

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS STATE LOTTERY COMMISSION

In re: APPEAL OF SANJEEV RAI
LOTTERY SALES LOCATIONS; and
PANKAJ RAI GHAI LOTTERY
SALES LOCATIONS.

DECISION AND RECOMMENDATION

INTRODUCTION

Pursuant to 961 CMR 2.18 and M.G.L. c. 30A, Lottery Sales Agents¹, Sanjeev Rai (“Sajeev”) and Pankaj Rai Ghai (“Pankaj”) (together, the “Appellants” or the “Rai brothers”), appeal the Massachusetts State Lottery Commission’s (the “Lottery”) September 19, 2023 decision revoking their Lottery Sales Agent licenses for 10 locations: Archit Corporation (d/b/a 200 Food Mart) (Lottery License # [REDACTED]), (2) Amiksha Corporation (d/b/a J S Mart) (License # [REDACTED]), (3) Shivaya Incorporated (d/b/a Million \$ Mary’s Smoke Shop) (License # [REDACTED]), (4) Bawa, Incorporated (d/b/a Ninety Three Food Mart) (License # [REDACTED]), (5) Shiriganesh, Inc. (d/b/a Winter Hill Market) (License # [REDACTED]) (collectively, the “Sanjeev Stores”), (6) Vatika Corporation (d/b/a 350 Food Mart) (License # [REDACTED]), (7) Shri Monohar Corporation (d/b/a LC’s Market) (License # [REDACTED]), (8) Jayesh Corporation (d/b/a Pearl Street Market) (License # [REDACTED]), (9) Omnamoshivam Corp. (d/b/a One Bridle Market) License # [REDACTED]), and (10) Shrikrishana Corp. (d/b/a Veronica’s) (License # [REDACTED]) (collectively, the “Pankaj Stores”). The Lottery revoked the 10 Lottery Sales Agent licenses based upon violations of 961 Code Mass. Regs. §§ 2.13(1), 2.13(3), 2.13(5), 2.13(7) and 2.13(9).

¹ The parties agreed to consolidate in one hearing the separate matters of license revocation of Pankaj Ghai Rai and the license revocation of Sanjeev Rai.

After considering the evidence and arguments and as explained further below, the Hearing Officer recommends that the Lottery affirm the revocation of the Lottery Sales Agents' licenses at all 10 stores.

AUTHORITY

This appeal hearing was conducted on December 14, 2023, pursuant to Rules and Regulations established by the Lottery as authorized in M.G.L.c.10, §§ 24 and 26, and as set forth in the Hearings on Denial or Revocation of License regulation, § 961 CMR 2.18.

JURISDICTION

An applicant or sales agent² is entitled to a hearing before his/her license is denied, suspended, or revoked if he/she requests such hearing within 20 days from the date of notice of the denial, revocation, or suspension. 961 CMR § 2.18.

PROCEDURAL BACKGROUND

On May 15, 2023, the Lottery sent notice to the Appellants that it was immediately suspending and seeking the revocation of lottery licenses for 10 Lottery Sales Agent locations per M.G.L. c. 10, § 26 and 961 CMR 2.13. *See* Exhibit 1.

The Lottery revoked Agent Sanjeev's 5 Lottery Sales Agent Licenses for the Sanjeev Stores: (1) Archit Corporation (d/b/a 200 Food Mart) (Lottery License # [REDACTED]), located at 200 Sea Street, Quincy, MA 02169-2528; (2) Amiksha Corporation (d/b/a J S Mart) (License # [REDACTED]), located at 398 main Street, Everett, MA 02149-5730; (3) Shivaya Incorporated (d/b/a Million \$ Mary's Smoke Shop) (License # [REDACTED]), located at 36 Province Street, Boston, MA 02108; (4) Bawa, Incorporated (d/b/a Ninety Three Food Mart) (License # [REDACTED]), located at 1

² Sales Agent means a person who has been licensed to sell Lottery tickets or register bets on behalf of the player under M.G.L. c. 10, §§ 22 through 36.

Cushing Avenue, Belmont, MA 02478-4448; and (5) Shiriganesh, Inc. (d/b/a Winter Hill Market) (License # [REDACTED]) located at 269 Broadway, Somerville, MA 02145-2005. *See* Exhibit 1 and Exhibit 4.

The Lottery revoked Agent Pankaj's 5 Lottery Sales Agent Licenses for the Pankaj stores: (6) Vatika Corporation (d/b/a 350 Food Mart) (Lottery License # [REDACTED]), located at 350 Broadway, Somerville, MA 02145-2808; (7) Shri Monohar Corporation (d/b/a LC's Market) (License # [REDACTED]), located at 326 Trapelo Rd, Belmont, MA 02478-1864; (8) Jayesh Corporation (d/b/a Pearl Street Market) (License # [REDACTED]), located at 213 Pearl St, Somerville, MA 02145-3931; (9) Omnamoshivam Corp. (d/b/a One Bridle Market) (License # [REDACTED]), located at 1 Bridle Rd, Billerica, MA 01821; and (10) Shrikrishana Corp. (d/b/a Veronica's) (License # [REDACTED]) located at 1074 Main St, Waltham, MA 02451. *See* Exhibit 1 and Exhibit 4.

On May 16, 2023, the Appellants retained Attorney Phil Tracy to file an appeal requesting a Director-Level hearing pursuant to 961 CMR 2.18. *See* Exhibit 2.

On June 7, 2023, the Lottery convened separate Director-Level hearings of both Pankaj's appeal (L-23-017) and Sanjeev's appeal (L-23-018) before a Designee of the Lottery Director, Attorney Lawrence P. Mayo. *See* Exhibit 19.

On September 19, 2023, Hearing Officer Mayo issued decisions for Appellants, and upheld the suspension and revocation of both the Appellants' Lottery Sales Agents licenses for all the 5 Sanjeev stores and the 5 Pankaj stores. *See* Exhibit 19.

On October 6, 2023, the Appellants timely moved to file an appeal, with new counsel from Adler Pollack & Sheehan LLP, for a further hearing and appeal to the Lottery Commission pursuant to 961 CMR 2.18 and M.G.L. c.30A. *See* Exhibits 20 and 21.

A prehearing conference took place via Zoom Video Conference on November 8, 2023. Counsel represented the parties. The parties agreed to consolidate the appeal for the requests of two Appellants.

A Commission-Level hearing convened on December 14, 2023, regarding the Appellants' appeal of the Lottery's September 19, 2023 decision, pursuant to M.G.L. c. 30A and 961 CMR 2.18. The Appellants were represented by Todd White and Lucas Spremulli of Adler Pollock & Sheehan, PC. *See* Tr. 2:8-12. Attorney Christopher Taffe represented the Lottery. *Id.*, at 2:13-16. The Appellants presented five witnesses: (1) Gurmit Pabla, (2) Rajinder Gill, (3) Rameshwer Reddy, (4) Pankaj Rai Ghai, and (5) Sanjeev Raid. *Id.*, at 3. The Lottery presented one witness, Sandra Lemanski, Assistant Director of the Security and Compliance Department. *Id.* All witnesses were sworn in.

The Parties introduced the below exhibits that were admitted at the hearing³. Agents' counsel objected to the Lottery's affidavit exhibits on hearsay grounds.

1. Itinerary List of Appellants' time in India.
2. May 15, 2023, correspondence from Massachusetts Lottery Commission to Pankaj Ghai and Sanjeev Rai regarding suspensions.
3. Google Maps of the Winter Hill Market Area in Somerville and LC Variety.
4. Operating Agreement of Shrikrishana Corp.
5. Operating Agreement of Omnamoshivam Corp.
6. List of customers of the stores owned by Sanjeev Rai and Pankaj Ghai.
7. "Summary of Total Claims" made against Pankaj Rai Ghai (637) and Sanjeev Rai i. (323) from Lottery Commission.

³ The Decision and Recommendation identifies the Lottery's Exhibits as numbers; and the Appellants' Exhibits as letters. The undersigned Hearing Officer generally references the Lottery's List of Exhibits No. 1–22, as the parties agree that the parties' Exhibit Lists consist of duplicative documents.

8. Interview Memorandum by Mass. State Lottery Commission of Gurmit Pabla.
9. Change of Plea Agreement for Mohamed Jaafar dated October 19, 2022.
10. Verdict Form in the USA v. Ali Jaafar and Yousef Jaafar.
11. Mission Objective Statement from the Massachusetts State Lottery Commission and an Article concerning the retail sales by lottery commissions throughout the country.
12. Google Maps of the locations of Pankaj Rai Ghai's stores and Sanjeev Rai's stores in Suburban Boston.
13. Internet article re: frequency of winning lottery tickets in Methuen store.
14. Globe Magazine article (of 10-31-23) regarding the lottery scam.
15. Pankaj Rai "Summary of Claims" spreadsheet prepared by Lottery Commission.
16. Sanjeev Rai "Summary of Claims" spreadsheet prepared by Lottery Commission.
17. Confidential Memorandum – May 9, 2023 from Lottery Commission.
18. List and information for employees for Pankaj Rai Ghai and Sanjeev Rai.
19. 05.17.2023 Director-Level Appeal Request Correspondence for Pankaj Rai Ghai and Sanjeev Rai.
20. Memorandum of 10.14.2020 Pankaj Rai Ghai Interview by Lottery.
21. Memorandum of 10.14.2020 Gurmit Pabla Interview by Lottery (with redactions).
22. Summary of Claims, by Sales Location, for Pankaj Rai Ghai and Sanjeev Rai for 2013 to 2020.
23. Chart Listing 637 Claims from 2013 to 2020 Associated with Owner Pankaj Rai Ghai; and Chart Listing 323 Claims from 2013 to 2020 Associated with Owner Sanjeev Rai.
24. 10.24.2022 Mohamed Jaafar Plea Agreement.
25. 11.04.2022 Mohamed Jaafar Statement of Offense Conduct.
26. 03.07.2023 Mohamed Jaafar Supplement to Statement of Offense Conduct.
27. 12.09.2022 Guilty Verdict Slip for Ali Jaafar and Yousef Jaafar.

28. 05.16.2023 Sentencing Memorandum from U.S. Attorney's office re: Jaafar family.
29. 04.17.2023 Ali Jaafar Statement with Exhibit A (a/k/a "YJAJ Contact List") (with redactions).
30. 04.17.2023 Yousef Jaafar Statement with Exhibit A (a/k/a "YJAJ Contact List") (with redactions).
31. 04.06.2023 Email Documentation from MSLC Compliance Department regarding Pankaj Rai Ghai's Solicitations of Others for Claims (with redactions).
32. Statements from Pankaj Rai Ghai and Sanjeev Rai, received 06.2023, in Support of Respective Director-Level Appeals.
33. Support Petitions from Customers of Pankaj Rai Ghai and Sanjeev Rai received 06.2023, in Support of Respective Director-Level Appeals.
34. 07.26.2023 Lottery Chart of Proposed Agent Sanctions.
35. 09.19.2023 Director-Level Decision for L-23-017 - Pankaj Rai Ghai; and 09.19.2023 Director-Level Decision for L-23-018 - Sanjeev Rai.
36. 09.20.2023 Post-Hearing Notification Letter from Lottery to Pankaj Rai Ghai; and 09.20.2023 Post-Hearing Notification Letter from Lottery to Sanjeev Rai.
37. 10.06.2023 Request for Commission-Level Hearing for Pankaj Rai Ghai; and 10.06.2023 Request for Commission-Level Hearing for Sanjeev Rai.
38. 10.16.2023 Correspondence to Hearing Officer Cocozza re: Pankaj Rai Ghai request; and 10.16.2023 Correspondence to Hearing Officer Cocozza re: Sanjeev Rai request (without enclosures).

FACTUAL FINDINGS

The record presents the following findings of fact that the undersigned Hearing Officer adopts and incorporates from the parties' Proposed Findings of Fact:

1. On May 15, 2023, the Lottery provide a three-page notice to Appellants informing them that the Lottery intended to revoke their Lottery Sales Agents Licenses at the 10 respective locations named above. As reasons why, the Lottery wrote:

This licensing action stems from information available to the Lottery that indicates that you and or your locations coordinated or associated with Ali Jaafar, Yousef Jaafar, and Mohammed Jaafar (the Jaafar family) in a scheme involving the sale of winning lottery tickets through secondary market transactions and a ticket bundling and cashing operation.

See Exhibits 1 and 4.

2. The letter went on to indicate: “... [T]he three members of the Jaafar family have pleaded guilty or been convicted of felonies related to this activity.” See *id.*

3. Appellants Pankaj and Sanjeev retained Attorney Phil Tracy, to file their respective appeals per 961 CMR 2.18 of the Lottery’s revocation decisions, and such respective appeals requesting a Director-Level hearing were timely filed on May 16, 2023. See Exhibit 2.

4. The Lottery held separate Director-Level hearings of both Pankaj’s appeal (L-23- 017) and Sanjeev’s appeal (L-23-018) on June 7, 2023, before a Designee of the Lottery Director, Attorney Lawrence P. Mayo. See Exhibit 19.

5. On September 19, 2023, Hearing Officer Mayo issued decisions in both the Pankaj appeal and the Sanjeev appeal. In both decisions, the Designee found facts, made conclusions of law, and upheld the suspension and revocation of the Appelleants’ 10 Lottery licenses. See *id.*

6. After receiving notice of the decision from the Designee of the Lottery Director, both Appellants, through new counsel (Adler Pollack & Sheehan LLP), timely filed on October 6, 2023, respective requests for a further hearing and appeal to the Lottery Commission per 961 CMR 2.18 and M.G.L. c.30A. See Exhibits 20 and 21.

7. On November 8, 2023, at a Pre-Hearing Conference, the parties and the Hearing Officer in this matter agreed to consolidate the appeal requests, and such a hearing was held on December 14, 2023.

8. On behalf of the appellants, the following witnesses testified: Gurmit Pabla, Rajinder Gill, Rameshwer Reddy, Pankaj Ghai Rai, and Sanjeev Rai. Sandra Lemanski was called as the Lottery Commission's only witness and was cross-examined by appellants' counsel.

9. Three members of the Jaafar Family, consisting of the father Ali Jaafar and his two sons – Yousef Jaafar and Mohamed Jaafar – participated in a criminal money laundering and tax evasion scheme in Massachusetts for more than a decade. *See* Tr: at pp. 218- 224; *See also* Exhibits 3, 8, 9, 12, 13, and 14.

10. This “ten-percenting” scheme was dependent on the Jaafars being able to acquire, claim, and cash winning lottery tickets that did not belong to them by purchasing them at a discount from Sales Agent owners and/or employees through improper transactions. *See, generally*, Tr. 250, Exhibits 3, 8, 9, 12, 13, and 14.

11. The “ten-percenting” scheme was referred to as a “10 percenter” scheme because the percentage discount in the purchase prices of these secondary market transactions is often approximately 10% of the actual prize value, even though the actual discount rate in a specific set of transactions or scheme may instead vary and be a different percentage, often falling between 5% and 25%. *See e.g.*, Exhibit 12, at pp. 3, 12; Exhibit 9, ¶ 2.⁴

⁴ *See also* Decision In re: Appeal of Frank Obey (containing 2022 Lottery Commission-level decision where high-frequency prize winner and Appellant admitted to purchasing certain winning tickets at a discount of less than 10%), available at <https://www.masslottery.com/about/commission/meeting-and-performance-management-history> (last viewed on February 7, 2024).

12. To enact and carry out their scheme, the Jaafars worked with and exchanged high amounts of money with owners and/or employees at dozens of Sales Agent convenience store locations to acquire the winning tickets. These owners and their employees would come into possession of such winning tickets by inappropriately purchasing and obtaining them from various third parties, such as their own customers, for a portion of the actual value of those tickets. *See* Tr. 222-231; Exhibits 3, 8, 9, 12, 13, 14.

13. After the Jaafars began to have their respective personal ticket-cashing privileges curtailed by suspensions implemented by the Lottery during the time frame of 2019 to 2020, the Jaafars utilized a group of runners or subcontractors to continue to work with certain Sales Agents regarding their impermissible ticket pickup and cashing operation. *See* Tr. 233-234; Exhibits 3, 8, 9, 12, 14.

Federal Actions and Sales Agents Confirm Jaafar Family Scheme at Appellants' 10 Stores

14. In October 2022, Mohamed Jaafar entered into a plea agreement with the U.S. Attorney's office, in which he pled guilty to one count of a federal indictment involving Conspiracy to Defraud the United States. *See* Tr. 249-250; Exhibit 8.

15. Following his guilty plea, Mohamed Jaafar produced a Statement of Offense Conduct and a Supplemental Statement, which confirmed details about the ticket-claiming operation of the Jaafar family, and which identified with certainty some of the most noteworthy Lottery Sales Agents and stores involved in the scheme. *See* Tr. 250-253; Exhibits 9 and 10.⁵

⁵ *See also* Tr. 250, 1-19 (providing information of the highly involved sales agents).

16. The federal allegations against Ali Jaafar and Yousef Jaafar went to criminal trial in 2022, and on December 9, 2022, a jury found both Ali Jaafar and Yousef Jaafar guilty on all criminal counts left for the jury to decide, including a Conspiracy to Defraud the United States count, and two separate counts related to a Money Laundering Conspiracy. *See* Exhibit 11.

17. Post-conviction, both Ali Jaafar and Yousef Jaafar each provided respective Statement of Facts confirming details about the ticket-claiming operation of the Jaafar family, and which identified certain Lottery Sales Agents and stores involved in the scheme. *See* Tr. 261; Exhibits 13 and 14.

18. During the 2022 trial of Ali Jaafar and Yousef Jaafar, a Lottery Sales Agent named Lina Ghantous provided testimony about the Jaafar family actions, corroborating certain details and general facets of the scheme, and how her Lottery sales location was involved. *See* Tr. 257; Exhibit 12, at 3.

19. In 2018 and 2019, the Internal Revenue Service (IRS) conducted a series of sting operations involving employees or owners of certain Massachusetts Lottery Sales Agents and their connection to the Jaafar scheme. During these sting operations, the IRS sold winning lottery tickets at a discount to convenience store owners or employees. Consistent with the scheme, some of these tickets would be subsequently cashed either by the Jaafars or individual runners working in concert with the Jaafars. *See* Tr. 246-248; Exhibits 6 and 7.

a. Two of these stings took place during the months of October 2019 and November 2019 at 350 Food Mart, the convenience store owned by Pankaj in Somerville. During both sting operations, a winning Lottery ticket for \$750 was sold to an employee of Pankaj (either a clerk named Mariana, or an employee later identified

by Pankaj as Shubakar Throshi, one of his general managers), before those respective winning tickets wound up in the hands of the Jaafars or associates of the Jaafars.

Exhibit 6, at 2.

b. These two sting transactions that occurred at Pankaj's 350 Food Mart store happened during the last quarter of the 2019 calendar year, even though Pankaj stated at the hearing that he had discontinued doing business with Ali Jaafar two years earlier in 2017, and he had told his employees back then, in 2017, to stop using the Jaafars as a vendor. Exhibit 6, at 2; *See* Tr. 82-83; Tr. 85-87.

c. Both Mariana and Shubakar Throshi worked for Pankaj at 350 Food Mart for multiple years during the period from 2017 to 2020. *See* Tr.129-132.

20. On October 14, 2020, the Lottery and the IRS conducted two separate, post-sting- related interviews of two licensed sales agents, each of whom were suspected of participating and/or having locales that participated in the scheme with the Jaafar family. Those two sales agents interviewed on October 14, 2020, by federal authorities and the Lottery were: (1) Pankaj Rai Ghai, one of the Appellants in this current appeal, and (2) Mr. Gurmit Pabla, one of the Appellant's witnesses in this proceeding. *See* Exhibits 6 and 7.

21. Both during his October 14, 2020, interview and during this hearing, Pankaj verified that he had known Ali Jaafar for approximately 10 years or more. Pankaj stated that his and his business's respective relationships with Ali Jaafar was confined only to legitimate business transactions involving the purchasing and selling of phone cards and other sundries typically found for sale at convenience stores, including vaping products, hand warmers, and other products. *See* Tr. 81-83, Tr. 88; Exhibit 6.

22. During his October 14, 2020, interview with the Lottery, Pankaj initially claimed that he was neither aware of nor participated in any improper activity related to obtaining and diverting winning tickets to the Jaafars for claiming. *See* Exhibit 6, at 2

23. During his October 14, 2020, interview with the Lottery, Pankaj confirmed that Ali Jaafar was still selling sundries to all his stores. The Interview Memorandum states that Pankaj admitted to paying Ali Jaafar on a bi-weekly basis, in cash, and he received invoices. The Interview Memorandum also states that Pankaj admitted that he had personally called Ali Jaafar before the October 14, 2020, interview.⁶ *See* Tr. 245-247.

24. During his October 14, 2020, interview, Pankaj made this claim of being unaware of the Jaafar scheme, even though Pankaj knew at that time that one year earlier, at some point in 2019, his employee Mariana had engaged in some transaction in a parking lot with the Jaafars, and this transaction featured some sort of exchange of \$15,000 for a winning Lottery ticket of \$20,000. *See* Tr. 78-79; Exhibit 6, at 2.

25. During his October 14, 2020, interview, after he was confronted with photographic evidence of the two 2019 sting operations occurring at his 350 Food Mart, Appellant Pankaj admitted to being aware of the 2019 parking lot transaction at 350 Food Mart involving a winning Lottery ticket, one of his employees, and Ali Jaafar. *See* Tr. 78-79; Exhibit 6 at 2.

26. In both his own October 14, 2020, interview with the Lottery and Federal authorities and testimony, Gurmit Pabla, admitted that he and his Dedham store had a history, going back several years, of buying winning tickets at a discount and then selling them to the

⁶ The Hearing Officer did not find credible Appellant Pankaj's contact history with Ali Jaafar. *See, e.g.*, Tr. 82-87; Tr. 245-247.

Jaafar family members at a slightly higher amount. *See* Tr. 16-19; Exhibit 7.

27. During portions of his testimony, Gurmit Pabla believed that the Appellant Rai brothers were engaging in the same type of illicit transactions with Ali Jaafar that he was doing.⁷ *See* Tr. 16-19.

28. Ali Jaafar claims he started his secondary market transaction scheme at some point in the decade of the 2000s [calendar years 2000 to 2009]. *See* Tr. 224, 231; Exhibit 13, at ¶¶ 1 – 6.

29. Ali Jaafar’s business relationship with the Rai brothers began around 2006 or 2007, if not earlier. *See* Tr. 224; Tr. 137; Tr. 201.

30. Ali Jaafar stated that he initiated his scheme at the encouragement of “*sales agents Sanjeev “Sandy” Rai and later his brother Pankaj Rai Ghai.*” *See* Tr. 259; Exhibit 13, ¶¶ 1 - 6.

31. Ali Jaafar testified that “I would service the Rai brothers’ stores’ account (sic) and eventually Sandy made a business proposition to me. I learned that the Rai brothers

⁷ Mr. Pabla’s witness testimony included these exchanges:

Q: Do you understand that you were being suspended because you were, um, transferring certain winning lottery tickets to the Jaafar family?

MR. PABLA: Yes, I know.

...

Q: Did Mr. Jaafar say that he ever, Mr. Ali Jaafar, did he ever say that he did the same thing with Mr. ...the Rai brothers?

MR. PABLA: Yeah. I think so. Yes.

...

Q: Okay. So if I’m understanding you, in some cases you would give \$800 to the customer for a ticket and then you would give that to the Jaafars for \$850?

MR. PABLA: Yes.

Q: Okay. Do you know if that’s, if that was the same type of price that the Rai brothers did?

MR. PABLA: Yes. And I get punished, too.

See Tr. 16:18-21; p. 17:5-8; and p. 18:2-8.

were purchasing tickets at a discount from Lottery players. ... Sandy suggested that I provided them (meaning their store locations) with a ticket “cashing” service. The Rai brothers set the sale price that I paid for these discounted tickets I accepted the Rai brother’s prices and began an approximately twenty-year business venture with them.” *See* Exhibit 13, ¶¶ 2, 3.

Identification of Appellants and their prominent Sales Agent Locations by the Jaafars

32. Ali Jaafar specifically listed the Rai brothers’ (1) Sandy’s Winter Hill Market sales location in Somerville; (2) Pankaj’s 350 Food Mart location in Somerville; and (3) Pankaj’s L C’s Market location in Belmont as stores associated with the Appellants. *See* Exhibit 13, ¶1.

a. These three sales locations identified by Ali Jaafar in his statement happen to be the three locations, owned by the Appellants, which sold the highest prize winning tickets that were eventually claimed by the Jaafars and their associates. Specifically, 350 Food Mart sold 285 of these tickets, L C ‘s Market sold 199 of these tickets, and Winter Hill Market sold 133 of these tickets. *See* Exhibits 4 and 13, ¶1.

33. In April of 2023, Ali Jaafar and Yusef Jaafar jointly provided a list of some of the more notable individual owners, contacts, and/or stores from whom they bought tickets for the scheme. Pankaj and Sanjeev were the first two people identified in the top row of the list that the Jaafars generated. *See* Tr. 261-263; Exhibit 13, at 4; Exhibit 14, at 4.⁸

34. In November of 2022, Mohamed Jaafar submitted a detailed Statement of Offense Conduct pursuant to his guilty plea. In March of 2023, Mohamed Jaafar

⁸ *See* Exhibits 13 and 14, at 4; Tr. 162 (identifying Pankaj’s name and Pankaj’s personal cell number as verified at the hearing.).

supplemented this Statement by submitting a list of the most prominent “stores and/or store owners with whom I committed the Offense Conduct.” *See* Tr. 249-254; Exhibits 9 and 10.

35. In his Supplement of March 2023, Mohamed Jaafar listed seven total individuals and 23 sales locations. *See* Exhibit 10.

36. The first two individuals listed by Mohamed Jaafar in Exhibit 10 were Appellants Sanjeev Rai and Pankaj Rai Ghai, and Mohamed Jaafar also verbally identified the Rai brothers as significant participants in the scheme. *See* Tr. 230-231; Tr. 250-251; Exhibit 10.⁹

37. The first six sales locations identified by Mohamed Jaafar in Exhibit 10 consisted of three stores owned by Sanjeev and three stores owned by Pankaj. The six stores specifically are:

- (1) 200 Food Mart in Quincy (owned by Sanjeev);
- (2) 398 Food Mart (a/k/a J S Mart) in Everett (owned by Sanjeev);
- (3) Winter Hill Market in Somerville (owned by Sanjeev);
- (4) 350 Food Mart in Somerville (owned by Pankaj);
- (5) L C Variety in Belmont (owned by Pankaj); and
- (6) Pearl Street Market in Somerville (owned by Pankaj).

See Exhibits 4 and 10, at 2.

⁹ In addition to their written statements and lists, all three of the Jaafars verified to the Lottery during their 2023 interviews that the Rai brothers played a prominent role in the secondary market.

Q: And in your interviews with the Jaafars, they indicated that, did they name any stores being particularly notable at the beginning of this, of their practice?

MS. LEMANSKI: Yes. [The] Rai brothers were one of their, you know, from the get-go, they said they were one of their largest customers.

See Tr. 231: 16-22 (Bolded emphasis added).

38. Mohamed Jaafar's Supplement also contained a statement that "*Pankaj and Sandy were hubs for Belmont, Quincy, and Somerville, (sic) they probably accounted for at least 40% of all tickets.*" See Exhibit 10, at 3.¹⁰

39. Gurmit Pabla was also one of four other people identified by Mohamed Jaafar as a "*hub*." Gurmit Pabla admitted that he participated in the impermissible secondary market of winning Lottery tickets, and that the Appellants practiced such scheme. See Exhibit 10, at 3; Exhibit 7; and Tr. 16-18.

40. Through their written documents provided to the Lottery and federal authorities in March and April of 2023, the three Jaafars provided lists about their most significant co-conspirators in acquiring tickets. Together, the Jaafars provided names of more than 35 individuals and locations who served as such contacts or partners. See Exhibit 10, at 2-3; Exhibits 13, 14, at 4; Tr. 252; Tr. 266-267.

a. For every single name and store that the Jaafars provided which could be traced to a sales agent location, the Lottery's claim data verified that the Jaafars had cashing history related to tickets originating from such sales agents' locations. Tr. 266:2 to 267:24.

41. Both Appellants admitted that, for much of the period of 2013-2020, their main duties with their stores with Lottery sales licenses involved going to their various sales locations throughout the day for administrative and greater managerial duties, and, with multiple stores, they could not spend significant time at each site each day overseeing the operations. Generally, each store typically had both a general manager and one to two clerk type employees. See Pankaj testimony at Tr. 43, 52, 57-59, 62, 71; Sanjeev testimony at Tr.

¹⁰ See Exhibit 3, at 3 (referencing the concept of "hubs;" and explained by the Jaafars.); See also Tr. 231-233 (stating that the Raid brothers were some of the Jaafar family's largest customers and most prominent bundlers.).

177, 186-187, 205.

a. Certain employees may only work two to four years at some of the various sales locations of the Rai brothers, meaning that for a given site, there would typically be at least four, and often more, employees working in some capacity as either a general manager or clerk at a site for the eight-year timespan from 2013-2020. *See Exhibit R; See, generally, Tr. 129, 202-203, 209; Tr. 22.*

Winning Lottery Tickets Claimed by Jaafar Family linked to Appellants' Sales Locations

42. Ali Jaafar was a vendor at the Appellants' 10 stores, and was likely familiar with each store's operations and regular lottery customers. Sanjeev Rai knew that Ali Jaafar had sons who sometimes accompanied Ali Jaafar when he was serving as vendor for one of his stores, but he did not know them personally. *See Tr. 184:24-185:23.*

43. Sanjeev testified that he learned about "ten-percenting" in approximately 2016. But Sanjeev denied all involvement in the "ten-percenting" scheme, including that he did not coordinate any criminal scheme, that he did not associate with any criminal scheme, nor did he allow any of his store employees to engage in such a business. *See Tr. 174:12-175:11. Tr. 179:5-11.*

44. As a result of learning about this scheme and Ali Jaafar's alleged involvement, Sanjeev kicked him out of his store and discontinued utilizing him as a store vendor. *See Tr. 181:6-12; 182:3-11.*

45. Sanjeev Rai saw Ali Jaafar in one of his store parking lots, and thereafter, told him he could not come to the store and also told him he was trespassing. *See Tr. 182: 22-183:23.* In response, Ali Jaafar swore at Sanjeev Rai. *See Tr. 183:9-15.* Sanjeev Rai testified that he never communicated with Ali Jaafar again. *See Tr. 183:19- 184:10.*

46. Sanjeev Rai knew that Ali Jaafar had sons who sometimes accompanied Ali Jaafar when he was serving as vendor for one of his stores, but he did not know them personally. *See* Tr. 184:24-185:23.

47. Sanjeev Rai testified that he has no way to determine how any of the Jaafars obtained winning tickets in excess of \$600 from his stores but believes they could have developed his own network of people who would contact him. *See* Tr. 198:1-199:1.

48. Sandra Lemanski was the only witness that testified on behalf of the Lottery Commission. Ms. Lemanski admitted in her direct examination that the Jaafars claimed winning tickets from over 2000 locations. Tr. 238:19-23. Ms. Lemanski also admitted in her direct examination that over 14,000 winning ticket claims forms were associated with the Jaafars. *See* Tr. 255:24-256:23.

49. The Jaafars told Ms. Lemanski that, in carrying out their ticket-acquiring process of the scheme, they worked with a female individual nicknamed “Yoyo” at one of the sales locations of the Appellants in Somerville. *See* Tr. 265:19 - 266:1.

50. Sanjeev admitted that a female nicknamed “Yoyo” worked at his Winter Hill Market sales location for a few years, from approximately 2018 to 2021. *See* Tr. 202-203.

51. From 2013 to 2020, the Jaafar family members, and the runners associated with them, claimed 595 total winning Lottery tickets that had been sold at four of the sales locations owned and managed by Pankaj from 2013 to 2020. Simultaneously during those same years, the Jaafars also claimed 323 total winning Lottery tickets that had been sold at the five sales locations owned and managed by Sanjeev. *See* Tr. 239 and 269-273; Exhibits 3, 4 and 5.

a. Pankaj's sales location in Billerica, One Bridle Market, sold 30 winning Lottery tickets of \$600 or more that were ultimately claimed by the Jaafars during the period of 2013-2020. *See* Tr. 240-242; Exhibit 4.

b. Pankaj bought One Bridle Market in 2016. *See* Tr. 143; Exhibit E.

c. The 30 lottery tickets sold by the Billerica sales location from 2013 to 2020, which wound up claimed by the Jaafars and their associates, were all claimed from December 2016 to October 2019, during the period when Pankaj owned this store. There were no such winning tickets sold from this Billerica location, claimed by the Jaafars, prior to Pankaj's purchase of the store. *See* Tr. 240-242; Exhibits 4 and 5, at pp. 11-12.

52. The 918 tickets claimed by the three Jaafar family members and their associates from the nine stores of Pankaj and Sanjeev during 2013 to 2020 all had winning proceeds of \$600 or more, and the cash payout total that the Jaafar syndicate received from these 918 claimed prizes is \$1,359,031.50. Exhibits 4 and 5.¹¹

53. From 2013 to 2020, the stores of Pankaj sold more tickets (595) that wound up in the hands of the Jaafars for claiming, than the stores of any other individual Lottery licensee in the Commonwealth. *See, generally*, Lottery Testimony; Exhibits 3 and 18.

54. From 2013 to 2020, the stores of Sanjeev sold the second most tickets (323) that wound up in the hands of the Jaafars for claiming, more than the stores of any other individual Lottery licensee in the Commonwealth except for his brother Pankaj. *See, generally*, Lottery Testimony; Exhibits 3 and 18.

¹¹ The prize value of the tickets from Veronica's have similarly been removed from this calculation. \$952,727.00 + \$450,660.50 - \$44,356.00. *See* Exhibit 4.

55. The Jaafar family members, and the associates who served as their runners, could not have claimed this relatively high number of winning tickets from Pankaj's four sales locations and Sanjeev's five sales locations for the period from 2013 to 2020 without some substantial level of cooperation and direct or indirect participation from Pankaj, Sanjeev, and/or their licensed sales locations. *See, generally*, Lottery Testimony; Exhibits 3–14 and 18.

2023 Reports of Possible Secondary Market Activity after Jaafar Family Dealings Cease

56. In April of 2023, the Lottery received two separate phone inquiries or reports from two different individuals living in communities surrounding the sales locations covered by Pankaj's Lottery licenses. During these calls, both callers identified Pankaj and one of his sales locations. *See* Exhibit 15.

57. The first of the two callers, Ms. Walker, alleged that Pankaj had approached her about paying her \$50-\$100 to claim winning Lottery tickets and she stated that she claimed winning Lottery tickets provided by Pankaj from 2019 to 2021. Ms. Walker also alleged that Pankaj had personally driven her to a Lottery claim center on at least one occasion, and that she herself had only stopped after 2021 when she received notifications from tax authorities stating she owed taxes related to the tickets she had claimed. *See* Exhibit 15.

58. The second caller in April 2021 alleged that Pankaj had, within the past year, approached one of her relatives and asked that relative to claim winning Lottery tickets that Appellant had purchased from his customers for a 10% commission. *See* Exhibit 15.

The Lottery's Hearing Testimony Concerning Its Investigation

59. Ms. Lemanski conceded during her direct examination that Dan O'Neil and her recommended "revocation for any sales agent location that had over 300 tickets claimed by the Jaafars; a 90-day suspension for agents that has a combined total of between 200 and 300;

and then there was a 60-day suspension for 75 up to 200.” See Tr. 234:23-235:6.

60. Ms. Lemanski testified that the Lottery Commission never examined the total amount of tickets or winning tickets that each of the Rai brothers’ stores sold. See Tr. 289:22-290:21.

61. The Lottery testimony on the verification of the accuracy statements by the Jaafars included the following:

Q: But I guess, let me start with the Mohamed exhibit [Exhibit 10] that we talked about earlier which had very few names. Were you able to look at all of those names and locations to see if those locations had tickets that were claimed by the Jaafars?

MS. LEMANSKI: Yes. They all had tickets that were purchased at their store[s] and later ended up being cashed by the Jaafars.

...

Q: Okay. So for those approximately 30 [names or locations on Exhibit 14] that you could link to either a location or to a specific license or sales agent, were all 30 of those sales agents showing up in the claims data as places, as being connected to places that sold tickets that the Jaafars cashed?

MS. LEMANSKI: Yes.

See Tr. 266:15-22 , 267:13-19 (with clarifying [brackets] added).

62. Ms. Lemanski admitted that a sales agent/store owner who owned thirty (30) stores, each of which sold 10 winning tickets that were eventually cashed by a Jaafar affiliate would also have their license revoked under the guidelines she and Mr. O’Brien established. See Tr. 292:12-293:1.

63. In coming to her conclusions, Ms. Lemanski did not investigate or consider the probability of the total number of winning (\$600+) tickets, such as certain stores selling 5-10 times as many winning tickets as the Jaafars had claimed in a given year. See Tr. 293:15-294:9.

64. Ms. Lemanski testified that the Lottery Commission did not send out any warnings or notices about the ten-percenting scheme to any sales agents. *See* Tr. 294:19-24; 295:13-16.

65. Under cross-examination Ms. Lemanski made several other concessions, including the following:

a. Ali Jaafar is a known liar, having provided untruthful statements to the Lottery on several occasions and he was unavailable because he is in prison. *See* Tr. 277:15-278:15.

b. The Lottery Commission did not have a recorded transcript of any of the purported testimony of the Jaafars; rather it presented an affidavit and/or unsigned summaries of interviews conducted by Lottery officials.

c. Ms. Lemanski agreed that by providing an affidavit of Mr. Jaafar, it would be difficult to assess or even undermine his credibility. *See* Tr. 280:21-281:1.

d. Ms. Lemanski admitted that even though the Lottery Commission had direct evidence, an actual photograph of Gurmit Pabla participating in “ten-percenting,” his license was temporarily suspended and not revoked. *See* Tr. 282:3-22.

e. Ms. Lemanski also admitted that the Lottery Commission has neither photographic evidence nor a live witness to testify that he/she obtained a secondary market winning ticket from Pankaj or Sanjeev Rai. *See* Tr. 283:3-15.

f. Ms. Lemanski acknowledged that stores in the metropolitan Boston area, such as the stores owned by Pankaj and Sanjeev Rai, would sell more lottery tickets than stores in rural areas. *See* Tr. 288:16-289:6.

g. She also conceded that stores that sell more total tickets would likely also sell more winning tickets. *See* Tr. 289:2-6.

Failure to Sufficiently Raise Contradictory Evidence

66. Appellants, the Rai brothers, failed to present substantive evidence to dispute the Lottery’s claims that their store locations played a substantial role in contributing to the Jaafar family winning Lottery ticket scheme involving ticket-cashing and secondary market transactions.

ANALYSIS AND CONCLUSIONS OF LAW

I. LEGAL STANDARD

The standard of review to be applied when reviewing an agency order “shall be the substantial evidence standard” unless a different standard is required by statute. 205 CMR 101.02(14). A hearing officer must affirm the agency determination if there is substantial evidence to support it. *Id.* G.L. c. 30A, § 1(6), defines “substantial evidence” as “such evidence as a reasonable mind might accept as adequate to support a conclusion.” In evaluating such evidence, “whatever in the record fairly detracts from the weight of the evidence” must be considered. *Jordan v. Superintendent, Mass. Corr. Inst., Cedar Junction*, 53 Mass. App. Ct. 584, 588 (2002). The substantial evidence rule does not permit a hearing officer to substitute another view of the evidence if the evidence in the entire record reasonably supports the agency’s findings; and this is so even though alternative findings might also have been equally reasonable or even more logically and compellingly persuasive. *See* A.J. Cella, *Administrative law and Practice* (1986), § 247.

The Sales Agents here bear the burden of demonstrating that the Lottery’s decision was not supported by substantial evidence. *See Bagley v. Contributory Retirement Appeal Board*,

397 Mass. 255, 258 (1986); *See also Pokwa v. Department of Housing and Community Development*, 96 Mass. App. Ct. 118 (Mass. App. 2020).

After considering the evidence and arguments and as explained further below, the Hearing Officer finds that the Appellants have not met their burden.

II. CONCLUSIONS OF LAW

A. THE APPELLANTS WERE, OR SHOULD HAVE BEEN, AWARE OF THE LOTTERY RULES APPLICABLE TO THE SALES AGENT LICENSE

The Appellants for the Lottery are licensed in accordance with the State Lottery Law, M.G.L. c. 10, §§ 22-35, 37-40, 56-58, and the regulations promulgated thereunder. M.G.L. c. 10 § 26 provides in pertinent part that the Director of the Lottery “... shall license as agents to sell lottery tickets such persons as in his opinion will best serve the public convenience and promote the sale of tickets or shares.” The Lottery Director or a designee is authorized to revoke or suspend a Lottery Sales Agent’s license for any of the below listed, non-exhaustive reasons:

(1) If the ... Sales Agent has violated any provision of law or 961 [CMR § 2.00] as amended from time to time or any other directives of the Director.

(3) If, in the discretion of the Director, such ... revocation [or] suspension ... is in the best interests of the Lottery, the public welfare, or the Commonwealth of Massachusetts.

(5) If the manner of operation and security control by the Applicant or Sales Agent relative to Lottery business is not in accordance with 961 CMR 2.00;

(7) If the moral character of the Applicant or Sales Agent, or any employee of the Applicant or Sales Agent who holds a position of substantial authority in the Applicants or Sales Agent’s business, or any of the Applicant or Sales Agent’s employees or agents handling Lottery business, is found by the Director to be deficient.

(9) The Director may immediately remove a Sales Agent’s on-line system terminal, validation terminal, instant game tickets, pull tab tickets, television monitors and betting stations upon the bringing of a criminal complaint or indictment against the Sales Agent or any employee of the Agent who holds a position of substantial authority in the Sales Agent's business, or any other Sales

Agent's employees or Agents handling Lottery business and for any of the reasons set forth in 961 CMR 2.13(1) through 2.13(13) pending a hearing pursuant to 961 CMR 2.18.

See M.G.L. c. 10, § 26.

Both Pankaj and Sanjeev, as the Agents of their stores, are charged with knowledge of the Lottery's rules and regulations printed in the Lottery Sales Agent Agreement that they signed for each store. *See* 961 CMR § 2.08. The Lottery Sales Agent Agreement is a legally binding contract that establishes duties and obligations for both the Lottery, referred to as the Principal, and the Agent. Thus, by signing the Lottery Sales Agent Agreements both Pankaj and Sanjeev, as Agents of their stores, acknowledged that they understood all the terms and conditions of the Sales Agent Agreement.

1. The Jaafar Family Scheme Relied Upon Lottery Sales Agents Such as Agents Pankaj and Sanjeev.

a. Federal Investigation

There is ample evidence that the Appellants were part of the Jaafar Lottery Scheme from 2013 to 2020. There was a federal case wherein the jury found both Ali Jaafar and Yousef Jaafar guilty on all criminal counts, including a conspiracy to defraud the United States count, and two separate counts related to a money laundering conspiracy. Exhibit 11. The Hearing Officer here takes judicial notice of the events that occurred in *United States v. Jaafar*, 636 F. Supp. 3d 266, 268 (D. Mass. 2022). *See* 651 Code Mass. Regs. § 9.12; *See also Brookline v. Goldstein*, 388 Mass. 443, 447, 447 N.E.2d 641 (1983), and cases cited; P.J. Liacos, Massachusetts Evidence § 2.8.1, at 26 (7th ed. 1999) ("As to ... related proceedings, [the Hearing Officer] may also take judicial notice of the records of other courts"). The federal action solidified that both Appellants coordinated and/or associated with the Jaafar family in an illegal scheme involving the sale of

winning Lottery tickets through secondary market transactions and a ticket bundling and cashing operation. Exhibit 1.

The Jaafars emphasized their business dealing scheme with Sanjeev, Pankaj, and their 10 sales locations. *See* Tr. 230-231; Tr. 250-251; Exhibit 10. Both Ali Jaafar and Yousef Jaafar provided a statement confirming the Lottery ticket-claiming operation that identified the stores of the Appellants. Tr. 261; Exhibits 13, 14. In April of 2023, both Ali Jaafar and Yousef Jaafar, jointly, provided to the Lottery a list of some of the more notable individual owners, contacts, and/or stores from whom they bought tickets for the scheme, which identified Pankaj and Sanjeev as the first two people that the Jaafars generated business for the illegal scheme. *See* Tr. 261-263. Exhibit 13, at 4; Exhibit 14, at 4. In fact, Ali Jaafar acknowledged that it was Sanjeev that initially started the scheme and that both Sanjeev and Pankaj had already been improperly employing the illicit practice of buying discounted tickets from their customers. *See* Exhibit 13. Of note, there were 595 total winning Lottery tickets sold at 4 locations owned by Pankaj from 2013 to 2020 – which is more than twice the number sold by the stores of any other Lottery license in Massachusetts which was found in the hands of the Jaafars. *See* Tr. 239; Tr. 269-273; Exhibits 3, 4, 5. There were 323 total winning Lottery tickets that had been sold at Sanjeev five store locations from 2013 to 2020. *Id.*

b. Internal Revenue Service Investigation

In addition to the federal action, the Internal Revenue Service (IRS) conducted a series of sting operations involving employees or owners of certain Massachusetts Lottery Sales Agents and their connection to the Jaafar scheme between 2018 and 2019. During these sting operations, the IRS sold winning lottery tickets at a discount to convenience store owners or employees. Consistent with the scheme, some of these tickets would be subsequently cashed either by the

Jaafars or individual runners working in concert with the Jaafars. *See* Tr. 246-248. Exhibits 6 and 7. The IRS conducted 2 stings at 350 Food Mart, the convenience store owned by Pankaj in Somerville, between the months of October 2019 and November 2019. During the sting operations, a winning Lottery ticket for \$750 was sold to an employee of Pankaj (either a clerk named Mariana, or an employee later identified by Pankaj as Shubakar Throshi, one of his general managers), before those respective winning tickets wound up in the hands of the Jaafars or associates of the Jaafars. *See* Exhibit 6, p. 2. Pankaj denied the improper actions, but later admitted to it. These two sting transactions that occurred at Pankaj's 350 Food Mart store happened during the last quarter of the 2019 calendar year, even though Pankaj stated at the hearing that he had discontinued doing business with Ali Jaafar two years earlier in 2017, and he had told his employees back then, in 2017, to stop using the Jaafars as a vendor. *See* Exhibit 6, p. 2 and Pankaj Testimony at Tr. 82-83 and 85-87.

c. Lottery's Investigation

The Lottery also conducted its own investigation. The Lottery learned of the federal matter and then took steps to investigate its Lottery agents. *See* Tr. 219. The Lottery's witness and Assistant Director of the Security and Compliance Department, Ms. Lemanski, and Lottery Director of Compliance and Security, Dan O'Neil, interviewed the Jaafar family. *See* Tr. 219-221. The Hearing Officer finds that Ms. Lemanski offered credible and trustworthy testimony regarding the Jaafar family scheme and the Appellants' involvement. *See, generally*, Tr. 223-248. Ms. Lemanski's background is notable for being a Special Agent for 28 years for the IRS where she investigated similar matters. Ms. Lemanski role at the Lottery now involves overseeing that the Lottery, its customers, and its agents, are complying with the Lottery rules and regulations. *See* Tr. 217-219.

During the Lottery's investigation, both Ms. Lemanski and Mr. O'Neil compared the Jaafar interview statements with the claims data from the federal investigation. The Lottery relied upon interviews with Lottery agents, Mr. Pabla, and Pankaj. The Lottery and the IRS also conducted 2 separate, post-sting related interviews of 2 licensed sales agents, each of whom were suspected of participating and/or having locales that participated in the scheme with the Jaafar family, (1) Pankaj Rai Ghai, one of the Appellants in this current appeal, and (2) Mr. Gurmit Pabla, one of the Appellant's witnesses in this proceeding. Exhibits 6 and 7. Pankaj denied any knowledge of the Jaafar family illegal activity. *Id.* However, Pankaj was aware that his employee, Mariana, engaged in a parking lot transaction with the Jaafars, which involved \$15,000 for a winning Lottery ticket of \$20,000. Tr. 78-79; Exhibit 6, at 2. Pankaj finally admitted to being aware of the 2019 parking lot transaction at 350 Food Mart only after he was confronted with photographic evidence. *Id.*

The Lottery also relied upon statistics such as the claims data as evidence. *See* Tr. 234-236. There were 595 total winning Lottery tickets sold at 4 locations owned by Pankaj from 2013 to 2020 – which is more than twice the number sold by the stores of any other Lottery license in Massachusetts which was found in the hands of the Jaafars. *See* Tr. 239; Tr. 269-273; Exhibits 3, 4, 5. There were 323 total winning Lottery tickets that had been sold at the 5 sales locations owned by Sanjeev from 2013 to 2020. *Id.* Once the Lottery concluded its investigation, both Ms. Lemanski and Mr. O'Neil made a recommendation to the Executive Director, Mark Bracken, regarding how to proceed with the Appellants' involvement with the Jaafar family scheme. *See* Tr. 221.

Finally, the Appellants' own witness Mr. Pabla admitted that his Dedham store had a history, going back several years, of buying winning tickets at a discount and then selling them

to the Jaafar family members at a slightly higher amount during an interview with the Lottery, with the Federal authorities, and at the hearing. *See* Tr. 16-19; Exhibit 7. Gurmit Pabla also testified that the Agent (Rai brothers) were engaged in the same type of illicit transactions with Ali Jaafar that he did at his stores. *See* Tr.16-19.

Based upon the discrepancies of evidence and the hearing testimony presented at the hearing, this Hearing Officer found neither Pankaj nor Sanjeev to be credible witnesses. The Hearing Officer finds that both Appellants continued their relationship with Ali Jaafar through 2020, which assisted the Jaafars with the secondary market scheme. Even if Pankaj and Sanjeev ceased working directly with Ali Jaafar or were living in India for an extended period of time, Appellants' employees as the stores' representatives continued to do business with Ali Jaafar. *See* Tr. 78-79; Exhibit 6, at 2; Exhibits A.

Accordingly, the Appellants here failed to meet the burden of demonstrating that the Lottery's decision was not supported by substantial evidence; and thus, the Lottery acted within its discretion to revoke the 10 Lottery Sales Agent licenses based upon violations of 961 Code Mass. Regs. §§ 2.13(1), 2.13(3), 2.13(5), 2.13(7) and 2.13(9).

2. The Lottery's Decision to Use a "300" Standard as a Disciplinary Measure is Not Arbitrary and Capricious.

The Hearing Officer finds that the Lottery's decision to use a "300" standard as a disciplinary measure with respect to the total of number tickets sold by a Lottery sales agent contributing to the Jaafar family's creation of a secondary market scheme is not arbitrary and capricious. The Rai brother's counsel argues that the Lottery's revocation of their Lottery licenses is arbitrary and capricious in considering the average number of secondary market claims associated with the Appellants compared with the other sales agents whose licenses were merely suspended. But that suggestion fails to recognize that the focus and target of Lottery regulation 961

CMR 2.13 pertaining to license suspension and revocation is on the individual licensed agent, and not on the number of store locations owned by an agent. Indeed, the Lottery testified that the “300” standard is based upon the total number of tickets sold rather than the number of stores owned by an individual. Tr. 307-313. The Lottery further testified that the appropriate penalty approved by the Lottery for sales agents involved with the Jaafar secondary market scheme was as follows: a 90-day suspension for agents with a combined total of 200-300; and a 60-day suspension for agents with a combined total of 75-200. *Id.* There is further statistical data that varies the Lottery’s implementation of its decision to suspend Lottery sales agents license based upon each agents’ respective sales of winning Lottery tickets. *See* Tr. 234-236. For example, the claims data shows that there were 595 total winning Lottery tickets sold at 4 store locations owed by Pankaj from 2013 to 2020 – which is more than twice the number sold by the stores of any other Lottery license in Massachusetts which was found in the hands of the Jaafars; and 323 total winning Lottery tickets sold at 5 store located owned and by Sanjeev. *See* Tr. 239; Tr. 269-273; Exhibits 3, 4, and 5.

The Hearing Officer here accords substantial deference to the Lottery interpretation and application of its own rules and regulations in this matter, applying all rational presumptions in its favor. Thus, the Hearing Officer finds that the Lottery determined the revocation based on substantial analysis and investigation, in harmony with its legislative mandate. *See Biogen Idec MA, Inc. v. Treasurer and Receiver General*, 454 Mass. 174, 187 (2009).

B. THE APPELLANTS WERE INVOLVED WITH THE IMPROPER ASSIGNMENT OF LOTTERY TICKETS.

An assignment is a transfer of rights or property. *See* Black’s Law Dictionary, 128 (8th ed. 2007). Massachusetts law prohibits the assignment of Lottery prizes, except in four limited circumstances:

Section 28. The right of any person to a prize drawn is not assignable except under the following limited circumstances:

- (1) Payment of any prize drawn may be paid to the estate of a deceased prize winner or to the IV—D agency under chapter 119A.
- (2) Payment of any prize drawn may be made to any person under an appropriate judicial order.
- (3) The commission may, by regulations adopted under section 24, permit assignment of prizes for purposes of paying estate and inheritance taxes, or to a trust the beneficiaries of which are the prize winner, his mother, father, children, grandchildren, brothers, sisters, or spouse.
- (4) Payment of any prize drawn may be made to a person under a voluntary assignment of the right to receive future prize payments, in whole or in part, if the assignment is made to a person or entity named as the assignee in an appropriate judicial order of a court of competent jurisdiction, which shall be the superior court sitting within and for the county in which the commission is situated or in which the assignor resides.

See M.G.L. c. 10, § 28 (“Section 28”). The Massachusetts Supreme Judicial Court (“SJC”) held that “[t]he first clause of G.L. c. 10, § 28, standing alone, is unambiguous. It prohibits all assignment of rights to lottery prize money.” *Singer Friedlander Corp. v. State Lottery Comm’n*, 423 Mass. 562, 564 (1996). The SJC in examining Section 28 rejected the notion that any voluntary assignment judicially approved would be permitted, saying such an exception would swallow the rule against assigning lottery prizes. *Singer*, 423 Mass. at 565-566. The “prohibition of prize assignments, rather than the allowance of assignments, must be assumed to constitute the legislative policy.” *Id.* at 566. None of these exceptions are present here.

Lottery regulations contain a prohibition on assignment of prizes with three similar limited exceptions:

2.28 Prizes

(1) No person entitled to a prize may assign his or her right to claim it except:

- (a) that payments of a prize may be made to the estate of a deceased prize winner or to another according to law by an appropriate judicial order from a court of competent jurisdiction;
- (b) for the purposes of paying estate and inheritance taxes [;and]
- (c) to a trust, the beneficiaries of which are restricted to the prize winner, his or her mother, father, children, adopted children, grandchildren, brothers, sisters, or spouse.

See 961 C.M.R. 2.28. Section 28 provides that the assignment is invalid, and the Commonwealth and the Lottery Commission, Executive Director, agents, and employees are relieved from awarding the prize payment. M.G.L. c. 10, § 28(14).

The Lottery's action of revoking the Lottery License of the Appellants here is consistent with the legislative purpose of its authorizing statute and should be affirmed. The purpose of Section 28 and related Lottery regulations "prohibiting [] unpermitted assignments were, no doubt, intended to prevent the creation of a secondary, unregulated market in winning tickets, a legitimate legislative goal." *Welford v. Norbrega*, 30 Mass. App. Ct. 92, 103 n.10 (1991) (approving assignment of prize money to a trust as provided by an exception in Section 28). There is little question that these Appellants and/or their store representatives were involved in the Jaafar scheme secondary market for winning Lottery tickets. This is not an isolated event, but a practice occurring over several years, as suggested by the evidence.

See M.G.L. c. 10, § 28 ("Section 28"). The Massachusetts Supreme Judicial Court ("SJC") held that "[t]he first clause of M.G.L. c. 10, § 28, standing alone, is unambiguous.

It prohibits all assignment of rights to lottery prize money.” *Singer Friedlander Corp. v. State Lottery Comm’n*, 423 Mass. 562, 564 (1996). The SJC in examining Section 28 rejected the notion that any voluntary assignment judicially approved would be permitted, saying such an exception would swallow the rule against assigning lottery prizes. *Singer*, 423 Mass. at 565-566. The “prohibition of prize assignments, rather than the allowance of assignments, must be assumed to constitute the legislative policy.” *Id.* at 566. None of these exceptions are present here. Lottery regulations contain a prohibition on assignment of prizes with three similar limited exceptions.

Finally, upholding the Appellants’ License to sell Lottery products would undermine the public confidence in the Lottery and its mission. The Lottery Commission is responsible under state law for “conduct[ing] a state lottery” and establishing a fund consisting “of all revenues received from the sale of lottery tickets ... [i]n order to provide local property tax relief [to Massachusetts municipalities] and continue services at the local level.” Mass. Gen. Laws c. 10, §§ 24, 35. This revenue-raising function is decidedly governmental in nature. *Cf. Bretton v. State Lottery Comm’n*, 41 Mass. App. Ct. 736, 673 N.E.2d 76, 79 (1996) (“The [Lottery Commission’s] activities ... are driven by legislative mandate, not business or personal objectives,” and “[its] activities hardly resemble endeavors conducted in a conventional business context.”). *Wojcik v. Massachusetts State Lottery Comm’n*, 300 F.3d 92, 99–100 (1st Cir. 2002).

The danger of the secondary market thwarts the Lottery’s mandate to ensure the collection of any past due taxes and child-support from Lottery winners. Prior to issuing any prizes above \$600.00, the Lottery is required to determine whether the winning ticket holder owes past child support or has any tax liability. *See* G.L. C. 10, § 28A. If there is such liability, the Lottery must first satisfy the outstanding child support and/or tax liability

before paying whatever balance remains. *Id.* By accepting winning tickets via improper assignment, the Appellants are shielding the original ticket purchasers from any reporting and/or payment obligations.

Accordingly, the Lottery acted in the best interest of the Commonwealth by revoking the Appellants' License.

CONCLUSION & RECOMMENDATION

For the reasons set forth above, the Hearing Officer concludes that the Lottery Sales Agents, Sanjeev Rai and Pankaj Rai Ghai, violated the Lottery rules and regulations pursuant to the agent regulations set forth within 961 Code Mass. Regs. §§ 2.13(1), 2.13(3), 2.13(5), 2.13(7) and 2.13(9). Accordingly, the Hearing Officer affirms the Lottery's September 19, 2023 decision revoking Appellants' Lottery Sales Agent licenses for the 10 locations:

Sanjeev Stores

- (1) Archit Corporation (d/b/a 200 Food Mart) (Lottery License # [REDACTED]),
- (2) Amiksha Corporation (d/b/a J S Mart) (License # [REDACTED]),
- (3) Shivaya Incorporated (d/b/a Million \$ Mary's Smoke Shop) (License # [REDACTED]),
- (4) Bawa, Incorporated (d/b/a Ninety Three Food Mart) (License # [REDACTED]),
- (5) Shiriganesh, Inc. (d/b/a Winter Hill Market) (License # [REDACTED])

Pankaj Stores

- (6) Vatika Corporation (d/b/a 350 Food Mart) (License # [REDACTED]),
- (7) Shri Monohar Corporation (d/b/a LC's Market) (License # [REDACTED]),
- (8) Jayesh Corporation (d/b/a Pearl Street Market) (License # [REDACTED]),
- (9) Omnamoshivam Corp. (d/b/a One Bridle Market) License # [REDACTED]), and
- (10) Shrikrishana Corp. (d/b/a Veronica's) (License # [REDACTED]).

Respectfully submitted,

The Hearing Officer,



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