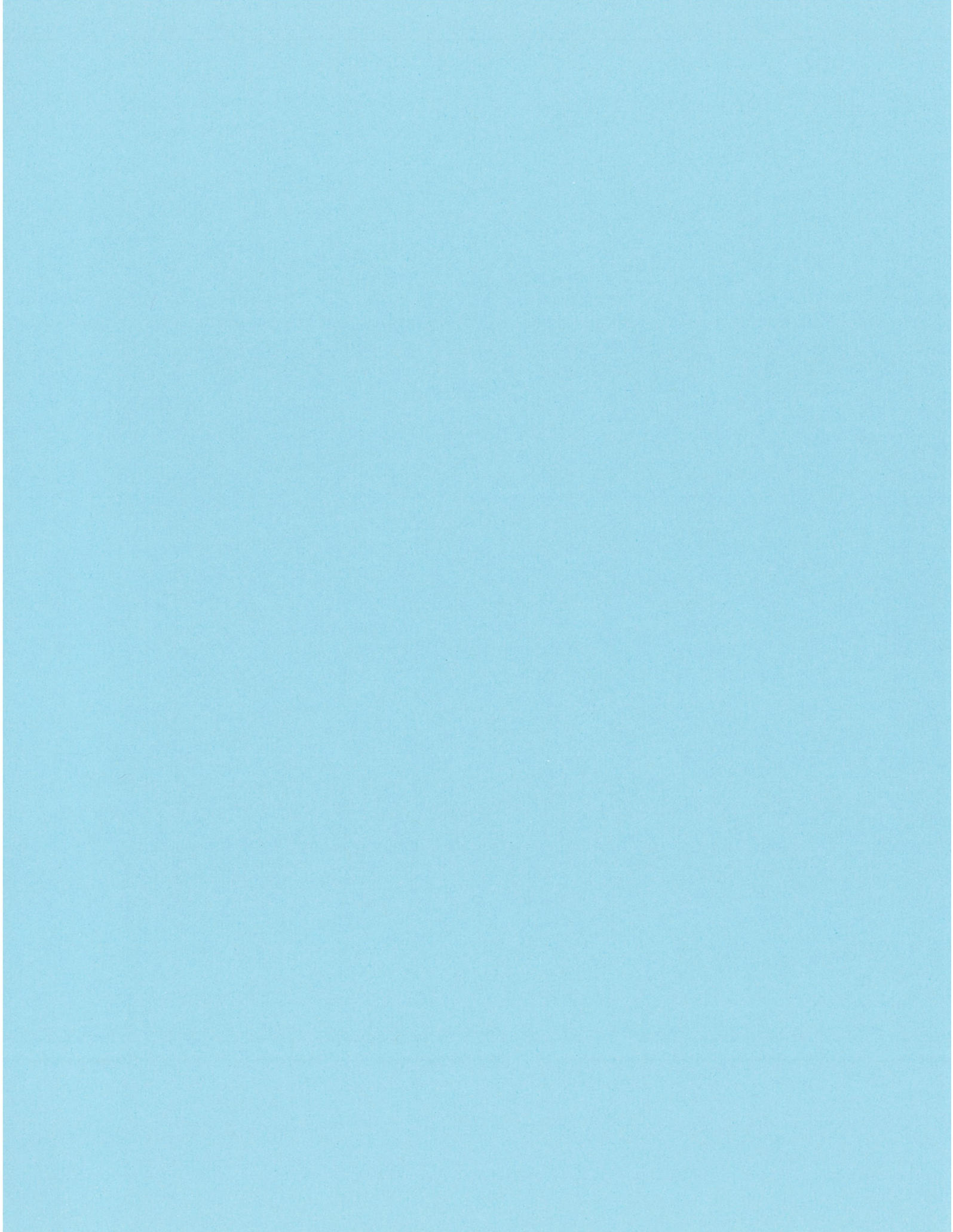
ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER

**Commission Order No. 20-0060****Date: AUGUST 6, 2020****ATTACHMENT A**

<b>TAB NO.</b>	<b>SOAH DOCKET NO.</b>	<b>TICKET SALES AGENT NAME</b>	<b>TICKET SALES AGENT ADDRESS</b>	<b>LOTTERY LICENSE NO.</b>
A.	362-20-2483	ZSS Investment Inc. d/b/a Skytop Food Mart	3945 Eisenhower Rd. San Antonio, TX 78218	179095
B.	362-20-2486	Amanda My Tran d/b/a Belt Line Beer & Wine	2502 E. Belt Line Rd. Carrollton, TX 75006	184848
C.	362-20-2488	KK & A LLC d/b/a Family Stop	4723 Saddle Ridge San Antonio, TX 78217	186159
D.	362-20-2490	Mike & Jenny LLC d/b/a Grab & Go Liquor	2606 Basil Point Ct. Houston, TX 77038	187404
E.	362-20-3185	KSSSZM LLC d/b/a Jackpot	2368 Austin Hwy. d/b/a San Antonio, TX 78218	182740
F.	362-20-3186	Perven LLC d/b/a Stop N Drive 3	2248 Gulfway Dr. Port Arthur, TX 77640	183209
G.	362-20-3264	Fuel 2 Go LLC d/b/a Jensen Food Mart	11702 Jones Rd. Houston, TX 77070	186013
H.	362-20-3266	Rija Inc. d/b/a Super Food Mart 23	3711 Stone Road, Unit B Kilgore, TX 75662	186497
I.	362-20-3267	Nabi & Khan Traders Inc. d/b/a Berry St. Chevron	9221 Newport Ln. McKinney, TX 75071	187146





**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 May 14, 2020, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

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

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

**Signed May 19, 2020.**

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

**TEXAS LOTTERY COMMISSION**

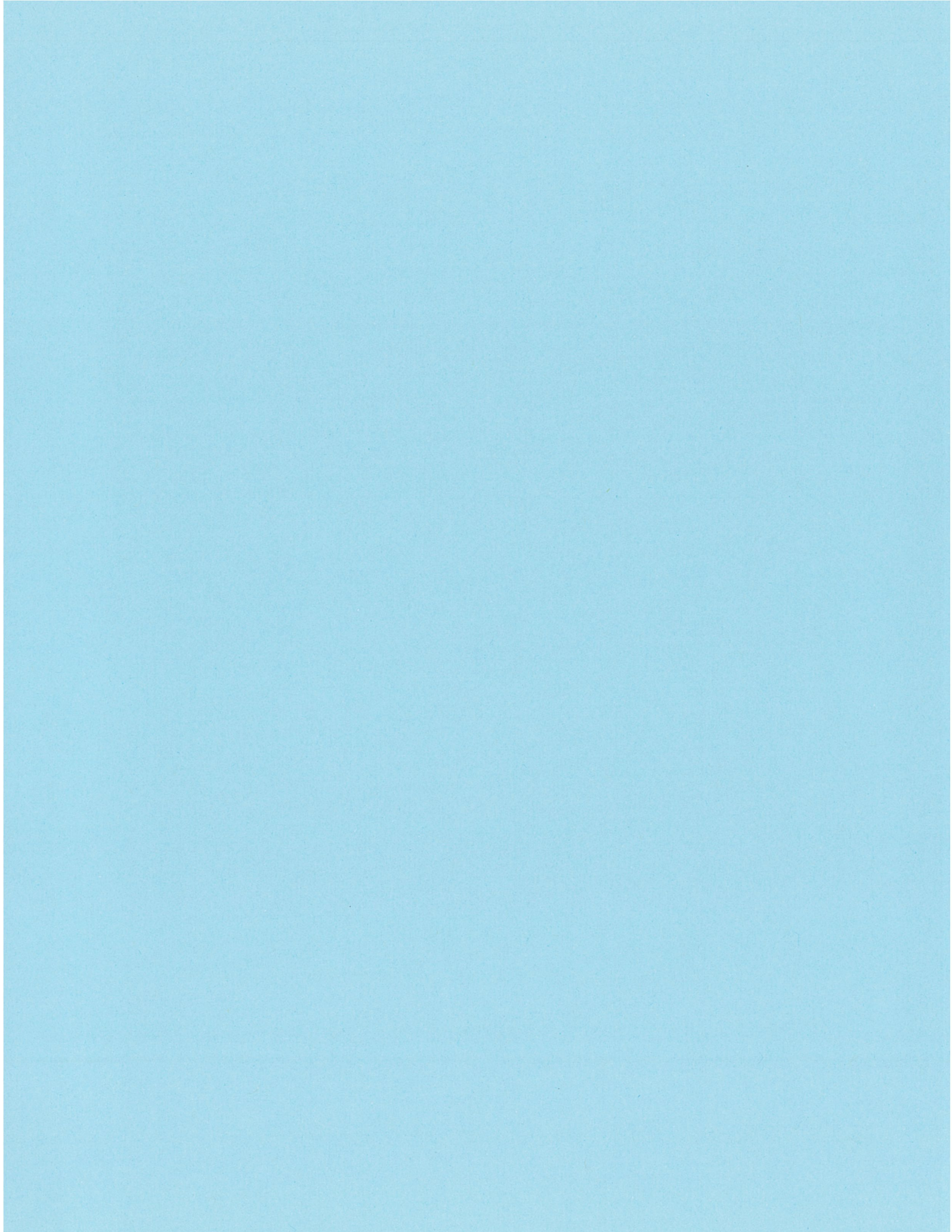
**REVOCAATION HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**ATTACHMENT A**

**HEARING HELD: May 14, 2020**

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-2486	Amanda My Tran, d/b/a Belt Line Beer & Wine	2502 E. Belt Line Road Carrollton, Tx 75006	184848
362-20-2488	KK & A LLC, d/b/a Family Stop	4723 Saddle Ridge San Antonio, Tx 78217	186159
362-20-2483	ZSS Investment Inc., d/b/a Skytop Food Mart	3945 Eisenhower Road San Antoni, Tx 78218	179095
362-20-2490	Mike & Jenny LLC Grab & Go Liquor	2606 Basil Point Ct. Houston, Tx 77038	187404
362-20-3264	Fuel 2 Go LLC d/b/a Jensen Food Mart	11702 Jones Road Houston, Tx 77070	186013
362-20-3266	Rija Inc d/b/a Super Food Mart 23	3711 Stone Road, Unit B Kilgore, Tx 75662	186497
362-20-3267	Nabi & Khan Traders Inc., d/b/a Berry St. Chevron	9221 Newport Lane McKinney, Tx 75071	187146



**DOCKET NO.: SEE ATTACHMENT A**

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

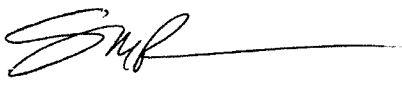
**CONDITIONAL ORDER DISMISSING CASE(S) FROM SOAH  
AND REMANDING CASE(S) TO COMMISSION**

On May 7, 2020, a hearing was convened before the State Office of Administrative Hearings (SOAH) on the revocation of the lottery sales agent license held by each retailer listed on Attachment A. Notice of the hearing was provided to each retailer in accordance with 1 Texas Administrative Code § 155.501(b)(2). The Texas Lottery Commission (Commission) served the notice of hearing via certified mail at each retailer's last known address as it appears in the Commission's records, as authorized by 16 Texas Administrative Code § 401.205(4). Each notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; a short, plain statement of the factual matters asserted; and a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted and the relief sought might be granted by default against a party that failed to appear at the hearing.

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

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

**Signed May 19, 2020.**

  
\_\_\_\_\_  
**STEVEN M. RIVAS**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**TEXAS LOTTERY COMMISSION**

**REVOCATION HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**ATTACHMENT A**

**HEARING HELD: May 7, 2020**

SOAH DOCKET NO.	RETAILER NAME	RETAILER ADDRESS	RETAILER NUMBER
362-20-3185	KSSSZM LLC, Agent d/b/a Jackpot	2368 Austin Hwy. San Antonio, TX 78218	182740
362-20-3186	Perven LLC, Agent d/b/a Stop N Drive 3	2248 Gulfway Drive Port Arthur, TX 77640	183209



**Commission Order No. 20-0061**

**Date: AUGUST 6, 2020**

**Case No. 2019-1014**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>ALFREDO HERNANDEZ</b>	<b>§</b>	
<b>D/B/A HERNANDEZ GROCERY</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 137989</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Alfredo Hernandez d/b/a Hernandez Grocery (Hernandez Grocery) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

**AGREED FINDINGS OF FACT**

1. Hernandez Grocery holds Texas Lottery Ticket Sales Agent License No. 137989.
2. Alfredo Hernandez is the owner of Hernandez Grocery, which is located at 4602 Hwy. 103 West, Lufkin, TX 75904.
3. Based on an internal review, the Commission initiated an investigation of Hernandez Grocery. On May 7, 2019, a Commission investigator presented a lottery ticket with a prize value of \$1,000 for validation at Hernandez Grocery. The clerks on duty, identified as Johanna Hernandez and Alfredo Hernandez, Jr., offered to purchase the winning ticket from the investigator for \$800.

**AGREED CONCLUSIONS OF LAW**

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

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

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

A person commits an offense if the person:

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

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

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

5. 16 Tex. Admin. Code §401.158 states, in pertinent parts:

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

...  
(33) licensee:

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

6. 16 Tex. Admin. Code §401.360 states:

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

7. 16 Tex. Admin. Code §401.366 states:

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



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

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

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

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

## MEMORANDUM OF AGREEMENT

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

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

3. Hernandez Grocery agrees that, as a result of its violation of Tex. Gov't Code §§ 466.310(a) and 466.402(b); and 16 Tex. Admin. Code §§ 401.158(b)(33), 401.360, and 401.366, its Ticket Sales Agent License will be suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Hernandez Grocery agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

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

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

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

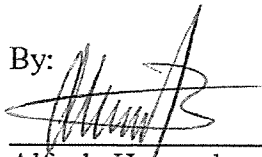
8. Hernandez Grocery agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Hernandez Grocery will be charged for tickets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

AGREED AS TO FORM AND SUBSTANCE:

Alfredo Hernandez  
d/b/a Hernandez Grocery

Texas Lottery Commission  
Lottery Operations Division

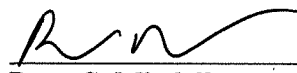
By:



Alfredo Hernandez  
Owner

7/13/2020  
DATE

By:



Ryan S. Mindell  
Director

7-13-2020  
DATE

**Commission Order No. 20-0061**

**Date: AUGUST 6, 2020**

**Case No. 2019-1014**

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE TEXAS</b>
	§	
<b>ALFREDO HERNANDEZ</b>	§	
<b>D/B/A HERNANDEZ GROCERY</b>	§	
	§	
<b>TEXAS LOTTERY TICKET SALES</b>	§	
<b>AGENT LICENSE NO. 137989</b>	§	<b>LOTTERY COMMISSION</b>

**CONSENT ORDER**

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

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Alfredo Hernandez d/b/a Hernandez Grocery's (Hernandez Grocery) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Hernandez Grocery shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

**Commission Order No. 20-0061**

**Date: AUGUST 6, 2020**

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

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

**Commission Order No. 20-0061**

**Date: AUGUST 6, 2020**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

MARK A. FRANZ, COMMISSIONER

---

ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER



Commission Order No. 20-0062

Date: AUGUST 6, 2020

Case No. 2020-131

IN THE MATTER OF	§	BEFORE THE TEXAS
	§	
WRANGLER GRANBURY LLC	§	
D/B/A WRANGLER	§	
	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 184305	§	LOTTERY COMMISSION

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and Wrangler Granbury LLC d/b/a Wrangler (Wrangler) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

**AGREED FINDINGS OF FACT**

1. Wrangler holds Texas Lottery Ticket Sales Agent License No. 184305.
2. Binod Aryal is a managing member of Wrangler, which is located at 2163 E. U.S. 377, Granbury, TX 76049.
3. On August 12, 2019, Mr. Aryal presented to the Fort Worth Claim Center for payment a Texas Lottery scratch ticket with a prize value of \$1,000. Based on an internal review, the Commission initiated an investigation into this claim.
4. On September 24, 2019, a Commission investigator spoke with Mr. Aryal who admitted to purchasing the prize-winning scratch ticket from a customer for less than its \$1,000 prize value.

**AGREED CONCLUSIONS OF LAW**

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



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

3. Tex. Gov't Code §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

- (1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or
- (2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

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

A person commits an offense if the person:

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

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

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

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

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

...

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

...

(33) licensee:

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

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

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

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

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

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

#### **MEMORANDUM OF AGREEMENT**

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

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

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

Wrangler agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

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

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

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

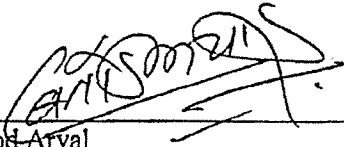
8. Wrangler agrees to provide all active and settled tickets to the Commission or to an IGT representative on or before the date the suspension begins. It further agrees that these active tickets will settle on the date the suspension begins, and Wrangler will be charged for tickets sold on or before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

AGREED AS TO FORM AND SUBSTANCE:

Wrangler Granbury LLC  
d/b/a Wrangler

Texas Lottery Commission  
Lottery Operations Division

By:



Binod Aryal  
Managing Member

DATE

03-24-2020

By:

*Ed Rogers for Ryan Mindell* 3.25.2020

Ryan S. Mindell  
Director

DATE

**Commission Order No. 20-0062**

**Date: AUGUST 6, 2020**

**Case No. 2020-131**

<b>IN THE MATTER OF</b>	§	<b>BEFORE THE TEXAS</b>
	§	
<b>WRANGLER GRANBURY LLC</b>	§	
<b>D/B/A WRANGLER</b>	§	
	§	
<b>TEXAS LOTTERY TICKET SALES</b>	§	
<b>AGENT LICENSE NO. 184305</b>	§	<b>LOTTERY COMMISSION</b>

**CONSENT ORDER**

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

(1) IT IS ORDERED by the Commission that, in lieu of revocation of Wrangler Granbury LLC d/b/a Wrangler's (Wrangler) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of ninety (90) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Wrangler shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

(3) IT IS FURTHER ORDERED by the Commission that if, after a formal hearing on the sole issue of compliance with this Consent Order, it is found that Wrangler has failed to comply

**Commission Order No. 20-0062**

**Date: AUGUST 6, 2020**

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

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

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

MARK A. FRANZ, COMMISSIONER

---

ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER



Commission Order No. 20-0063

Date: AUGUST 6, 2020

Case No. 2020-446

IN THE MATTER OF	§	BEFORE THE TEXAS
A M A CORPORATION	§	
D/B/A Kiest Market	§	
TEXAS LOTTERY TICKET SALES	§	
AGENT LICENSE NO. 130737	§	LOTTERY COMMISSION

**MEMORANDUM OF AGREEMENT AND CONSENT ORDER**

The Texas Lottery Commission (Commission) and A M A Corporation d/b/a Kiest Market (Kiest Market) make the following Agreed Findings of Fact, Agreed Conclusions of Law, and Memorandum of Agreement, and enter into this Consent Order.

**AGREED FINDINGS OF FACT**

1. Kiest Market holds Texas Lottery Ticket Sales Agent License No. 130737.
2. Mohammad Hejaz is an owner of Kiest Market, which is located at 3807 E. Kiest Blvd., Dallas, TX 75203.
3. On December 11, 2019, Amjad Hejaz, an employee of Kiest Market, presented a \$1,000 prize-winning Texas Lottery scratch ticket to the Dallas Claim Center for payment. Based on an internal review, the Commission initiated an investigation into this claim.
4. On February 28, 2020, a Commission investigator spoke with Amjad Hejaz, who admitted to purchasing the winning ticket from a customer for \$800.

**AGREED CONCLUSIONS OF LAW**

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



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

3. Tex. Gov't Code §466.308(a) states:

A person commits an offense if the person intentionally or knowingly:

- (1) claims a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation; or
- (2) aids or agrees to aid another person or persons to claim a lottery prize or a share of a lottery prize by means of fraud, deceit, or misrepresentation.

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

A person commits an offense if the person:

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

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

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

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

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

...

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

...

(33) licensee:

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

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

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

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

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

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

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

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

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

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

### **MEMORANDUM OF AGREEMENT**

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

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

3. Kiest Market agrees that, as a result of its violation of Tex. Gov't Code §§ 466.308(a), 466.310(a) and 466.402(b), and 16 Tex. Admin. Code §§ 401.158(b)(31) and (33), 401.360 and 401.366, its Ticket Sales Agent License will be suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Memorandum of Agreement and Consent Order is signed by the Commission. During the period of suspension, Kiest Market agrees that it will not sell Texas Lottery tickets of any kind, will not validate Texas Lottery tickets, and will not pay lottery prizes to customers.

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

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

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

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

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

AGREED AS TO FORM AND SUBSTANCE:

A M A Corporation  
d/b/a Kiest Market

Texas Lottery Commission  
Lottery Operations Division

By:

By:

Mohammad Hejaz 07-22-20  
Mohammad Hejaz DATE  
Owner

RSM 7-23-2020  
Ryan S. Mindell DATE  
Director

**Commission Order No. 20-0063**

**Date: AUGUST 6, 2020**

**Case No. 2020-446**

<b>IN THE MATTER OF</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
	<b>§</b>	
<b>A M A CORPORATION</b>	<b>§</b>	
<b>D/B/A Kiest MARKET</b>	<b>§</b>	
	<b>§</b>	
<b>TEXAS LOTTERY TICKET SALES</b>	<b>§</b>	
<b>AGENT LICENSE NO. 130737</b>	<b>§</b>	<b>LOTTERY COMMISSION</b>

**CONSENT ORDER**

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

(1) IT IS ORDERED by the Commission that, in lieu of revocation of A M A Corporation d/b/a Kiest Market's (Kiest Market) Texas Lottery Ticket Sales Agent License, the license is suspended for a period of thirty (30) consecutive days. The suspension period will begin within seven (7) days from the date this Consent Order is signed by the Commission. During the period of suspension, Kiest Market shall not sell Texas Lottery tickets of any kind, shall not validate Texas Lottery tickets, and shall not pay lottery prizes to customers.

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

**Commission Order No. 20-0063**

**Date: AUGUST 6, 2020**

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

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

**Commission Order No. 20-0063**

**Date: AUGUST 6, 2020**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

MARK A. FRANZ, COMMISSIONER

---

ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER





**Commission Order No. 20-0064**

**Date: AUGUST 6, 2020**

**DOCKET NO. 362-20-0062**

**TEXAS LOTTERY COMMISSION**

*Petitioner*

v.

**DINH T. CHAU**

**D/B/A TIMES MARKET #102**

**RETAILER LICENSE NO. 180968**

*Respondent*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**BEFORE THE TEXAS**

**LOTTERY COMMISSION**

**ORDER DENYING REHEARING**

To: Dinh T. Chau  
d/b/a Times Market #102  
107 Seadrift St.  
Port Lavaca, TX 77979

On June 11, 2020, the Texas Lottery Commission (Commission) entered a final order in the above-styled case. On June 25, Dinh T. Chau d/b/a Times Market #102 (Respondent) timely filed with the Commission by email a *Motion for Rehearing*, and on June 29 the Commission Executive Director issued an *Order Extending Time for Agency Action on Motion for Rehearing*. On August 6, during an open meeting in Austin, Texas, the Commission considered Respondent's *Motion for Rehearing* and after review and due consideration thereof:

IT IS ORDERED by the Commission that Respondent's *Motion for Rehearing* is DENIED.

**Commission Order No. 20-0064**

**Date: AUGUST 6, 2020**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

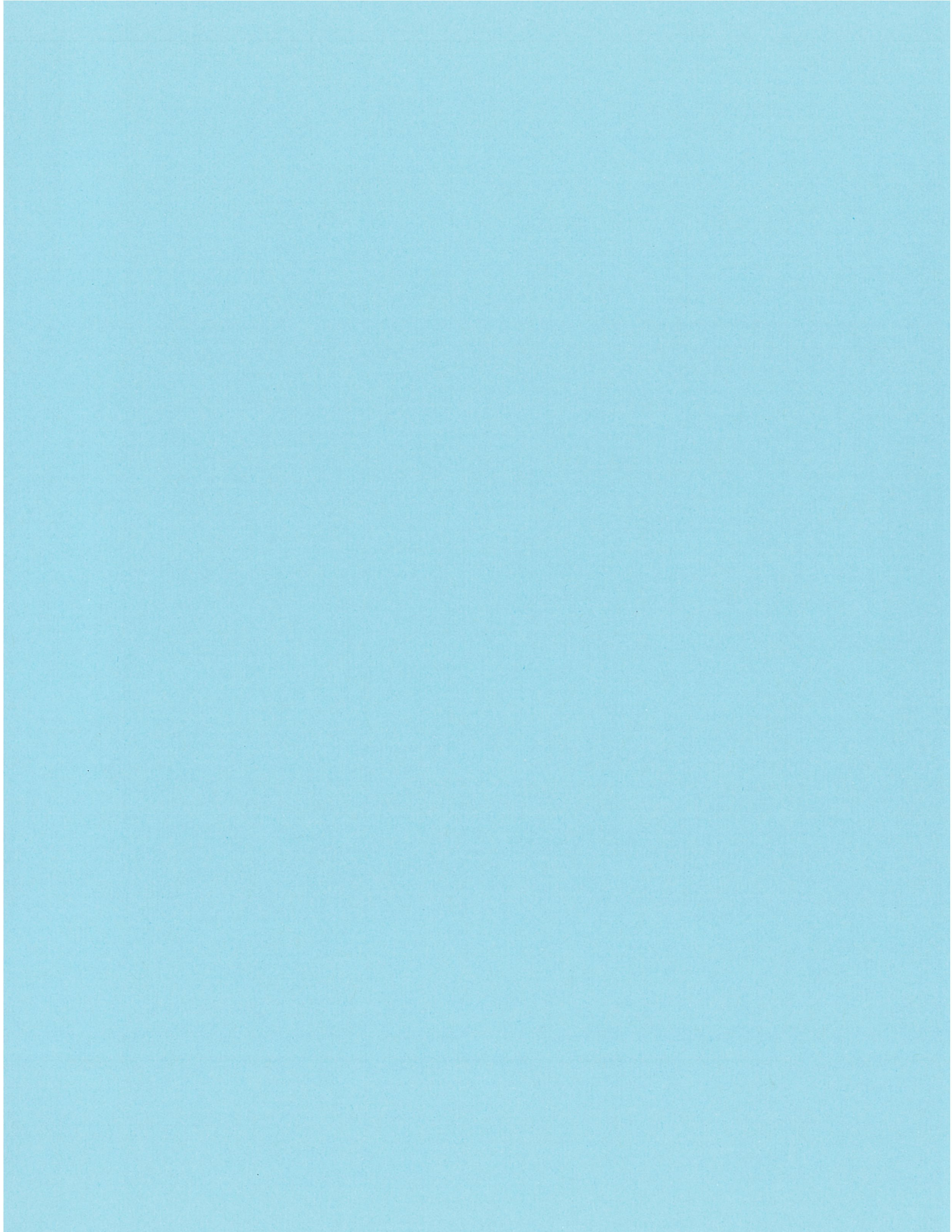
MARK A. FRANZ, COMMISSIONER

---

ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER



Date: JUNE 11, 2020

DOCKET NO. 362-20-0062

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
<i>Petitioner</i>	§	
	§	
v.	§	
	§	
DINH T. CHAU	§	
D/B/A TIMES MARKET #102	§	
TICKET SALES AGENT LICENSE	§	
NO. 180968	§	
<i>Respondent</i>	§	LOTTERY COMMISSION

ORDER OF THE COMMISSION

To: Dinh T. Chau  
d/b/a Times Market #102  
107 Seadrift St.  
Port Lavaca, TX 77979

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

In response to Commission staff’s exceptions, the ALJ amended PFD Conclusion of Law No. 9 to change the word “should” to “may”, as follows: “The Commission may impose a 10-day suspension of the lottery sales agent license of Respondent Dinh T. Chau d/b/a Times Market #102 based upon consideration of factors found at 16 Texas Administrative Code § 401.160(g)(1)-(10).” (Emphasis added.)

The Commission is not limited to the 10-day license suspension the ALJ identified. Pursuant to the State Lottery Act (SLA), the Commission’s rules at 16 Tex. Admin. Code

**Commission Order No. 20-0055**

**Date: JUNE 11, 2020**

§401.158(b)(27), and the Commission's standard penalty chart in 16 Tex. Admin. Code §401.160, the Commission may suspend a lottery retailer's Texas Lottery Ticket Sales Agent License for thirty (30) days for intentionally or knowingly selling a ticket and accepting a form of payment not specifically allowed under the SLA. In similar contested cases where a licensee has violated 16 Tex. Admin Code §401.158(b)(27), the Commission has suspended the retailer's license for thirty (30) days.

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

NOW, THEREFORE, IT IS ORDERED that the Texas Lottery Ticket Sales Agent License of Dinh T. Chau d/b/a Times Market #102 is hereby suspended for thirty (30) days.

Commission Order No. 20-0055

Date: JUNE 11, 2020

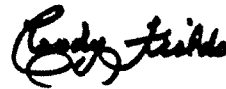
Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 11<sup>TH</sup> day of JUNE, 2020.

Entered this 11<sup>TH</sup> day of JUNE, 2020.



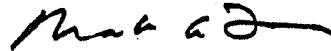
---

J. WINSTON KRAUSE, CHAIRMAN



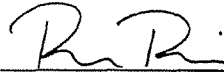
---

CINDY FIELDS, COMMISSIONER



---

MARK A. FRANZ, COMMISSIONER



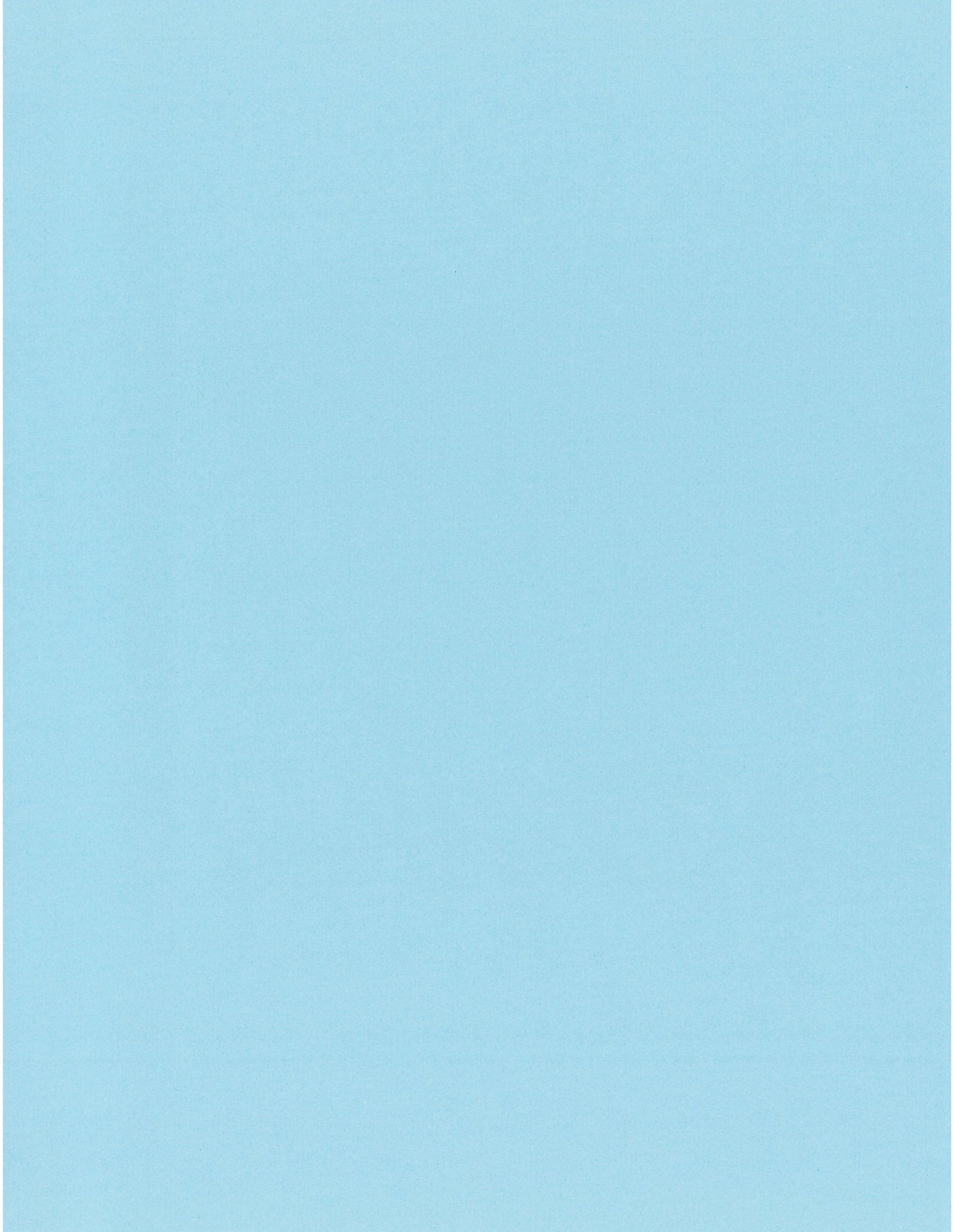
---

ROBERT RIVERA, COMMISSIONER



---

ERIK C. SAENZ, COMMISSIONER





## Carson, Dorota

---

**From:** Dinh Chau <chaumanagement@yahoo.com>  
**Sent:** Friday, July 3, 2020 11:55 AM  
**To:** Carson, Dorota  
**Cc:** Guthrie, Kristen  
**Subject:** Re: Times Market #102 (SOAH Docket No. 362-20-0062)

**CAUTION: This email originated outside the Texas Lottery's email system.  
DO NOT click links or open attachments unless you expect them from the sender and know the content is safe.**

Dear Ms. Carson,

We would like to appeal the case above is the reason after review the camera.

Tammy Bobby is not playing the the eight liner therefore we are re fund her money.

When she come and sit down to play, she insert \$30.00 to play. After I told her that we are not paying and left the store to pick up my daughter.

Tammy tell my son to refund her money of exactly \$30.00 that she just insert into the machine.

Therefore, technically Tammy is not playing the eight liner so we had to refund her money so she can buy whatever she wants which she choose to buy scratch off ticket.

If Tammy playing the machine the amount is never be exactly \$30.00 Therefore, she was not playing the machine but accidentally insert and would like the money back.

We are looking forward to hear from your re-consideration.

Best Regards,

Dinh Chau

On Wednesday, July 1, 2020, 10:50:38 AM CDT, Carson, Dorota <dorota.carson@lottery.state.tx.us> wrote:

Mr. Chau—

Good morning. Please see attached the Commission's response to your motion for rehearing, and an Order Extending Time for Agency Action on Motion for Rehearing. I put both documents in the mail today (send by certified and regular mail).

Please don't hesitate to contact Ms. Kristen Guthrie at 512.344.5475 if you have any questions.

Thank you,

Dorota

## Carson, Dorota

---

**From:** Dinh Chau <chaumanagement@yahoo.com>  
**Sent:** Wednesday, July 1, 2020 2:42 PM  
**To:** Carson, Dorota  
**Subject:** Re: Times Market #102 (SOAH Docket No. 362-20-0062)

**CAUTION: This email originated outside the Texas Lottery's email system.  
DO NOT click links or open attachments unless you expect them from the sender and know the content is safe.**

Dear Ms, Carson,

The main reason to appeal is that Tammy Bobby is not playing the eight liner she just insert the money into the eight liner and want to get the credit of not involve playing and would like to refund the money and using those refund money to exchange for the scratch off tickets. Therefore, we believe that is a main reason to appeal the case. Thanks.

Dinh Chau

On Wednesday, July 1, 2020, 10:50:38 AM CDT, Carson, Dorota <dorota.carson@lottery.state.tx.us> wrote:

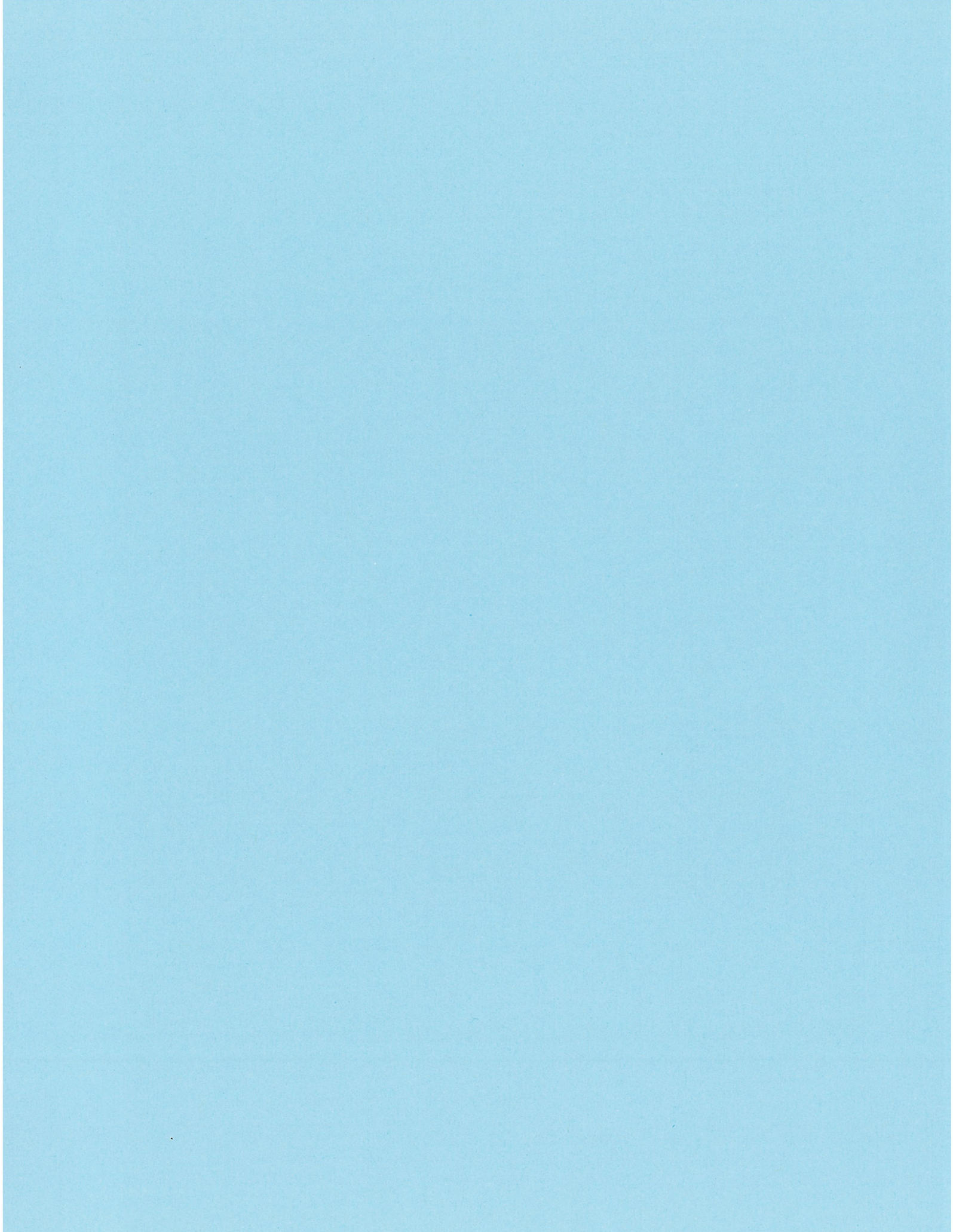
Mr. Chau—

Good morning. Please see attached the Commission's response to your motion for rehearing, and an Order Extending Time for Agency Action on Motion for Rehearing. I put both documents in the mail today (send by certified and regular mail).

Please don't hesitate to contact Ms. Kristen Guthrie at 512.344.5475 if you have any questions.

Thank you,

Dorota



Commissioners:

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



# TEXAS LOTTERY COMMISSION

Gary Grief, *Executive Director*

Tom Hanson, *Charitable Bingo Operations Director*

July 1, 2020

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

Texas Lottery Commission  
P.O. Box 16630  
Austin, TX 78761-6630

**RE: SOAH Docket No. 362-20-0062, *Texas Lottery Commission v. Dinh T. Chau d/b/a Times Market #102***

Commissioners:

On June 11, 2020, the Texas Lottery Commission (Commission) issued a final Order in the above-referenced matter, and on June 25 Respondent Dinh T. Chau d/b/a Times Market #102 emailed the Commission a request to "appeal the case" (Attachment A), which Commission staff interprets as the substantive equivalent of a motion for rehearing.

Respondent's request raises no new issues of fact or law that were not previously considered in this proceeding. Further, the request fails to identify with particularity findings of fact or conclusions of law that are the subject of the complaint and identifies no evidentiary or legal ruling claimed to be erroneous, as required by statute and the Commission's rules. The request also fails to state the legal and factual basis for any claimed error. Consequently, the request does not comply with the motion for rehearing requirements set forth in Tex. Gov't Code §2001.146(g) and the Commission's rules at 16 TAC §401.220 (Motion for Rehearing).

Therefore, Commission staff respectfully requests that the Commission deny Respondent's request.

Sincerely,

/s/ Kristen Guthrie

Kristen Guthrie  
Assistant General Counsel

Enclosure(s)

cc:

State Office of Administrative  
Hearings

*via eFiling for Texas*

Dinh T. Chau  
d/b/a Times Market #102  
107 Seadrift St.  
Port Lavaca, TX 77979

*via certified and regular mail*  
*via chaumanagement@yahoo.com*

## Carson, Dorota

---

**From:** Carson, Dorota  
**Sent:** Wednesday, July 1, 2020 8:08 AM  
**To:** Carson, Dorota  
**Subject:** FW: Times Market #102: motion for rehearing

---

**From:** Dinh Chau <[chaumanagement@yahoo.com](mailto:chaumanagement@yahoo.com)>  
**Sent:** Thursday, June 25, 2020 2:51 PM  
**To:** Carson, Dorota <[Dorota.Carson@lottery.state.tx.us](mailto:Dorota.Carson@lottery.state.tx.us)>; Guthrie, Kristen <[Kristen.Guthrie@lottery.state.tx.us](mailto:Kristen.Guthrie@lottery.state.tx.us)>  
**Cc:** Dinh Chau <[chaumanagement@yahoo.com](mailto:chaumanagement@yahoo.com)>  
**Subject:** Re: Times Market #102: Order of the Commission 6.11.20

**CAUTION:** This email originated outside the Texas Lottery's email system.  
**DO NOT** click links or open attachments unless you expect them from the sender and know the content is safe.

Dear Ms. Guthrie,

We would like to appeal the case in the following reasons:

1. We are not intentionally to exchange the scratch off tickets for the credits of eight liner.
2. We have post the sign at location that the eight liner play for entertainment fun only and the credit for gifts; not lotto or scratch off tickets.
3. We have verbally notified Tammy Bobby who is the player but also investigator that the eight liner play for fun only.
4. Tammy technically is not playing the game but just insert \$30.00 then told my son Dinh Diamond to give her out which she said she has 30000 credit points which is not correct there is only 3000 points for \$30.00 that she just insert.
5. Based on reasons above, we believe that we have done nothing wrong but Tammy using the trap and build the case up taking advance while I was absent for a moment to pick up my daughter at the that time.

We are looking forward to hearing from you. Thank you.

Best Regards,

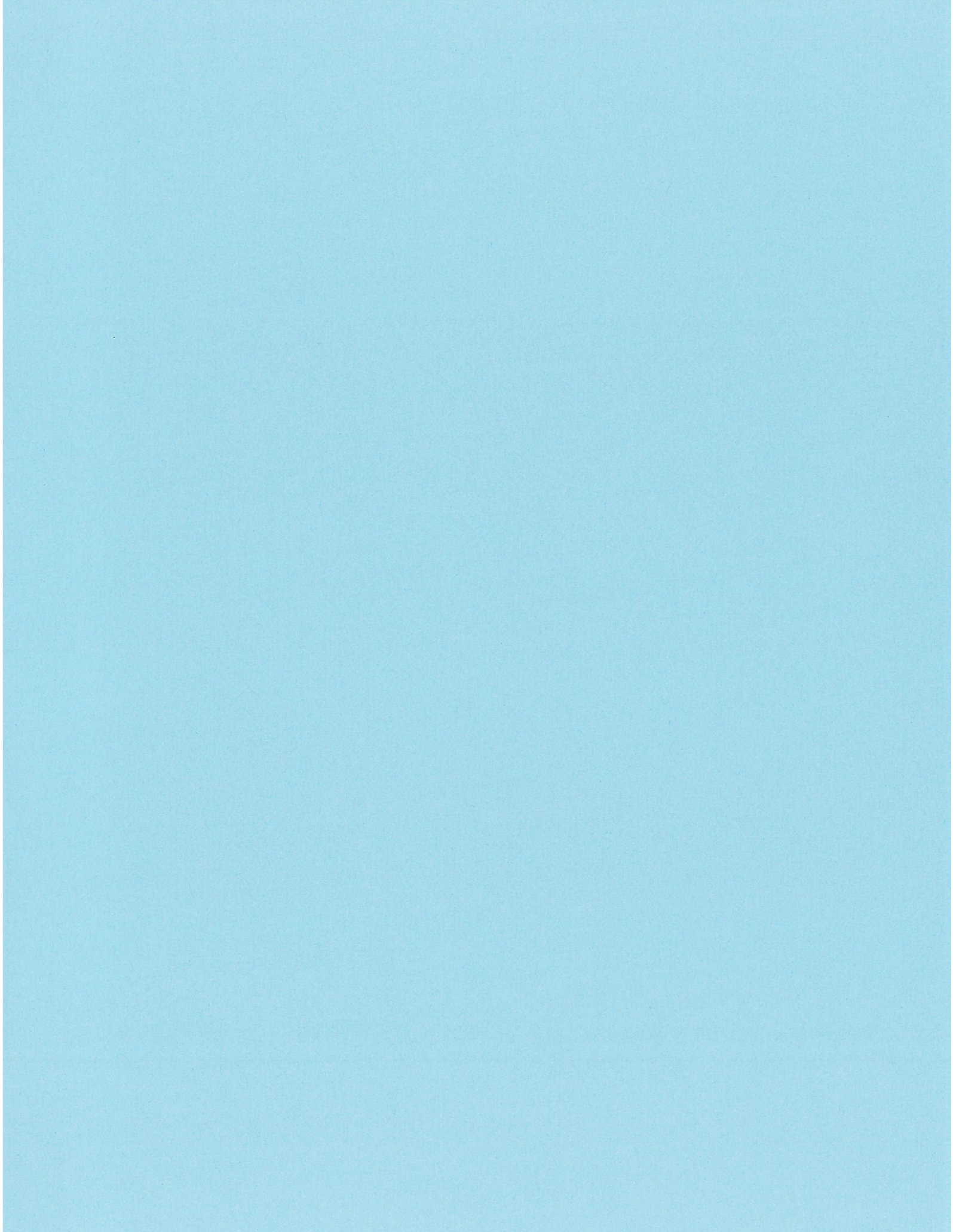
Dinh Chau

On Tuesday, June 16, 2020, 09:45:04 AM CDT, Carson, Dorota <[dorota.carson@lottery.state.tx.us](mailto:dorota.carson@lottery.state.tx.us)> wrote:

Mr. Chau—

Good morning. Please see the attached order and don't hesitate to call or email if you have any questions.

Thank you,





Commissioners:

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



# TEXAS LOTTERY COMMISSION

Gary Grief, Executive Director

Tom Hanson, Charitable Bingo Operations Director

June 29, 2020

Dinh T. Chau  
d/b/a Time Market #102  
107 Seadrift St.  
Port Lavaca, TX 77979

*via regular mail*  
*via chaumanagement@yahoo.com*

Mrs. Kristen Guthrie  
Assistant General Counsel  
Texas Lottery Commission  
P.O. Box 16630  
Austin, TX 78761-6630

*via kristen.guthrie@lottey.state.tx.us*

**RE: SOAH Docket No. 362-20-0062, Texas Lottery Commission v. Dinh T. Chau, d/b/a Times Market #102, Order Extending Time for Agency Action on Motion for Rehearing**

To the Parties:

On June 25, 2020, Dinh T. Chau d/b/a Times Market #102 (Respondent) filed with the Texas Lottery Commission (Commission) by email a Motion for Rehearing (Motion) in the above-referenced matter. If the Commission does not act on the Motion on or before August 5, 2020 (the 55th day after the date the Order of the Commission adopting the State Office of Administrative Hearings Proposal for Decision was entered by the Commission on June 11, 2020), the Motion will be overruled by operation of law. The next regularly scheduled meeting of the Commission is anticipated to be after August 5, 2020.

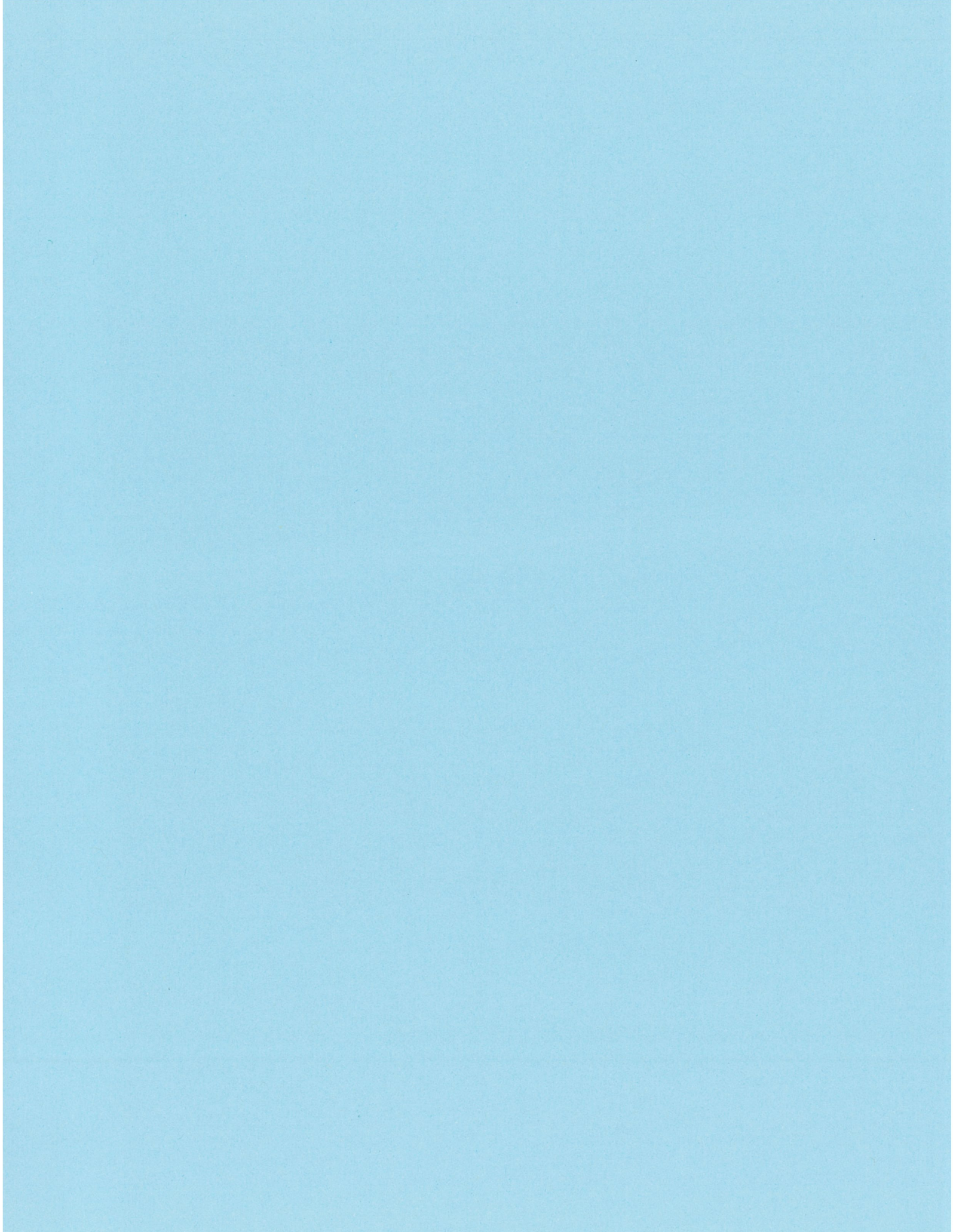
Therefore, pursuant to 16 Tex. Admin. Code §401.220, and to allow the Commission sufficient time to act on the Motion, the deadline for the Commission to act on Respondent's Motion is hereby extended for an additional 45 days, for a total of 100 days after June 11, 2020 (September 19, 2020).

Sincerely,

A handwritten signature in cursive script that reads "Gary Grief".

Gary Grief  
Executive Director

cc: State Office of Administrative Hearings (Docketing Division)



## Carson, Dorota

---

**From:** Dinh Chau <chaumanagement@yahoo.com>  
**Sent:** Thursday, June 25, 2020 2:51 PM  
**To:** Carson, Dorota; Guthrie, Kristen  
**Cc:** Dinh Chau  
**Subject:** Re: Times Market #102: Order of the Commission 6.11.20

**CAUTION: This email originated outside the Texas Lottery's email system.  
DO NOT click links or open attachments unless you expect them from the sender and know the content is safe.**

Dear Ms. Guthrie,

We would like to appeal the case in the following reasons:

1. We are not intentionally to exchange the scratch off tickets for the credits of eight liner.
2. We have post the sign at location that the eight liner play for entertainment fun only and the credit for gifts; not lotto or scratch off tickets.
3. We have verbally notified Tammy Bobby who is the player but also investigator that the eight liner play for fun only.
4. Tammy technically is not playing the game but just insert \$30.00 then told my son Dinh Diamond to give her out which she said she has 30000 credit points which is not correct there is only 3000 points for \$30.00 that she just insert.
5. Based on reasons above, we believe that we have done nothing wrong but Tammy using the trap and build the case up taking advance while I was absent for a moment to pick up my daughter at the that time.

We are looking forward to hearing from you. Thank you.

Best Regards,

Dinh Chau

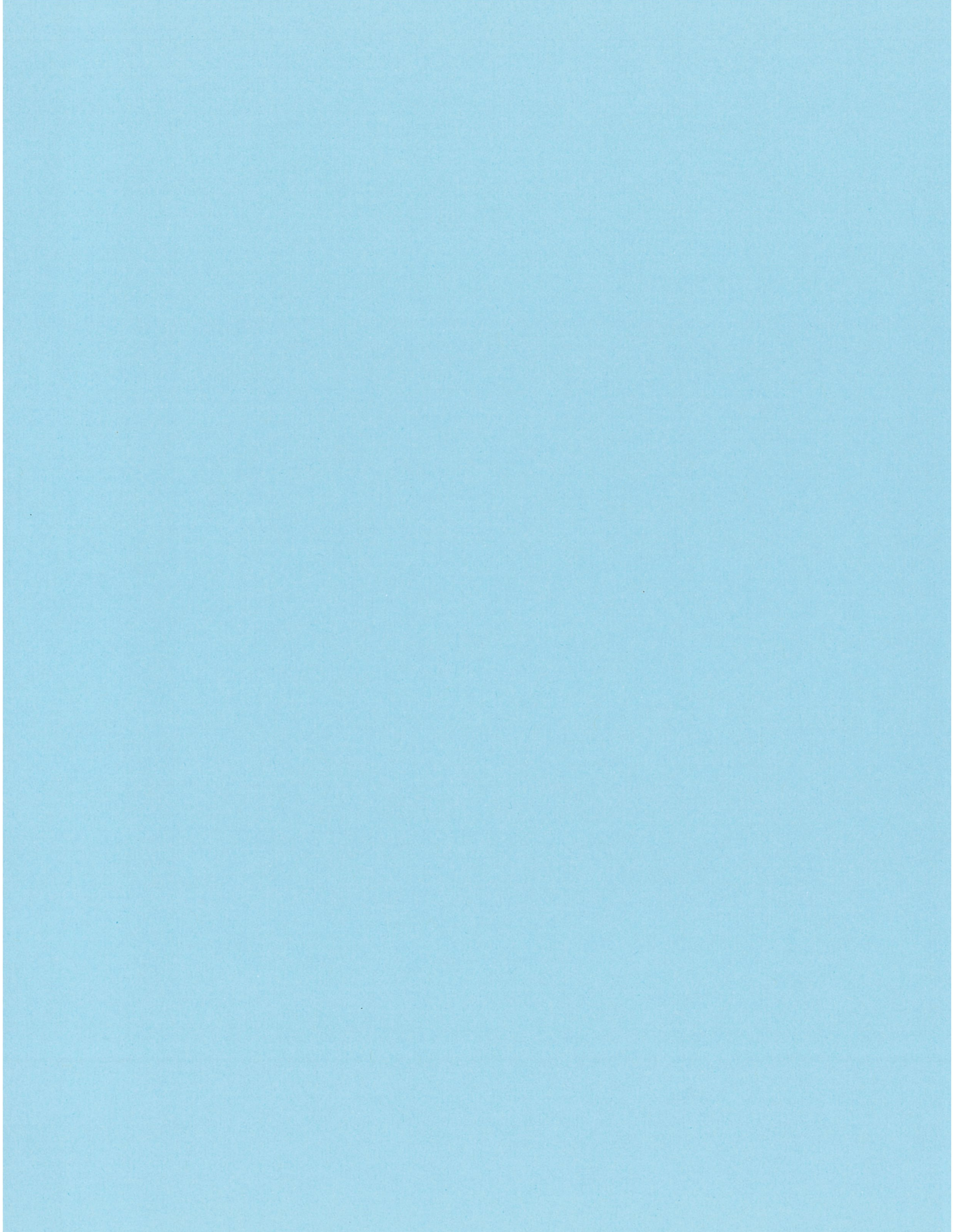
On Tuesday, June 16, 2020, 09:45:04 AM CDT, Carson, Dorota <dorota.carson@lottery.state.tx.us> wrote:

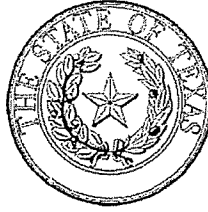
Mr. Chau—

Good morning. Please see the attached order and don't hesitate to call or email if you have any questions.

Thank you,

Dorota





# State Office of Administrative Hearings

Kristofer Monson  
Chief Administrative Law Judge

March 26, 2020

Kristen Guthrie  
Assistant General Counsel  
Texas Lottery Commission  
P.O. Box 16660  
Austin, Texas 78761-6660

**VIA EFILE TEXAS**

**RE: Docket No. 362-20-0062; Texas Lottery Commission v. Dinh T. Chau, d/b/a Times Market #102**

Dear Ms. Guthrie:

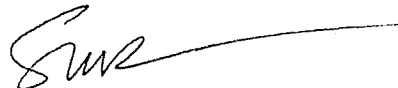
On October 23, 2020, the undersigned Administrative Law Judge (ALJ) convened a hearing on the merits in the above-referenced matter, and the record closed on November 22, 2019. On January 23, 2020, the ALJ issued a Proposal for Decision (PFD), and on February 10, 2020, Staff for Texas Lottery Commission filed exceptions to the PFD. Respondent, Dinh T. Chau d/b/a Times Market #102, did not file a response to Staff's exceptions.

In its Exceptions, Staff asserted the ALJ erred by proposing a sanction (10-day license suspension) within the PFD's Conclusion of Law No. 9, which states: The Commission should impose a 10-day suspension of the lottery sales agent license of [Respondent]. The ALJ agrees with Staff's exception to the extent that a Conclusion of Law should not contain *proposal-type* language. However, the ALJ maintains that a 10-day license suspension is an appropriate sanction in this matter. As such, the ALJ amends the PFD as follows:

Conclusion of Law No. 9. The Commission may impose a 10-day suspension of the lottery sales agent license of Respondent Dinh T. Chau d/b/a Times Market #102 based upon consideration of factors found at 16 Texas Administrative Code § 401.160(g)(1)-(10).

No other changes to the PFD are recommended at this time.

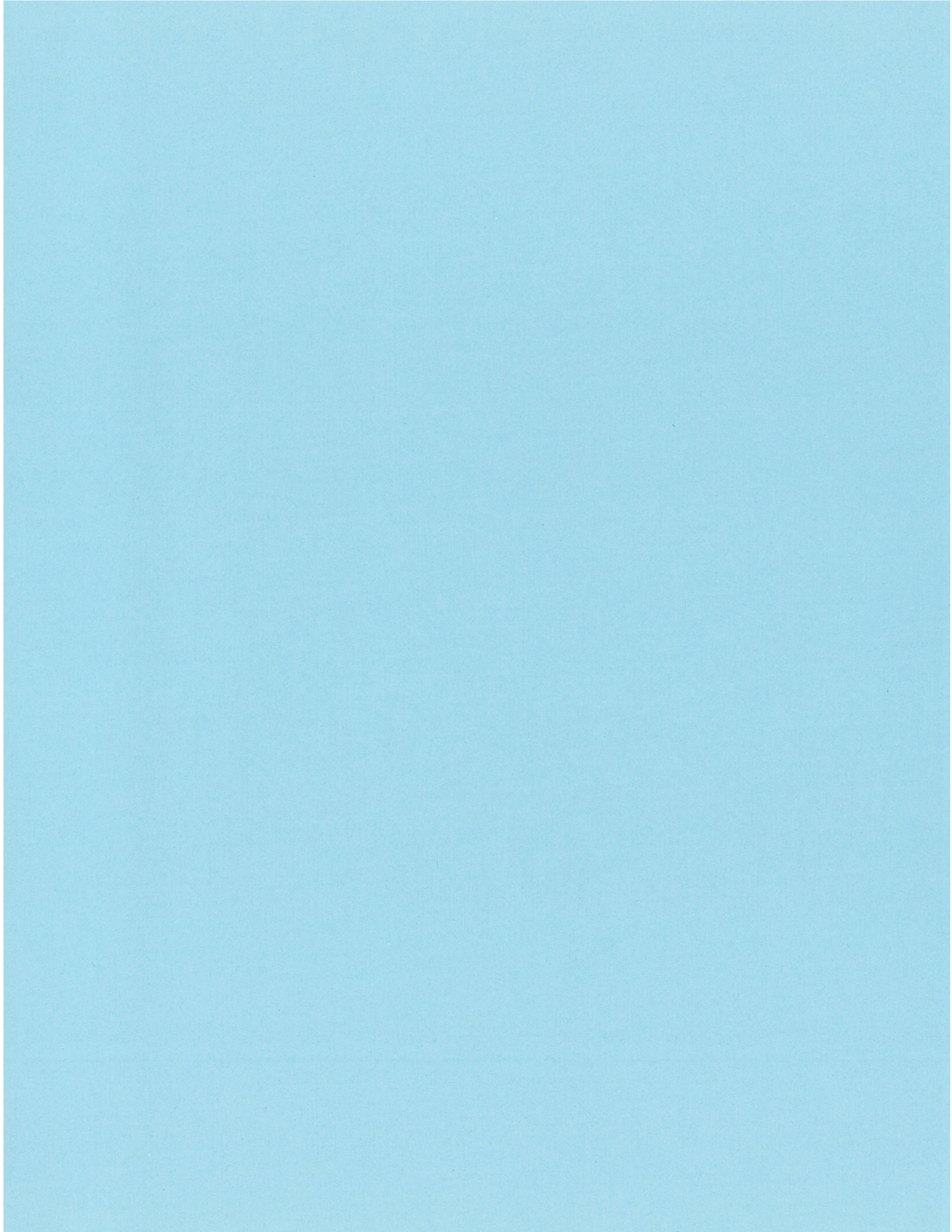
Sincerely,



Steven M. Rivas  
Administrative Law Judge

SR/nm  
Enclosure  
xc:

Dinh T. Chau, d/b/a Times Market #102, 107 Seadrift Street, Port Lavaca, TX 77979: - **VIA REGULAR MAIL**



**SOAH DOCKET NO. 362-20-0062**

<b>TEXAS LOTTERY COMMISSION</b> <i>Petitioner</i>	§ § § § § § § §	<b>BEFORE THE STATE OFFICE</b>  <b>OF</b>  <b>ADMINISTRATIVE HEARINGS</b>
v.  <b>DINH T. CHAU</b> <b>D/B/A TIMES MARKET #102</b> <i>Respondent</i>		

---

**TEXAS LOTTERY COMMISSION’S EXCEPTIONS TO THE ADMINISTRATIVE  
LAW JUDGE’S PROPOSAL FOR DECISION**

---

The Texas Lottery Commission (Commission) hereby files these *Exceptions to the Administrative Law Judge’s Proposal for Decision*.

**I. Background.**

After a contested case hearing on October 23, 2019, the Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD) in which he found Dinh T. Chau d/b/a Times Market #102 (Respondent) violated Tex. Gov’t Code §466.3052(a) and 16 Tex. Admin. Code §401.158(b)(27) by intentionally or knowingly selling a ticket and accepting a form of payment not specifically allowed under the State Lottery Act (Act).

Applying the penalty guidelines of Tex. Gov’t Code ch. 466 and 16 Tex. Admin. Code §401.160(g), Commission staff asked the ALJ to recommend the suspension of Respondent’s license for thirty (30) days. Instead of making a recommendation as to an appropriate sanction, the ALJ made the following conclusion of law:

9. The Commission should impose a 10-day suspension of the lottery sales agent license of Dinh T. Chau d/b/a Times Market #102. Texas. 16 Tex. Admin. Code § 401.160.

Commission staff takes exception to Conclusion of Law No. 9. The Commission welcomes



recommendations of the ALJ as to appropriate sanctions, but a proposed sanction is not a proper conclusion of law. With due respect, the proposed sanction being styled as a conclusion of law purports to usurp the Commission's discretion to determine the appropriate sanction.

**II. Public Policy Favors a 30-Day Suspension, which is Within the Penalty Guidelines for a First-Time Occurrence of Accepting an Unauthorized Form of Payment for a Lottery Ticket.**

The Act prohibits accepting payment for lottery tickets in anything but a few limited forms of currency.<sup>1</sup> In this case, Respondent's clerk sold six (6) Texas Lottery scratch tickets worth \$5 each in exchange for a 30,000-point ticket voucher (worth \$30) from an 8-liner gambling device located inside the store. In fact, the clerk was found guilty under the Act for violating Tex. Gov't Code §466.3052(a) in the Justice of the Peace, Precinct 1, Place 1, Calhoun County, Texas, and received deferred adjudication. Prior to this transaction, the Commission received information that Respondent repeatedly allowed customers to exchange their 8-liner gaming machine winning vouchers for Texas Lottery tickets. Therefore, public policy and welfare considerations support a 30-day suspension as the appropriate penalty to deter the unlawful behavior in this case. The 30 day-suspension is clearly within the provisions of the Commission's penalty chart, which allows for a ninety (90) day suspension, or even revocation, for a first-time violation of 16 Tex. Admin. Code §401.158(b)(27).<sup>2</sup>

The Act does not authorize the Commission to assess monetary penalties against licensed retailers, nor does it authorize the Commission to take enforcement action against lottery players or the general public. The only tools at the Commission's disposal to deter the unlawful behavior

---

<sup>1</sup> Tex. Gov't Code §466.3052(a).

<sup>2</sup> 16 Tex. Admin. Code §401.160 (10-90 day Suspension to Revocation for the 1st occurrence violation of Tex. Gov't Code §466.3052(a)).

presented in this case are license suspension and license revocation. The Commission, as the state agency mandated by the Legislature to exercise strict control and close supervision over all lottery games to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery,<sup>3</sup> believes the only effective way to fulfill its mandate to deter this behavior and to spread the message to the retailer community is to impose a suspension longer than ten (10) days. The Commission's recommendation conforms to the Act and the standard penalty chart in 16 Tex. Admin. Code §401.160(g).

### III. Exception to Conclusion of Law No. 9.

The Commission staff takes further exception to the ALJ's proposed Conclusion of Law No. 9, which states, "The Commission should impose a 10-day suspension of the lottery sales agent license of Dinh T. Chau d/b/a Times Market #102. Texas. 16 Tex. Admin. Code § 401.160." Proposed Conclusion of Law No. 9 is actually a recommendation as to what is an appropriate sanction, not a conclusion of law. Under Texas law, "A recommendation for sanctions is not a finding of fact or conclusion of law."<sup>4</sup> "The mere labeling of a recommended sanction as a finding" does not bind an agency.<sup>5</sup> An "ALJ's proposed conclusions of law were not conclusions but recommended sanctions and while the ALJ may recommend a sanction, it is up to the [agency] to determine appropriate sanctions."<sup>6</sup> "An Agency has broad discretion in determining which sanctions best serve statutory policies committed to agency's oversight."<sup>7</sup> "The choice of penalty

---

<sup>3</sup> Tex. Gov't Code §466.014(a).

<sup>4</sup> See F. Scott McCown & Monica Leo, *When Can an Agency Change the Findings or Conclusions of an ALJ?; Part Two*, 51 BAYLOR L. REV. 63 (1999).

<sup>5</sup> *Grotti v. Texas State Bd. of Medical Examiners* No. 03-04-00612-CV, 2005 WL 2464417, at 9 (Tex. App.—Austin, October 6, 2005).

<sup>6</sup> *Texas State Bd. of Dental Examiners v. Brown*, 281 S.W.3d 692, 699 (Tex. App.—Corpus Christi, 2009).

<sup>7</sup> *Fay-Ray Corp. v. Texas Alcoholic Beverage Com'n*, 959 S.W.2d 362, 369 (Tex. App.—Austin, 1998).

is vested in the agency, not in the courts.”<sup>8</sup> “The agency is charged by law with discretion to fix the penalty when it determines that the statute has been violated.”<sup>9</sup>

“The mere labeling of a recommended sanction as a conclusion of law or as a finding of fact does not change the effect of the ALJ’s recommendation.”<sup>10</sup> Because Tex. Gov’t Code §2001.058(e) restricts the Commission’s ability to change a conclusion of law, the PFD, by characterizing the 10-day suspension as a conclusion of law, calls into question the Commission’s lawful discretion to deviate from the ALJ’s recommended sanction and determine a penalty. The Commission may lawfully disagree with the ALJ on the severity of the violation.

#### IV. Conclusion

For the reasons stated above, the Commission respectfully requests that the ALJ either (1) issue an Amended Proposal for Decision removing Conclusion of Law No. 9, or (2) restyle Conclusion of Law No. 9 as a recommended sanction of a 30-day suspension.

Respectfully submitted,

/s/ Kristen Guthrie  
Kristen Guthrie  
Assistant General Counsel  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630  
Telephone: (512) 344-5475  
Facsimile: (512) 344-5189

---

<sup>8</sup> *Sears v. Tex. State Bd. of Dental Examiners*, 759 S.W.2d 748, 751 (Tex. App.—Austin 1988, no writ).

<sup>9</sup> *Id.*

<sup>10</sup> *Texas State Bd. of Dental Examiners v. Brown* 281 S.W.3d 692, 697 (Tex. App.—Corpus Christi, 2009).

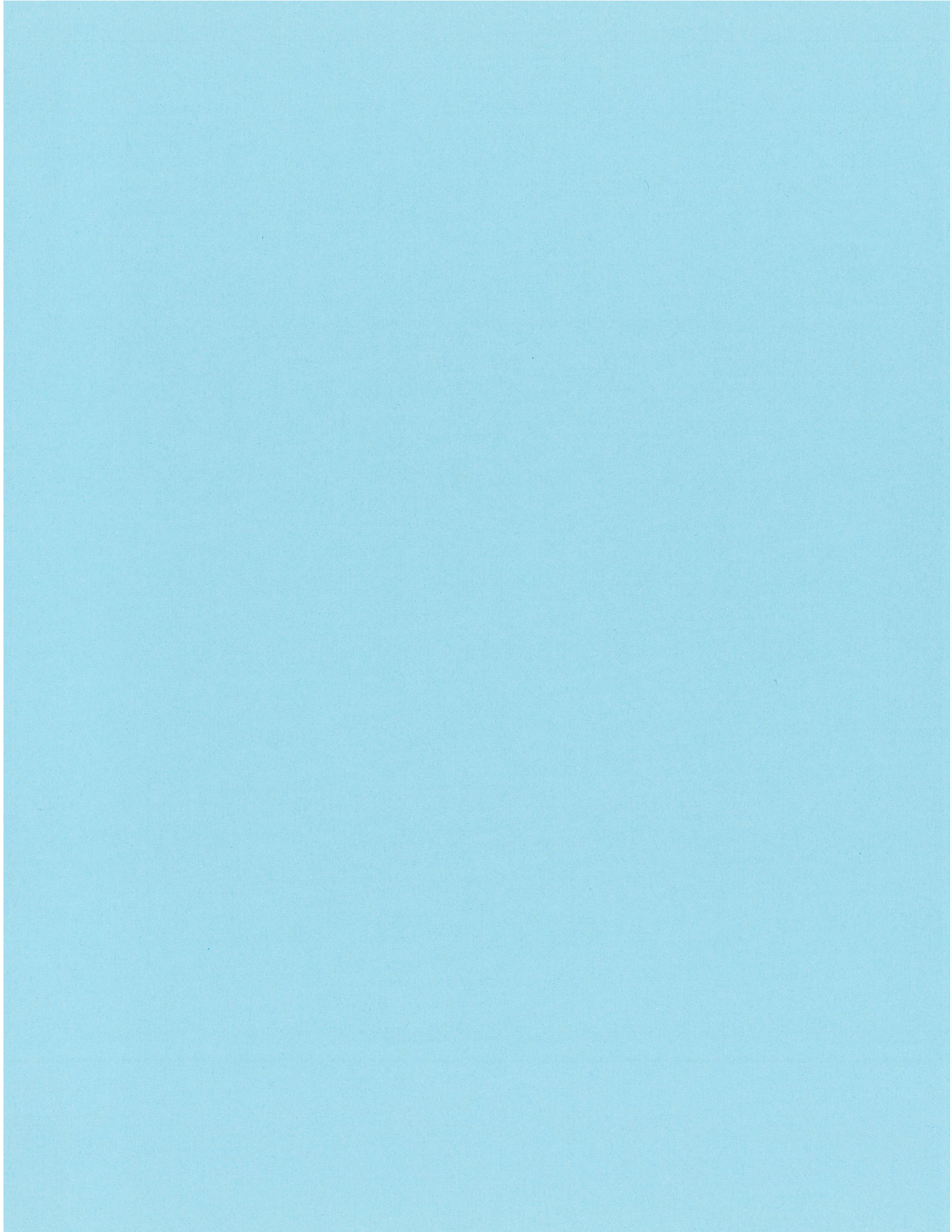
**CERTIFICATE OF SERVICE**

I certify that on February 10, 2020, a true and correct copy of the *Texas Lottery Commission's Exceptions to the Administrative Law Judge's Proposal for Decision* was served on the following individuals at the locations and in the manner indicated below.

Dinh T. Chau  
d/b/a Times Market #102  
107 Seadrift St.  
Port Lavaca, TX 77979

*via regular mail*  
*via email at chaumanagement@yahoo.com*

/s/ Kristen Guthrie  
Kristen Guthrie  
Assistant General Counsel





# State Office of Administrative Hearings

Kristofer Monson  
Chief Administrative Law Judge

January 27, 2020

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

VIA EMAIL

**RE: Docket No. 362-20-0062; Texas Lottery Commission v. Dinh T. Chau,  
d/b/a Times Market #102, License No.180968]**

Dear Mr. Grief:

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "S.M. Rivas".

Steven M. Rivas  
Administrative Law Judge

SR/nm

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6<sup>th</sup>, Austin Texas 78701 - VIA EMAIL  
Dinh T. Chau, d/b/a: Times Market #102, 107 Seadrift St., Port Lavaca, TX 77979 - VIA REGULAR MAIL

P.O. Box 13025 Austin, Texas 78711-3025 | 300 W. 15<sup>th</sup> Street Austin, Texas 78701  
Phone: 512-475-4993 | Fax: 512-475-4994  
[www.soah.texas.gov](http://www.soah.texas.gov)

SOAH DOCKET NO. 362-20-0062

TEXAS LOTTERY COMMISSION	§	BEFORE THE STATE OFFICE
	§	
v.	§	OF
	§	
DINH T. CHAU	§	
D/B/A TIMES MARKET # 102,	§	ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

Staff of the Texas Lottery Commission (Commission) requested a 30-day suspension of the lottery sales agent's license No. 180968 held by Dinh T. Chau d/b/a Times Market #102 (Licensee). Staff contends that an employee of Licensee knowingly and intentionally accepted prize credit vouchers issued by an 8-liner gambling device as payment for lottery tickets in violation of Texas Government Code § 466.3052(a) and 40 Texas Administrative Code § 401.158(b)(27). The Administrative Law Judge (ALJ) finds that Staff proved the allegation but recommends a 10-day license suspension.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

On October 23, 2019, ALJ Steven M. Rivas convened a hearing on the merits at the State Office of Administrative Hearings in Austin, Texas. Kristin Guthrie, Assistant General Counsel, represented Staff. Dinh T. Chau appeared on behalf of Licensee. The hearing adjourned and the ALJ held the record open until November 22, 2019, to allow Staff an opportunity to address the legality of 8-liner gambling devices.

Neither party objected to notice or jurisdiction. Therefore, those matters are set out in the findings of fact and conclusions of law without further discussion here.

## II. APPLICABLE LAW

The Commission's director may issue a license to a person only if the director finds that the person's experience, character, and general fitness are such that the person's participation as a sales agent will not detract from the integrity, security, honesty, and fairness of the operation of the lottery.<sup>1</sup> After a hearing, the commission shall suspend or revoke a license if the commission finds that the sales agent has violated this chapter or a rule adopted under this chapter.<sup>2</sup> At a hearing, the sales agent must show by a preponderance of the evidence why the license should not be suspended or revoked.<sup>3</sup>

Under Texas Government Code § 466.3052(a): A person commits an offense if the person intentionally or knowingly sells a ticket and the person accepts anything other than the following as payment for the ticket:

- (1) United States currency;
- (2) a negotiable instrument in the form of a check that meets the requirements of § 3.104, Business & Commerce Code;
- (3) a debit made through a financial institution debit card;
- (4) a coupon or voucher issued by the commission for purposes of purchasing a lottery ticket; or
- (5) a mail order subscription on a mail order subscription form authorized by the commission.<sup>4</sup>

Without limiting the Commission's ability to consider factors in § 401.153(b), the Commission may suspend or revoke a retailer's license if the licensee intentionally or knowingly sells a ticket and accepts anything for payment not specifically allowed under the State Lottery Act.<sup>5</sup>

---

<sup>1</sup> Tex. Gov't Code § 466.151(e).

<sup>2</sup> Tex. Gov't Code § 466.155(a)(5). Texas Government Code § 466.155 was revised effective June 7, 2019. This Proposal for Decision cites the Code in effect during the time in which the alleged conduct occurred.

<sup>3</sup> Tex. Gov't Code § 466.155(c).



Each retailer agrees to operate in a manner consistent with the State Lottery Act, and applicable federal laws, Texas laws, local ordinances, with all terms and conditions related to the retailer's license, with all requirements set forth in the most recent Retailer Manual, the rules and regulations promulgated by the commission, and with his/her or its license agreements with the Texas Lottery.<sup>6</sup> The Commission imposes penalties, including suspensions and revocations, in accordance with 16 Texas Administrative Code § 401.160. A repeat violation by a licensee justifies the penalty for a second or third violation if it occurs within 12 months of the first violation, and need not be the same or similar in nature to previous violations to be considered repeat violations.<sup>7</sup>

### III. DISCUSSION

#### A. Evidence

##### 1. Staff's Case

Staff offered seven exhibits into evidence, which were admitted, including the notice of administrative hearing and evidence relating to the violations.<sup>8</sup> Staff also presented the testimony of Tammy Boddy, Department investigator, and Nancy Guerra, retail services specialist.

Ms. Boddy testified that on April 15, 2019, she conducted an undercover investigation at Licensee's store Times Market #102 located at 107 Seadrift Street, in Port Lavaca, Texas.

Ms. Boddy testified that, while at the store, she played an electronic gambling device referred to as an 8-liner. Ms. Boddy stated that after several minutes, her winnings totaled 30,000 in credit points.

---

<sup>4</sup> Per Texas Government Code § 466.3052(b), an offense under this section is a Class C misdemeanor.

<sup>5</sup> 16 Tex. Admin. Code § 401.158(b)(27).

<sup>6</sup> 16 Tex. Admin. Code § 401.366.

<sup>7</sup> 16 Tex. Admin. Code § 401.160(b).

Ms. Boddy said she then pushed the ticket button on the machine and it produced a ticket voucher reflecting 30,000 credit points, which she could use to purchase \$30 worth of items from the store. She then took the voucher to the front counter and asked the male clerk for six (6) Texas Lottery scratch tickets.<sup>9</sup> According to Ms. Boddy, the clerk handed her six (6) Texas Lottery scratch tickets worth \$5 each in exchange for the 30,000 point (worth \$30) ticket voucher Ms. Boddy had won playing an 8-liner machine inside the store.

Ms. Boddy determined that the clerk who exchanged the 8-liner voucher for lottery tickets was Mr. Chau's son Dinh-Diamond Luong Chau. Ms. Boddy said she reported the incident to Calhoun County Sheriff's Office, which ultimately cited Dinh-Diamond Luong Chau for the alleged violation.

On August 16, 2019, Dinh-Diamond Luong Chau pleaded guilty to violating Texas Government Code § 466.3052(a) regarding the "Purchase and Sale of Tickets," a Class C misdemeanor in the Justice of the Peace, Precinct 1, Place 1, Calhoun County, Texas.<sup>10</sup> The court deferred adjudication of the offense and discharged him on August 21, 2019.<sup>11</sup>

Ms. Boddy further testified that Mr. Chau has a prior violation from 2016. In that case, Ms. Boddy testified, Mr. Chau was cited for failure to follow Department's procedure with regard to the location of where scratch tickets could be sold.

Specifically, Ms. Boddy explained, Mr. Chau moved scratch ticket game packs from one store (Times Market #105) to sell at another store he owned (Times Market #102).

---

<sup>8</sup> Staff Exs. 1-7.

<sup>9</sup> Staff noted in its brief that although Texas Penal Code § 47.01-.02 makes it an offense to place a bet on gambling devices such as 8-liners, it is a defense to prosecution under Texas Penal Code § 47.09(a)(3) if the person's conduct was directly or indirectly authorized by the Commission.

<sup>10</sup> Staff Ex. 5.

<sup>11</sup> The Court ordered Dinh-Diamond Luong Chau to write a report of this experience. He complied, swiftly.

According to the citation, packs of scratch tickets that are inventoried at one store may not be moved—for any reason—to another store.<sup>12</sup>

Ms. Guerra testified that a 30-day suspension was appropriate in this matter. She pointed out the Department's penalty matrix provides for a 30-90 day suspension or revocation for the current violation if it is a second violation. After considering the circumstances surrounding the violation, Ms. Guerra testified that a 30-day suspension would suffice.

## **2. Licensee's Case**

Mr. Chau did not dispute Staff's allegation. Nor did he dispute that his son Dinh-Diamond Luong Chau was one of Licensee's employees or agents acting on behalf of Licensee. He testified that on the day in question, he was the store's lone employee and received a phone call from his daughter's middle school that his daughter was sick, and that she needed to be picked up from school. Mr. Chau testified that he called his son Dinh-Diamond Luong Chau to run the store while he left to pick up his daughter from school.

Mr. Chau testified that before he left the store, he saw Ms. Boddy playing an 8-liner machine. He further recalls that he advised her that 8-liner vouchers could be used to purchase grocery items only. Mr. Chau testified that he also advised his son that 8-liner credit vouchers could only be used to purchase groceries, and further advised his son that he could not accept 8-liner vouchers for beer, cigarettes, or lottery tickets.

## **C. ALJ's Analysis**

The evidence supports a finding that Licensee violated Texas Government Code § 466.3052(a).

---

<sup>12</sup> Staff Ex. 5.

Moreover, the Commission's rule at § 401.158(b)(27) provides that the Commission may suspend or revoke a license if the licensee knowingly accepts anything other than what is listed in § 466.3052(a). On April 16, 2019, Mr. Chau's son, Dinh-Diamond Luong Chau, intentionally and knowingly accepted an 8-liner voucher as payment of six (6) lottery tickets. Because, 8-liner vouchers are not listed in § 466.0352(a) of the Texas Government Code as acceptable payment for a lottery ticket, Dinh-Diamond Luong Chau was cited for violating § 466.3052(a) a Class C misdemeanor, to which he ultimately pled guilty.

The ALJ notes that on the day in question, Mr. Chau was compelled to leave the store and had no choice but to ask his son to manage the store while he was away. Even so, before Mr. Chau left the store, he admonished both Ms. Boddy<sup>13</sup> and his son that 8-liner vouchers could be used to purchase groceries only. Mr. Chau asserted that he did everything he could do to abide by the law short of closing the store—yet still failed to comply with § 466.3052(a) on that date.

Staff argued that this incident is a repeat violation, and as such, Staff is authorized to seek a 30 to 90-day license suspension or possibly revoke the license. However, the applicable provision regarding repeat violations defines a repeat violation as one that occurs within 12 months of the first violation.<sup>14</sup> In this case, the current (repeat) violation in 2019 did not occur within 12 months of the first violation in 2016. Therefore, the current 2019 violation may be considered as Licensee's first violation and, that being the case, allows for the imposition of a lesser sanction.

For the above-stated reasons, the ALJ finds that a violation occurred but that the Commission should impose a 10-day suspension, and in support thereof makes the following Findings of Fact and Conclusions of Law.

---

<sup>13</sup> Ms. Boddy confirmed that Mr. Chau informed her that 8-liner vouchers could be used to purchase groceries only.

<sup>14</sup> 16 Tex. Admin. Code § 401.160(b).

### III. FINDINGS OF FACT

1. Dinh T. Chau d/b/a Times Market #102 (Licensee) is a lottery sales agent licensed by the Texas Lottery Commission (Commission). Licensee holds license number 180968.
2. Licensee is the sole owner of Times Market #102, located on 107 Seadrift Street, in Port Lavaca, Texas.
3. On April 15, 2019, Ms. Boddy went to Licensee's store and began playing an electronic gambling device referred to as an 8-liner.
4. On the day in question, while Ms. Boddy was playing the 8-liner gambling device, Mr. Chau had to leave the store to pick up his daughter from school because she was ill.
5. Mr. Chau allowed his son Dinh-Diamond Luong Chau to run the store while he went to pick up his daughter from school.
6. Before leaving the store, Mr. Chau advised Ms. Boddy that 8-liner vouchers could only be used to purchase grocery items.
7. Mr. Chau also advised his son that 8-liner credit vouchers could only be used to purchase groceries, and could not be used to purchase beer, cigarettes, or lottery tickets.
8. Ms. Boddy cashed out a ticket voucher from the 8-liner gambling device, which reflected 30,000 credit points. The voucher was good for \$30 worth of purchases from the store.
9. Ms. Boddy took the voucher to the front counter and asked the clerk for six (6) Texas Lottery scratch tickets.
10. The clerk handed Ms. Boddy six (6) Texas Lottery scratch tickets worth \$5 each in exchange for the 30,000 point (worth \$30) ticket voucher.
11. The clerk who performed the transaction was identified as Dinh Chau's son, Dinh-Diamond Luong Chau.
12. On August 16, 2019, Dinh-Diamond Luong Chau pleaded guilty to violating Texas Government Code § 466.3052(a) regarding the "Purchase and Sale of Tickets," a Class C misdemeanor in the Justice of the Peace, Precinct 1, Place 1, Calhoun County, Texas. The court deferred adjudication of the offense and discharged him on August 21, 2019.

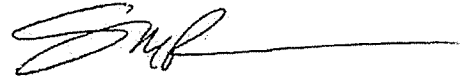
13. On July 18, 2019, Staff notified Licensee of the violations and gave him the opportunity to respond to the allegations.
14. Licensee has a prior violation in 2016.
15. On September 9, 2019, Staff sent the notice of hearing informing Licensee of the final hearing date, location of the hearing, and the allegations it intended to prove at the hearing. The notice was sent by first class and certified mail, return receipt requested, to Licensee's address on file with the Commission.
16. On October 23, 2019, ALJ Steven M. Rivas convened a hearing on the merits at the State Office of Administrative Hearings in Austin, Texas. Kristin Guthrie, Assistant General Counsel, represented the Staff. Dinh T. Chau appeared on behalf of the Licensee. The hearing adjourned and the ALJ held the record open until November 22, 2019, to allow Staff an opportunity to address the legality of 8-liner gambling devices.

#### IV. CONCLUSIONS OF LAW

1. The Texas Lottery Commission (Commission) has jurisdiction over this matter pursuant to the Texas Lottery Act (the Act). Tex. Gov't 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. Tex. Gov't Code ch. 2003.
3. Proper and timely notice of the hearing was provided to Licensee pursuant to Texas Government Code §§ 2001.051 - 2001.052 and § 466.155(b) of the Act, and 16 Texas Administrative Code § 401.205(a)(4).
4. The Commission has authority to suspend or revoke a retailer's license for violations of the Act and 16 Texas Administrative Code §§ 401.158(b)(7)(28) and 401.3052.
5. The Commission has authority to take disciplinary action against its licensees for any violation of the Act or rules adopted under the Act. Tex Gov't Code § 466.155.
6. Based on the Findings of Fact, Licensee violated Texas Government Code § 466.3052(a).
7. A repeat violation is one that occurs within 12 months of the first violation. 16 Tex. Admin. Code § 401.160(b).
8. The penalty for intentionally or knowingly selling a ticket and accepting anything for payment not specifically allowed under the State Lottery Act is a 10 to 90-day suspension or revocation for a violation on its first occurrence. 16 Tex. Admin. Code § 401.160(g)(10).

9. The Commission should impose a 10-day suspension of the lottery sales agent license of Dinh T. Chau d/b/a Times Market #102. Texas. 16 Tex. Admin. Code § 401.160.

**SIGNED January 27, 2020.**



---

**STEVEN M. RIVAS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**





**Commission Order No. 20-0065**

**Date: AUGUST 6, 2020**

**DOCKET NO. 362-20-1631**

**TEXAS LOTTERY COMMISSION**  
*Petitioner*

v.

**ARAB ACQUISITIONS COMPANY LLC**  
**D/B/A AAC #101**  
**TICKET SALES AGENT LICENSE**  
**NO. 175970**  
*Respondent*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**BEFORE THE TEXAS**

**LOTTERY COMMISSION**

**ORDER OF THE COMMISSION**

To: Arab Acquisitions Company LLC  
d/b/a AAC #101  
12977 Trinity Blvd., Ste. 105  
Fort Worth, TX 76040

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

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

NOW, THEREFORE, IT IS ORDERED that Arab Acquisitions Company LLC d/b/a ACC #101's request for a re-determination of the amount credited to its account is denied.

**Commission Order No. 20-0065**

**Date: AUGUST 6, 2020**

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

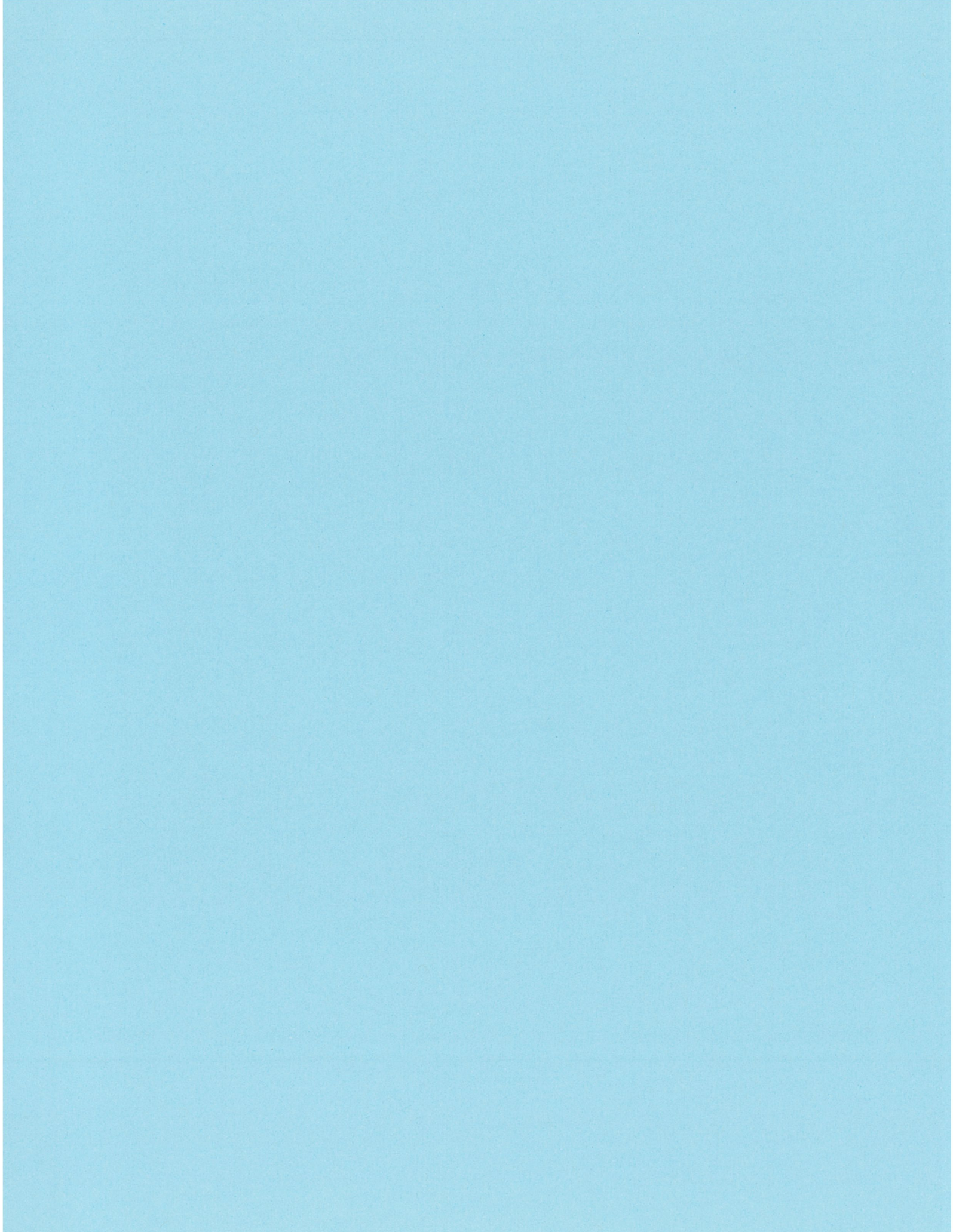
MARK A. FRANZ, COMMISSIONER

---

ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER





# State Office of Administrative Hearings

Kristofer Monson  
Chief Administrative Law Judge

June 24, 2020

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

**VIA E-FILE TEXAS**

**RE: Docket No. 362-20-1631; Texas Lottery Commission v. Arab  
Acquisitions Company LLC d/b/a AAC #101**

Dear Mr. Grief:

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

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

Sincerely,

A handwritten signature in blue ink that reads "S. H. Neinast".

Steven H. Neinast  
Administrative Law Judge

SN/lc

cc: Kristen Guthrie, Assistant General Counsel, Texas Lottery Commission, 611 E. 6th, Austin Texas 78701 - **VIA E-FILE TEXAS**  
Salman Arab, 12977 Trinity Blvd., Suite 105, Euless, TX 76040 - **VIA REGULAR MAIL**

**SOAH DOCKET NO. 362-20-1631**

**TEXAS LOTTERY COMMISSION,  
Petitioner**

**v.**

**ARAB ACQUISITIONS COMPANY LLC  
D/B/A AAC #101,  
Respondent**

§  
§  
§  
§  
§  
§  
§  
§

**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

Arab Acquisitions Company LLC d/b/a AAC #101 (Respondent) is licensed by the Texas Lottery Commission (Commission) as a Texas Lottery Tickets Sales Agent. On October 30, 2019, Respondent requested a redetermination hearing regarding the decision by the Commission to only partially credit his account for the Texas Lottery Scratch Tickets (tickets) that Respondent reported as stolen from his convenience store—AAC #101. The stolen tickets were valued at \$2,120; the Commission credited \$410 to Respondent’s account. The Administrative Law Judge (ALJ) concludes that the Commission is not obligated to credit more than \$410 to Respondent’s account.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

On May 13, 2020, ALJ Steven Neinast convened a video and audio hearing on the merits. Ms. Kristen Guthrie, Assistant General Counsel, represented Commission Staff. Mr. Salman Arab, who is Respondent’s president, represented Respondent. Ms. Guthrie offered five exhibits, all of which were admitted. Ms. Guthrie presented one witness. Respondent did not offer any exhibits, but Mr. Arab and Mr. Niraj Shrestha testified for Respondent. The hearing concluded and the record closed on May 13, 2020.

Neither party objected to notice or jurisdiction. Therefore, those matters are set out in the findings of fact and conclusions of law without further discussion here.

## II. APPLICABLE LAW

In its Notice of Hearing, the Commission cites various Texas Government Code, Texas Tax Code, and Texas Administrative Code provisions that it contends are applicable to this case. After conducting the hearing on the merits and reviewing the admitted exhibits, the ALJ concludes that the following three provisions bear directly on this case:

Texas Government Code § 466.353(a) states:

A sales agent is liable to the [lottery] division for all tickets accepted or generated by the sales agent or any employee or agent of the sales agent, and tickets shall be deemed to have been purchased by the sales agent unless returned to the division within the time and manner prescribed by the division.

16 Texas Administrative Code § 401.362(c), titled “Responsibility for Lottery-Related Property” states that “[e]ach retailer shall be financially responsible to the commission for all lottery-related property placed at the retailer’s location.”

16 Texas Administrative Code § 401.370(b), titled “Responsibility for Lottery Tickets Received and Subsequently Stolen or Lost,” states in pertinent part:

- (1) Except as otherwise expressly provided by this subsection, each retailer shall bear the risk of loss for all lottery tickets received. Receipt of tickets by a retailer shall constitute a purchase of such tickets, and each retailer shall be liable to the commission for the retail sales price of such tickets, less any applicable commission or credit.

...

- (3) Notwithstanding paragraph (1) of this subsection, the director may charge a retailer full face value of an activated pack of tickets if prizes have been paid from the pack. The director may credit at retailer’s account for a range of activated tickets in a pack reported as stolen or lost provided that no validations have occurred on tickets in the range reported as stolen or lost if:
  - (A) the pack has been stolen and the retailer, within 24 hours of the discovery of the theft, has made a formal report of such theft to both:

- (i) appropriate local law enforcement authorities; and
- (ii) the commission's security division through the retailer hotline;

...

- (5) A retailer shall report each stolen or lost pack of tickets to the commission's security division through the retailer hotline within 24 hours of the discovery of the theft or loss.

### III. DISCUSSION

#### A. Background

At approximately 7 a.m. on July 7, 2019, a thief stole tickets worth \$2,210 from Respondent's store AAC #101. At approximately 7:10 a.m., Respondent's agent reported the stolen tickets to the Addison, Texas Police Department. At approximately 7:24 a.m., Respondent's agent contacted International Game Technology (IGT), which is a company the Commission has retained to manage the Texas Lottery operations, including handling initial stolen ticket reports and placing stolen tickets on "stolen status." IGT's electronic intake system, however, was not operational at 7:24 a.m. and would remain off-line until approximately 11 a.m. If IGT had been operational when Respondent called in the theft, IGT would have started a process to place the stolen tickets on stolen status, which would preclude any retailer from validating the identified tickets, thus making the stolen tickets worthless. Placing stolen tickets on stolen status does not occur instantaneously, but takes a number of minutes depending on how many tickets are reported as stolen.

In this case, several of the stolen tickets were validated by the thief at other retail stores before IGT could place them on stolen status. Because only a few of the stolen tickets had not been validated by the time the tickets were placed on stolen status, the Commission credited AAC #101's account for unclaimed tickets in the amount of \$410. Respondent seeks a redetermination from the Commission, asking that an additional \$1,710 be credited to his account,

which would result in a credit of the total value of the stolen tickets—\$2,120. The ALJ concludes that the Commission was correct in crediting only \$410 to Respondent's account.

## **B. Evidence**

### **1. The Commission's Case**

Michelle Young, who is the Commission's Retail District and Special Projects Coordinator, confirmed that the IGT system was off-line for five hours on July 7, 2019. This situation precluded IGT from placing any of the tickets on stolen status until approximately 11 a.m. Ms. Young testified, however, that the Commission's stolen ticket policy does not obligate the Commission to credit a retailer with any stolen tickets. Rather, crediting is discretionary and, in this case, the Commission credited Respondent for the few tickets that were eventually placed on stolen status before the thief attempted to validate them. Ms. Young testified "when we can, we give credit." She explained that once IGT can place the stolen tickets on stolen status, the tickets cannot be cashed (or "validated"). Ms. Young testified that it was unfortunate that IGT was off-line that morning, but IGT is not required to have a perfect system in place, and it is not the Commission's responsibility to make the retailer whole. Instead, the Commission expects retailers to treat their tickets as if they are cash and implement safeguards against theft. Ms. Young also noted that retailers can take out insurance policies to compensate for their losses resulting from stolen tickets.

Ms. Young testified that even if IGT had been on-line on the morning of July 7, the *most* the Commission would have reimbursed Respondent was approximately \$900. This figure results from Ms. Young's analysis to determine how long it would take to move all of the \$2,120 in stolen tickets to stolen status. She explained this process takes some time because of the need to match and verify ticket ranges within stolen packs. In this case, Ms. Young determined that it would have taken about 45 minutes to move all of the tickets to stolen status, which means that the IGT system would have not allowed the thief to cash any stolen tickets after 8 a.m. However, by 8 a.m.



the thief had already cashed-in \$1,220 of the stolen tickets. A few more tickets were validated before 11 a.m., which means that only \$410 (out of \$2,210) was ultimately moved to stolen status.

## 2. Respondent's Case

Mr. Arab and Mr. Shrestha testified that they did everything required by the Commission's rules: they immediately notified the local police department and contacted IGT. Mr. Arab felt that IGT should bear some responsibility because they were at fault for not being on-line to process Respondent's stolen ticket report. Toward the conclusion of the hearing, Mr. Arab stated that Respondent was not aware that they would have at most received only a \$900 credit due to the time it takes to process the stolen ticket report. He also indicated that Respondent has insurance to protect against theft but, in this case, the amount stolen was too low to overcome the insurance deductible. Both Mr. Arab and Mr. Shrestha expressed frustration at the amount of time it took the Commission to address Respondent's concerns over the credit, and they were not aware until the hearing that the Commission would have only credited \$900 if IGT had been fully functional on July 7, 2019. Mr. Arab concluded that he only retains five cents out of every dollar from ticket sales and placing full responsibility on the retailer in this case is a "blow to the little guy."

## C. ALJ's Analysis

The ALJ agrees that it was unfortunate that IGT was unable to place the stolen tickets on stolen status immediately when Respondent reported the theft to IGT. The law, however, does not place responsibility for the loss on either the Commission or IGT. Instead, the State Lottery Act and Commission rules give the Commission discretion to credit a retailer who is subject to theft.<sup>1</sup> Although not required to do so, the Commission credited Respondent with \$410 in this case. The Commission's evidence is persuasive that retailers are expected to treat tickets as if they are cash,

---

<sup>1</sup> 16 Tex. Admin. Code § 401.370(b) ("The director *may* credit a retailer's account for a range of activated tickets in a pack reported as stolen or lost . . . ." Emphasis added.) This provision does not require that the director must credit a retailer's account.

and to ensure to the extent possible that they are not stolen.<sup>2</sup> Respondent's tickets were stolen just as if the thief had reached into Respondent's cash register to steal cash. In this situation, responsibility for the stolen tickets lies with Respondent and not the Commission or IGT. Accordingly, based on the evidence presented, the ALJ concludes that the Commission is not required to credit more than \$410 to Respondent's account for this incident.

### III. FINDINGS OF FACT

1. Arab Acquisitions Company LLC d/b/a AAC #101 (Respondent) is licensed by the Texas Lottery Commission (Commission) as a Texas Lottery Tickets Sales Agent No. 175970.
2. On July 7, 2019, at approximately 7 a.m., an unidentified thief stole 124 Texas Lottery Scratch Tickets (tickets) from Respondent's store known as AAC#101. The face value of the stolen tickets was \$2,120.
3. At approximately 7:10 a.m., Respondent reported the theft to the Addison Police Department.
4. At approximately 7:24 a.m., Respondent contacted International Game Technology (IGT) to initiate procedures to place the stolen tickets on "stolen status."
5. IGT is the vendor hired by the Commission to, among other things, initiate procedures to place stolen tickets on stolen status.
6. Placing tickets on stolen status precludes retailers from validating the stolen tickets.
7. In this case, it would have taken approximately 45 minutes for IGT to complete procedures to place tickets on stolen status once the tickets were reported as stolen.
8. During the morning of July 7, 2019, IGT's system was off-line and not operational; therefore, IGT was not able to initiate procedures to place the stolen tickets on stolen status.
9. From the time of the theft to the time that the IGT system came back on line at approximately 11 a.m., the thief had validated \$1,710 of the \$2,120 in stolen tickets.
10. The Commission credited Respondent with the face value of the tickets that had not been validated by approximately 11 a.m.—\$410; that is, \$2,120 minus \$1,710.

---

<sup>2</sup> *E.g.* 16 Tex. Admin. Code § 401.362(c).

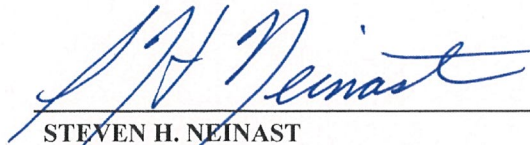
11. If IGT had been operational on the morning of July 7, 2019, due to the time it takes to implement stolen status on a batch of stolen tickets, the thief nevertheless would have been able to validate approximately \$1,220 worth of the stolen tickets.
12. If IGT had been fully functional when Respondent reported the theft to IGT, the most that the Commission would consider crediting to Respondent would have been approximately \$900; that is, \$2,120 minus the \$1,220 that had been validated by 8 a.m.
13. Respondent requests that the Commission credit the entire \$2,120 because Respondent followed proper procedures to report the theft, but the delay in placing the tickets on stolen status resulted from IGT not being operational at that time.
14. On January 14, 2020, Commission Staff sent the notice of hearing, which contained a statement of the 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 factual matters asserted, or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
15. On May 13, 2020, Administrative Law Judge Steven Neinast convened an audio/video hearing on the merits. Kristin Guthrie, Assistant General Counsel, represented the Staff. Salman Arab, the president of Respondent, represented Respondent. The hearing concluded and the record closed on that same day.

#### IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to the State Lottery Act. Tex. Gov't Code ch. 466; 16 Tex. Admin. Code ch. 401.
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. Tex. Gov't Code ch. 2003; 1 Tex. Admin. Code ch. 155.
3. Proper and timely notice of the hearing was provided to Respondent pursuant to Texas Government Code §§ 2001.051-.052.
4. Each retailer is financially responsible to the Commission for all lottery-related property placed at the retailer's location. 16 Tex. Admin. Code § 401.362(c).
5. Generally, each retailer bears the risk of loss for all tickets received from the Commission, and receipt of tickets by a retailer constitutes a purchase of such tickets, less any applicable commission or credit. 16 Tex. Admin. Code § 401.370(b)(1).

6. The Director of the Commission's Lottery Operations (Director) may charge a retailer full face value on an activated pack of tickets if prizes have been paid from the pack. 16 Tex. Admin. Code § 401.370(b)(3).
7. The Director may credit a retailer's account for a range of activated tickets in a pack reported as stolen provided that no validations have occurred on tickets in the range reported as stolen. 16 Tex. Admin. Code § 401.370(b)(3).
8. Texas Administrative Code § 401.370(b)(3) does not require the Director to credit a retailer's account for stolen tickets.
9. Respondent's request for a re-determination of the amount credited to its account should be denied.

**SIGNED June 24, 2020.**



---

STEVEN H. NEINAST  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



**Commission Order No. 20-0066**

**Date: AUGUST 6, 2020**

**DOCKET NO. 362-20-2319**

**TEXAS LOTTERY COMMISSION**  
*Petitioner*

v.

**JOYNAL ABDIN AND  
MOHAMMAD ISLAM  
D/B/A FRIENDLY EXPRESS WAY  
TICKET SALES AGENT LICENSE  
NO. 179077**  
*Respondent*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**BEFORE THE TEXAS**

**LOTTERY COMMISSION**

**ORDER OF THE COMMISSION**

To: Joynal Abdin and Mohammad Islam  
d/b/a Friendly Express Way  
9000 W. Hwy. 6  
Alvin, TX 77511

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the above-styled case in which Joynal Abdin and Mohammad Islam d/b/a Friendly Express Way (Respondent) 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 hearing in the referenced case before SOAH was provided to Respondent, pursuant to Tex. Gov't Code §§ 2001.051 and 2001.052 and 1 Tex. Admin. Code §§ 155.401 and 155.501(b). The 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.

**Commission Order No. 20-0066**

**Date: AUGUST 6, 2020**

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

3. The Commission, by and through its attorney of record, filed a motion to dismiss the case from the SOAH docket and to remand the case to the Commission for informal disposition, in accordance with Tex. Gov't Code §2001.058(d-1) and 1 Tex. Admin. Code §155.501(d).

4. The ALJ conditionally dismissed the case from the SOAH docket and remanded the case to the Commission for informal disposition under Tex. Gov't Code §2001.056, provided the Respondent did not file a motion to set aside the default no later than 15 days from the date of the ALJ's conditional order.

5. The Respondent did not file a motion to set aside the default within the 15 days from the date of the ALJ's conditional order.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code §466.155 and 16 Tex. Admin. Code ch. 401.

2. The Respondent violated Tex. Gov't Code ch 466 (the State Lottery Act) and/or Title 16 Tex. Admin. Code ch. 401 (Rules for the Administration of State Lottery Act) as set forth in the Commission's notice of hearing.

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

**III. Order**

NOW, THEREFORE, IT IS ORDERED that, after review and due consideration of the administrative record of the above-styled case, this matter is hereby disposed of by default, and:

**Commission Order No. 20-0066**

**Date: AUGUST 6, 2020**

1. All allegations set forth in the Commission's notice of hearing are deemed admitted; and

2. The Texas Lottery Ticket Sales Agent license of Joynal Abdin and Mohammad Islam d/b/a Friendly Express Way is hereby revoked.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

MARK A. FRANZ, COMMISSIONER

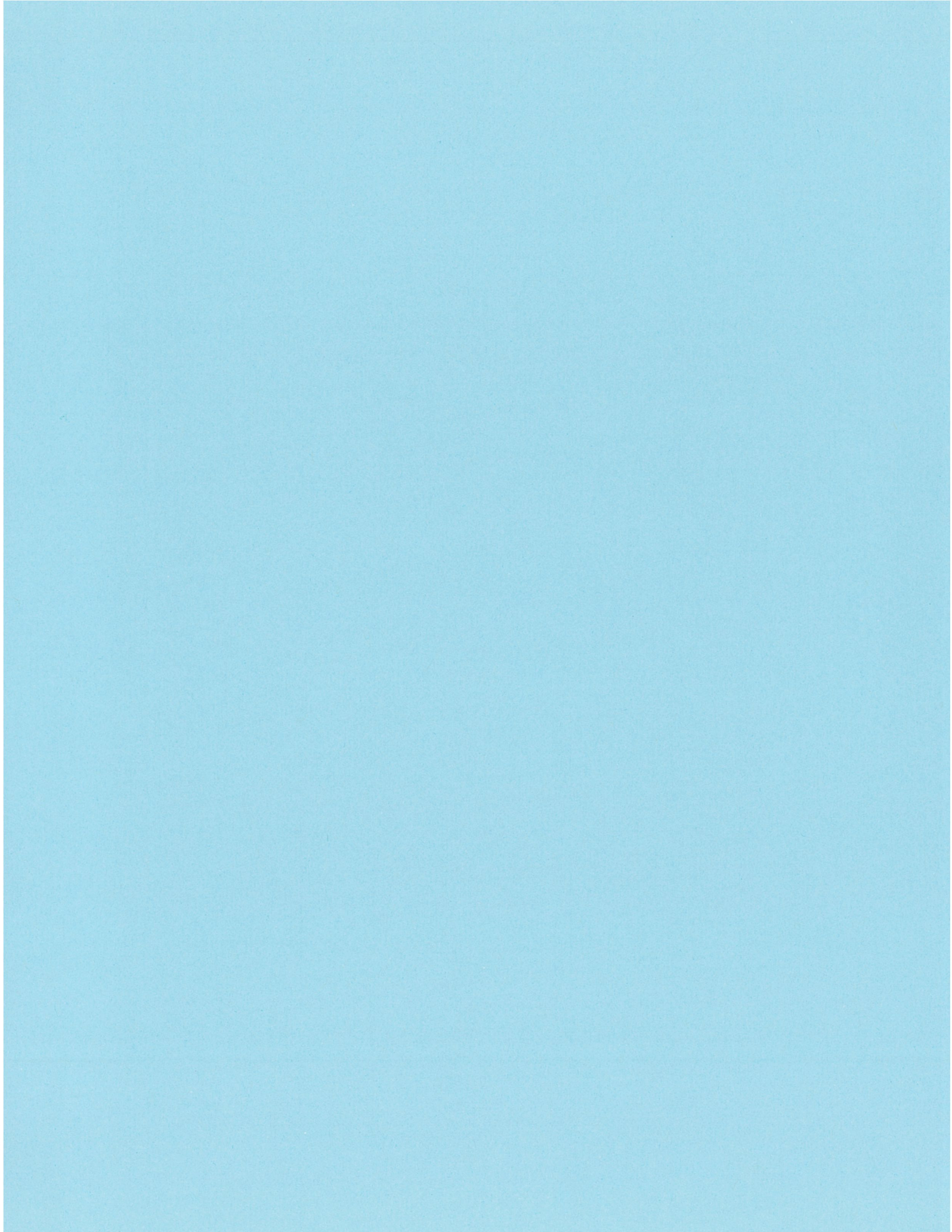
---

ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER





ACCEPTED  
362-20-2319  
06/23/2020 10:06 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Jodi Brown, CLERK

FILED  
362-20-2319  
6/23/2020 10:02 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Jodi Brown, CLERK

**SOAH DOCKET NO. 362-20-2319**

<b>TEXAS LOTTERY COMMISSION,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
<b>v.</b>	§	
	§	<b>OF</b>
<b>JOYNAL ABDIN AND MOHAMMAD</b>	§	
<b>ISLAM D/B/A FRIENDLY EXPRESS</b>	§	
<b>WAY,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**ORDER NO. 2  
CONDITIONAL ORDER OF DEFAULT DISMISSAL AND REMAND**

This matter was set for hearing telephonically on June 17, 2020, before the undersigned Administrative Law Judge (ALJ). Kristen Guthrie appeared on behalf of the staff (Staff) of the Texas Lottery Commission (Commission). Joynal Abdin and Mohammad Islam d/b/a Friendly Express Way (Respondent) did not appear and were not represented at the hearing. Staff moved to remand this proceeding to the Commission for informal disposition and offered Attachments A and B to Staff’s written motion filed earlier that day. The ALJ received Staff’s written motion and attachments after the hearing and hereby **ADMITS** Attachments A and B as exhibits. The ALJ finds that Staff’s exhibits show proof of adequate notice to Respondent.<sup>1</sup>

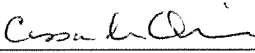
Because Respondent failed to appear, this matter may be dismissed from the docket of the State Office of Administrative Hearings and returned to the Commission for informal disposition on a default basis in accordance with Texas Government Code §§ 2001.056, .058(d-1) and 1 Texas Administrative Code § 155.501(d). The ALJ concludes that Staff’s motion has merit and should be granted.

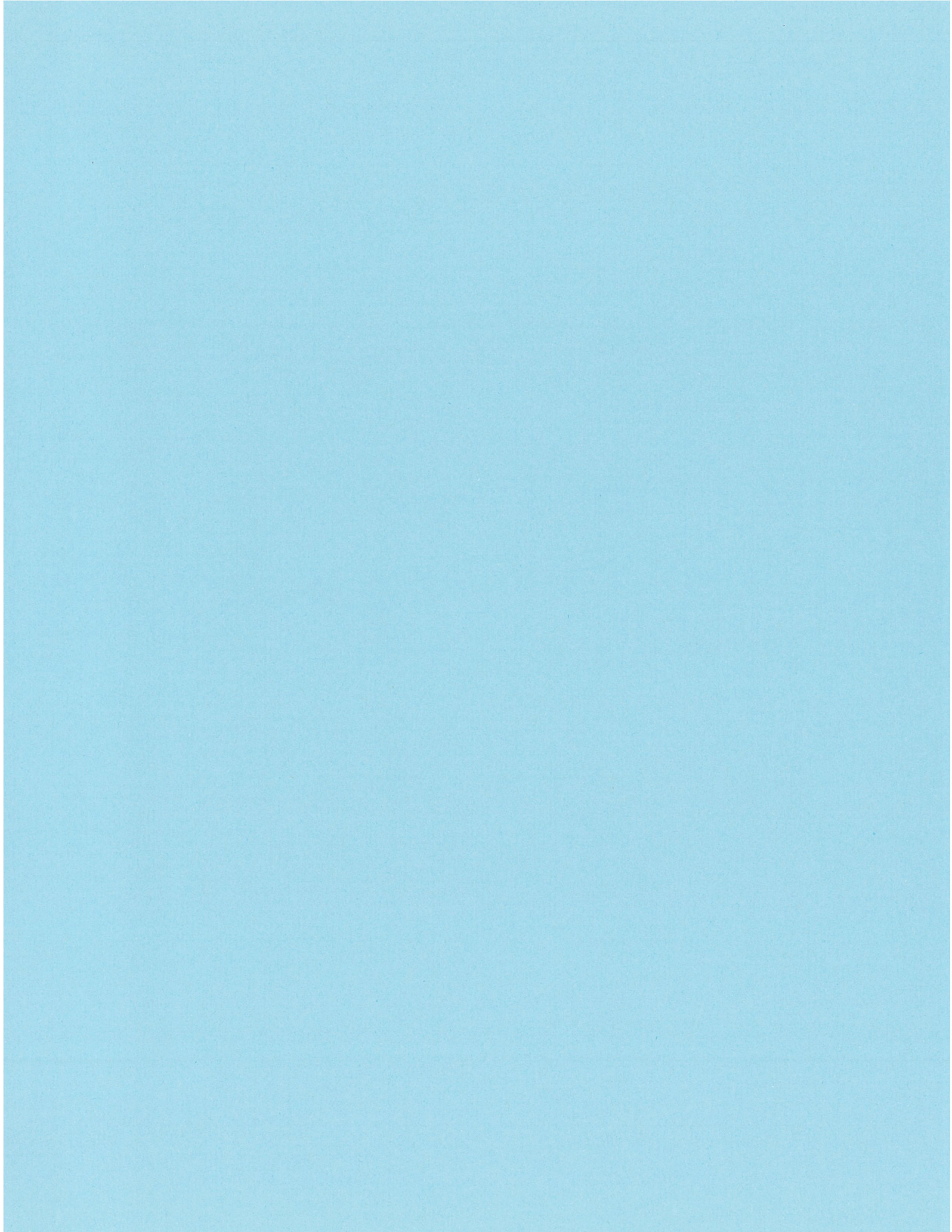
**IT IS, THEREFORE, ORDERED** that this case is **CONDITIONALLY DISMISSED AND REMANDED** pursuant to 1 Texas Administrative Code § 155.501(d)(1). **This order of dismissal will become final, without further action by the ALJ, unless Respondent files a motion to set aside the default not later than 15 days from the date of this order.** Such a

<sup>1</sup> The ALJ only reviewed the adequacy of the notice and not the sufficiency of Staff’s factual allegations.

motion must show good cause for reopening the hearing, or show that the interests of justice require setting aside the default dismissal and remand.

**SIGNED June 23, 2020.**

  
\_\_\_\_\_  
CASSANDRA QUINN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



Commissioners:

J. Winston Krause,  
Chairman

Mark A. Franz

Robert Rivera

Erik C. Saenz



# TEXAS LOTTERY COMMISSION

Gary Grief, *Executive Director*

Michael P. Farrell, *Charitable Bingo Operations Director*

Date of Notice: February 4, 2020

Joynal Abdin and Mohammad Islam  
d/b/a Friendly Express Way  
9000 W. Hwy. 6  
Alvin, TX 77511

*via email at [anbuppy22@yahoo.com](mailto:anbuppy22@yahoo.com)*

**RE: NOTICE OF FINAL HEARING ON SUSPENSION OR REVOCATION OF  
LOTTERY LICENSE  
SOAH DOCKET NO. 362-20-2319  
TEXAS LOTTERY TICKET SALES AGENT LICENSE NO. 179077**

Dear Mr. Abdin:

Be advised that a formal hearing to consider the Texas Lottery Commission's suspension or revocation of Joynal Abdin and Mohammad Islam d/b/a Friendly Express Way's Texas Lottery sales agent license, pursuant to the provisions of the Tex. Gov't. Code chs. 466, 2001, and 2003; 1 Tex. Admin. Code ch. 155; and 16 Tex. Admin. Code ch. 401, will be held as follows:

**TIME OF HEARING: 9:00 a.m.**  
**DATE OF HEARING: June 17, 2020**  
**LOCATION OF HEARING: State Office of Administrative Hearings  
William P. Clements Building  
300 West 15<sup>th</sup> St.  
4<sup>th</sup> Floor  
Austin, Texas 78701**

P.O. Box 16630 • Austin, Texas 78761-6630

Phone (512) 344-5000 • FAX (512) 478-3682 • Bingo FAX (512) 344-5142

txlottery.org • txbingo.org

## **NOTICE OF HEARING**

### **I.**

#### **Factual Matters Asserted**

On March 26, 2019, in the Municipal Court of Alvin, Texas, in Case No. 100496931, Joynal Abdin, managing partner of Friendly Express Way, was convicted of Assault by Contact Family Violence, a Class C misdemeanor involving moral turpitude, and was fined \$100.

Ten years have not elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the sentence. Due to this offense, Friendly Express Way's Texas Lottery Ticket Sales Agent License is subject to revocation, pursuant to Tex. Gov't Code §466.155(a)(1)(A) and 16 Tex. Admin. Code §401.158(a).

### **II.**

#### **Legal Authority and Jurisdiction**

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

The State Office of Administrative Hearings (SOAH) has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 2003 and 1 Tex. Admin. Code ch. 155.

### **III.**

#### **Applicable Statutes and Rules**

Tex. Gov't Code §466.151(e) states:

The director may issue a license to a person only if the director finds that the person's experience, character, and general fitness are such that the person's participation as a sales agent will not detract from the integrity, security, honesty, and fairness of the operation of the lottery.

Tex. Gov't Code §466.152(a) states:

An applicant for a license under this subchapter must apply to the division under rules adopted by the commission, provide information necessary to determine the applicant's eligibility for a license under Section 466.155, and provide other information considered necessary by the commission.

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

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.

16 Tex. Admin. Code §401.152(b) states, in pertinent part:

An applicant must disclose all criminal convictions for those individuals of whom an investigation is authorized under the Government Code, §466.201, and which are requested in the application.

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

The commission may suspend or revoke any license issued under this subchapter if the commission finds that any factor listed as grounds for denial of a license under §401.153(b) of this title (relating to Qualifications for License) or any factor listed in subsection (b) of this section apply to the licensee.

16 Tex. Admin. Code §401.153(b) states, in pertinent part:

The director shall deny an application for a license under this subchapter upon a finding that the applicant:

- (1) 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.

All visitors to the William P. Clements Building without an agency or DPS issued ID card will be required to sign a log and receive a visitor's pass. Persons going to a hearing at the State Office of Administrative Hearings (SOAH) will need to identify to the security officer the hearing that they are attending. Persons must provide the officer with the SOAH docket number to be allowed access to the hearing room. Individuals should allow additional time to go through the security process. Failure to provide the docket number may result in delaying the individual's arrival to the hearing.

**PLEASE NOTE: This notice of hearing is not a summons. If you do not oppose the suspension or revocation of your license, your appearance at the hearing is not required. If you do oppose the suspension or revocation of your license, you have the right to appear and present evidence.**

All hearings are formal due process matters governed by and conducted in accordance with law, including Chapters 466 and 2001 of the Texas Government Code, the Texas Rules of Civil Procedure, the Texas Rules of Evidence, and Title 16 of the Texas Administrative Code Chapter 401, and Title 1 of the Texas Administrative Code Chapter 155.

The hearing is conducted under authority of Tex. Gov't Code §466.155 and 16 Tex. Admin. Code §§ 401.153, 401.158, and 401.201-.227.

**PARTIES THAT ARE NOT REPRESENTED BY AN ATTORNEY MAY OBTAIN INFORMATION REGARDING CONTESTED CASE HEARINGS ON THE PUBLIC WEBSITE OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AT WWW.SOAH.TEXAS.GOV, OR IN PRINTED FORMAT UPON REQUEST TO SOAH.**

**16 TEX. ADMIN. CODE §401.207 REQUIRES THAT YOU FILE A WRITTEN ANSWER TO THE ALLEGATIONS IN THIS NOTICE OF HEARING WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (BY FAX AT 512-322-2061) AND PROVIDE A COPY TO THE UNDERSIGNED (BY FAX AT 512-344-5189 OR EMAIL AT LEGAL.INPUT@LOTTERY.STATE.TX.US) AT LEAST TEN (10) CALENDAR DAYS BEFORE THE DATE OF THE HEARING. FAILURE TO FILE A WRITTEN ANSWER BY THIS DATE AND/OR TO APPEAR AT THE HEARING MAY RESULT IN THE ALLEGATIONS BEING ADMITTED AS TRUE AND RELIEF REQUESTED BEING GRANTED BY DEFAULT.**

SOAH is offering the ability to receive service of orders and other documents issued by SOAH through email rather than mail or fax. To elect to receive service of SOAH-issued documents by email, go to the SOAH website ([www.soah.texas.gov](http://www.soah.texas.gov)), click on the "E-SERVICES" tab, "Email Service" link, and follow the instructions.

**PLEASE NOTE: Your request to receive SOAH-issued documents by email does not change the procedures you must follow in order to file documents with SOAH. The requirements for filing documents and providing copies to the other parties are set out in SOAH's Rules of Procedure, 1 Tex. Admin. Code §§ 155.101-.105, which are available on SOAH's website under the "AGENCY" tab, "Administrative Rules and Laws" link.**

A court reporter may be present, and a record of the proceedings will be created. It is, however, the sole and exclusive responsibility of each party to request and pay for any printed transcript.

The Commission reserves the right to amend this Notice of Hearing.

Sincerely,

/s/ Kristen Guthrie  
KRISTEN GUTHRIE  
Assistant General Counsel  
Texas Lottery Commission



### CERTIFICATE OF SERVICE

I certify that on February 4, 2020, a true and correct copy of this *Notice of Final Hearing on Suspension or Revocation of Lottery License* has been sent to Joynal Abdin and Mohammad Islam d/b/a Friendly Express Way, 9000 W. Hwy. 6., Alvin, TX 77511, by regular and certified mail, and email.

/s/ Kristen Guthrie  
KRISTEN GUTHRIE  
Assistant General Counsel  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630  
(512) 344-5465  
(512) 344-5189 Fax

cc: State Office of Administrative Hearings  
Lottery Operations Division, Retailer Services Department



Commission Order No. 20-0067

Date: AUGUST 6, 2020

DOCKET NO. 362-20-2398

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
<i>Petitioner</i>	§	
	§	
v.	§	
	§	
AS & RM PROPERTIES LLC	§	
D/B/A MERCADO EXPRESS	§	
RETAILER LICENSE NO. 182779	§	
<i>Respondent</i>	§	LOTTERY COMMISSION

**ORDER OF THE COMMISSION**

To: AS & RM Properties LLC  
d/b/a/ Mercado Express  
11 Roma Ridge Dr.  
Missouri City, TX 77459

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the above-styled case in which AS & RM Properties LLC d/b/a Mercado Express (Respondent) 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 hearing in the referenced case before SOAH was provided to Respondent, pursuant to Tex. Gov’t Code §§ 2001.051 and 2001.052 and 1 Tex. Admin. Code §§ 155.401 and 155.501(b). The 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.

**Commission Order No. 20-0067**

**Date: AUGUST 6, 2020**

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

3. The Commission, by and through its attorney of record, filed a motion to dismiss the case from the SOAH docket and to remand the case to the Commission for informal disposition, in accordance with Tex. Gov't Code §2001.058(d-1) and 1 Tex. Admin. Code §155.501(d).

4. The ALJ conditionally dismissed the case from the SOAH docket and remanded the case to the Commission for informal disposition under Tex. Gov't Code §2001.056, provided the Respondent did not file a motion to set aside the default no later than 15 days from the date of the ALJ's conditional order.

5. The Respondent did not file a motion to set aside the default within the 15 days from the date of the ALJ's conditional order.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to Tex. Gov't Code §466.155 and 16 Tex. Admin. Code ch. 401.

2. The Respondent violated Tex. Gov't Code ch 466 (the State Lottery Act) and/or Title 16 Tex. Admin. Code ch. 401 (Rules for the Administration of State Lottery Act) as set forth in the Commission's notice of hearing.

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

**Commission Order No. 20-0067**

**Date: AUGUST 6, 2020**

**III. Order**

NOW, THEREFORE, IT IS ORDERED that, after review and due consideration of the administrative record of the above-styled case, this matter is hereby disposed of by default, and:

1. All allegations set forth in the Commission's notice of hearing are deemed admitted; and
2. The Texas Lottery Ticket Sales Agent license of AS & RM Properties LLC d/b/a Mercado Express is hereby revoked.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

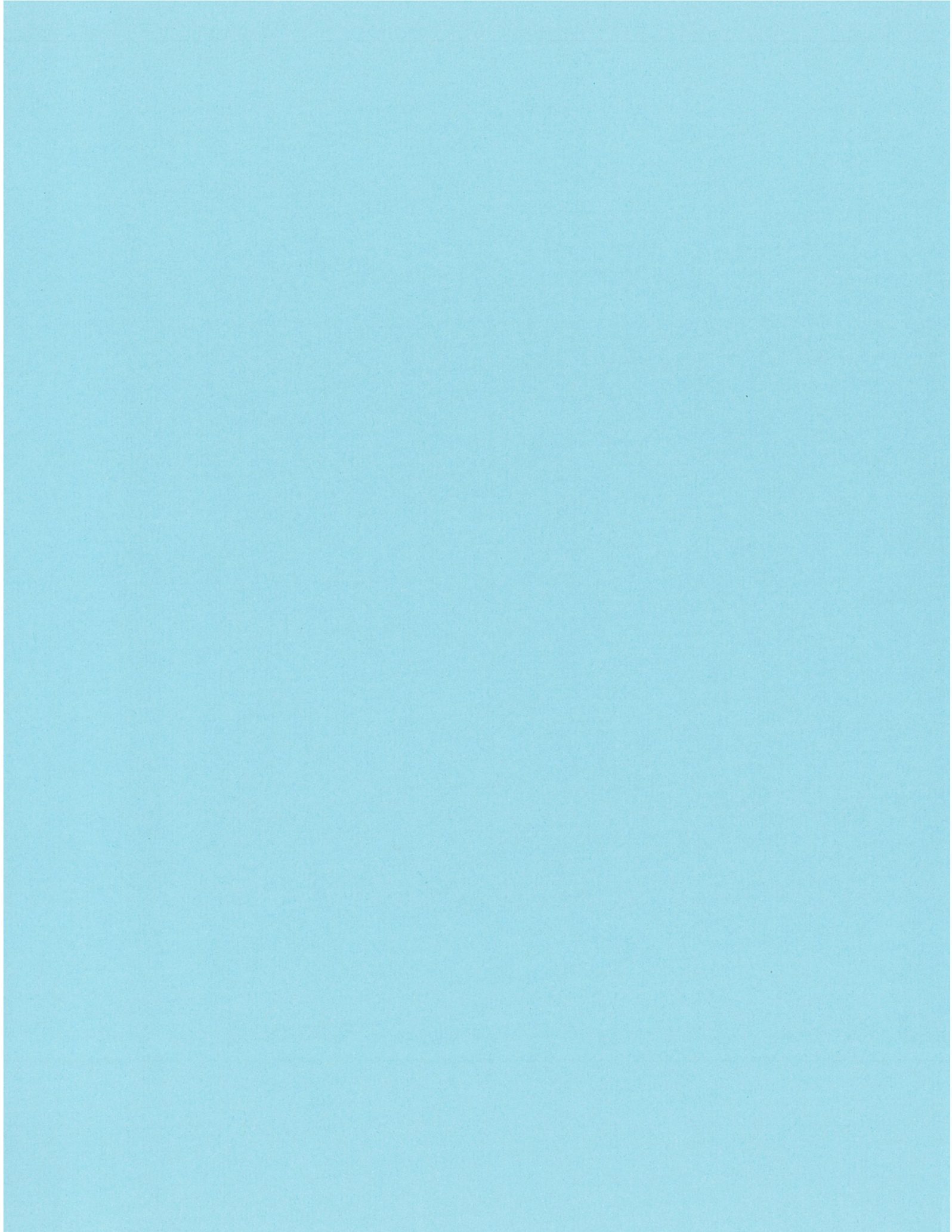
MARK A. FRANZ, COMMISSIONER

---

ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER



ACCEPTED  
362-20-2398  
07/01/2020 7:54 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Jodi Brown, CLERK

FILED  
362-20-2398  
7/1/2020 7:49 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Jodi Brown, CLERK

**SOAH DOCKET NO. 362-20-2398**

<b>TEXAS LOTTERY COMMISSION</b>	§	<b>BEFORE THE STATE OFFICE</b>
	§	
<b>v.</b>	§	<b>OF</b>
	§	
<b>AS &amp; RM PROPERTIES LLC, D/B/A MERCADO EXPRESS</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**ORDER NO. 2  
CONDITIONAL ORDER DISMISSING CASE FROM SOAH  
AND REMANDING CASE TO COMMISSION**

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

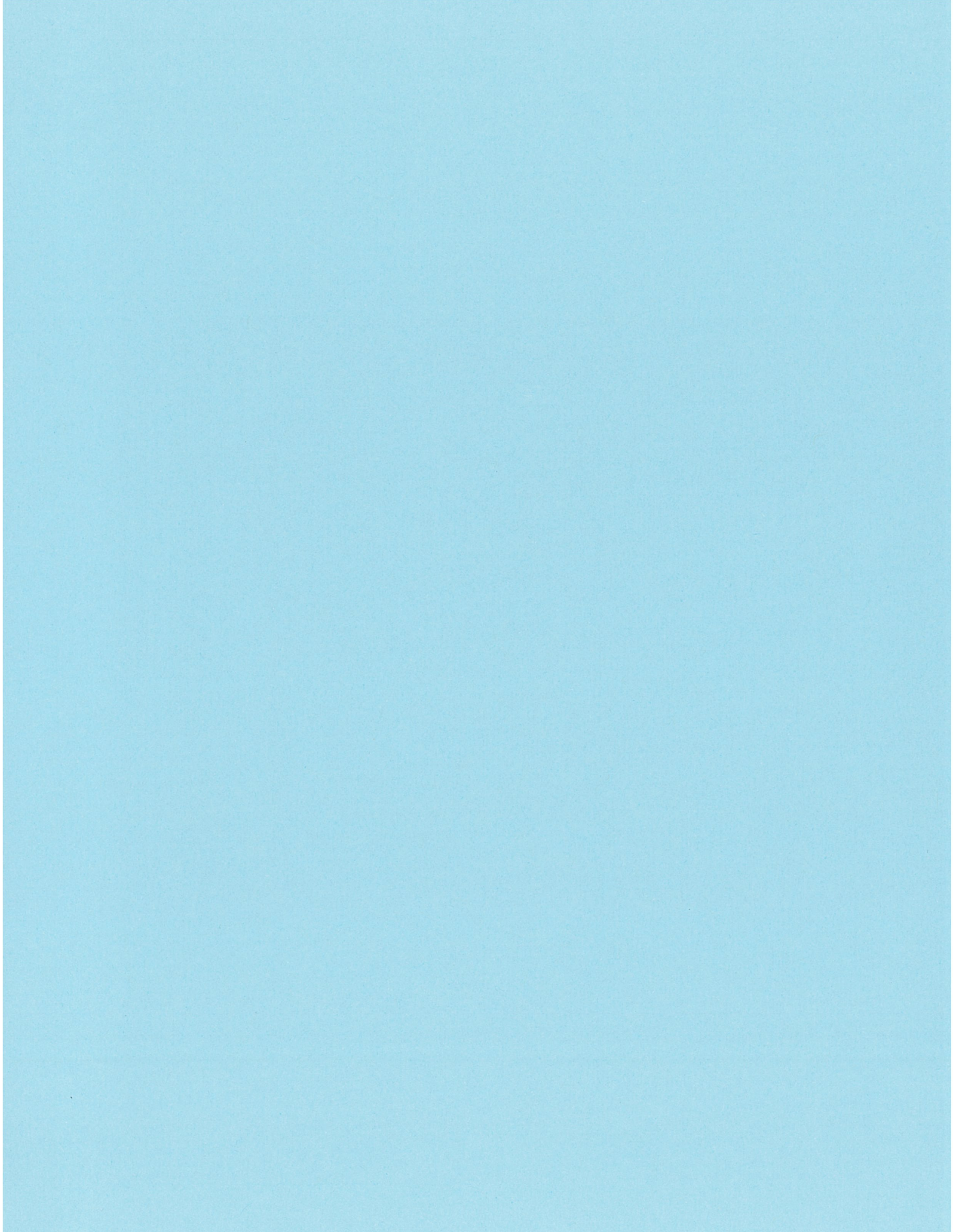
The Commission’s staff (Staff) appeared at the hearing. None of the referenced retailers appeared. Based on the retailer’s failure to appear, Staff filed a motion to dismiss the case(s) from SOAH’s docket and to remand the case to the Commission for informal disposition in accordance with Texas Government 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 this case 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. The retailer may have the dismissal and remand set aside by filing an adequate motion with SOAH no later than 15 days after the issuance of this order, pursuant to 1 Texas Administrative Code § 155.501(e).

**SIGNED July 1, 2020.**



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





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



# TEXAS LOTTERY COMMISSION

Gary Grief, *Executive Director*

Tom Hanson, *Acting Charitable Bingo Operations Director*

April 17, 2020

AS & RM Properties LLC  
d/b/a Mercado Express  
11 Roma Ridge Dr.  
Missouri City, TX 77459

**RE: NOTICE OF FINAL HEARING ON SUSPENSION OR REVOCATION OF  
LOTTERY LICENSE; DOCKET NO. 362-20-2398  
TEXAS LOTTERY TICKET SALES AGENT LICENSE NO. 182779**

Dear Mr. Siddiqui:

Be advised that a formal hearing to consider the Texas Lottery Commission's suspension or revocation of AS & RM Properties LLC d/b/a Mercado Express' Texas Lottery Ticket Sales Agent license, pursuant to the provisions of the Tex. Gov't. Code chs. 466, 2001, and 2003; 1 Tex. Admin. Code ch. 155; and 16 Tex. Admin. Code ch. 401, will be held as follows:

**TIME OF HEARING:** 9:00 a.m.  
**DATE OF HEARING:** June 16, 2020  
**LOCATION OF HEARING:** State Office of Administrative Hearings  
William P. Clements Building  
300 West 15<sup>th</sup> St.  
4<sup>th</sup> Floor  
Austin, Texas 78701

## NOTICE OF HEARING

### I.

#### Factual Matters Asserted

On September 24, 2019, in the 179th District Court of Harris County, in Case No. 159682601010, Asaad Siddiqui, managing member of AS & RM Properties LLC d/b/a Mercado Express (Mercado Express), was convicted of DWI Third, 3rd degree felony, and sentenced to four (4) years in the Texas Department of Corrections. The judge suspended the imposition of the sentence and placed Mr. Siddiqui on community supervision for a period of four (4) years.

Ten years have not elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the sentence. Due to this conviction, Mercado Express' Texas Lottery Ticket Sales Agent license is subject to revocation, pursuant to Tex. Gov't Code §466.155(a)(1)(A) and 16 Tex. Admin. Code §401.158(a).

### II.

#### Legal Authority and Jurisdiction

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

The State Office of Administrative Hearings (SOAH) has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 2003 and 1 Tex. Admin. Code ch. 155.

### III.

#### Applicable Statutes and Rules

Tex. Gov't Code §466.151(e) states:

The director may issue a license to a person only if the director finds that the person's experience, character, and general fitness are such that the person's participation as a sales agent will not detract from the integrity, security, honesty, and fairness of the operation of the lottery.

Tex. Gov't Code §466.155 states in pertinent parts:

(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.

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

(a) The commission may suspend or revoke any license issued under this subchapter if the commission finds that any factor listed as grounds for denial of a license under §401.153(b) of this title (relating to Qualifications for License) or any factor listed in subsection (b) of this section apply to the licensee.

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

...

- (40) licensee has violated a provision of the State Lottery Act, Government Code, Chapter 466, or a commission rule adopted under the State Lottery Act.

All visitors to the William P. Clements Building without an agency or DPS issued ID card will be required to sign a log and receive a visitor's pass. Persons going to a hearing at the State Office of Administrative Hearings (SOAH) will need to identify to the security officer the hearing that they are attending. Persons must provide the officer with the SOAH docket number to be allowed access to the hearing room. Individuals should allow additional time to go through the security process. Failure to provide the docket number may result in delaying the individual's arrival to the hearing.

If you do not oppose the suspension or revocation of this license, your appearance at the hearing is not required. If you do oppose the suspension or revocation of the license, you have the right to appear and present evidence. You are entitled to be represented by a lawyer at the hearing, but it is your responsibility to obtain and pay for such representation. A court reporter may be present, and a record of the proceedings will be created. It is, however, the sole and exclusive responsibility of each party to request and pay for any printed transcript.

The hearing is conducted under authority of Tex. Gov't Code §466.155 and 16 Tex. Admin. Code §§ 401.158 and 401.201-.227.

All hearings are formal due process matters governed by and conducted in accordance with law, including Texas Government Code Chapters 466 and 2001, the Texas Rules of Civil Procedure, the Texas Rules of Evidence, Title 1 of the Texas Administrative Code Chapter 155, and Title 16 of the Texas Administrative Code Chapter 401.

**PARTIES THAT ARE NOT REPRESENTED BY AN ATTORNEY MAY OBTAIN INFORMATION REGARDING CONTESTED CASE HEARINGS ON THE PUBLIC WEBSITE OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AT WWW.SOAH.TEXAS.GOV, OR IN PRINTED FORMAT UPON REQUEST TO SOAH.**

**AT LEAST TEN (10) CALENDAR DAYS BEFORE THE DATE OF THE HEARING, YOU ARE REQUIRED TO FILE A WRITTEN ANSWER TO THE ALLEGATIONS IN THIS NOTICE OF HEARING WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS. YOU ARE ALSO REQUIRED TO PROVIDE A COPY OF THE WRITTEN ANSWER TO THE UNDERSIGNED BY FAX AT 512-344-5189 OR EMAIL AT [legal.input@lottery.state.tx.us](mailto:legal.input@lottery.state.tx.us). A GENERAL DENIAL OF THE ALLEGATIONS SHALL BE A SUFFICIENT ANSWER.**

**FAILURE TO FILE A WRITTEN ANSWER BY THIS DATE AND/OR TO APPEAR AT THE HEARING MAY RESULT IN THE ALLEGATIONS BEING ADMITTED AS TRUE AND THE RELIEF REQUESTED BEING GRANTED BY DEFAULT.**

**FOR UNREPRESENTED PARTIES WHO CANNOT FILE DOCUMENTS ELECTRONICALLY WITH SOAH, DOCUMENTS MAY BE FILED: (1) BY MAIL ADDRESSED TO SOAH AT P.O. BOX 13025, AUSTIN, TEXAS 78711-3025; (2) BY HAND-DELIVERY TO SOAH AT 300 WEST 15TH STREET, ROOM 504; (3) BY FAX TO SOAH AT (512) 322-2061; OR (4) AT THE SOAH FIELD OFFICE WHERE THE CASE IS ASSIGNED, USING THE FIELD OFFICE ADDRESS OR FAX NUMBER, WHICH ARE AVAILABLE AT SOAH'S WEBSITE.**

**TO ELECT TO RECEIVE SERVICE OF SOAH-ISSUED DOCUMENTS BY EMAIL, GO TO THE SOAH WEBSITE (WWW.SOAH.TEXAS.GOV), CLICK THE "E-SERVICES" TAB, THEN CLICK THE "Request Service by Email (only for use by self-represented litigants)" LINK AND FOLLOW THE INSTRUCTIONS.**

The Commission reserves the right to amend this Notice of Hearing.

Sincerely,

/s/ Kristen Guthrie  
KRISTEN GUTHRIE  
Assistant General Counsel  
Texas Lottery Commission

**CERTIFICATE OF SERVICE**

I certify that on April 17, 2020, a true and correct copy of the this *Notice of Final Hearing on Suspension or Revocation of Lottery License* has been sent to AS & RM Properties LLC d/b/a Mercado Express, 11 Roma Ridge Dr., Missouri City, TX 77459, by certified and regular mail.

/s/ Kristen Guthrie

KRISTEN GUTHRIE

Assistant General Counsel

Texas Lottery Commission

P.O. Box 16630

Austin, Texas 78761-6630

(512) 344-5465

(512) 344-5189 Fax

cc: State Office of Administrative Hearings  
Lottery Operations Division, Retailer Services Department



Commission Order No. 20-0068

Date: AUGUST 6, 2020

DOCKET NO. 362-20-1972.B

TEXAS LOTTERY COMMISSION	§	BEFORE THE TEXAS
<i>Petitioner</i>	§	
	§	
v.	§	
	§	
JAMEL HENDRICKS	§	
BINGO WORKER REGISTRY	§	
NO. 152940	§	
<i>Respondent</i>	§	LOTTERY COMMISSION

**ORDER OF THE COMMISSION**

To: Mr. Jamel Hendricks  
322 Hub Ave.  
San Antonio, TX 78220

During an open meeting in Austin, Texas, the Texas Lottery Commission (Commission) heard the above-styled case in which Jamel Hendricks (Respondent) 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 hearing in the referenced case before SOAH was provided to Respondent, pursuant to Tex. Gov't Code §§ 2001.051 and 2001.052 and 1 Tex. Admin. Code §§ 155.401 and 155.501(b). The 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.

**Commission Order No. 20-0068**

**Date: AUGUST 6, 2020**

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

3. The Commission, by and through its attorney of record, filed a motion to dismiss the case from the SOAH docket and to remand the case to the Commission for informal disposition, in accordance with Tex. Gov't Code §2001.058(d-1) and 1 Tex. Admin. Code §155.501(d).

4. The ALJ conditionally dismissed the case from the SOAH docket and remanded the case to the Commission for informal disposition under Tex. Gov't Code §2001.056, provided the Respondent did not file a motion to set aside the default no later than 15 days from the date of the ALJ's conditional order.

5. The Respondent did not file a motion to set aside the default within the 15 days from the date of the ALJ's conditional order.

**II. Conclusions of Law**

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

2. The Respondent violated the Bingo Enabling Act and the Commission's Rules as set forth in the Commission's notice of hearing.

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



**Commission Order No. 20-0068**

**Date: AUGUST 6, 2020**

**III. Order**

NOW, THEREFORE, IT IS ORDERED that, after review and due consideration of the administrative record of the above-styled case, this matter is hereby disposed of by default, and:

1. All allegations set forth in the Commission's notice of hearing are deemed admitted; and
2. Jamel Hendricks, Worker Registry No. 152940, is hereby removed from the Registry of Approved Bingo Workers.

Passed and approved at the regular meeting of the Texas Lottery Commission in Austin, Texas, on the 6<sup>TH</sup> day of AUGUST 2020.

Entered this 6<sup>TH</sup> day of AUGUST 2020.

---

ROBERT G. RIVERA, CHAIRMAN

---

CINDY FIELDS, COMMISSIONER

---

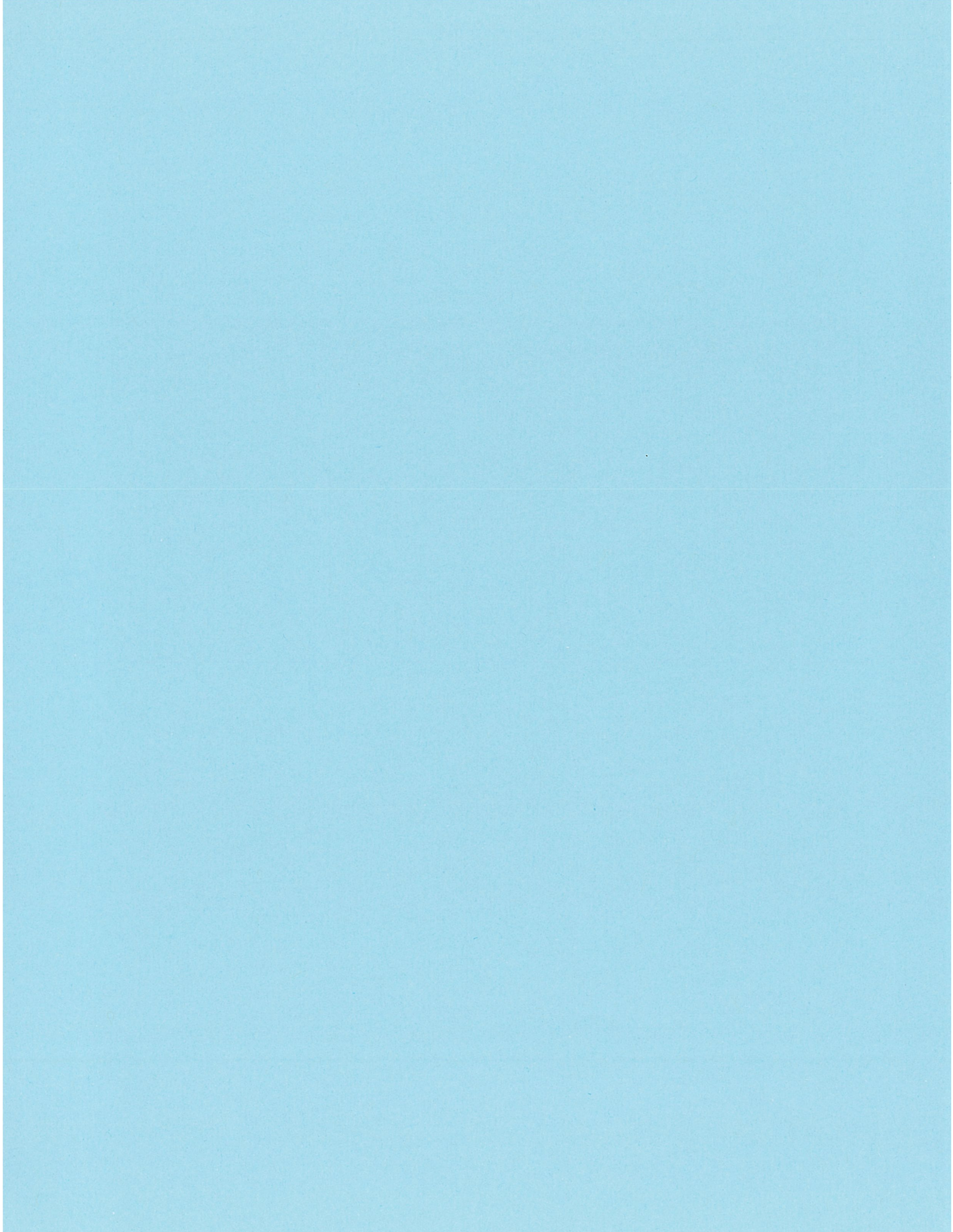
MARK A. FRANZ, COMMISSIONER

---

ERIK C. SAENZ, COMMISSIONER

---

JAMES H. C. STEEN, COMMISSIONER



ACCEPTED  
362-20-1972  
05/26/2020 2:24 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Jodi Brown, CLERK

FILED  
362-20-1972  
5/26/2020 2:22 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Jodi Brown, CLERK

**SOAH DOCKET NO. 362-20-1972.B**

<b>TEXAS LOTTERY COMMISSION,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
<b>v.</b>	§	
	§	<b>OF</b>
	§	
<b>JAMEL HENDRICKS</b>	§	
<b>BINGO WORKER REGISTRY</b>	§	
<b>NO. 152940,</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**ORDER NO. 2  
ORDER OF REMAND**

A hearing in this matter was convened on May 20, 2020, before the State Office of Administrative Hearings (SOAH).

This case was originally set for hearing on March 31, 2020. On May 11, 2020, SOAH issued Order No. 1 rescheduling the hearing for May 20, 2020, at 10:00 am, and converting the hearing to a telephonic hearing.

Kristen Guthrie, Assistant General Counsel, represented the Charitable Bingo Operations Division of the Texas Lottery Commission (Commission). Jamel Hendricks (Respondent) did not appear at the hearing. In accordance with 1 Tex. Admin. Code §155.501(b)(2), a notice of hearing was served on Respondent by certified mail and email (if available). The notice of hearing included the time, date and location of the hearing, a statement of the factual allegations and applicable statutes and rules, 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 in the notice of hearing might be granted by default against the party that fails to appear at the hearing. Furthermore, the Commission served the notice of hearing via certified mail to Respondent’s last known address as it appears on the Commission’s records, as authorized by 16 Tex. Admin. Code § 401.205(4). Timely and adequate notice of the hearing was provided to Respondent pursuant to Tex. Gov’t Code §§ 2001.051 and 2001.052 and 1 Tex. Admin. Code §§ 155.401 and 155.501(b).

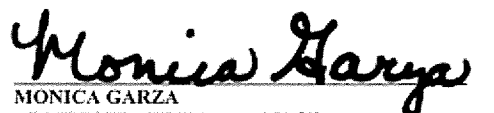
Based on Respondent’s failure to appear at the hearing, despite being provided adequate notice of it, the Commission filed a Motion to Remand to the Commission for informal disposition of the above referenced matter and requested this matter be dismissed from SOAH’s docket, in accordance with Tex. Gov’t Code § 2001.058(d-1) and 1 Tex. Admin. Code §155.501(d).

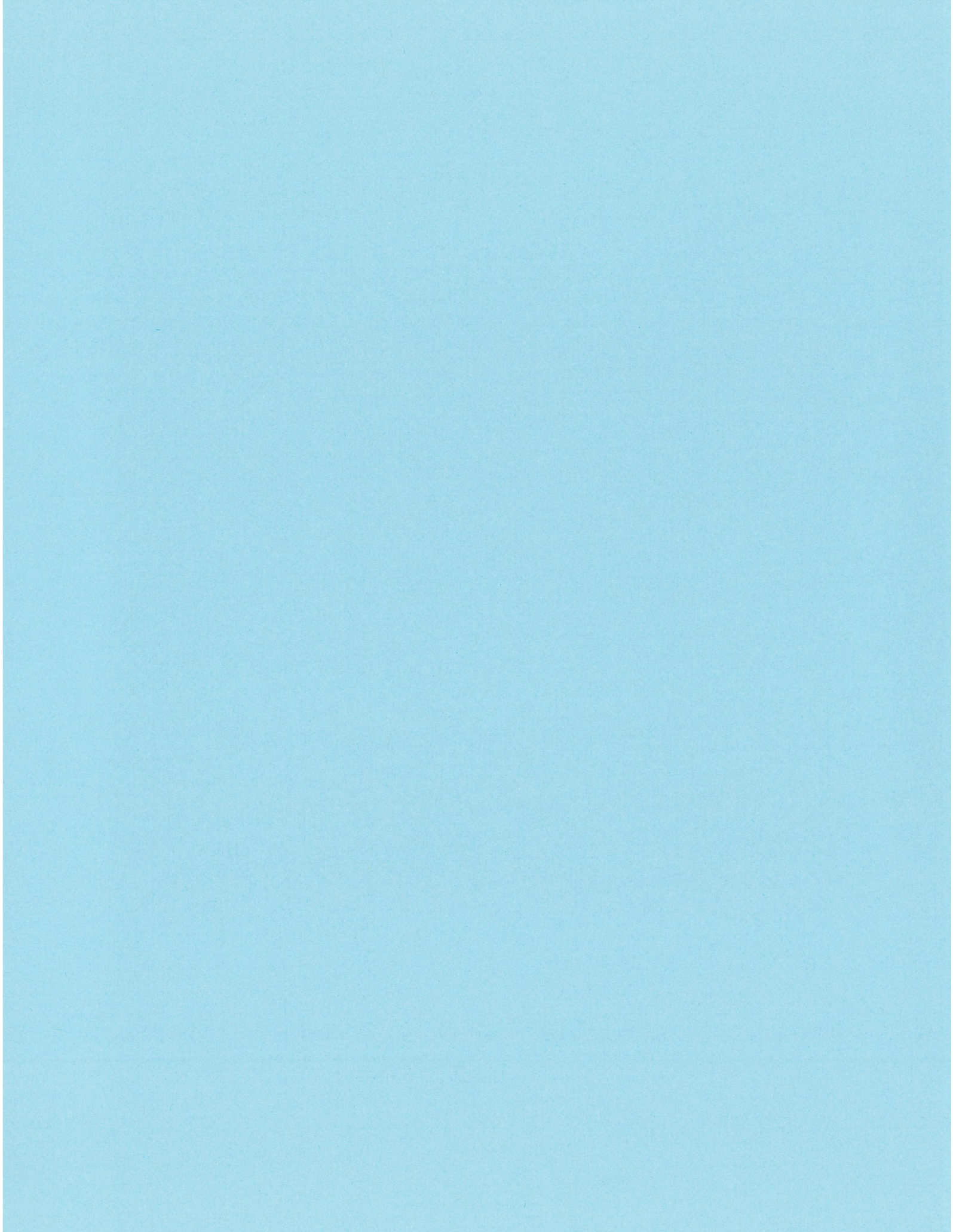
Upon receiving proof that adequate notice of the hearing was provided to Respondent, the Administrative Law Judge (ALJ) granted the Commission’s motion to dismiss the case from SOAH’s docket and to remand it to the Commission based on Respondent’s failure to appear at the hearing.

**THEREFORE, IT IS ORDERED** that this matter is **dismissed** from SOAH's docket in accordance with 1 Tex. Admin. Code §155.503(a). Respondent is informed that, should it wish to have the default dismissal and remand set aside under 1 Tex. Admin. Code §155.503(a)(3), it shall file an adequate motion to set aside this order no later than fifteen (15) days from the date of this order.

In accordance with 1 Tex. Admin. Code §155.503(a)(2), if Respondent files a motion to set aside the dismissal within fifteen (15) days of this order, the ALJ will rule on the motion and either grant it upon good cause shown or in the interests of justice, resulting in the dismissal being set aside and the hearing being re-opened, or the ALJ will deny the motion and issue a final order of dismissal and remand. In the absence of a timely motion to set aside the default dismissal, this order will become final on the sixteenth (16) day after its issuance without further action by the ALJ, in accordance with 1 Tex. Admin. Code § 155.503(a)(4). The dismissal of the case will remove it from SOAH's docket, and the case file will be returned to the Commission for final disposition.

**SIGNED May 26, 2020.**

  
MONICA GARZA  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS





# Texas Lottery Commission



Commissioners:

J. Winston Krause, Chairman

Mark A. Franz • Robert Rivera • Erik C. Saenz

Michael P. Farrell  
Director

February 4, 2020

Mr. Jamel Hendricks  
322 Hub Ave.  
San Antonio, TX 78220

*via email at [jamelwhendrics@gmail.com](mailto:jamelwhendrics@gmail.com)*

**RE: NOTICE OF FINAL HEARING ON REMOVAL OF JAMEL HENDRICKS FROM  
THE REGISTRY OF APPROVED BINGO WORKERS  
SOAH DOCKET NO. 362-20-1972.B  
BINGO WORKER REGISTRY NO. 152940**

Dear Mr. Hendricks:

Be advised that a formal hearing to consider the removal of your name from the Registry of Approved Bingo Workers, pursuant to the provisions of the Tex. Occ. Code ch. 2001, Tex. Gov't Code chs. 2001 and 2003; 1 Tex. Admin. Code ch. 155; and 16 Tex. Admin. Code chs. 401-402, will be held as follows:

**TIME OF HEARING: 9:00 a.m.**  
**DATE OF HEARING: March 31, 2020**  
**LOCATION OF HEARING: State Office of Administrative Hearings  
William P. Clements Building  
300 West 15<sup>th</sup> St.  
4<sup>th</sup> Floor  
Austin, Texas 78701**

## NOTICE OF HEARING

### I.

#### Factual Matters Asserted

On February 4, 2014, in the 4th District Court of Travis County, Texas, in Case No. D-1-DC-12-201890, Jamel Hendricks was convicted of Assault Causes Bodily Injury Family Violence, a Class A misdemeanor, and sentenced to confinement in the Travis County Correctional Facility for a period of one (1) year. The court suspended the imposition of the sentence and placed Mr. Hendricks on community supervision for a period of two (2) years. On August 23, 2016, the court revoked Mr. Hendrick's community supervision and sentenced him to ninety (90) days in Travis County jail. The date of the offense was April 14, 2012.

### II.

#### Legal Authority and Jurisdiction

The Texas Lottery Commission (Commission) has jurisdiction over this matter pursuant to Tex. Occ. Code ch. 2001 (the Bingo Enabling Act) and 16 Tex. Admin. Code chs. 401–402.

The State Office of Administrative Hearings (SOAH) has jurisdiction over this matter pursuant to Tex. Gov't Code ch. 2003 and 1 Tex. Admin. Code ch. 155.

### III.

#### Applicable Statutes and Rules

Tex. Occ. Code §2001.0541 states:

The Commission shall adopt rules and guidelines as necessary to comply with Chapter 53 when using criminal history record information under this chapter to issue or renew a bingo license or to list or renew the listing of an individual in the registry of approved bingo workers.

Tex. Occ. Code §2001.313 states, in pertinent parts:

(a) To minimize duplicate criminal history background checks by the commission and the costs incurred by organizations and individuals, the commission shall maintain a registry of individuals on whom the commission has conducted a criminal history background check and who are approved to be involved in the conduct of bingo or to act as a bingo operator.

...

(e) The commission may refuse to add an individual's name to, or remove an individual's name from, the registry established by this section if, after notice and, if requested by the individual, a hearing, the individual is finally determined to have:

...

(7) participated in any violation of this chapter or rules adopted by the commission for the administration of this chapter.

Tex. Occ. Code §53.021 states, in pertinent parts:

(a) Subject to Section 53.0231, a licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of:

- (1) an offense that directly relates to the duties and responsibilities of the licensed occupation;
- (2) an offense listed in Article 42A.054, Code of Criminal Procedure; or
- (3) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.

Tex. Occ. Code §53.022 states:

In determining whether a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the licensing authority shall consider each of the following factors:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- (4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
- (5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

Tex. Occ. Code §53.023 states:

(a) If a licensing authority determines under Section 53.022 that a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the licensing authority shall consider the following in determining whether to take an action authorized by Section 53.021:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- (7) other evidence of the person's fitness, including letters of recommendation.

(b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations described by Subsection (a)(7).



16 Tex. Admin. Code §402.702 states, in pertinent parts:

...  
(h) Pursuant to Chapter 53, Occupations Code, the Commission may consider mitigating factors in addition to criminal convictions to determine whether an applicant is eligible for a new or renewal license or registry listing. Such mitigating factors include:

- (1) Veteran's status, including discharge status;
- (2) Remoteness in time; e.g., if more than 10 years have elapsed since the last conviction;
- (3) Absence of violation history as a current bingo licensee or bingo worker registrant over an extended period of time;
- (4) Recommendations from law enforcement or community leaders; and
- (5) Whether an arrest resulted in a deferred adjudication rather than a conviction.

(i) Upon notification of the Commission's intent to deny a new or renewal application or registry listing, an applicant may provide documentation of mitigating factors that the applicant would like the Commission to consider regarding its application. Such documentation must be provided to the Commission no later than 20 days after the Commission provides notice to an applicant of a denial, unless the deadline is extended in writing or through e-mail by authorized Commission staff.

All visitors to the William P. Clements Building without an agency or DPS issued ID card will be required to sign a log and receive a visitor's pass. Persons going to a hearing at the State Office of Administrative Hearings (SOAH) will need to identify to the security officer the hearing that they are attending. Persons must provide the officer with the SOAH docket number to be allowed access to the hearing room. Individuals should allow additional time to go through the security process. Failure to provide the docket number may result in delaying the individual's arrival to the hearing.

**PLEASE NOTE: This notice of hearing is not a summons. If you do not oppose the removal of your name from the Registry of Approved Bingo Workers (Registry), you will be removed from the Registry and your appearance at the hearing is not required. If you do oppose the removal of your name from the Registry, you have the right to appear and present evidence.**

**16 TEX. ADMIN. CODE §401.207 REQUIRES THAT YOU FILE A WRITTEN ANSWER TO THE ALLEGATIONS IN THIS NOTICE OF HEARING WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (BY FAX AT 512-322-2061) AND PROVIDE A COPY TO THE UNDERSIGNED (BY FAX AT 512-344-5189 OR EMAIL AT LEGAL.INPUT@LOTTERY.STATE.TX.US) AT LEAST TEN (10) CALENDAR DAYS BEFORE THE DATE OF THE HEARING. FAILURE TO FILE A WRITTEN ANSWER BY THIS DATE AND/OR TO APPEAR AT THE HEARING MAY RESULT IN THE ALLEGATIONS BEING ADMITTED AS TRUE AND THE RELIEF REQUESTED BEING GRANTED BY DEFAULT.**

The hearing is conducted under authority of Tex. Occ. Code chs. 53, 2001; Tex. Gov't Code ch. 2001; and 16 Tex. Admin. Code §§ 401.201–.227

SOAH offers the ability to receive service of orders and other documents issued by SOAH through email rather than mail or fax. To elect to receive service of SOAH-issued documents by email, go to the SOAH website ([www.soah.texas.gov](http://www.soah.texas.gov)), click on the “E-SERVICES” tab, “Email Service” link, and follow the instructions.

**PLEASE NOTE: Your request to receive SOAH-issued documents by email does not change the procedures you must follow in order to file documents with SOAH. The requirements for filing documents and providing copies to the other parties are set out in SOAH’s Rules of Procedure, 1 Tex. Admin. Code §§ 155.101–.105, which are available on SOAH’s website under the “AGENCY” tab, “Administrative Rules and Laws” link.**

All hearings are formal due process matters governed by and conducted in accordance with law, including Chapters 53 and 2001 of the Texas Occupations Code, Chapter 2001 of the Texas Government Code, the Texas Rules of Civil Procedure, the Texas Rules of Evidence, Chapter 155 of Title 1 of the Texas Administrative Code, and Chapters 401 and 402 of Title 16 of the Texas Administrative Code.

A court reporter will be present, and a record of the proceedings will be created. It is, however, the sole and exclusive responsibility of each party to request and pay for any printed transcript.

**Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at [www.soah.texas.gov](http://www.soah.texas.gov), or in printed format upon request to SOAH.**

The Commission reserves the right to amend this Notice of Hearing.

Sincerely,

          /s/ Kristen Guthrie            
KRISTEN GUTHRIE  
Assistant General Counsel  
Texas Lottery Commission

**CERTIFICATE OF SERVICE**

I certify that on February 4, 2020, a true and correct copy of this *Notice of Final Hearing on Removal of Jamel Hendricks from the Registry of Approved Bingo Workers* has been sent to Mr. Jamel Hendricks, 322 Hub Ave., San Antonio, TX 78220, by regular and certified mail, and email.

          /s/ Kristen Guthrie            
KRISTEN GUTHRIE  
Assistant General Counsel  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630  
(512) 344-5465  
(512) 344-5189 Fax

cc: State Office of Administrative Hearings  
Lottery Operations Division, Retailer Services Department