

**COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS STATE LOTTERY COMMISSION**

Lottery Commission Docket No. CL-21-029: In re: Appeal of Lok Gurung

Appearance for Lok Gurung	Lok Gurung, <i>pro se</i>
Appearance for the Massachusetts State Lottery Commission	Christopher Taffe Associate General Counsel, Massachusetts State Lottery Commission 150 Mt. Vernon St. Dorchester, MA 02125

FINDINGS & RECOMMENDATION

Lok Gurung, a Lottery sales agent, attempted to claim five high-value tickets. When this triggered compliance review, he admitted to having purchased the tickets from his customers. Doing so is expressly forbidden by a “Manual for Sales Agents” he received and signed, and is also barred by the usual statutory and regulatory limitations on the assignment of Lottery claims. Mr. Gurung offers no persuasive reason to grant an exception from any of those restrictions here. Accordingly, I recommend that the Massachusetts State Lottery Commission (“Commission”) affirm the denial of his claims.

PROCEDURAL HISTORY

I. Prior Proceedings

Mr. Gurung’s claims were denied by letter dated October 25, 2021. Mr. Gurung timely requested a Director-level hearing. On May 8, 2024, the Director-Designee affirmed the Lottery’s decision not to pay out Mr. Gurung’s claims, after which he timely requested this Commission-level hearing.

II. The Current Appeal

On July 31, 2024, I held an initial scheduling conference with the parties. On August 16, 2024, Attorney Taffe provided a Pre-Hearing Statement including an exhibit list. Mr. Gurung

confirmed by email that the contents of the Pre-Hearing Statement were agreeable.

I held a hearing on August 28, 2024, by Zoom. Christopher Taffe, appearing for the Lottery, called Compliance Department Security Investigator Logan Davis as the Lottery's only witness. Lok Gurung appeared *pro se* and testified on his own behalf without calling any other witnesses. The parties later provided written submissions.

III. Exhibits

The parties supplied a joint list of exhibits (1-12). The day before the hearing, the Lottery proposed a thirteenth exhibit. At the hearing, Mr. Gurung confirmed that he had no objection to the inclusion of the proposed thirteenth exhibit in the record. The final exhibit list was as follows.

1. October 25, 2021, Lottery Denial Notice
2. November 1, 2021, Request by Appellant for Director-Level Hearing
3. October 13, 2021, Lottery Exception Claim Form and copy of Appellant's MDL (with redaction)
4. October 13, 2021, Claim Forms and paperwork related to Five (5) Winning Lottery Tickets Claimed (with redactions)
5. October 14, 2021, Logan Davis Interview Report
6. Lottery Claim History detailing Lok Gurung's 31 Claims from 2013 to 2020
7. August 2, 2024, Lottery Enterprise Series Page showing Lok Gurung's Sales Agent Affiliations with Locations
8. Ticket Slips and State Publications from Appellant
9. Written Narrative Submission from Appellant
10. May 8, 2024, Director-Level Decision and Cover Letter for CL-21-029
11. May 30, 2024, Request by Appellant for Commission-Level Appeal
12. June 20, 2024, Correspondence to Hearing Officer Initiating Commission-Level Appeal
13. Massachusetts State Lottery Commission—Manual for Sales Agents and Agent Receipt signed by Lok B. Gurung, Owner/Manager of Nine Red Pearls LLC, d/b/a LA Market

FACTUAL FINDINGS

Mr. Gurung has been licensed as a Lottery sales agent for at least a decade. Tr. 45-46; Ex. 6. He sells tickets at two locations, both called “L A Market”: one in Somerville and one in Cambridge. Tr. 17. Mr. Gurung received a “Manual for Sales Agents,” dated January 2013, expressly stating that “Agents must never purchase a high tier [(i.e., \$600 or more)] winning ticket from any customer.” Ex. 13 ¶ E(2)(b); Tr. 15. He then signed an “Agent Receipt” acknowledging that he had received the 2013 Manual, “read and underst[ood] the provisions contained therein and acknowledge[d] [his] responsibility to ensure compliance . . . as a condition of being a MSLC licensed sales agent.” Ex. 13 at 1.¹

On October 13, 2021, Mr. Gurung sought to cash five high-tier tickets worth \$1,000 or slightly more apiece. Tr. 13-15. This attempt to cash more than three tickets at once triggered review by the Lottery’s Compliance Department. Tr. 14. Logan Davis, a Security Investigator, interviewed Mr. Gurung. Tr. 12, 26-27. Mr. Gurung initially told Ms. Davis that he purchased the tickets himself directly from L A Market. Tr. 28. According to the 2013 manual, doing so was discouraged but not forbidden. Ex. 13 at 10. When Ms. Davis pressed, Mr. Gurung acknowledged that he had purchased the tickets from other individuals for \$700 apiece and that some of the tickets had originally been purchased at other stores. Tr. 28-29.

Each of the tickets at issue includes a statement that it is subject to applicable statutes, regulations, and rules. Tr. 24-25. The claim form that Mr. Gurung had to fill out to make a claim on each ticket contained a similar statement. Tr. 23-24. G. L. c. 10, § 28(14) provides that an assignment of a Lottery claim generally “shall be invalid,” and the Lottery “shall not be liable to

¹ According to the 2013 Manual, a sales agent must renew that affirmation every other year. Ex. 13 ¶ D(1). There was no evidence at the hearing on whether that requirement remains in force and, if so, whether Mr. Gurung had provided such affirmations.

make payments pursuant to an invalid assignment.” Lottery regulations have the same effect. 961 CMR 2.28(1). There are narrow exceptions, none of which apply here.

Since 2021, Mr. Gurung has not attempted to cash any other tickets over \$1,000. Tr. 43-44. But from January 7, 2013, to November 13, 2020, Mr. Gurung had made claims on 31 other high-tier tickets worth a total of just over \$30,600. Ex. 6. Many, but not all, of those tickets were sold at an L A Market or the Somerville location’s predecessor, Nine Red Pearls. Tr. 21-22. Whether Mr. Gurung was the original purchaser of those tickets is not at issue in this proceeding.

DISCUSSION

The Lottery’s decision not to pay out the tickets at issue was correct.

Multiple sources of authority, including state statute and Lottery regulations, bar the assignment of Lottery claims. G.L. c. 10, § 28; 961 CMR 2.28(1); *Singer Friedlander Corp. v. State Lottery Comm’n*, 423 Mass. 562, 563-66 (1996).² These provisions “serve[] to safeguard the rights of the lottery winner and to assure, as far as possible, that no unfair advantage is taken by predatory lenders or others.” *Seneca One, LLC v. Geulakos*, 88 Mass. App. Ct. 439, 442 (2015). These restrictions also serve the important purpose of ensuring individuals do not evade tax obligations. Tr. 15-16.

There is no reason to make an exception here.³ Mr. Gurung does not dispute that at some point he knew that he is forbidden from buying high-tier winning tickets from his customers. Also, “[b]y purchasing a ticket the [buyer] entered into a contractual arrangement with the commission and

² The Lottery argues that 961 CMR 2.39 also has a similar effect. I do not reach that question. That regulation has been amended since Mr. Gurung sought to claim these tickets in 2021, and the language in effect at the time is not before me. And there is ample other authority to withhold payment of these claims.

³ I doubt that such an exception can even be granted in an adjudicatory proceeding. *See Doe v. Sex Offender Registry Bd.*, 82 Mass. App. Ct. 152, 155 (2012) (agency does not have “inherent authority to strike down a regulation”). But there is no need to reach that question here.

is deemed to have reasonable notice of the pertinent regulations” *Bretton v. State Lottery Comm’n*, 41 Mass. App. Ct. 736, 741 (1996).

Mr. Gurung argues that denying his claims is unfair because he forgot that sales agents cannot purchase high-tier tickets from customers and the Lottery took no steps to remind him. Regardless of whether he knew, he should have known. The Lottery can expect licensed sales agents to remember and follow the applicable rules. In arguing otherwise, Mr. Gurung points to his cross-examination of Ms. Davis—specifically, the fact that she could not recall his six-digit sales agent license number or the addresses of the two L A Markets. Tr. 39-40. However, these facts are essentially trivia. There was no reason for Ms. Davis to have them at her fingertips. Mr. Gurung’s claimed lapse is different in kind.

CONCLUSION & RECOMMENDATION

For the reasons set forth above, I recommend that the Commission affirm the denial of Mr. Gurung’s claims.

/s/ Paul Kominers
Paul M. Kominers
Hearing Officer

Dated: November 20, 2024