

COMMONWEALTH OF MASSACHUSETTS
STATE LOTTERY COMMISSION

In the Matter of:

MOHAMED JAAFAR,
Respondent.)
)
)
)

Tuesday
May 7, 2019

Lottery Commission
150 Mount Vernon Street
Dorchester, Massachusetts

BEFORE: LAWRENCE P. MAYO, ESQ.
Serving as Hearing Officer
80 Washington Square, United C20
Norwell, MA 02061

APPEARANCES:

For the State Lottery Commission:

GREGORY M. POLIN, ESQ.
Assistant Director and General Counsel
CANDACE HODGE, ESQ.
Associate General Counsel.
The Commonwealth of Massachusetts
State Lottery Commission
150 Mt. Vernon Street, Suite 300
Dorchester, MA 02125

For the Respondent:

KEVIN M. CONSIDINE, ESQ.
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P R O C E E D I N G S

(11:21 AM)

1
2
3 MR. MAYO: Good morning, everybody. My name is
4 Larry Mayo and I am the hearing officer in today's hearing.
5 The matter I'll entitled, 'In re: Mohamed Jaafar prize
6 claim suspension hearing.' Massachusetts State Lottery
7 Commission, May 7, 2019. Again, we are here today in the
8 matter of Mohamed Jaafar. Mr. Jaafar is appealing the
9 decision of the Massachusetts State Lottery Commission
10 Compliance Department's decision to impose a prize claim
11 suspension upon Mr. Jaafar suspending his ability to claim
12 lottery prizes with a value of \$600 or more for a period of
13 90 days.

14 The Lottery issued a suspension notice to
15 Mr. Jaafar dated April 1, 2019. For the record, we've
16 marked that suspension notice as Exhibit No. 1.

17 (Exhibit No. 1 was marked into
18 evidence.)

19 MR. MAYO: That suspension was imposed pursuant to
20 the high-frequency prize winner regulation contained at 961
21 CMR 2.43(2). Mr. Jaafar is here today exercising his right
22 to a director-level hearing before the prize claim
23 suspension goes into effect. The availability of a
24 director-level hearing is established in 961 CMR 2.43(3).
25 The question before me is whether Mr. Jaafar is a

1 high-frequency prize winner and whether the submission by
2 Mr. Jaafar of at least 20 claims for Lottery prizes, each
3 with a value of at least \$1,000 within any period of 365
4 days is factually or statistically improbable.

5 This is an informal hearing. I'm going to observe
6 the rules of evidence established in Mass. General Law
7 Chapter 30A, Section 11. The parties will have an
8 opportunity to call and examine witnesses, introduce
9 exhibits and cross-examine witnesses who testify, and to
10 submit rebuttal evidence.

11 The Lottery's decision to suspend Mr. Jaafar -- if
12 the Lottery's decision to suspend Mr. Jaafar is supported by
13 the preponderance of the credible evidence, that its
14 decision was justified, then that decision will stand. The
15 Lottery has the burden of proof. I will allow for opening
16 statements and closing statements if the parties so choose.
17 Objections will either be sustained or overruled.

18 I will have the stenographer administer oaths to
19 all witnesses. At the close of the hearing, I will give each
20 an opportunity to submit briefs if they so choose. And
21 post-hearing briefs would be due within one week after the
22 transcript is issued by the stenographer.

23 Without further ado, I will have the Lottery
24 present its case.

25 MR. POLIN: Thank you Mr. Mayo. The Massachusetts

1 State Lottery Commission voted in November of 2017 to
2 authorize the executive director to promulgate rules and
3 regulations to address high-frequency Lottery prize winners,
4 and on July 27, 2018, 961 CMR 2.43 was amended to include
5 Section 2, which is related to high-frequency prize winners.
6 Patterns of high-frequency Lottery prize claims can defy
7 statistical odds and reason, and the Lottery questions the
8 legitimacy of such activities. The Lottery is mandated to
9 collect outstanding child support liabilities and past due
10 tax liabilities before paying Lottery prize claims in excess
11 of \$600. Winners of such prizes must complete a claim form
12 where they attest that they are not claiming the prize to
13 assist another in the avoidance of financial obligations.

14 Further, the Massachusetts Lottery law prohibits
15 non-lottery sales agents from selling Lottery tickets and
16 also prohibits the assignment of Lottery prize winnings
17 except under certain enumerated circumstances.

18 If high-frequency prize winners are not acquiring
19 these Lottery tickets legitimately, the Lottery has reason
20 to believe that some or all of these winning Lottery tickets
21 are being acquired through means that violate or otherwise
22 do not comply with the Lottery law and/or other laws, and
23 the Lottery wants to discourage illegitimate activities.

24 Unless the suspendee, Mr. Jaafar, can explain how
25 he is acquiring these winning lottery tickets legitimately,

1 the Lottery will request the director's designee, Attorney
2 Mayo, to affirm the Compliance Department's imposition of
3 the prize claim suspension. If it is not or statistically or
4 factually probable that the suspendee, Mr. Jaafar, is
5 acquiring these tickets legitimately, the Lottery's prize
6 claim suspension should be affirmed.

7 The hearing is being held pursuant to 961 CMR
8 2.43(2) concerning high-frequency prize winners.

9 'high-frequency prize winner' is defined in 961 CMR 2.03 as
10 a person who submits at least 20 claims for Lottery prizes,
11 each with a value of at least \$1,000 within any period of
12 365 days. In this case, Mohamed Jaafar has claimed 391
13 Lottery prize claims of \$1,000 or more during the period of
14 July 27, 2018 to January 27, 2019. The total amount of these
15 prize payments was \$532,222.25.

16 By the definition in the regulation, Mohamed
17 Jaafar is a high-frequency prize winner. During this
18 hearing, the Lottery plans to have two witnesses that will
19 discuss the Compliance Department's review of Mr. Jaafar's
20 prize claims. And at this point I'd like to call my first
21 witness. Maureen McHugh, please?

22 MAUREEN MCHUGH, Sworn

23 DIRECT EXAMINATION

24 BY MR. POLIN:

25 Q Hello, Miss McHugh. Would you please state and

1 spell your name for the record?

2 A Maureen McHugh. McHugh is M-c-capital H-u-g-h.

3 Q And what is your position at the Lottery?

4 A I'm a Compliance analyst.

5 Q How long have you worked to the Lottery?

6 A Since May of 2000.

7 Q How long have you worked in -- what department do
8 you work in?

9 A Compliance Department. For the entire employment,
10 I've been in the Compliance Department.

11 Q How long have you had your current title for?

12 A Since May 2000.

13 Q Can you tell us why the Lottery's Compliance
14 Department has moved to impose a Lottery prize claim
15 suspension against Mohamed Jaafar?

16 A Based on the new regulation, we were asked to
17 review our data to make sure people were in complying with
18 the regulations. So, based on a monthly document that we
19 produce for the Department of Revenue and IRS of all claims
20 -- claimants filed by individuals of 20 or more for \$1,000
21 in a calendar year, we send that list over to the Department
22 of Revenue and IRS monthly. So, we started with that list
23 and identified people that we believed were high-frequency
24 cashers.

25 Q During the course of this review, did the

1 Compliance Department review any reports of Mohamed's
2 Jaafar's claiming history?

3 A Yes, we did.

4 MR. POLIN: I'd like to submit a report to be an
5 exhibit.

6 MR. MAYO: I think we have stipulated based on the
7 admissibility of the report. This should be Exhibit 2.

8 (Exhibit 2 was marked into
9 evidence.)

10 MR. POLIN: For the record, it is a seven-page
11 exhibit.

12 BY MR. POLIN:

13 Q Miss. McHugh, did the Compliance Department review
14 this document?

15 A Yes, we did.

16 Q Can you tell us what this document is?

17 A It is a listing of all claims filed by Mr. Jaafar
18 between July 27, 2018 and January 27, 2019.

19 Q And if you can just go line-by-line, there is a
20 number of different columns here. The first line is first
21 name?

22 A Yes. First name, last name. The next column is
23 street. We blacked that out. And then the city and state
24 that Mr. Jaafar lives in. And the zip code. And then the
25 next column, the pay date is the date that the claim was

1 paid. The gross amount is the amount of the winnings. The
2 net amount is the amount minus the taxes or anything else
3 that was deducted. The office is the location -- the Lottery
4 office that the ticket was cashed at.

5 Q So, for example, what does 'WOB' stand for?

6 A Woburn.

7 Q Thank you.

8 A And then the next column is name of the sales
9 agent that the ticket was purchased at. And then the address
10 and city; and then the product name is the type of Lottery
11 product that was cashed. And if it is was an instant ticket
12 or a scratch ticket, the game and book number is included.

13 Q Just for clarity purposes, can you describe what
14 an 'instant game' is?

15 A It is a scratch ticket.

16 Q Thank you. And on the last page of this document,
17 is there a grand total of the number of claims and payments
18 during this period?

19 A Yes. It was 391 payments for a total of
20 \$532,222.25.

21 Q And you mentioned earlier the stores that were
22 listed on this spreadsheet, and you mentioned that these are
23 the locations where the tickets were sold, correct?

24 A Yes.

25 Q Can you discuss the significance in that, if any,

1 of these different sales agent locations?

2 A The tickets were sold at numerous agent locations
3 at different places in Massachusetts. Water, Melrose,
4 Worcester, Brighton, Chelsea, Charlestown and various other
5 cities or towns.

6 Q What is the significance of these different
7 locations?

8 A The significance is it I not a typical pattern for
9 a Lottery player; people usually have favorite stores, or
10 they play in a specific area. They are not normally
11 traveling all over the Commonwealth buying tickets.

12 MR. POLIN: Thank you. I don't have any more
13 questions at this time, but I would like to recall Miss
14 McHugh later.

15 MR. CONSIDINE: I just may have one or two.

16 CROSS EXAMINATION

17 BY MR. CONSIDINE:

18 Q Miss McHugh, can you tell me in your role in the
19 Compliance Department how many Lottery players you have
20 reviewed as high-frequency prize winners?

21 A I don't know that off the top of my list, but we
22 identified five at this time.

23 Q So that would be five since the regulation went
24 into place?

25 A Yes.

1 MR. CONSIDINE: Okay. Thank you. No further
2 questions.

3 MR. POLIN: Nothing further, but I would like to
4 recall her later.

5 MR. MAYO: Sure.

6 MR. POLIN: I would like to next call Paul
7 Mandeville to testify. And at this time I will hand out what
8 I request to be called Exhibit 3 which I believe the parties
9 had stipulated to?

10 MR. MAYO: We have.

11 (Exhibit 3 was marked into
12 evidence.)

13 PAUL MANDEVILLE, Sworn

14 DIRECT EXAMINATION

15 BY MR. POLIN:

16 Q Hello, Mr. Mandeville. Could you state your name
17 and spell it for the record, please?

18 A Paul Mandeville. M-a-n-d-e-v-i-l-l-e.

19 Q What is your position at the Lottery?

20 A Assistant executive director in charge of
21 Information Technology.

22 Q How long have you had that position?

23 A Twenty-two long years.

24 Q In front of you is Exhibit number 3. Are you
25 familiar with this document?

1 A Yes.

2 Q At this point I would like to hand to you the
3 document that was previously marked as Exhibit 2. Are you
4 familiar with Exhibit 2 also?

5 A Yes.

6 Q Moving your attention to Exhibit 3, can you tell
7 us where this document came from?

8 A This is an Excel spreadsheet that I created from
9 data in the previous exhibit in the report. The previous
10 report is one line per claim made by Mr. Jaafar. What I did
11 was consolidate all of these claims into groups by game
12 number. We have two types of games. One is draw games which
13 is the first line of the Excel spreadsheet that I did. And
14 then I lumped all the draw games into that under Game Number
15 Zero. Draw games are games that the winner is determined by
16 a drawing. So, it would be Powerball, Megamillions, Keno,
17 Numbers, thinks that that.

18 The rest of them are instant games in which case
19 the winners are not determined by a drawing but rather are
20 determined by the prize structure in the working papers of
21 the game that we develop when we are going to release a new
22 game.

23 So, each of those games, each of the game numbers
24 has a specific prize structure and a specific number of
25 winners at each tier. And those tiers and those wins are

1 divided -- are distributed evenly across the game. We do
2 that through a mechanism of books and small pools, large
3 pools in the game so that all of the winning prizes are
4 evenly distributed across the game. The instant product is
5 not a random product. It is rather a well-defined product.
6 So, I was able to determine specific statistics based of
7 wins that Mr. Jaafar had and the prize structure of the
8 games that were defined.

9 Q To help us better understand, can we go down to
10 Game Number 25 and go line or line what information is here?

11 A Sure, the first column is the game number. Each
12 instant ticket has a game number. This is Game Number 25.

13 The next column is the price point of all of the
14 tickets in Game Number 25, which is \$20.

15 The third is the name of the game. It is Ten
16 Million Dollar Big Money.

17 The next column is taken specifically from the
18 prize structure defined in that game. That identifies the
19 odds of winning a prize of \$1,000 or more. So, the odds in
20 this game of winning \$1,000 or more are 1 in 1,106.72.

21 The payout per game is basically if all of the
22 tickets were sold and their gross value -- at their sales
23 point, the gross revenue for the game minus the prizes would
24 determine this 80.4 percent prize payout for the entire
25 game. So, that's all of the prizes, not just \$1,000 of more.

1 Every prize in the game would wind up being 80 percent of
2 the gross revenue for the game.

3 Q And win count for this particular game?

4 A That is taken directly from the previous report.
5 So, in Game Number 25, Mr. Jaafar had won four times on Game
6 Number 25. From this previous report.

7 Q And Column G is entitled, 'Tickets required for
8 win count.' Can you identify the number for Game Number 25
9 and explain how it was calculated?

10 A Right. In each of those columns in parentheses I
11 put the actual calculation. So, it was Column D times Column
12 F. Column D is the odds of winning, one winner of \$1,000 or
13 more. Column F is the number of times that Mr. Jaafar won.
14 So, it is simply -- the assumption is that for every
15 1,106.72 tickets, there would be one winner of \$1,000 or
16 more. Times four. That means it would take 4,426.88 tickets
17 to win four prizes of \$1,000 or more. In that game.

18 Q Thank you. And what does Column H represent?

19 A That is Column B times G, which is the number of
20 tickets that were won times the price of each individual
21 ticket. So, to win those -- I mean, to purchase those 4,4526
22 tickets would cost \$88,537.00.

23 Q And Column I, can you explain what that means for
24 this particular game?

25 A That is actually Column E times Column H, so it is

1 the prize payout for the game times the cost of all of the
2 tickets that were purchased. So, if one purchased \$88,537.60
3 worth of tickets in that game, they would be expected a win
4 \$71,184.23 for all prizes, not just \$1,000 or more.

5 Q Thank you. And does the last page of this report,
6 page six of six, have total information at the bottom? Can
7 you walk us through that?

8 A The box on the bottom shows 'draw games only,'
9 that's 70 which equals the number of win count in the very
10 first line of the first page of the report under Game Number
11 Zero. As I said, I lumped all of the draw games together
12 because those have a win -- the win is determined as a
13 result of a draw. Instant games, the win is determined as a
14 result of the definition of the game and the construction of
15 the game.

16 So, I lumped all of the draw games and there were
17 70 of those. Instant games only, there were 321. The total
18 of those is 391, which matches the count on the previous
19 report. And those 391 tickets won \$532,223.25.

20 The one on the right that says 'instant game only'
21 is an analysis of just the 321 instant game wins. Basically
22 it is the sum of all of the columns above. Each one of those
23 lines is the sum of Column G, then Column H, and then Column
24 I. So, what that is saying is for those 321 instant games
25 combined, there would have had to have been the purchase of

1 today, how many others have you prepared for high-frequency
2 prize winners?

3 MR. POLIN: Objection. I'm not sure how it is
4 relevant to the prize claim suspension hearing for
5 Mr. Jaafar.

6 MR. MAYO: I'll overrule it and hear the answer.

7 A In this format, I have done five.

8 Q And have you done others in different formats?

9 A I've done some in testing out this format but
10 nothing that was beyond my internal work.

11 MR. CONSIDINE: Okay, thank you. No further
12 questions.

13 MR. MAYO: Anything further?

14 MR. POLIN: No. Nothing further. Thank you,
15 Mr. Mandeville.

16 (The witness was excused)

17 MR. POLIN: If I like to recall Maureen McHugh?
18 And I know if that Exhibit 2 and Exhibit 3 are still at the
19 witness seat for Miss McHugh's review?

20 MAUREEN McHUGH, recalled

21 REDIRECT EXAMINATION

22 BY MR. POLIN:

23 Q Hello, Miss McHugh.

24 A Hello.

25 Q Are you familiar with the report that

1 Mr. Mandeville just discussed?

2 A Yes.

3 Q Did the Compliance Department review this Exhibit
4 3 when it reviewed Mr. Jaafar's Lottery prize claims?

5 A Yes, we did.

6 Q And you did review Exhibit 2 also, I believe you
7 mentioned earlier. Is that correct?

8 A Yes.

9 Q So, based on the Compliance Department review of
10 these documents, what did the Compliance Department
11 determine at that time?

12 A We determined it was factually and statistically
13 improbable that Mr. Jaafar won this many prizes.

14 MR. POLIN: No further questions.

15 MR. CONSIDINE: I have nothing. Thank you.

16 (The witness was excused.)

17 MR. MAYO: I'll give you the opportunity to close
18 unless there are further witnesses to be called.

19 MR. POLIN: No further witnesses for the Lottery
20 and I can be very brief in a closing. Simply put, that the
21 regulation 961 CMR 2.43 allows the director designee to
22 conduct an internal review of high-frequency prize winners.
23 And if there is a determination that such claims are
24 factually or statistically improbable, a prize claim
25 suspension may be imposed. And the Lottery is requesting the

1 director designee Attorney Mayo to affirm that prize claim
2 suspension for Mr. Jaafar.

3 MR. MAYO: Thank you, Mr. Polin.

4 MR. POLIN: Thank you.

5 MR. CONSIDINE: Mr. Mayo, the only thing I have is
6 one again I would like to have the April 26 letter from
7 Mr. Polin to me admitted as Exhibit 4, and the April 26
8 email from me to Mr. Polin introduced as Exhibit 5.

9 MR. POLIN: No objection.

10 (Exhibits 4 and 5 were marked into
11 evidence.)

12 MR. MAYO: We are all set. For the record, that's
13 the same exhibit, 4 and 5, as we used in the last hearing in
14 case anybody gets confused down the road.

15 MR. POLIN: Nothing further from me, thank you.

16 MR. CONSIDINE: Thank you. Nothing further from
17 us.

18 MR. MAYO: Off the record.

19 (The hearing was adjourned at 11:45 a.m.)

