

COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS STATE LOTTERY COMMISSION

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**In re: *Appeal of Milford Mini Mart*** \_\_\_\_\_)  
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\_\_\_\_\_)

**DECISION AND RECOMMENDATION**

Pursuant to 961 CMR 2.18 and M.G.L c. 30A, Appellant Arshia Ahmed (“Appellant” or “Ms. Ahmed”), the sole proprietor of Milford Mini Mart (“Milford Mini Mart”), appeals the Massachusetts State Lottery Commission’s (the “Lottery”) July 17, 2023 denial of her April 30, 2023 application for a Sales Agent License (“April 2023 application”) to sell Lottery products. After considering the evidence and arguments, the Hearing Officer recommends that the Lottery’s denial of Appellant’s application be upheld and affirmed.

**AUTHORITY**

This appeal hearing was conducted on January 23, 2024, 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 is entitled to a hearing before their license is denied, suspended, or revoked if such a hearing is requested within 20 days from the date of notice of the denial, revocation or suspension. 961 CMR §2.18.

**PROCEDURAL BACKGROUND**

Appellant appeals the Lottery’s July 17, 2023 decision for denial of its License due to concerns regarding both Appellant’s association with criminal activity and Appellant’s financial

viability. Appellant argues that neither of the Lottery's concerns are warranted and now seeks to have her application accepted and license granted. *See* Appellant's Post-Hearing Brief, at pp. 2-3.

On July 17, 2023, the Lottery sent Appellant an email stating that her application for a Lottery Sales Agent license had been denied. *See* Exhibit 2. Following Appellant's timely appeal, the Lottery gave notice that the denial derived from compliance and financial concerns. *See* Exhibit 4.

On September 13, 2023, an appeal hearing took place, which affirmed the denial of Appellant's application and was issued on November 2, 2023. *See* Exhibit 7. Appellant then timely filed a written request to further appeal the decision pursuant to 961 CMR 2.18. *See* Exhibit 11. A prehearing conference took place via Zoom video conference on December 18, 2023. Appellant appeared *pro se*. Appellant's nephew Umer Amir also attended the prehearing conference. Attorney Christopher Taffe ("Attorney Taffe") appeared on behalf of the Lottery. *See* Prehearing Conference Tr. ("PHC Tr."). In accordance with the prehearing conference order, Attorney Taffe and Appellant submitted a joint agreed upon exhibit list to the Hearing Officer.

A hearing convened on January 23, 2024 pursuant to M.G.L. c. 30A and 961 CMR 2.18. Appellant appeared *pro se*. Appellant's nephew Umer Amir also attended. Attorney Taffe appeared on behalf of the Lottery. *See* Hearing Tr. ("Tr.") 2:3-17. The Lottery presented two witnesses, Dan O'Neil (Director of Compliance) and John DeSimas (Director of Credit and Collections). *See* Tr. 13:5-6; 13-15. Both were sworn in. *See* Tr. 8:11-13.

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

**Exhibit 1:** Milford Mini Mart Application

**Exhibit 2:** Notice of Application Denial

**Exhibit 3:** Arshia Ahmed Request for Appeal

**Exhibit 4:** Lottery Confirmation of Receipt of Appeal

**Exhibit 5:** Director Level Hearing Before Attorney Lawrence P. Mayo Re: Revocation

**Exhibit 6:** Director Level Hearing Decision Affirming Revocation of Original License

**Exhibit 7:** Director Level Hearing Decision Affirming Denial of License Application

**Exhibit 8:** Director Level Hearing Before Attorney Lawrence P. Mayo Re: Denial

**Exhibit 9:** Notice that Lottery Director Affirms Denial

**Exhibit 10:** Milford Mini Mart Appeal

**Exhibit 11:** Procedural Posture provided to N. Cocozza

The parties were allowed to provide written submissions to the Hearing Officer after receipt of the hearing transcript. *See* Tr. 68:7-24. The Parties post-hearing briefs were due on March 15, 2024. Both parties submitted a post-hearing brief. *See* Appellant's Post Hearing Brief; Lottery Post-Hearing Brief at p. 14.

### **FACTUAL FINDINGS**

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

1. Prior to her April 2023 application, Appellant had been a Lottery Sales Agent licensee for the same Milford Mini Mart location at 194 West Street in Milford for a period of at least 10 years, from approximately 2011 through 2022. *See* Exhibit 7.

2. During that period from 2011 through 2022, Appellant was the sole license holder and owner of the Milford Mini Mart business, and she operated the enterprise as a sole proprietorship. *Id.*

3. For almost the entirety of the 12-year period spanning from 2011 through 2022, Appellant resided in the state of Illinois, and acted as an absentee or off-site owner of the Milford Mini Mart business. *See* Exhibit 5.

4. From 2011 through the present, the main employees of Milford Mini Mart have been members of Appellant's family, including Appellant's sister, brother-in-law, niece, and nephew. *See* Exhibit 7.

5. Appellant has a brother-in-law named Asad A. Amir who, during the period from 2011 to 2022, worked as the chief employee and day-to-day onsite manager at Milford Mini Mart. *See* Exhibit 7.

6. In April 2022, Milford Police arrested Mr. Amir for offenses and allegations related to the possession, sale, and/or distribution of controlled substances which included fentanyl and oxycodone, with some portion of such narcotic criminal sales activity occurring inside the Milford Mini Mart. *See* Exhibit 7.

7. Appellant and her sister's family confirmed that Mr. Amir engaged in some level of improper behavior and that there was mismanagement in 2022. *See* Exhibit 8.

8. At some point after the criminal events and arrest of April 2022, Appellant herself moved from Illinois to Massachusetts and began occasionally working on site at Milford Mini Mart with her sister and her sister's children. *See* Tr. 22:11-15; 39:14-24.

9. Shortly after learning of the 2022 arrest, on May 11, 2022, the Lottery suspended Appellant's Lottery Sales Agent license due to the serious criminal allegations against Mr. Amir, the store manager. *See* Exhibit 7.

10. On May 11, 2022, the Lottery notified Appellant of its intention to revoke her then-existing Sales Agent license based on Compliance-related concerns pertaining to the arrest

of her store manager and brother-in-law, Asid Amir. *See* Exhibit 6.

11. In making its sanction determination in May 2022, the Lottery did not seek to issue a time-limited suspension at that time, but instead chose to revoke and terminate the Sales Agent relationship with Appellant. *See* Exhibit 7.

12. Appellant timely appealed the initial May 11, 2022 revocation action and had a hearing on June 7, 2022, before a Designee of the Lottery Director regarding this termination action related to the criminal allegations. Attorney Lawrence P. Mayo was the Hearing Officer. *See* Exhibit 7; Exhibit 5.

13. Appellant was represented by counsel at the June 2022 hearing. *See* Exhibit 5.

14. On October 4, 2022, Hearing Officer Mayo issued a decision which affirmed the agency's May 2022 decision to revoke the license. *See* Exhibit 6.

15. Appellant had a further opportunity to appeal the October 4, 2022, Director-Level decision but did not exercise any such appeal rights in a timely manner. *See* Exhibit 6.

16. Milford Mini Mart has had no active Lottery license since May of 2022, so there has been little to no opportunity for Ms. Ahmed herself to get greater direct or hands-on experience with Lottery operations at the store since her relocation to Massachusetts. *See* Tr. 40:1.

17. On April 30, 2023, Appellant applied for a Lottery Sales Agent license for Milford Mini Mart, a sole proprietorship and convenience store located at 194 West Street, Milford, Mass. *See* Exhibit 1.

18. On the April 2023 application at issue, Appellant provided inaccurate answers to two “*Yes/No*” questions/statements in the section titled Personnel Questionnaires by selecting two responses of “*No*.” The specific question and statement with the inaccurate replies were:

a. . “*Have you ever had any business, professional or liquor license*

*suspended or revoked?” and*

*b. “I have held, or now hold interest in, the following licenses for the sale of Lottery products as sole licensee, partner, or corporation.”*

*See Exhibit 1.*

19. In reviewing a Lottery Sales Agent application, the Lottery reviews an applicants, 1) Finances – credit check and existing debt from a prior Lottery licensee at the proposed location will be considered during the approval process [*see* Tr. 18:11-15.], 2) Online Criminal Background Screening, and 3) Site Assessment – the proposed location will undergo a site assessment for sale potential.<sup>1</sup>

20. In response to Appellant’s April 2023 application, the Lottery reviewed certain credit information available to the agency. The Lottery found that Appellant scored a 245 on the credit model, which exceeds the figure of 200 that is usually the high limit associated with most approvals from the Finance Department. *See* Tr. 19:7-23.

21. As part of its review, the Lottery’s Finance Department also found evidence about some delinquent credit history and a charge-off account pertaining to Appellant, which also was a factor in the Finance Department’s decision to withhold its approval of the application. *See* Tr. 20:4-6.

22. On July 17, 2023, the Lottery’s Licensing Department sent Appellant an e-mail that stated the application had been denied. *See* Exhibit 2.

23. On July 18, 2023, Appellant filed with the Lottery, via e-mail, a timely request for a hearing in response to the application denial. *See* Exhibit 3.

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<sup>1</sup> *See* [Massachusetts Lottery \(masslottery.com\)](https://www.masslottery.com).

24. On August 14, 2023, the Lottery acknowledged Appellant's appeal request from the prior month and gave notice to Appellant that the full reasoning for the denial included both (1) issues with obtaining approval from the Lottery's Compliance Department due to Appellant's prior licensing history and an earlier revocation decision, and (2) concerns of the Lottery's Finance Department related to credit score and financial risk. *See* Exhibit 4.

25. The Lottery cited M.G.L. c.10 §§26-27 and 961 CMR 2.13 (3), (5), and (7) as legal support for its decision. *See* Exhibit 4.

26. On September 13, 2023, the Lottery held a Director-Level hearing of Appellant's appeal of the denial of her April 2023 application before Attorney Lawrence P. Mayo, the Designee of the Lottery Director. *See* Exhibit 8.

27. On November 2, 2023, Hearing Officer Mayo issued his decision in this matter, denying Appellant's appeal. The Hearing Officer found certain facts, made conclusions of law, and upheld the decision as proper due to the various concerns of the multiple Lottery departments. *See* Exhibit 7.

28. After receiving notice of the November 2, 2023, decision, Appellant timely filed a request for a further appeal to the Lottery Commission per 961 CMR 2.18 and M.G.L. c. 30A, leading to this matter. *See* Exhibit 10.

29. As of the hearing date, Mr. Amir currently resides with his wife (Appellant's sister, who still works at Milford Mini Mart) and is reportedly working at a gas station in the town of Grafton, which is two towns to the Northwest of Milford. *See* Tr. 56:3-13.

## **ANALYSIS AND CONCLUSIONS OF LAW**

### **I. APPLICABLE LAW**

Sales Agents for the Lottery are licensed in accordance with the State Lottery Law,

M.G.L. c. 10, §§22-35, 37-40, 56-58, and 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 Director of the Lottery or a designee is authorized to deny a Lottery Sales Agent’s license application for any of the below listed, non-exhaustive reasons:

- (3) If, in the discretion of the Director, such denial . . . 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 [] Sales Agent relative to Lottery business is not in accordance with 961 CMR 2.00.
- (7) If the moral character of the . . . Sales Agent, or any employee of the [] Sales Agent who holds a position of substantial authority in the [] Sales Agent’s business, or any of the [] Sales Agent’s employees or agents handling Lottery business, is found by the Director to be deficient. . .

See M.G.L. c. 10, §26; 961 CMR 2.13.

## **II. THE LOTTERY ACTED WITHIN ITS DISCRETION TO DENY THE APPELLANT’S APRIL 2023 SALES AGENT LICENSE APPLICATION**

The Hearing Officer unequivocally agrees that the Lottery acted within its discretion to deny Appellant’s April 2023 application for a Lottery Sales Agent license due to the following reasons: 1) compliance-related issues, 2) financial concerns, and 3) the collateral estoppel doctrine that bars Appellant from challenging the Lottery’s denial of her April 2023 application. Below, the Hearing Officer discusses each of the Lottery’s reasons for denying Appellant’s April 2023 application for a Lottery Sales Agent License.

### ***(1) Compliance-Related Concerns***

Appellant is familiar with the Lottery’s rules and regulations printed in the Lottery Sales Agent agreement, which she previously executed on behalf of Milford Mini Mart prior to Appellant’s license revocation in May 2022. See Lottery’s Brief, at ¶¶24-28. Thus, Appellant should



have been aware of the Lottery's rules and regulations with respect to the process for her application for a Lottery Sales Agent license. Appellant, however, failed to answer certain questions on the April 2023 application for a Lottery Sales Agent license – which calls for an immediate denial of Appellant's application. *See* Tr. 34-35 and Exhibit 1, at 10. The Lottery (and its Directors) acted within its authority to immediately deny approval of Appellant's application who is well aware of the Lottery's rules and regulations as she previously held a Sales Agent license for the Milford Mini Mart location for roughly 10 years, from approximately 2011 through 2022. Tr. 28-29 and Exhibits 6 and 7.

The Lottery's primary concern here derives from Appellant's history as a licensed Lottery Sales Agent. In April 2022, while Appellant's Milford Mini Mart was licensed, the store manager, Appellant's brother-in-law, Mr. Amir, was arrested on charges related to the distribution of controlled substances. *See* Lottery Post-Hearing Brief, at p. 4. Mr. Amir was alleged to have utilized the Milford Mini Mart location as a means of trafficking fentanyl within 300 yards of a preschool daycare for some considerable length of time, spanning years. Such arrest gave rise to the Lottery questioning Appellant's management practices, and, affirmed the Lottery's decision to revoke the Appellant's license in May 2022. Indeed, the Lottery was acting in the best interest of the Lottery and the Commonwealth of Massachusetts by terminating its relationship with Appellant to avoid future associations with Milford Mini Mart pursuant to M.G.L. c. 10 §26 (3) and (7). *See* Tr. 62:14-23.

In addition, Appellant's April 2023 application indicates that Appellant is still using the same form of ownership as her initial Lottery Sales Agent license for Milford Mini Mart in May 2022. The Hearing Officer agrees with the Lottery that Appellant's history regarding the identical business enterprise cannot be ignored nor minimized by the Lottery in determining its decision to

deny Appellant's April 2023 application. Appellant has been an absent Lottery Sales License agent since first obtaining her Lottery license. Appellant only recently moved from Chicago, Illinois to Massachusetts. The Hearing Officer credits Appellant for moving here to Massachusetts, but such relocation does not alleviate the Lottery's concerns. As mentioned at the hearing, Appellant, after being the Milford Mini Mart owner for 10 years and is now only learning its day-to-day business operations, which does not include sale of Lottery products. Appellant also still frequents Chicago for extended periods. *See* Tr. 49:9-21.

Also, Milford Mini Mart is a family-run business, the Hearing Officer. The Hearing Officer did not find Appellant's testimony credible that Mr. Amir was no longer going to be involved as, Mr. Amir's three family members (wife, son, and daughter) all currently work at Milford Mini Mart. *See* Tr. 38:6-16, 46:13-21; 56:8-16.

Given Appellant's history of compliance issues, the absence of management change, and the proximity of Mr. Amir, the Lottery's decision should be upheld pursuant to M.G.L. c. 10 §26.

## ***(2) Financial Concerns***

In addition to their compliance-related concerns, the Lottery also had valid concerns with respect to Appellant's financial capability. The Lottery is entitled to evaluate the financial data and credit history of an applicant. *See* Tr. at 15-16. Upon its review of the Appellant's April 2023 application, the Lottery reviewed certain credit information available to the agency, and found the Appellant scored a 245 on the credit model, which exceeds the figure of 200 that is usually the high limit risk associated with most approvals from the Finance Department. *Id.* at 18-20. The Lottery further found that the Appellant had delinquent credit history and a charge-off account, which also was a factor in the Finance Department's decision to deny the application. *Id.* at 20.

Appellant did not dispute the financial data pulled by the Lottery. Appellant, however, contends that her poor credit score is a consequence of her efforts to satisfy the Lottery by moving and purchasing a home in Milford, and coupled with co-signing multiple student-loan agreements for her family members. *See* Tr. 22:7-20. However, regardless of the reason, the undisputed fact remains that Appellant does not meet the Lottery’s financial criteria to hold a Lottery Sales Agent license.

### ***(3) Collateral Estoppel***

The Hearing Officer agrees with the Lottery that Appellant’s application should be denied based on collateral estoppel, since Appellant relies on the same core facts from the May 11, 2022 revocation of her Lottery Sales Agent License and failed to appeal the October 2022 Director-Level hearing decision. The issue preclusion doctrine, also known as collateral estoppel, provides that “[w]hen an issue of fact or law is actually litigated and determined by a valid and final judgment, ... the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.” *Estate of Janowicz vs. Mass. State Lottery Comm’n*, No. 943441, 2 Mass. L. Rptr. 607, \*2-3 (Oct. 12, 1994), citing *Martin v. Ring*, 401 Mass. 59, 61 (1987), quoting *Fireside Motors, Inc. v. Nissan Motor Corp. in U.S.A.*, 395 Mass. 366, 372 (1982).

To preclude relitigation of an issue, there must exist “identity of cause of action and issues, the same parties, and judgment on the merits by a court of competent jurisdiction.” *Brunson v. Wall*, 405 Mass. 446, 450 (1989), quoting *Franklin v. North Weymouth Coop. Bank*, 283 Mass. 275, 280 (1933). Using this test, administrative decisions have been given preclusive effect. *See Estate of Janowicz*, 2 Mass. L. Rptr. at \*2; *Brunson*, *supra* at 450-51 (giving preclusive effect to MCAD decision in de novo civil action in Superior Court alleging violation of G.L.c. 151B, § 4, and 42 U.S.C. §§ 1981 and 1983 arising from the same factual situation); *Martin*, *supra* at 61-62

(giving preclusive effect to decision of Industrial Accident Board in subsequent tort action); *Almeida v. Travelers Ins. Co.*, 383 Mass. 226, 230 (1981) (giving preclusive effect to a determination by the Board of Appeal on Motor Vehicle Liability Policies and Bonds).

The Lottery here qualifies as a “court of competent jurisdiction” because it is “a tribunal recognized by law as possessing the right to adjudicate the controversy.” *See Estate of Janowicz*, 2 Mass. L. Rptr, at \*2, quoting *Brunson*, supra at 450, quoting *Almeida*, supra at 230. Both G.L.c. 10, § 242 and G.L.c. 30A authorize the Lottery Commission to adjudicate lottery disputes. Thus, collateral estoppel applies here where all four requisites are met: 1) the October 2022 decision was a final judgment on the merits, which Appellant failed to appeal, 2) Appellant was a party in the prior adjudication matter, 3) the same core facts from Appellant’s May 11, 2022 revocation of her Lottery Sales Agent License are identical to the issues in this current matter, and 4) the issues concerning in the prior adjudication “w[ere] essential to the earlier [October 2022 Director-Level hearing decision], and w[ere] actually litigated in the prior action,” meaning that “[t]he nonmoving party previously must have had a full and fair opportunity to litigate the issue.” *See, e.g., Abdulky v. Lubin & Meyer, P.C.*, 205 N.E.3d 381, 387 (Mass. App. Ct. 2023). Appellant was fully represented by counsel in the prior adjudication matter involving the May 2022 Lottery Sales Agent revocation. Appellant cannot now seek a second opportunity to obtain a Lottery Sales Agent license only six months after the prior adjudication in October 2022.

Based upon the short passage of time between the October 2022 Director-Level hearing decision and Appellant’s April 2023 application for a Lottery Sales Agent license, the Hearing Officer agrees with the Lottery that the Appellant is collaterally estopped from challenging the Lottery’s denial of her April 2023 application for a Lottery Sales Agent license at this time.

### **CONCLUSION & RECOMMENDATION**

For the above-mentioned reasons, the Hearing Officer recommends that the Lottery uphold and affirm the Lottery's decision to deny Appellant's April 2023 application for a Lottery Sales Agent License to sell Lottery products.

The Hearing Officer,



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