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LAWRENCE P. MAYO, J.D./LL.M.

Via email and first class US Mail to: kconsidine@considinefurey.com

July 8, 2019

Kevin M. Considine, Esq.
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One Beacon Street, 22nd Floor
Boston, MA 02108

**Re: Massachusetts State Lottery Commission Director's Level Hearing Decisions
 In the Matter of Ali Jaafar
 In the Matter of Mohamed Jaafar
 In the Matter of Yousef Jaafar**

Dear Attorney Considine:

Enclosed herewith you will find the Director's Level Hearing Decision rendered in each of the three (3) above-referenced matters.

Thank you for your cooperation throughout this process.

Very truly yours,


Lawrence P. Mayo

Enclosures

Cc: Gregory M. Polin, General Counsel, Mass. State Lottery Commission

MASSACHUSETTS STATE LOTTERY COMMISSION

Director's Level Hearing Decision

In Re: Ali Jaafar, Prize Claim Suspension Hearing

Hearing Officer: Lawrence P. Mayo, Esq.

Hearing Date: May 7, 2019

Decision Date: July 8, 2019

AUTHORITY

The hearing was conducted pursuant to the Rules and Regulations established by the Massachusetts State Lottery Commission (the "Commission") as authorized in M.G.L. c.10, §24, and as set forth in the High-Frequency Prize Winner regulation, 961 CMR 2.43(2).

JURISDICTION

A person determined to be a High-frequency Prize Winner as defined in 961 CMR 2.03 shall be entitled to a hearing conducted by the Director of the Massachusetts State Lottery (the "Lottery") before any prize claim suspension goes into effect. 961 CMR 2.43(2)(2)(c).

ORIGINAL ACTION TAKEN BY THE LOTTERY

The Lottery compliance department reviewed the Lottery prize claim history of Mr. Ali Jaafar (the "Respondent") for the period beginning July 27, 2018 and ending January 27, 2019 and determined that the prize claims were factually or statistically improbable; thus, on April 1, 2019 pursuant to M.G.L. c.10, §26 and 961 CMR 2.43(2) the Executive Director of the Lottery notified the Respondent in writing that the Lottery was imposing a prize claim suspension on Respondent suspending his ability to claim Lottery Prizes with a value of \$600 or more for a period of 90 days.

ISSUE

The two-fold issue is (i) whether Respondent is a "High Frequency Prize Winner," and, if yes, (ii) whether the submission by Respondent of at least 20 claims for Lottery prizes each with a value of at least \$1,000 within any period of 365 days, is factually or statistically improbable.

HEARING RECORD

Ali Jaafar, the Respondent, was present at the hearing held on May 1, 2019 but did not provide any testimony.

Maureen McHugh, Lottery Compliance Analyst, appeared at the hearing and gave testimony on behalf of the Lottery.

Paul Mandeville, Lottery Assistant Executive Director in Charge of Information Technology, appeared at the hearing and gave testimony on behalf of the Lottery.

- Exhibit 1 High Frequency Claims Prize Suspension Notice dated April 1, 2019.
- Exhibit 2 Claims Report of the Respondent dated July 27, 2018 through January 27, 2019.
- Exhibit 3 Statistics of Respondent for period beginning July 27, 2018 through January 27, 2019.
- Exhibit 4 Polin Letter to Kevin Considine dated April 26, 2019.
- Exhibit 5 Email from Kevin Considine to Greg Polin dated April 26, 2019.

FINDINGS OF FACT

The record shows, and I so find:

1. The Respondent was determined by the Lottery to be a High-frequency Prize Winner. (Exhibit 1)
2. Because the Respondent was determined to be a High-frequency Prize Winner the Lottery imposed a prize claim suspension suspending Respondent's ability to claim Lottery prizes with a value of \$600 or more for a period of 90 days. (see Exhibit 1; see testimony of McHugh, transcript page (see Transcript, page 19-20).
3. During the period beginning July 27, 2018 and ending January 27, 2019 (the "Review Period") Respondent claimed 651 prizes each with a value of \$1,000 or more. (see Exhibit 2)
4. The total dollar value of the 651 prizes claimed ("Winning Tickets") by Respondent during the Review Period was \$1,024,905.50. Of those 651 Winning Tickets, 559 of them were claimed for instant ticket games ("Instant Tickets"). (see Exhibit 3)
5. Respondent lives in Watertown, Massachusetts. Winning Tickets were originally purchased from various Lottery sales agents located in various cities and towns throughout Eastern Massachusetts, ranging geographically from Lowell to Nantucket, and Boston to Worcester. (see Exhibit 2)
6. In order to win \$1,000 or more on 559 Instant Tickets during the Review Period, Respondent would have been required to purchase 2,283,649.31 Instant Tickets (12,411.14 tickets per day/517.13 per hour/8.62 per minute) at a cost of \$15,455,688.99 in order to arrive at an expected win amount of \$12,158,950.76 (see Exhibit 3).

ANALYSIS AND CONCLUSIONS OF LAW

A. The High-frequency Prize Winner Regulation.

The High-frequency Prize Winner regulation is set forth at 961 CMR 2.43(2) and states in pertinent part as follows:

(a) The Director may conduct an internal review of a High-frequency Prize Winner, as defined in 961 CMR 2.03, to determine if the submission of at least 20 claims for Lottery prizes, each with a value of at least \$1,000.00, within any period of 365 days, is factually or statistically improbable. If the Director makes such a determination of factual or statistical improbability, the Director may impose a prize claim suspension, as provided in 961 CMR 2.43(2)(b).

(b) Penalties. The Director may impose a prize claim suspension, as follows:

1. First Violation. A High-frequency Prize Winner shall be suspended from claiming lottery prizes, with a value of \$600 or more, for a period not to exceed 90 days.

The High-frequency Prize Winner Regulation must be considered in light of certain statutory requirements and prohibitions, including: (i) the Lottery's mandate to collect past-due child support obligations and past-due tax liabilities in accordance with M.G.L. c.10, §28A; (ii) the Lottery's obligation to transmit to the department of transitional assistance, the executive office of health and human services, the office of Medicaid and the state child support agency a list of all persons holding winning tickets in excess of \$600 in the prior month per M.G.L. c.10, §28B; (iii) the prohibition on the sale of Lottery tickets by non-Lottery sales agent according to M.G.L. c.10, §29; and, (iv) the prohibition on assignment of prizes (except under limited circumstances) per M.G.L. c.10, §28 (hereinafter collectively the "Statutory Obligations").

B. Is respondent a High-frequency Prize Winner?

A "High-frequency Prize Winner" is defined as a "person . . . who submits at least 20 claims for Lottery prizes, each with a value of at least \$1,000.00, within any period of 365 days." See 961 CMR 2.03. During the Review Period Respondent claimed 651 prizes each with a value of \$1,000 or more (Respondent's "Claims History"). (See Exhibit 2) Respondent's Claims History is thus subject to Lottery Director review as to factual or statistical improbability pursuant to 961 CMR 2.43(2)(a).

C. Is Respondent's Claims History Factually or Statistically Improbable?

If the claims of a High-frequency Prize Winner are determined to be "factually or statistically improbable," then the Lottery Director may impose a prize claim suspension for First Violation as follows: "[A] High-frequency prize Winner shall be suspended from claiming lottery prizes, with a value of \$600 or more, for a period not to exceed 90 days." 961 CMR 2.43(2)(b)1.

Mrs. McHugh testified that the Lottery compliance department reviewed the prize Claims History of the Respondent as set forth in Exhibit 2 and determined those claims to be factually or statistically improbable. She testified that the locations from where the tickets were sold were from different locations throughout a wide geographic region, which is an unusual pattern for someone that is playing the Lottery since most people play around their home or in the same location. (see Transcript, page 8-10, 17-18).

Based on Mrs. McHugh's uncontroverted eighteen (18) years experience as a Lottery compliance analyst I find her testimony credible. Furthermore, based on the distant and various locations of Winning Ticket sales agents (throughout eastern Massachusetts) and the volume of Winning Tickets claimed (651) I find the Lottery's determination to be reasonable that it is factually improbable that Respondent himself procured the Winning Tickets from a licensed Lottery sales agent, but most likely received the Winning Tickets from other undisclosed persons.

Paul Mandeville, Lottery Assistant Executive Director in Charge of Information Technology testified as to the statistical odds of Respondent's Lottery prize Claims History. He created the Instant Ticket Odds Analyst Report (see Exhibit 3) based on Respondent's Claims History. Instant Tickets are not a random product. Instant tickets are a defined product (see testimony of Paul Mandeville, Transcript pages 12-16). Mr. Mandeville further testified that the total dollar value of the 651 prizes in the amount of \$1,000 or more claimed by Respondent during the Review Period was \$1,024,905.50. Of those 651 prizes, 559 of those claimed were Instant Tickets (see Exhibit 3). In order to win \$1,000 or more on 559 Instant Tickets during the Review Period, Respondent would have been required to purchase 2,283,649.31 Instant Tickets (12,411.14 tickets per day/517.13 per hour/8.62 per minute) at a cost of \$15,455,688.99 in order to arrive at an expected win amount of \$12,158,950.76 (see Exhibit 3). I find the testimony of Mr. Mandeville to be credible.

Based on the evidence presented and credible testimony of the witnesses I find that the Claims History of the Respondent is factually or statistically improbable, and as a result I conclude the 90 day prize claim suspension imposed upon Respondent by the Lottery (see Exhibit 1) to be warranted under the High Frequency Prize Winner Regulation.

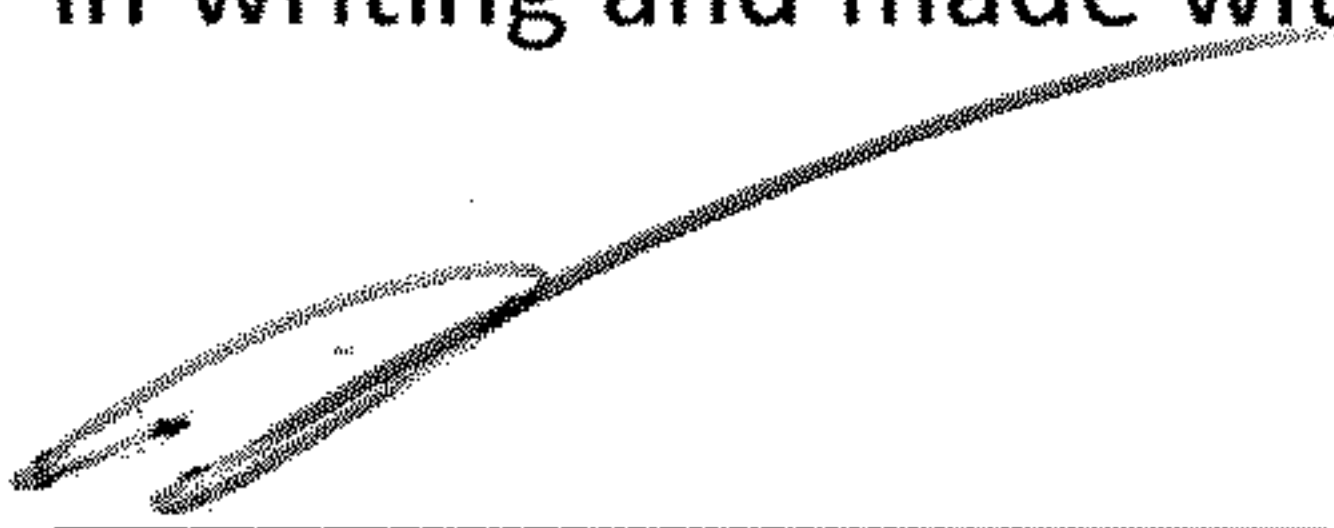
These findings and conclusions are made taking into consideration the role served by the Lottery in protecting and preserving the health care, human service and financial systems of the Commonwealth of Massachusetts as set forth in the Statutory Obligations.¹

DECISION

The Lottery's decision to impose the prize claim suspension upon Respondent is supported by the credible evidence. The determination of the Lottery dated April 1, 2019 is upheld.

NOTIFICATION OF YOUR RIGHT TO APPEAL TO THE COMMISSION

If the respondent is aggrieved by the Decision of the Hearing Officer in this matter, he may appeal to the Commission for a hearing pursuant to M.G.L. c.30A. Any such appeal shall be in writing and made within thirty (30) days of this Decision.



Lawrence P. Mayo, Esq.

¹ The Hearing Officer acknowledges the Post Hearing Briefs received from counsel to the Respondent and the Lottery.