

**COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS STATE LOTTERY COMMISSION**

*Lottery Commission Docket No. CL-22-007: In re: Appeal of Mark Palmer*

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| Appearance for Mark Palmer                                | Mark Palmer, <i>pro se</i>  |
| Appearance for the Massachusetts State Lottery Commission | Austin McGovern<br>Associate General Counsel,<br>Massachusetts State Lottery Commission<br>150 Mt. Vernon St.<br>Dorchester, MA 02125 |

**FINDINGS & RECOMMENDATION**

Mark Palmer attempted to cash a high-value Keno ticket a few weeks after the one-year deadline, resulting in the denial of his claim. Although medical difficulties did make it harder for him to cash the ticket on time, he nonetheless had a fair opportunity to cash the ticket using the Lottery’s mobile application or by other means. Accordingly, I recommend that the Massachusetts State Lottery Commission (“Commission”) affirm the denial of his claim.

**PROCEDURAL HISTORY**

**I. Prior Proceedings**

Mr. Palmer’s claims were denied by letter dated April 29, 2024. He timely requested a Director-level hearing. On August 12, 2024, the Director-Designee affirmed the Lottery’s decision not to pay out Mr. Palmer’s claims, after which he timely requested this Commission-level hearing.

**II. The Current Appeal**

On October 30, 2024, I held an initial scheduling conference with the parties. Because scheduling difficulties appeared likely and few, if any, facts seemed to be in dispute, I encouraged the parties to proceed by joint statement of agreed-upon facts instead of holding a live hearing. The

parties agreed to attempt to do so. On November 19, 2024, the parties provided their Proposed Joint Statement of Fact. They later provided written submissions in support of their positions.<sup>1</sup>

### **EXHIBITS**

The Lottery submitted ten exhibits early in the prehearing process. The Proposed Joint Statement of Fact did not address the status of those exhibits. Because both parties' written submissions discuss the ticket itself, I accept that as an exhibit. None of the other submitted exhibits—mostly claim paperwork and records of correspondence between Mr. Palmer and the Lottery concerning his claim—are necessary to resolve this appeal. The final exhibit list is as follows:

1. April 3, 2023, Keno Ticket

### **FACTUAL FINDINGS**

1. Mr. Palmer purchased one Keno ticket on April 3, 2023 for five dollars. Proposed Joint Statement of Fact ("JSOF") ¶ 1.
2. The back of the ticket stated that all tickets must be redeemed within one year from the date of the drawing. JSOF ¶ 12; Ex. 1.
3. The ticket turned out to be a winning ticket with a prize value of \$1,600. JSOF ¶ 3.
4. Mr. Palmer was not familiar with the rules of Keno and cashing a ticket. JSOF ¶ 17.
5. Mr. Palmer first presented the ticket for initial validation at the place of purchase. JSOF ¶ 5.
6. Mr. Palmer has an account on a mobile app known as the RTC app ("RTC") that allows users to redeem tickets by scanning them. JSOF ¶¶ 4, 6.

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<sup>1</sup> Mr. Palmer's written submission consisted of a set of annotations to and comments on the Proposed Joint Statement of Fact. He did not delete Attorney McGovern's signature from it, which appears to have been an oversight or misunderstanding.

7. The first scan of the ticket on RTC occurred on April 5, 2023. JSOF ¶ 6.
8. The second scan of the ticket on RTC occurred on April 13, 2023. JSOF ¶ 7.
9. The last date to redeem the Ticket was April 3, 2024. JSOF ¶ 8.
10. Due to ongoing medical issues, Mr. Palmer forgot about the ticket for a time. JSOF ¶ 24.
11. Mr. Palmer had back surgeries on or about December 16, 2022, December 6, 2023, and April 1, 2024. JSOF ¶ 21.
12. After his April 1, 2024 back surgery, Mr. Palmer was released from the hospital on April 18. JSOF ¶ 19.
13. Even after his release, Mr. Palmer was subject to driving restrictions. JSOF ¶ 20.
14. Ultimately, he did not travel to the Lottery's Dorchester Regional Office until April 24, 2024. JSOF ¶ 20.
15. There, Mr. Palmer presented the ticket with a completed claim form. JSOF ¶¶ 9, 20.
16. The claim was not approved, and the prize was not paid. JSOF ¶ 10.
17. Mr. Palmer was informed by the Lottery's Customer Service Department that his claim could not be paid because the time for payment expired and the game was terminated. JSOF ¶ 11.
18. Mr. Palmer completed an Exception Claim Intake Form. JSOF ¶ 13.
19. The Lottery denied Mr. Palmer's claim by letter dated April 29, 2024. JSOF ¶ 14.

## **DISCUSSION**

The Lottery's decision not to pay out the ticket at issue was correct. Mr. Palmer had legally sufficient notice that the ticket had to be claimed within one year.

To begin with, bettors have at least constructive notice of any rule spelled out on the ticket itself. *See Jacobs v. State Lottery Comm'n*, 60 Mass. App. Ct. 303, 307-08 (2004); *Ruggiero v. State Lottery Comm'n*, 21 Mass. App. Ct. 686, 689 (1986). Here, the ticket itself states that it must be

claimed within one year of issuance. Mr. Palmer asserts that statement appears in font is too small for those with vision impairments to read.<sup>2</sup> Granted, the statement appears in relatively small text. But it is preceded by a capitalized heading in larger font: “HOW TO CLAIM PRIZE.” That is enough to alert a reasonable bettor that the subsequent text lays out conditions that must be met before a prize can be claimed.

The ticket also alerts the bettor that the ticket is subject to Lottery rules and regulations generally. The “HOW TO CLAIM PRIZE” heading is followed by another capitalized heading in the same larger font: “RULES AND REGULATIONS.” Under that, the following capitalized text appears: “BETTERS AGREE TO ABIDE BY MASSACHUSETTS STATE LOTTERY COMMISSION RULES AND REGULATIONS.” All this helps put the reasonable bettor on notice that “there are rules for playing [Keno] and that his rights are limited by those rules.” *Jacobs*, 60 Mass. App. Ct. at 308 (quoting *Ruggiero*, 21 Mass. App. Ct. at 689).

Mr. Palmer argues that it is unfair for the Lottery to deny his claim because of the impact his back surgeries and related treatments had on his ability to claim the ticket. Although I recognize that his medical needs almost certainly hindered his cashing the ticket, it still appears that he had a fair opportunity to cash the ticket. Within two weeks after purchasing the ticket, he scanned it twice using RTC. Why he did not cash the ticket after either of those scans is unclear. For a time, he simply forgot about the ticket. He had nearly eight more months to redeem the ticket before his second back surgery, and several months between his second and third surgeries. His third surgery took place on April 1, 2024, so at most it had a minimal effect on his ability to cash the ticket before April 4, 2024. Even assuming (as I do) that Mr. Palmer received ongoing and time-consuming

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<sup>2</sup> He has not specifically asserted that he has such an impairment, but I assume for the sake of argument that he does.

medical treatment between his first, second, and third surgeries, he had a sufficient opportunity to cash the ticket. Ultimately, there is no persuasive reason to make an exception from the one-year claim deadline.<sup>3</sup>

### **CONCLUSION & RECOMMENDATION**

For the reasons set forth above, I recommend that the Commission affirm the denial of Mr. Palmer's claim.

/s/ Paul Kominers  
Paul M. Kominers  
Hearing Officer

Dated: December 17, 2024

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<sup>3</sup> I doubt that an exception can even be made in an adjudicatory proceeding such as this one. *Cf. Doe v. Sex Offender Registry Bd.*, 82 Mass. App. Ct. 152, 155 (2012) (agency does not have “inherent authority to strike down a regulation” in adjudicatory proceeding). But there is no reason to reach that question here.