

**COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS STATE LOTTERY COMMISSION**

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In re: *Appeal of Multicultural Value LLC* )  
d/b/a Multicultural Value )  
\_\_\_\_\_) )

**DECISION AND RECOMMENDATION**

**INTRODUCTION**

Pursuant to 961 CMR 2.18 and M.G.L. c. 30A, Aleladia Okunzuwa, as the representative of Licensed Lottery Sales Agent, Multicultural Value LLC d/b/a Multicultural Value (“Agent”), appeals the Massachusetts State Lottery Commission’s (the “Lottery”) August 11, 2023 decision revoking its Sales Agent License (“License”) to sell Lottery products, as a result of the Agent’s failure to:

- (1) timely deposit Lottery proceeds in its Lottery trust account;
- (2) maintain sufficient funds in the Lottery trust account; and
- (3) provide the Agent’s bank statements to the Lottery in accordance with its obligations under the License and Lottery rules and regulations<sup>1</sup>.

After considering the evidence and arguments and as explained further below, the Hearing Officer recommends that the Lottery affirm the revocation of the Agent’s License.

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<sup>1</sup> 961 CMR 2.00 defines and regulates the operation and administration of the Massachusetts State Lottery.

### **AUTHORITY**

This appeal hearing was conducted on December 5, 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 agent<sup>2</sup> 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**

The Agent appeals the Lottery's August 11, 2023 decision for the revocation of its License due to the Agent's failure to timely deposit Lottery funds in Lottery trust account<sup>3</sup>, maintain sufficient fund in the Lottery trust account, and the Agent's refusal to provide Lottery bank records upon the Lottery's request. The Agent alleges that its refusal to provide Lottery bank records was a misunderstanding by the Lottery. *See* Tr. 8:10-20; Tr. 11:4-15. Mrs. Okunzuwa, as the Agent's representative, states that she made several attempts to produce the bank statements to the Lottery, but was denied. *See* Tr. 11: 16-24; Tr. 12:4-12; Tr. 26:14-17. The Agent now seeks a reinstatement of its License to sell Lottery tickets.

On June 15, 2023, the Lottery sent an initial letter to Mrs. Okunzuwa, as the Agent's representative, and noted that its intention was to revoke the Agent's License to sell Lottery

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<sup>2</sup> 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.

<sup>3</sup> Each Sales Agent shall be required to establish a trust account at a bank that is a member of the New England Automated Clearing House Association (or its successor association). *See* 961 CMR §2.16(1).

product, after a review was conducted by the Lottery Finance Department for non-payment and refusal to provide Lottery bank records. *See* Exhibit 6.

On July 31, 2023, a hearing took place, which resulted in the revocation of the Agent's License. The Agent was notified of the Lottery's decision on August 11, 2023. *See* Exhibit 7.

Mrs. Okunzuwa, on behalf of the Agent, submitted a written request on September 2, 2023, to appeal the decision, pursuant to 961 CMR 2.18. *See* Exhibit 8.

A prehearing conference took place via zoom video conference on November 6, 2023. Mrs. Okunzuwa appeared on behalf of the Agent and Attorney Maryanne Hutchinson ("Attorney Hutchinson") appeared on behalf of the Lottery. In accordance with the prehearing conference order, Attorney Hutchinson notified the undersigned Hearing Officer and the Agent regarding anticipated exhibits and witnesses for the appeal hearing. The Agent did not provide any exhibit or witness lists for the appeal hearing. *See* Tr. 6: 1-11.

A hearing convened on December 5, 2023, regarding the Agent's appeal of the Lottery's decision, pursuant to M.G.L. c. 30A and 961 CMR 2.18. Mrs. Okunzuwa, as the Agent's representative, was sworn in and appeared on the Agent's behalf. Mrs. Okunzuma's husband also attended and was sworn in as a witness. *See* Tr. 6:7-14. Attorney Hutchinson represented the Lottery. The Lottery presented one witness, John DeSimas (Director of Credit and Collections). *See* Tr. 5:5-12. The Lottery's witness was sworn in and testified on its behalf. *See* TR. 13:16-22.

The following documents were marked as exhibits and entered as evidence without objection:

**Exhibit 1:** G. L. Chapter 10, Sections 24-35

**Exhibit 2:** 961 CMR 2.00

**Exhibit 3:** Multicultural Value LLC Sales Agent Agreement

**Exhibit 4:** Electronic Funds Transfer Authorization – Multicultural Value LLC

**Exhibit 5:** 400336 View NSF's – Enterprise Series

**Exhibit 6:** Notice of Revocation

**Exhibit 7:** Notice of Hearing Decision

**Exhibit 8:** Appeal to Commission

**Exhibit 9:** Trust Account Bank Statement

*See* Tr. 6: 20-24; Tr. 7: 1-7.

During the hearing, Mrs. Okunzuwa offered to submit a current bank statement and requested that the current bank account statement be marked as Exhibit 9. *See* Tr. 41: 17-24; Tr. 42: 1; Tr. 42: 19-22. The undersigned Hearing officer received a copy of the bank account statement on December 5, 2023.

The parties were allowed to provide written submissions to the Hearing Officer within thirty (30) days after receipt of the hearing transcript. *See* Tr. 42: 7-17. Attorney Hutchinson submitted a post-hearing brief on behalf of the Lottery on January 16, 2024. The Agent did not provide a post-hearing brief.

### **FACTUAL FINDINGS**

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

1. On or about August 29, 2022, the Agent applied for, was approved, and executed a Sales Agent Agreement and was licensed to sell Lottery products. *See* Exhibit 3.

2. Between November 5, 2022, and May 13, 2023, the Agent had four Not Sufficient Funds ("NSFs") when the Lottery attempted to sweep the Lottery trust account. *See* Exhibit 5.

3. The Agent balance due and payable to the Lottery on May 13, 2023, was \$15,393.00 which was subsequently reduced by the Lottery to \$7,661.91, based upon the Lottery decision to not charge the Agent for outdated books not sold. *See* Tr. 17: 4-24; Tr. 18: 19-24; Tr. 19: 1-21; Tr. 21: 3-11; Tr. 37: 21-24; Tr. 38: 1-4.

4. On or about June 15, 2023, the Lottery sent the Agent a letter to revoke the Agent's lottery license due to the outstanding balance. *See* Exhibit 6.

5. On or about July 31, 2023, a hearing was held by the Lottery with Agent present to discuss the outstanding balance and to resolve payment. *See, generally*, Exhibit 7.

6. Prior to the hearing the Lottery requested a copy of the bank statement and was informed that it would not be provided. Raskin Bhutta, a staff member of Credit and Collections made a verbal request when speaking with Mrs. Okunzuwa. *See* Tr 19.

7. At the hearing on July 31, 2023, the Lottery requested a copy of the bank statement to which the Agent stated they would not provide a copy. John DeSimas requested Mrs. Okunzuwa to provide a bank statement and was informed that it would not be provided. *See* Tr 20.

8. On or about August 11, 2023, based upon the evidence presented at the July 31, 2023 hearing the Lottery issued a hearing decision revoking the lottery license of the Agent. *See* Exhibit 7.

9. On or about September 2, 2023, the Agent requested a hearing due to the Lottery's revocation of the License, pursuant to 961 CMR 2.18, to the Massachusetts State Lottery Commission. *See* Exhibit 8.

10. On or about December 5, 2023, the appeal of the Agent was held, exhibits entered into the record and transcript was recorded. The Agent submitted a Bank Statement for Multicultural Value LLC after the hearing concluded to be marked as Exhibit 9.

11. At no time during the hearing or on appeal did the Agent make a claim that there is a flaw or fault in the process of proceedings.

### **ANALYSIS AND CONCLUSIONS OF LAW**

#### **A. THE AGENT WAS, OR SHOULD HAVE BEEN, AWARE OF THE LOTTERY RULES APPLICABLE TO THE SALES AGENT LICENSE**

Sales Agents for the Lottery are licensed in accordance with the State Lottery Law, G.L. c. 10, §§22-35, 37-40, 56-58, and regulations promulgated thereunder. 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 Director of the Lottery 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.
- (8) If there is a delay in the Sales Agent's accounting or depositing in his/her designated bank account the revenues received from the Lottery ticket sales.
- (13) Upon an Event of Default under the Lottery Sales Agent Agreement entered into by the Sales Agent, or if the Sales Agent shall fail to perform, keep, or observe any of the terms, covenants, promises, obligations, agreements, or conditions contained in such Lottery Sales Agent Agreement, the Lottery Sales Agent Agreement may be terminated at the discretion of the Director or his/her designee.

*See* G.L. c. 10, §26.

Mrs. Okunzuwa, as the Agent's representative, is charged with knowledge of the Lottery's rules and regulations printed in the Lottery Sales Agent Agreement, which she executed on behalf of the Agent on August 29, 2022. *See* Ex. 3. The 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. *See* Ex. 3.

By signing the Sales Agent Agreement, Mrs. Okunzuwa acknowledged that she understood all the terms and conditions of the Sales Agent Agreement, including, but not limited to, Section 4.3 and Section 7.6, stating in pertinent part that:

To deposit into the Separate Account, no later than the first business day of each week during which banks in Massachusetts are open, all Lottery Tickets Proceeds from the sale of all Lottery Tickets and Lottery Products sold by or billed to the Agent during the previous week, and all the Service Fee payments for the previous week...

To authorize the department of the State Auditor and the [Lottery] to inspect, review or audit in conformity with generally accepted government auditing standards, the accounts books, records, and activities of the Agent....

*See* Ex. 3, at Section 4.3 and Section 7.6.

The Agent here has a history of insufficient funds not being available in its Lottery bank account. *See* Ex. 5. This happened on four separate occasions between 2022 and 2023, which prompted a review by the Lottery Finance Department. *See* Ex. 6. The Lottery Finance Department found that the Agent failed to: (1) timely deposit Lottery proceeds in the Lottery trust account; (2) maintain sufficient funds in the Lottery trust account; and (3) provide the Agent's bank statements upon the Lottery's request in accordance with its obligations under the License and Lottery rules and regulations. *See* Ex. 5; Tr 19-20.

In addition, the Agent is required to pay to the Lottery all sums due on the date established for payment, but failed to make such payments when due to the Lottery, which resulted in

revocation of the Agent's License. The Agent also currently has Lottery funds in the Lottery trust account, but refuses to make a payment to the Lottery, which is a further violation of the Lottery rules. *See* Tr 32; 961 CMR 2.20. The Lottery has a right to request and to be provided records, including bank statements for the Lottery trust account, from its Agent, but the Agent has refused on two separate occasions. Tr. 19-20.

The Agent's actions are in plain violation of the Sales Agent Agreement. *See* Ex. 3 and 961 CMR §§ 2.20 and 2.25. Mrs. Okunzuwa, acting as the Agent's representative, knew or should have known that such actions were in violation of the Lottery rules and regulations. Mrs. Okunzuwa even admitted that she still does not understand the aspects of operating a business selling Lottery products – which is concerning to this Hearing Officer. *See* Tr 10.

The Lottery, tolerated with the Agent for several months, while not immediately revoking the Agent's License, as permitted by the Lottery rules and regulations, due to its failure to comply on multiple further occasions the Lottery had no option but to revoke the Agent's License. The Hearing Officer agrees with the Lottery's decision to revoke the Agent's License, considering the Agent does not yet still understand a Lottery Licensed Sales Agent's role and obligations.

Finally, upholding the Agent's License to sell Lottery products would undermine the public confidence in the Lottery and its mission. The Lottery funds never returned to the Lottery reduces returns to the cities and towns, undermining its statutory mission. Thus, the Lottery acted in the best interest of the Commonwealth by revoking the Agent's License.

### **CONCLUSION & RECOMMENDATION**

For the reasons set forth above, the Hearing Officer concludes that the Agent violated the Lottery Sales Agent Agreement and the Lottery rules and regulations, 961 CMR statutory authority of the Lottery's Director to establish the standards to license and maintain a lottery



license, pursuant to the agent regulations set forth within 961 CMR 2.00 §§2.20 and 2.25.

Accordingly, the Hearing Officer recommends that the Lottery affirm revocation of Multicultural Value LLC d/b/a Multicultural Value's License to sell Lottery products.

Respectfully submitted,

The Hearing Officer,

*/s/ Nicole J. Cocozza*

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