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P R O C E E D I N G S

(12:08 PM)

1
2
3 THE HEARING OFFICER: Welcome. all of you. My name
4 is Larry Mayo and I am the hearing officer today in the
5 matter of Frank Obey, and I am conducting his prize claims
6 suspension hearing at the Massachusetts State Lottery
7 headquarters in Boston, Massachusetts. Today is May 2, 2019.
8 Again, we are here today in the matter of Frank Obey.
9 Mr. Obey is appealing the decision of the Massachusetts
10 State Lottery Commission Compliance Department's decision to
11 impose a prize claim suspension upon Mr. Obey suspending his
12 ability to claim lottery prizes with a value of \$600 or more
13 for a period of 90 days.

14 MR. OBEY: Just for the record, Mr. Oh-bee, what's
15 how you pronounce it correctly.

16 THE HEARING OFFICER: Mr. Obey, my apologies.
17 It's Mr. Obey. The Lottery issued a suspension notice to
18 Mr. Obey dated April 2, 2019. And we'll have that suspension
19 notice marked as Exhibit 1 upon the conclusion of my
20 introduction here. Both counsel for Mr. Obey and the Lottery
21 have agreed to that. The suspension upon Mr. Obey was
22 imposed pursuant to the High-Frequency Prize Winner
23 regulation contained at 961 CMR 2.43(2). Mr. Obey is here
24 today exercising his right to a director-level hearing
25 before the prize claim suspension goes into effect. The

1 availability of a director-level hearing is established in
2 961 CMR 2.43(3).

3 The question before me is whether Mr. Obey is a
4 High-Frequency Prize Winner and whether the submission by
5 Mr. Obey of at least 20 claims for lottery prizes, each with
6 a value of at least \$1,000 within any period of 365 days is
7 factually or statistically improbable.

8 Again, this is an informal hearing. I'm going to
9 observe the rules of evidence established in Mass. General
10 Law Chapter 30A Section 11. The parties will have an
11 opportunity to call and examine witnesses, introduce
12 exhibits, and cross-examine witnesses who testify and to
13 submit rebuttal evidence. The Lottery's decision to suspend
14 Mr. Obey -- if the Lottery's decision to suspend Mr. Obey is
15 supported by the preponderance of the credible evidence that
16 its decision was justified, then that decision will stand.
17 The Lottery has the burden of proof. Opening statements and
18 closing statements will be allowed if the parties so choose.
19 Objections will be either sustained or overruled by me. I
20 will have the stenographer administer oaths to all witnesses
21 prior to giving any testimony. At the close of the hearing,
22 I will give you -- each party an opportunity to submit
23 briefs based on the evidence and testimony presented today.
24 And that's where it stands.

25 So, again, the point is it is a relatively informal

1 hearing. We try and observe certain reasonable formalities,
2 however. So, that said, I will ask the Lottery to proceed in
3 putting on its case.

4 MR. POLIN: Thank you, Attorney Mayo. So, as
5 background, the Massachusetts State Lottery Commission voted
6 in November of 2017 to authorize the executive director to
7 promulgate rules and regulations to address high-frequency
8 lottery prize winners. On July 27th of 2018, a 961 CMR 2.43
9 was amended to include an additional section which is
10 related to high-frequency prize winners. Evidence of
11 high-frequency lottery prize claims can defy statistical
12 odds and reason. And the Lottery questions the legitimacy of
13 such activities. The Lottery is mandated to collect
14 outstanding child support liabilities and past due tax
15 liabilities before paying Lottery prize claims in excess of
16 \$600. Winners of such prizes must complete a claim form
17 where they attest that they are not claiming the prize to
18 assist another in the avoidance of financial obligations.
19 Further, the Massachusetts lottery law prohibits non-lottery
20 sales agents from selling lottery tickets and also prohibit
21 the assignment of lottery prize winnings except under
22 certain enumerated circumstances. If high-frequency prize
23 winners are not acquiring winning lottery tickets
24 legitimately, the Lottery has reason to believe that some or
25 all of these winning lottery tickets are being acquired

1 through means that violate or otherwise do not comply with
2 the Lottery law and/or other laws, and the Lottery wants to
3 discourage such activities.

4 So, at this hearing unless Mr. Obey is able to explain
5 how he is acquiring these winning lottery tickets
6 legitimately, the Lottery at the end of this hearing will
7 ask that Mr. Mayor to affirm the Compliance Department's
8 imposition of the Lottery prize claim suspension.

9 Now, during this hearing we will present two witnesses
10 and some exhibits. I do believe that the witnesses and
11 exhibits will show that during the period of July 27, 2018
12 to January 27, 2019, Mr. Obey submitted claims of 334
13 lottery prizes of \$1,000 or more. 961 CMR 2.03 defines a
14 high-frequency prize winner as a person who submits at least
15 20 claims for lottery prizes, each with a value of at least
16 \$1,000 within any period of 365 days. By definition,
17 Mr. Obey is a high-frequency prize winner. The Lottery's
18 Compliance Department conducted an internal review and
19 determined that these claims are factually or statistically
20 improbable. And as a result, the Compliance Department is
21 seeking to impose this prize claim suspension.

22 Now, with me today is Maureen McHugh. She's from the
23 Compliance Department and she would be my first witness for
24 today I would like to call.

25 THE HEARING OFFICER: I'll allow Ms. McHugh to the

1 table and if I may, I would just like to have marked for the
2 record the Prize Claim Suspension Notice from the Lottery to
3 Mr. Obey.

4 (Exhibit 1 was marked into
5 evidence.)

6 MAUREEN McHUGH, Sworn

7 EXAMINATION BY MR. POLIN:

8 Q Hello, Ms. McHugh. Could you state your name for
9 the record, please?

10 A Maureen McHugh. I'm a compliance analyst at the
11 Massachusetts Lottery.

12 Q And which department do you work in?

13 A Compliance.

14 Q How long have you worked for the Lottery?

15 A Since the year 2000.

16 Q How long have you worked in the Compliance
17 Department?

18 A The entire time.

19 Q Who is the director of the Compliance Department?

20 A Brian Taylor.

21 MR. POLIN: And for the record, I'd like to say
22 Brian Taylor was planning on being here today but [REDACTED]
[REDACTED] he's on leave from the office for a
24 period of time.

25 BY MR. POLIN:

1 Q So, are you familiar with the Compliance
2 Department and its actions it has taken against Mr. Obey?

3 A Yes.

4 Q Why has the Compliance Department moved to impose
5 a prize claim suspension against Mr. Obey?

6 A Based on the regulation that was put into place in
7 July 27, six months later we did a review of high cashers.
8 And based on - and that's stats based on a list that we send
9 to the Department of Revenue and the IRS every month of
10 people that cash 20 tickets or more worth \$1,000 in a
11 calendar year. So, based on that list for a six-month
12 period, we reviewed that list and we choose -- and Mr. Obey
13 was one of the high people on the list.

14 Q Was there an internal review of Mr. Obey's lottery
15 prize claims?

16 A Yes, there was.

17 MR. POLIN: At this time, I would like to submit
18 or ask that a document be marked as Exhibit which would be
19 marked as Exhibit 2 at my request. For the record, it is a
20 six-page document. At the very top line on it, it says,
21 'Confidential,' and to the top right of the page there is
22 date of January 28, 2019. And the heading includes the
23 terms, 'Claims for Winners Receiving 20 or more payments of
24 \$1,000 or more.'

25 THE HEARING OFFICER: I'd like to allow it in. Do

1 you have any objection to it? Does that represent the
2 statistics behind?

3 MR. POLIN: It identifies the claims that Mr. Obey
4 has submitted during the time period of July 27, 2018
5 through January 27, 2019. And I have extra copies.

6 THE HEARING OFFICER: I'll accept it and allow it
7 if there is no objection. Even if there were, I think it is
8 relevant and important. Can you mark that as Exhibit 2,
9 please? Thank you.

10 (Exhibit No. 2 was marked into
11 evidence.)

12 THE HEARING OFFICER: And what are we calling
13 this, just for the record?

14 MR. POLIN: My suggestion would be Mr. Obey Claims
15 Report.

16 BY MR. POLIN:

17 Q Ms. McHugh, have you seen this document before?

18 A Yes.

19 Q Are you familiar with it?

20 A Yes.

21 Q Can you tell us how you are familiar with it?

22 THE HEARING OFFICER: Mr. Warren, do you have a
23 copy to follow?

24 MR. WARREN: No. Thanks.

25 A Um, this was the document used to determine that

1 we believed Mr. Obey claims are not statistically -- they
2 are statistically improbable.

3 Q So, the Compliance Department reviewed this
4 document when it reviewed Mr. Obey's claims?

5 A Yes.

6 Q And can you confirm the time period of this
7 document?

8 A July 27, 2018 to January 27, 2019.

9 Q How was this document generated?

10 A It was generated based on another report that we
11 generate monthly. And then it was just modified a little to
12 include specific ticket information.

13 Q So, does this identify all of Mr. Obey's lottery
14 prize claims of \$1,000 or more during that time period?

15 A Yes.

16 Q And if we can look at page six, the final page. I
17 believe the totals are listed at the bottom there? Can you
18 just summarize the totals of all these claims?

19 A 334 claims totaling \$690,738.50.

20 Q So, that being from July 27, 2018 to January 27,
21 2019, Mr. Obey submitted 334 lottery prize claims of \$1,000
22 or more and those prizes totaled \$690,738.50?

23 A Yes.

24 Q If we can go back to page one and just look at the
25 columns, can we go column by column and would you be so kind

1 as to identify what information is on each column? So, if we
2 start with 'First name, last name,' that's a relatively
3 straightforward one?

4 A Okay. First and last name of the claimant. And we
5 blacked out the street address. The city and town where they
6 live. The zip code. The date that the claim was paid. The
7 gross amount. --

8 Q I'm sorry. The gross amount of what?

9 A Gross amount of the claim would be the next
10 column. And then the net amount. And then the next column is
11 the office location that it was cashed in. And the agent
12 number has been blocked out. And then, um, the next column
13 is the name of the agent where the ticket was purchased, the
14 address and the city where it is located. And then the
15 product name would be the type of lottery ticket that was
16 cashed. And if it was an instant ticket, it includes the
17 game number and the book number.

18 Q What is the book number?

19 A The book number is a specific identifier of a pack
20 of tickets that are issued to a specific agent.

21 Q So, for a book of \$5 scratch tickets, do you know
22 how many tickets are included or in that book?

23 A There could be 150 in some. And there could be
24 300. It depends on the game.

25 Q Then all the tickets identified in that book would

1 be associated with this book number?

2 A Yes.

3 Q And before you mentioned the name of the sales
4 agent. So, the first sales agent is Luma's Market and they
5 are located in Chelsea, is that correct?

6 A Yes.

7 Q And did you say that that identifies the location
8 where this particular scratch ticket was sold?

9 A Yes.

10 Q What does the Compliance Department make out of
11 all of these different locations of sale of these winning
12 lottery tickets?

13 A Well, the sales -- tickets were purchased at
14 various locations in Massachusetts. Haverhill, Cambridge,
15 Salem, Lynn, Boston, Nahant, Methuen and Middleton and
16 various others. This isn't a typical pattern. Most customers
17 that we come across usually play their lottery in the same
18 geographical area or they have favorite agents that they
19 usually play at.

20 Q So, is this unusual that there are so many places
21 of sale of these tickets for one person to claim?

22 A Yes.

23 Q And to reiterate, this is a document that the
24 Compliance Department reviewed when it came to the
25 determination that Mr. Obey's lottery prize claims were

1 factually or statistically improbable?

2 A Yes.

3 MR. POLIN: Thank you. I have no further questions
4 at this time but I would like to call Ms. McHugh back after
5 my next witness.

6 THE HEARING OFFICER: I will allow that. I will
7 allow Mr. Warren to cross-examine if he decides. But if I
8 may ask one question for clarification purposes? In these
9 columns, you show the gross which I presume is the gross
10 amount of the prize?

11 THE WITNESS: Yup.

12 THE HEARING OFFICER: And then the net. What does
13 the net represent?

14 THE WITNESS: It is minus any taxes paid that we
15 took out. We would take out taxes for DOR and IRS.

16 THE HEARING OFFICER: For both state and federal,
17 then?

18 THE WITNESS: Yes.

19 THE HEARING OFFICER: Thank you. Mr. Warren?

20 CROSS EXAMINATION

21 BY MR. WARREN:

22 Q Ms. McHugh, is it?

23 A Yes.

24 Q You said it was unusual that for customers
25 supposedly play at all these different locations. To win

1 prizes by playing at all these different locations?

2 A It was unusual for them to visit -- a lot of
3 different locations to purchase tickets.

4 Q To purchase tickets. Okay. Um, in the -- have you
5 seen Exhibit 1?

6 THE HEARING OFFICER: The Prize Claim Suspension
7 Notice?

8 MR. WARREN: Yeah. I have a copy of it here.

9 THE HEARING OFFICER: Sure, I'll take notice of
10 that if it is a duplicate copy.

11 THE COURT REPORTER: That's the original.

12 BY MR. WARREN:

13 Q Do you see up in the -- under Frank Obey's name
14 there is an 'Re:'?

15 A Yes.

16 Q What does that say?

17 A High-frequency casher.

18 Q And the Lottery considers him a casher, not a
19 high-frequency winner, don't they? And isn't this evidence
20 that he is cashing tickets, not cashing tickets he has
21 actually won himself? Because they are coming from all over
22 the place? Generally, in an area from where he is in. He's
23 within the Lynn area but most of these, they are from --
24 he's not taking one agent's ticket and, you know, obviously
25 fronting for an agent who is illegally playing? Because they

1 are coming from everywhere. And he is not driving
2 everywhere, is he? He's cashing these tickets for other
3 people who have won them. And that's right there in the
4 letter to him. Isn't it?

5 THE HEARING OFFICER: I'm sorry. What's the
6 question?

7 BY MR. WARREN:

8 Q The question is don't you consider him a cashier
9 rather than an actual winner?

10 A A cashier and a winner would be the same as far as
11 we are concerned.

12 Q But you said it was unusual that he is supposedly
13 playing at all these different locations.

14 A Yes.

15 Q That would not be usual, would it, if he is
16 cashing other people who are playing at multiple locations
17 and cashing their tickets for them? Then it wouldn't be
18 unusual.

19 A So, you are saying he's not cashing -- he is not
20 the purchaser? Is that what you are trying to ask me? Or
21 tell me?

22 Q I think it is obvious.

23 THE HEARING OFFICER: I might just say, I don't
24 know that she can delve into the mind or the status of what
25 people, you know, that are not participants in this hearing

1 are doing.

2 MR. WARREN: Okay.

3 THE HEARING OFFICER: It's sort of outside of the
4 scope of the hearing unless those witnesses are here.

5 MR. WARREN: I did want to point out to her she
6 gave the opinion of something being unusual.

7 THE HEARING OFFICER: Understood.

8 MR. WARREN: And there is a reason for it not
9 being unusual.

10 THE HEARING OFFICER: Right.

11 MR. WARREN: She didn't seem to want to agree with
12 my reason, but that's okay.

13 THE HEARING OFFICER: I have it down for the
14 record and it's on -- the stenographer has it as well.

15 MR. WARREN: So, I have no further questions.

16 THE HEARING OFFICER: Would you like Ms. McHugh
17 back now or?

18 MR. POLIN: I would like to have Mr. Mandeville
19 speak and then bring Ms. McHugh back.

20 THE HEARING OFFICER: That's fine.

21 MR. POLIN: I would call Paul Mandeville to
22 testify.

23 PAUL MANDEVILLE, Sworn

24 EXAMINATION BY MR. POLIN:

25 Q Hello, Mr. Mandeville. Would you please state your

1 name for the record?

2 A Paul Mandeville.

3 Q And what -- are you an employee at the Lottery?

4 A I am.

5 Q What is your title?

6 A Assistant executive director for Information
7 Technology.

8 Q How long have you been in that role?
9 Approximately?

10 A Too long. 22 years.

11 MR. POLIN: At this point, I'd like to ask another
12 exhibit be accepted. So, I would ask that this be identified
13 as Exhibit 3 if acceptable to everyone.

14 THE HEARING OFFICER: And what are calling Exhibit
15 3 and what does it represent?

16 MR. POLIN: I would suggest we call this Mr. Obey
17 Claims Statistics.

18 THE HEARING OFFICER: I'll have Mr. Warren take a
19 look at it and --

20 MR. POLIN: For the record, it is a six-page
21 document, the heading of it does identify Frank Obey and it
22 includes statistical data regarding his lottery prize claims
23 during the period July 27, 2018 to January 27, 2019.

24 MR. WARREN: Before it is admitted, I'd like to
25 hear something about it because it doesn't make much sense

1 to me.

2 THE HEARING OFFICER: Okay. Could you explain this
3 intended?

4 MR. POLIN: It is a document that is,
5 Mr. Mandeville will testify to, is a document he created
6 that utilizes the same claim data from the previous
7 spreadsheet, the Exhibit No. 2. And it identifies the
8 different games that Mr. Obey claimed during this period for
9 prizes over \$1,000. And it included some statistical data,
10 some mathematical equations documenting the statistical
11 likelihood of these wins and what the statistical numbers
12 are associated with them. I apologize, Mr. Mandeville will
13 probably be able to explain it a little bit better than I.

14 THE HEARING OFFICER: Understood.

15 MR. WARREN: He's a mathematician. He's got to be
16 a mathematician for that.

17 MR. POLIN: 22 years at the Lottery.

18 THE HEARING OFFICER: We can have Mr. Mandeville
19 -- I'm inclined to allow it, certainly. Provided that
20 Mr. Mandeville put it together and it's within his job
21 function and job role.

22 MR. WARREN: It certainly would be but we haven't
23 heard all that.

24 THE HEARING OFFICER: Understood. That's why I'm
25 going to have Mr. Mandeville hand over the document, answer

1 questions and we will make a determination as to whether --

2 MR. WARREN: I totally suspect it will be but I
3 think it is proper to hear the testimony first.

4 THE HEARING OFFICER: I don't suspect anything.

5 MR. POLIN: I have a copy, or is one sufficient
6 over there?

7 MR. WARREN: We have a copy. Thanks.

8 BY MR. POLIN:

9 Q Mr. Mandeville, can you tell us a little about
10 this document? For example, can you start us off by telling
11 us who created it?

12 A I created this document. It is an Excel
13 spreadsheet. What it shows is all of the instant -- all of
14 the instant games that we have, that the Lottery has active
15 during the timeframe of July 27, 2018 to January 27, 2019.
16 All of the claims that Mr. Obey came to our offices for, of
17 all of those claims you can see on the last page, that they
18 were a total of 334 claims, 60 or which were for what we
19 call draw games, which would be keno, Powerball, Numbers
20 game. Any of the draw games. And 274 of them were for
21 instant games only.

22 So, this document focuses on instant games. What I did
23 was I took each of the claims that Mr. Obey filed and
24 equated those with a specific instant game number. As you
25 can see around here, there is all the tickets that we have.

1 Each one of those tickets has a game number. And in the
2 column that says, 'Win Count,' Column F, I listed all of the
3 wins, all of the claims that Mr. Obey made for that
4 particular instant game.

5 The reason I focused on instant games is because
6 instant games are truly not a random product. Instant games
7 are a defined product. We know exactly how many winners
8 there are in the game. We spread the winners across books,
9 across pools, across larger pools and across the game. So,
10 all of the winners are clearly defined. It is not a random
11 event. Instant tickets have odds based on the prize tier
12 that they win at. And they are evenly distributed across the
13 game.

14 This -- since the cashing threshold for this was \$1,000
15 or more, I show -- well, I go across the columns. Column A
16 is the game number. Column B is the ticket prices for that
17 game number. Column C is the name of the game. D is where I
18 focused here. That's the odds of winning of \$1,000 or more
19 for that particular game. These odds are defined in our
20 working papers before the game is printed.

21 Q I'm sorry, Mr. Mandeville. What are working
22 papers?

23 A Working papers define all of the parameters for
24 the game. We have the game printed by an outside vendor,
25 but we define the prize structure, how many winners there

1 will be at a certain tier, how many non-winners there will
2 be at different tiers. All of the parameters for the game.
3 All of those are defined before the game is even printed.

4 So, the odds for winning \$1,000 or more are defined
5 here. The -- and I caution that these odds are for \$1,000 or
6 more. Not just for winning \$1,000. But \$1,000 and up. By the
7 way, these odds are all printed per game on our website.
8 They are all public information. They are available to
9 anybody.

10 Column E is the payout per game. So, on a particular
11 game, if there is ten million tickets in a game and they are
12 \$1 a ticket, then the revenue is ten million dollars. We pay
13 out X percent in prizes. So, when it says a 69.98 percent
14 payout, that's 69.98 percent of the gross revenue for the
15 game.

16 So, all of those to the left of the black line in the
17 middle are static amounts. They are known amounts. They are
18 identified in the game itself. Everything to the right is I
19 entered the winning count per game from the claim report
20 that we had already looked at. And the rest of these are
21 simple calculations. In the column for each one, I
22 identified how those calculations were attained. So, if we
23 go down to Game 25, Mr. Obey had four claims for Game number
24 25 --

25 MR. WARREN: I'm sorry --

1 BY MR. POLIN:

2 Q So Game number 25 is a \$20 ticket and it's called
3 the Ten Million Dollar Big Money Game.

4 A Correct.

5 Q And so according to this spreadsheet, what is the
6 odds of winning a lottery prize of \$1,000 or more for that
7 game?

8 A It's one in 1,106.72. Which basically means
9 because we evenly distribute the winners across the game,
10 you would have to purchase 1,106.72 tickets to encounter one
11 winner of \$1,000 or more.

12 Q And according to this spreadsheet, how many times
13 did Mr. Obey win a lottery prize of \$1,000 or more of this
14 game during this time period?

15 A Four times.

16 Q Based on the calculations in this spreadsheet, how
17 many tickets would statistically be required to win this
18 amount of times?

19 A It's -- that's the value in Column G and it is
20 Column D times Column F, so it's 1,106.72 times 4. So, it is
21 4,426.88. That's how many tickets would be required to
22 purchase to win four times a value of \$1,000 or more.

23 Q And according to Column H, what would be the cost
24 of purchasing those tickets?

25 A That also is Column B, which is the price of the

1 ticket times Column G. So, that would be \$88,537.60.

2 Q What is the expected win amount for this game?

3 A The win amount is based on the prize payout for
4 the game. So, in this case it is 80.4 percent. So, based on
5 Column H, the value of the tickets times -- so, it would be
6 Column E times Column H. If you purchased \$88,537.60 worth
7 of tickets, you would be expected to win \$71,184.23.

8 Q And on page six of this document, is there a total
9 information on the bottom of the page?

10 A Yes. So, each game that Mr. Obey claimed winners
11 on or identified through the course of the document and then
12 there -- all of those are summed up on this last page. So,
13 as I said, the draw games, there were 60 of them. Instant
14 only games, there were 274. If you follow that line over,
15 the tickets required for the expected win count of 274 would
16 have been 874,851 tickets to be purchased. And then based on
17 the total of the cost of the tickets, it would have cost
18 seven million dollars -- \$7,057,428.00 to purchase those 874
19 tickets. And at that rate and the payout summary, you would
20 expect that if seven million dollars was spent, you would
21 have won a total of \$5,585,214.38. And that total would be
22 all prizes, lower tier prizes, higher tier prizes,
23 everything.

24 Q And towards the lower bottom of the page where it
25 has the total amount, it does identify 334, is that correct?

1 A Correct.

2 Q And is that --

3 A That matches the last line of the claims report.

4 Q And does the total payment amount match the exact
5 line --

6 A Yes.

7 Q -- of the earlier exhibit?

8 A Yes.

9 Q And that amount is \$690,738.50?

10 A Correct.

11 MR. POLIN: Thank you. I have no further questions
12 for Mr. Mandeville.

13 MR. WARREN: I have no objections to the exhibit.

14 THE HEARING OFFICER: I appreciate that. If we
15 could have the Exhibit marked? Three.

16 (Exhibit No. 3 was marked into
17 evidence.)

18 THE HEARING OFFICER: If I may ask for one point
19 of clarification for the record. Again, the different
20 between 'draw games,' versus 'instant games' is what?

21 THE WITNESS: Draw games are some of our other
22 products. Instant games are all of these around here. Draw
23 games are games that there is a draw that occurs to
24 determine the winner of the game as opposed to
25 pre-determined winners of the game. So, draw games would be

1 Powerball, Megamillions, Numbers, Keno. But there is a draw
2 that occurs to determine the winner.

3 THE HEARING OFFICER: I see. And when you say,
4 'what you see around here,' for the record you are
5 identifying the lottery products, scratch tickets that are
6 on the sidewalls?

7 THE WITNESS: Correct.

8 CROSS EXAMINATION

9 BY MR. WARREN:

10 Q And that's why you know how many are out there and
11 what exactly how many are winners?

12 A Correct.

13 Q And in what amounts?

14 A Correct.

15 Q And your Exhibit 3 chart Column F says, 'Win
16 Count.'

17 A Uh, hmm.

18 THE COURT REPORTER: Is that a 'yes' or a 'no?'
19 I'm sorry. You said, 'Uh, hmm.' I need a 'yes' or a 'no.'

20 THE WITNESS: Yes.

21 THE COURT REPORTER: Thank you.

22 BY MR. WARREN:

23 Q But these are -- wouldn't a more proper name for
24 the column be 'Claims Presented.' Prize claims presented by
25 Frank Obey?

1 A Well, um, you can call it that. I don't --

2 Q You don't know if he actually went out and
3 purchased these tickets and won them on a -- after he bought
4 them?

5 A This is analysis of the claims that were made. And
6 a claim isn't made unless the ticket is a winning ticket.
7 So, I'm just -- this is the statistical analysis.

8 Q But you don't know whether he -- it has nothing to
9 do with whether he actually went out and purchased the
10 ticket?

11 A This is all based on what he presented at our
12 office.

13 MR. WARREN: I have nothing further.

14 MR. POLIN: I have nothing further for
15 Mr. Mandeville but I would like to bring back Ms. McHugh
16 briefly. With the exhibit on the table.

17 (The witness was excused.)

18 MAUREEN MCHUGH, recalled

19 REDIRECT EXAMINATION

20 BY MR. POLIN:

21 Q Hello, again, Ms. McHugh.

22 A Hello.

23 Q So, you have Exhibits 2 and 3 in front of you
24 there?

25 A Yes.

1 Q So, the Exhibit 3 is the one that Mr. Mandeville
2 was just talking about. Did the Compliance Department review
3 that document when it reviewed Mr. Obey's lottery prize
4 claims?

5 A Yes.

6 Q And based on the Compliance Department's internal
7 review, did the Compliance Department determine that
8 Mr. Obey's lottery prize claims are either factually or
9 statistically improbable?

10 A Yes.

11 MR. POLIN: Nothing further.

12 MR. WARREN: Nothing.

13 THE HEARING OFFICER: Thank you, Ms. McHugh.

14 (The witness was excused.)

15 THE HEARING OFFICER: Mr. Warren.

16 MR. WARREN: Can I give a quick opening?

17 THE HEARING OFFICER: Absolutely.

18 MR. WARREN: Okay. Exhibits 2 and 3 no doubt show
19 that this would be highly factually and statistically
20 improbable of him actually winning. Going out and purchasing
21 and winning all of these tickets. I have, you know -- but
22 that's not really the issue here. Um, what is the issue,
23 that's not the factual issue. The factual -- because he's
24 going to freely tell you and in fact, Exhibit 1 shows, that
25 they know exactly who he is. He is a cashier. And there is

1 nothing illegal about transferring tickets before they are
2 signed. And there is nothing illegal about cashing tickets
3 if you are not doing various things such as helping somebody
4 avoid the financial obligations, which he must sign on the
5 claim form every time. And if he is not, ah, you know -- if
6 he is not doing something illegal. And there is nothing
7 illegal about it because the Lottery says it is payable to
8 bearer and, uh, I've got a letter that I will seek to admit
9 that says that they certainly can be transferred. Um, so,
10 what you will hear from Mr. Obey is a free admission that he
11 is a casher just like he was identified in the letter that
12 -- in Exhibit 1. Not a high-frequency winner. A
13 high-frequency casher. Because it is impossible, not only
14 highly improbable, it is impossible to win that much all by
15 himself. But, it is statistically and factually probable by
16 someone who cashes tickets for other people will of course
17 be cashing more than 20 tickets worth of \$1,000 over the
18 course of time. And that's absolutely probable if you are an
19 admitted casher. With that, I really don't -- I guess I'll
20 ask some questions. Mr. Obey, you do play lottery games,
21 don't you?

22 MR. OBEY: I certainly do.

23 THE COURT REPORTER: Excuse me. We need to swear
24 him in.

25 MR. WARREN: Oh, okay.

1 A Over 40 years.

2 Q And when you cash somebody else's ticket, do you
3 have to receive the ticket in blank?

4 A Absolutely.

5 Q If they have signed it, you can't cash it for
6 them?

7 A Can't cash it. Won't cash it.

8 Q Have you been audited by the IRS?

9 A Absolutely.

10 Q How about the Massachusetts DOR?

11 A Not the Massachusetts one, no.

12 Q Have you had any penalties assessed?

13 A No.

14 Q As a result of your IRS reportings?

15 A Never.

16 Q And you say you have been cashing checks for
17 others for over 40 years. Did you -- has this -- did it
18 start slow and grow?

19 A Yup. I won, I started there, I won way back when
20 lottery first started. And I got audited that first year. It
21 was like two or three years, four years into existence. I
22 played multiple -- multiple -- one number multiple times.
23 That is what I usually do. Sometimes you catch the first
24 three exact, the daily numbers. I get five Mass Cash
25 tickets. I play with other people. I play a lot with other

1 people, Keno. We play -- I play a lot of Mass Cash tickets
2 with other people. Partners. I cash the tickets. I have cash
3 with another partner one time. Back quite a few years ago.
4 But --

5 Q I think what I was asking you is you started
6 cashing tickets -- winning tickets for others --

7 A Yup.

8 Q -- 40 years ago?

9 A Yup.

10 Q Has that grown, gotten bigger over the years?

11 A Yeah. Every year, it seems that I do a few more, a
12 few more. And, you know, people that I have been dealing
13 with, their families or places that I have been in business
14 -- that I worked for. Um, people in there. Places where I do
15 business with. I get to know those people, you know, I cash.
16 They call me, I go there or they come to my place. I travel
17 a lot.

18 Q Now, is the lottery -- any claim over \$600, you
19 have to go to a lottery office?

20 A Yes.

21 Q And when are they open?

22 A They are open at 8:45 in the morning to -- or 8:30
23 in the morning until 4:45 in the afternoon. 4:30. I think
24 it is 4:30.

25 Q Are they open on Saturdays or Sundays?

1 A No.

2 Q Are they open on any holidays?

3 A No.

4 Q So, if you work a 9 to 5 job Monday through Friday

5 --

6 A You've got to take time off.

7 Q -- you would have to take time off.

8 A Correct.

9 Q To go cash the ticket. Is playing the lottery and
10 cashing winning tickets, whether you bought them or whether
11 somebody else bought them become near a full-time
12 occupation?

13 A Just about.

14 MR. WARREN: I don't think I have anything
15 further.

16 CROSS EXAMINATION

17 BY MR. POLIN:

18 Q Mr. Obey, so out of the 334 lottery prize claims
19 during July 27, 2018 to January 27, 2019, could you estimate
20 how many of those prize claims were tickets that you
21 purchased from a sales agent versus how many you acquired
22 through other means?

23 A I mean, I win. Okay? In fact, I don't know whether
24 it is in there or not but I actually found a \$50,000 two
25 dollar cash ticket in a barrel. All right?

1 Q Congratulations.

2 A Right. \$50,000. I was shocked. I took it to the
3 lottery, I thought it was 1,000 bucks. And that's when these
4 new ticket checkers come out. All right? You couldn't check
5 a ticket if it cash or not or whether it was a winner or
6 not. But now they got them in all the different stores. So,
7 I found these and somebody, and it happens a lot, I find
8 tickets or people give me tickets. They just scratch the
9 code. They don't even scratch the letters. So, now, you
10 scratch that bottom right-hand corner, you put them in the
11 machine and it said it was a winner. I said, 'You've got to
12 be kidding me.' So, I fill out a form with my other ones, I
13 took it. The girl come back and says, 'You have got to take
14 that to Braintree.' That is when Braintree was still there.
15 And it was \$50,000. I mean, I was shocked. But you find
16 them. I find other winners.

17 But, still, I cash people -- my own tickets, obviously.
18 I play a lot of Keno. I play with other people a lot. We go
19 partners. I cash the tickets.

20 Q So, out of the 334 --

21 A I can't --

22 Q -- would you say a majority of them were purchased
23 from lottery sales agents or were a majority of them found
24 or were a majority of them acquired from --

25 A Not found. I mentioned \$50,000 around. But I have

1 found other tickets. I can't, you know, my percentage is
2 small compared to the ones I am getting from other people. I
3 mean, these are friends of people, people I have known,
4 families and people I work with and stuff like that.

5 Q So, how does it work? So, if you know someone and
6 they have a winning ticket, they may ask you to cash it?

7 A Yeah.

8 Q Do you always know the person?

9 A Oh, yeah. I know who they are.

10 Q Do you know them well?

11 A Well, I have seen them. They don't come every day
12 with a ticket -- a winning ticket. So, I might not see them
13 for two or three months. But I have so many people that I
14 know. Somebody always wins lately. You have too many tickets
15 out. I'm sorry, but you have too many tickets out. There are
16 too many winning tickets out there. So, a lot of people are
17 winning.

18 Q Are you aware that if they owe back taxes or child
19 support that if they claim the winnings, the money that they
20 owed would be taken out from their payment?

21 A I have no idea what anybody's business is. I have
22 no idea. Most of the people I know, a lot of them are still
23 working, okay? Or they are retired, and they like to play.
24 They play a lot of Keno tickets. They play a lot of scratch
25 tickets. Those cash words, they are -- it is probably one of

1 your biggest tickets. As far as I'm concerned. People are
2 buying them, 15 and 20 at a time.

3 Q Why can't these people claim the tickets
4 themselves?

5 A Some don't have a car. Some, you know, housing.
6 Some people are afraid.

7 Q What do you mean by 'housing'?

8 A Well, they are living in public housing where they
9 might think their rent might go up. You know? But I tell
10 them, I don't think so. But half those people --

11 (Door knocking.)

12 THE COURT REPORTER: We will go off the record.

13 (Off the record at 11:25 a.m.)

14 (11:26 a.m.)

15 THE COURT REPORTER: We are back on the record
16 now.

17 MR. WARREN: I might have to go to another
18 meeting. Sorry for the disruption.

19 CROSS EXAMINATION (continued)

20 BY MR. POLIN:

21 A -- Most of the people that cash --

22 MR. WARREN: Are we back?

23 THE COURT REPORTER: Yes.

24 MR. WARREN: Okay.

25 A -- Most of the people that cash a thousand dollar

1 ticket, that money is gone within a few days. All right?
2 Because they are players. I cash. They are big players. I
3 didn't create the problem. Right here, created the problem.
4 But, um, I feel like I work for the lottery, you know? I'm
5 helping them out. There is no office up in the North Shore
6 area. And a lot of people don't have transportation or they
7 don't want to go there. Or they don't want to take time off.
8 They have got to take a half a day or a whole day, some of
9 the people who have jobs. For, you know, a couple of bucks.
10 You know, that's it.

11 Q So, when someone approaches you and asks you to
12 cash a ticket for them, do you get anything in return for
13 your troubles?

14 A Well, what I have been doing most of the time is,
15 you know, I like to play the lottery. So, I have them buy
16 lottery tickets. And, you know, I always take out the tax
17 money that they are going to take out of me for payment. So,
18 it is at least 950. On a thousand dollar ticket. Because the
19 state is going to take that money, I'm not paying. You know?
20 So, it is all down, they actually pay it.

21 Q So, if somebody comes to you with -- I just want
22 to make sure I understand. If somebody comes to you with a
23 thousand dollar cash winner and says, 'Mr. Obey, would you
24 please cash this,' --

25 A Yup.

1 Q -- do you, um, -- you just take the money and cash
2 it and then do you give the money back to the person who
3 gave you the ticket?

4 A I take the ticket and give them the money.

5 Q Before you go to the lottery office?

6 A Yeah.

7 Q And you give them -- how much money do you give
8 them?

9 A 950.

10 Q Okay.

11 A That's what I'm going to get. And then they buy me
12 lottery tickets.

13 Q When do they buy you lottery tickets?

14 A The same time. They bring them. I tell them.
15 "Don't bring the ticket without lottery tickets."

16 Q How many tickets do you ask to receive to do this
17 service?

18 A I don't ask anything. I just tell them, 'Bring me
19 some tickets.' You are the -- give me what you want. I'll
20 take them. And a lot of them are second chance drawing
21 tickets. If you ever look up my record, second chance
22 drawing tickets, you will see I am in there a lot. So, a lot
23 of them, second chance. A lot of different ones. I play them
24 all.

25 Q So, a typical situation, someone comes to you with

1 a \$1,000 winner. You pay him or her \$950 which will be the
2 claim amount minus the taxes. And also at that time they
3 will provide you, um, without being asked, lottery tickets
4 --

5 A Yeah, they know the story. They know what it is. I
6 don't have to ask them.

7 Q Are you employed?

8 A No, I was. I was self-employed. I've been -- and I
9 was until recently driving for Lyft. I had a knee operation
10 so I have been driving less.

11 Q When did you stop driving for Lyft?

12 A Um, sometime last year.

13 Q Before July?

14 A Yeah. Ah, September.

15 Q In September, you stopped driving?

16 A Yeah. I was having some problems so it was before
17 September.

18 Q Have you been -- besides working for Lyft, from
19 July 27th to September, were you employed at any point
20 during July 27 through January 27th?

21 A No.

22 Q Where does your income come from to purchase these
23 tickets from people?

24 A I win. I win. You don't win a thousand dollars or
25 ten thousand dollars or a hundred thousand dollars, but I

1 have won. I'm using my money.

2 Q So, some of these claims -- some of these 333
3 claims, you are saying you won. But some you are saying you
4 just cashed for other people?

5 A Right.

6 Q And I'll ask again, can you give an estimate of
7 how many are claims that you have won versus other ones --

8 A You will have to ask the mathematician. I don't
9 keep track of that. I have no idea.

10 Q You have no idea?

11 A No.

12 Q Because it is a distinguishable feature. If you
13 are winning yourself and keeping the money, that's different
14 than when you are paying someone else for a ticket.

15 A Yeah. Well, I had a hundred thousand dollar
16 ticket. I had a fifty thousand dollar ticket. I mean, those
17 were my tickets. I had two fifty thousand dollar tickets,
18 one I found when I had the game. Recently. And a hundred
19 thousand dollar ticket. So, and plus I had -- I was involved
20 with somebody else with the -- somebody had 15 Mass. Lottery
21 -- ah, Mass Cash tickets in Lynn. Well, I was part of that.
22 And I cashed my share. That's the one I gave to the church.

23 Q What's the highest lottery prize claim that you
24 cashed for someone else during the past six months or during
25 the period of -- just during the past year. What's the

1 highest lottery prize claim that you have cashed for someone
2 else?

3 A Well, I think the hundred thousand dollar was
4 before that. So, the other one is mine. I mean --

5 Q I'm sorry, say that again?

6 A The hundred thousand dollar, I don't think there
7 is a hundred thousand dollar one in there. The ones that are
8 in there this past period --

9 Q During the period July to January?

10 A -- are mine. They are mine.

11 Q All? Which ones?

12 A The hundred thousand dollars and the two fifty
13 thousand dollars. Are mine. I don't know if the other fifty,
14 the one I found that's in there. In that. I have no idea if
15 it is in that list.

16 Q Have you ever cashed a ten thousand dollar winner
17 for someone else?

18 A Yeah.

19 Q What do you pay them? How does that transaction
20 work?

21 A Same thing. Seven thousand -- seventy one hundred.
22 And they give me lottery tickets.

23 Q Do you write them a check? Do you pay them cash?

24 A Cash. I don't write no checks.

25 Q And is that a fairly frequent occurrence for a ten

1 thousand dollar winner?

2 A Yeah.

3 Q Did it occur during last July to this past
4 January?

5 A Yeah. I would imagine.

6 Q What about a twenty thousand dollar cash winner?
7 Would you have cashed that for someone else?

8 A I don't remember a twenty thousand dollar one in
9 that period. I did cash my own twenty thousand dollar one a
10 few years ago.

11 Q Okay. So, I'm just looking at Exhibit 2, which is
12 your claims during July 2018 to January 27th. So, I do see
13 on page two, um, -- excuse me, actually. I see on page
14 three, I apologize --

15 A Yup. Top one.

16 Q Yup, I see one fifty thousand dollar winner --

17 A Yeah.

18 Q -- towards the middle of the page.

19 A Yup.

20 Q So, is that one that you won yourself?

21 A Yup.

22 Q Okay. Um, --

23 A There is a twenty thousand dollar top of the page.

24 Q Okay. Yes, I see that one now. Is that a winner --
25 did you win that one yourself or did you cash that for

1 someone else?

2 A I think I cashed that for somebody else.

3 Q And --

4 A Yeah.

5 Q -- do you remember who you cashed that for?

6 A Not offhand, no.

7 Q Would you have paid them \$14,200 in cash?

8 A Yeah.

9 Q Did you recall what -- if they gave you lottery
10 tickets as a --

11 A Yeah.

12 Q Did they ever pay you extra to cash tickets for
13 you, though?

14 A No. Usually I have to pay them extra.

15 Q Why would you pay them extra?

16 A Because they want extra money sometimes. Sometimes
17 on a ten or a twenty thousand dollar ticket, a hundred
18 thousand dollar ticket if I cash them. They want extra
19 money. And I do give them a few bucks.

20 Q Why would you give them extra money?

21 A Because tax-wise, all right, I can get some of
22 that back. The federal.

23 Q Okay.

24 A And they know, you know, it is their ticket so
25 they expect a couple of bucks more than what they are going

1 to get. So, I give them a few bucks.

2 Q So, for this twenty thousand dollar claim --

3 A I don't remember.

4 Q You don't remember. But hypothetically, I know you
5 don't remember, but if this was one where you were to give
6 an extra few bucks, you in theory could give them \$14,500
7 and then you get the ticket and you only get to cash
8 \$14,200.

9 A Right.

10 Q So, you would have a net loss of \$300.

11 A Right.

12 Q But there could be a tax benefit for that?

13 A Yes.

14 Q Okay. Um, okay. So, the fifty thousand dollar
15 claim on this page is one that you either purchased from a
16 sales agent or found somewhere?

17 A Yeah, one of them I found. I'll tell you right
18 now. I don't know where it is on that page. It wasn't that
19 long ago. It is still jumping.

20 Q On page four, there is a hundred thousand dollar
21 claim. A one hundred thousand dollar winner. The pay date
22 was November 20, 2018. Was this one that you -- do you see
23 it?

24 A Um --

25 Q It is towards the top.

1 A Oh. Up here. Yeah.

2 Q Was this one that you cashed for someone else, or
3 is this one that you purchased from a sales agent?

4 A Yup. That was in Charlestown. I bought a quick
5 pick there. My fiance works in Charlestown. And I bought
6 tickets in that area because -- and I don't know why I
7 didn't play multiple, but a lot of them I play just quick
8 picks and I just happened to buy a couple of quick picks
9 there and I won. It happens. It does happen, you know.

10 Q You are the witness.

11 A It does happen. Especially quick picks.

12 Q I see a number of ten thousand dollar claims,
13 also. On a few of these pages. Do you recall winning ten
14 thousand dollar claims from tickets that you bought from
15 sales agents or otherwise found?

16 A Sure.

17 Q Can you estimate how many? I noticed five?

18 A How many are there? You want me to estimate
19 something. What if I say six and there is only four there.
20 I'm not going to do that.

21 Q Give me a minute, let me just --

22 A I couldn't tell you.

23 Q Okay.

24 A I know of a few ten thousand dollar tickets. I've
25 hit a few of them. So.

1 Q During this time period?

2 A I have no idea. You have got it on paper there. I
3 don't.

4 THE HEARING OFFICER: If I may, you can certainly
5 look --

6 THE WITNESS: I know, but that's not going to help
7 me. The dates are not going to help me.

8 THE HEARING OFFICER: I'm just letting you know
9 what it is there for your --

10 THE WITNESS: Because I don't know --

11 THE HEARING OFFICER: -- informational purposes.

12 THE WITNESS: -- when the last time I hit it. I
13 know I hit a couple ten thousand dollars recently. But, you
14 know, dates, I don't remember. I go cash them. Play some
15 more.

16 BY MR. POLIN:

17 Q So, I think I've asked this before and I apologize
18 for asking it again. But, no one ever gives you money to
19 cash tickets for them? Or, do you ever -- when you cash a
20 ticket for someone --

21 A Sometimes they give me money, yeah.

22 Q Okay.

23 A Occasionally, I get money. If I meet them
24 someplace in a store and I go in and buy my own tickets. He
25 says, 'There, just go buy your own tickets.' And I do.

1 Sometimes it is not enough, but I spend more. So, but, if I
2 have to go someplace, I'll play. You know, pick up
3 something. Somebody is there. I'll play there. 'You give me
4 money, I'll play in the store and buy tickets in the store.'

5 Q Are you aware that only lottery sales agents are
6 allowed by law to sell lottery tickets?

7 A I'm not selling lottery tickets.

8 Q I didn't say that you were.

9 A Oh.

10 Q I just asked if you are aware.

11 A Yeah. But if somebody buys a ticket from you, they
12 own the ticket. They can do whatever they want with it.
13 That's how I'm looking at it. I mean, people own the ticket.
14 You go buy a car and you can sell it for whatever you want.
15 You buy a \$50,000 car and you want to give it to somebody
16 for 25 or nothing, it is up to them. Same thing with lottery
17 ticket. Once you sell it, it is sold. The person owns it. I
18 think he has the right to do whatever he wants with it.

19 Q You mentioned earlier that you were audited by the
20 IRS?

21 A Yup.

22 Q When did that audit occur?

23 A Last audit was probably, ah, quite a few years
24 ago. Um, 13. 11. I don't remember the exact. It was almost
25 like when I was finishing up my business like in 2010. And

1 they went to 2009. They did find something in 2010 that my
2 accountant missed or whatever. But I had to pay that. But
3 anything in the lottery, they did, like, four years in a
4 row. They went back one, ahead one. And they did two years
5 later they did another audit on it. They come to my house.
6 Talked to me. Showed me. I just showed them all my paperwork
7 and what my accountant asked.

8 Q Do you recall when the most recent audit was?

9 A No, I can't tell you the exact date.

10 Q You mentioned earlier I think 2013 or 2011?

11 A Could be. Yeah.

12 Q Could be in that timeframe?

13 A Yeah. Yup.

14 Q Certainly now this year or last year or probably
15 the year before?

16 A Well, I wasn't in an audit but last year they
17 wanted to know my name. They wanted to make sure I was Frank
18 Obey. So, I had to go to the -- my accountant and do the
19 last two years. They just pointed out some things on my
20 form. And my accountant was there. I had all the
21 information. What's on line 6 this year, what's on line 7,
22 16. Whatever. And then they, um, they sent me a letter
23 telling me everything was okay, and they were going to do my
24 taxes. They held it quite a bit last year. This year, it
25 went right through.

1 Q Do you cash tickets for a lot of other people or
2 just a smaller number of people?

3 A A lot of people. It is just like any business. I
4 mean, it started out a few people, your friends and
5 relatives, stuff like that. I got relatives, I mean, I've
6 got a lot of relatives. I am one of 48 bridge on my mother's
7 side. There is a hundred -- they are all around. But,
8 anyways, they have friends, they have friends and over the
9 years, I've gotten to know all of these people and I don't
10 see them all the time but they call me. Some people play.
11 Some people are really bad. I mean, they play a lot. They
12 play a lot. I have people at work play a lot. You know?

13 Q Would you say you have regulars that ask you to
14 cash tickets for them?

15 A Yeah. Yeah, if they get a ticket, they cash -- you
16 know, they are calling me.

17 Q Would you mind telling us who they are?

18 A I would mind that. They would mind it, too.

19 Q Why is that?

20 A I don't think their names matter.

21 Q But if you feel it is okay for them to be doing
22 this, what's the harm in telling us their names?

23 A What difference is it what they are doing? I'm not
24 going -- you know what's going on. You have seen -- your
25 mark is going up every year. I mean, people are playing a

1 lot. So, who do you think is playing? Everybody is playing.
2 More and more every time. And if you put more tickets out,
3 so, there is more winners out there.

4 Q Do you play regular numbers when you play --

5 A Mass Cash?

6 Q Yes.

7 A I do. And I play quick picks. All the time. In
8 fact, the five one I won fifteen years ago with a group, it
9 was a quick pick. And I played it again five times. And we
10 happened to win.

11 Q Would you be able to tell us your numbers that you
12 like to play? Or --

13 A No. My grandchildren. All my grandchildren's
14 numbers. One of them. I play other ones. Most of them. You
15 know, there is a couple I play all the time, especially that
16 one there. Only because my daughter years ago when I got
17 five grandchildren, she gave me a ticket on Christmas to
18 play it and I think I won \$250. I said, 'Only one ticket?'.
19 I says. It is multiple tickets now. Within the last -- I'll
20 just tell you a story. All right? I had 30 tickets not too
21 long ago. All right? Thirty tickets, I had four out of five
22 numbers. I would have loved to have come in here with those
23 30 tickets. You probably wouldn't give me all the money, but
24 I had four out of the five numbers. Thirty tickets. Because
25 I play, I overlap them.

1 Q Were those playing your usual numbers?

2 A Yeah, those were.

3 Q And I don't play the lottery. I'm not allowed to.
4 But is there a superstitious reason? What's the reason why
5 you would feel uncomfortable sharing your usual numbers with
6 us?

7 A Why would I tell you? So you can play them? Make
8 my -- think you would have them? No way.

9 Q Well, we could use that to cross reference our --

10 A I know you can. I know you can.

11 Q -- to differentiate the claims that you are
12 cashing versus the claims that you are cashing for other
13 people.

14 A I should have brought in my last year's Keno --
15 Mass Cash tickets. I play them ten times each. Ten times.
16 And then I -- three, four, five days, nothing. I get them.
17 Or sometimes I hit three numbers. I like four numbers. Then
18 I don't have to come in here. And I still get a lot of
19 money. I have people who play 40 and 50 times the same
20 number. Do you know that? Do you have any idea people do
21 that? And hit three, four numbers. Make a lot of money. And
22 don't have to come in here. It is what happens. I know
23 people that play, let me tell you. These people are not, you
24 know, one or two dollars a day. These people are playing
25 money. And they win. Some of them win.

1 Q How much do you play per day?

2 A Too much. But I get, you know --

3 Q Could you put a dollar amount on how much you play
4 per day?

5 A Counting what they give me? I mean, it is
6 thousands. I mean, I play a lot of money -- a lot of
7 tickets.

8 Q And you win quite a few times, too. You testified,
9 right?

10 A Yeah. Yeah. You don't always win a ticket to go to
11 the lottery. You know? Three hundred here, 500 there. The
12 other day I played two \$30 tickets. I had \$500 in each one.
13 Two different ones. I had \$500 in each one. It is a nice
14 thousand dollar hit. And I don't have to see you.

15 Q Are you aware that the lottery claim form that you
16 fill out when you submit a claim for over \$600 requires you
17 to certify that you are not claiming this prize to assist
18 another in the avoidance of financial obligations?

19 A Absolutely.

20 Q How do you know you are not assisting someone --

21 A I don't.

22 Q -- to avoid their financial obligations?

23 A I don't. But some people tell me. And I says, 'You
24 will have to go cash it yourself.' I tell them right out. If
25 I know the person, you know, that is sent to me by somebody

1 else, I ask them. 'Do you know about this guy? You know. New
2 guy.' He says, 'Well, I don't think he can cash the ticket.'
3 I says, 'Well, he's going to have to cash it. I'm not
4 cashing it.'

5 Q So, do you ask about -- do you ask everyone that
6 asked you to cash the ticket --

7 A No, because most people I know. I mean, most of
8 them I know. I mean, people that -- you know, that come with
9 somebody else, I got to ask. But basically I -- how am I
10 supposed to know what anybody else business is? And I don't
11 really want to know what anybody's business is. They want to
12 play. One wife is playing, the husband don't know about it.
13 Husband is playing, the wife don't know about it. Big time.
14 It goes on, you know. It goes on. You may not see it, but I
15 see it.

16 Q Is there a particular place you usually play Keno?
17 Is there a favorite spot that you go to to play Keno?

18 A I have a few of them. I play Keno in a lot of
19 stores that I go to. I might play a quick pick, all right? A
20 couple of tickets. Someplace I else, different stores that I
21 go to, I play. Like, tonight I go to a club with a couple of
22 my friends -- well, tonight we are not going there but they
23 have Keno there. We have Keno -- we play Keno with the
24 barmaid there. We goes partners all the time. Cash tickets
25 there. It is just, one of those things. I mean, I actually

1 have enough money to do it.

2 Q Would you agree that it is statistically
3 improbable for you to actually purchasing all of these
4 tickets from sales agents and winning this much?

5 A Sales agents?

6 Q Lottery sales agents?

7 A I don't buy them for all the sales -- oh, yeah. I
8 agree. Yeah. What you are saying. For me to buy them from
9 all those different agents and win all that money. But I'm
10 --

11 Q So, it is statistically improbable to win 334
12 times during this six-month period.

13 A That's not the case here. I'm a cashier. I'm not
14 saying that I'm a winner and I win all that money. Never
15 gonna say that. I'm not here to lie about it.

16 Q Would you also agree that it is statistically
17 unlikely for you to win 200 of these 334 tickets?

18 A I'm not giving you numbers. You want to give me --
19 you want to put a number in there? I'm not giving you a
20 number. Because I don't know. I don't know. I win. Trust me.
21 I win. I win a lot of under thousand dollar tickets, too.
22 You know? You play a lot, you have got to win. You have
23 streaks. You have streaks, though, I will tell you that.

24 Q You do say at least some of these 334 claims you
25 have claimed for other people?

1 A Yeah.

2 Q And some you have claimed as the winner yourself.

3 A Absolutely.

4 Q And I believe we have identified a few that you
5 recall winning yourself, some of the high dollar ones.

6 A Yup.

7 Q Including the fifty thousand dollar one --

8 A There is two fifty thousand dollar ones.

9 Q Okay. And a few of the ten thousand dollars?

10 A Yup.

11 MR. POLIN: I don't think I have any other
12 questions.

13 MR. WARREN: I have just one because it has been
14 gone over a few times.

15 REDIRECT EXAMINATION

16 BY MR. WARREN:

17 Q You have resisted trying to give an exact
18 percentage of what is your own winnings and what is the
19 winnings that you are cashing for others. But as far as --
20 and you have talked about a few of the higher ones being
21 your own prizes.

22 A Correct.

23 Q But as far as number of wins, if you can -- can
24 you estimate, you know, not give me a percentage but I mean,
25 is it small, large as to what percentage are being cashed

1 and what are your own? I think -- can you estimate?

2 A I can't estimate how many I win. Some weeks, you
3 win more than other weeks. You might go three weeks without
4 anything big but a lot of small ones. But, you know, Keno is
5 a big thing. --

6 Q Earlier --

7 A -- Keno, there is a lot of --

8 THE HEARING OFFICER: If I may, there is no
9 question on the table. If you can respond to the question?

10 THE WITNESS: Oh, okay.

11 BY MR. WARREN:

12 Q Earlier when you were being questioned, didn't you
13 say that this winnings represented in this chart, or the
14 tickets, was a small percentage of -- only a small
15 percentage was your own? And that a large percentage of them
16 is cashing for other people?

17 A Right.

18 Q Is that about as well as you can estimate it?

19 A Yes.

20 Q But it is definitely more that is being cashed for
21 others than you own winnings on these records?

22 A Yes.

23 Q And that's true not just for this time period but
24 for a long period of time that you have been doing this?

25 A Yes.

1 Q So that most of the time you are going to the
2 Lottery to cash tickets, it is other people's tickets?

3 A That's -- yes.

4 MR. WARREN: Okay.

5 MR. POLIN: I have nothing further.

6 MR. WARREN: I have nothing further.

7 THE HEARING OFFICER: May I ask one question?

8 MR. WARREN: Sure.

9 THE HEARING OFFICER: When you are collecting
10 these tickets, if you will, from your friends, associates,
11 family, customers. Call them what you want.

12 THE WITNESS: Customers.

13 THE HEARING OFFICER: My question is, are you in
14 one particular location that people come to you or are you
15 out sort of circulating in the area?

16 THE WITNESS: They call me. They have my cellphone
17 number and I got to them most of the time, or they come to
18 my house. People that really know where I live, they come to
19 my house. They are in the area. You know, they will come to
20 my house if I can't get to them. I mean, I'm busy, too. I've
21 got grandchildren.

22 THE HEARING OFFICER: Understood.

23 THE WITNESS: I can't be there all the time. But I
24 make myself available.

25 THE HEARING OFFICER: I have no other questions.

1 Anything else? Anybody else? Well, at this point if there
2 are not other witnesses, no other questions, I'll afford
3 each, the Lottery and Mr. Obey, to make a closing statement
4 if they so choose.

5 MR. POLIN: Yes. Would you like the Lottery to go
6 first?

7 THE HEARING OFFICER: Yes.

8 MR. POLIN: And for the record, the Lottery is
9 happy to submit some sort of closing brief.

10 MR. WARREN: May I interrupt? Before I close, I
11 meant to request one more exhibit. If it can be reopened for
12 that purpose?

13 THE HEARING OFFICER: I'm willing to reopen. Could
14 you explain what the --

15 MR. WARREN: It is a letter from Beth Bresnahan, a
16 former, probably, executive director of the Lottery dated
17 June 23, 2015. The letter given to retailers but, ah, in
18 that I hadn't seen it as clearly stated elsewhere, I thought
19 it was good evidence, in that a portion of it reads,
20 "Lottery tickets if not signed can be transferred through
21 gift or sale between two consenting private parties, though
22 any attempt to claim Lottery prizes for others, to assist
23 them in avoidance of financial obligations including paying
24 child support or taxes is against the law." But, um, it is
25 something that Mr. Obey had.

REDIRECT EXAMINATION

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BY MR. WARREN:

Q Can you identify that, Mr. Obey?

A Yes.

Q Where did you get that?

A That was sent out to the Lottery retailers, all the stores, back in 2015.

Q Did a retailer give you a copy of it?

A Yup.

Q Do you remember who?

A It could have been down in Cal's News in Lynn.

THE HEARING OFFICER: Am I to present --

MR. WARREN: I'm sorry, I didn't bring -- I wasn't quite sure how this hearing was run, how formal it would be. And it would be great if maybe we could have it marked and maybe have some copies made.

THE HEARING OFFICER: I'm willing to entertain that.

MR. WARREN: So I can take a copy home with me. I assume the Lottery Commission has some copy machines somewhere in their office.

MR. POLIN: We do. I would just like to point out the letter is dated June 23, 2015, and the Commission, the Massachusetts State Lottery Commission voted last -- in November of 2017 to amend the regulations to create the

1 high-frequency prize winner provision of 961 CMR 2.43. But I
2 have no objection.

3 MR. WARREN: No objection.

4 THE HEARING OFFICER: I'll accept it. I don't know
5 if you have any particular questions on it you would like to
6 ask, or if anybody does, but I'll accept it and consider it
7 and give it --

8 MR. POLIN: Would you like me to have copies made
9 of it?

10 THE HEARING OFFICER: Yeah, we should have copies
11 made and I will note the letterhead at the top is cut off.
12 Um, it looks like, anyway. But if you don't object and I'll
13 accept it.

14 MR. WARREN: Thank you for letting me do that.

15 MR. POLIN: Are we still on the record?

16 THE COURT REPORTER: We are on the record, yes.

17 MR. POLIN: I won't object to the document. I'll
18 wait for the copies to come back. But I would request that
19 Mr. Mayo give the document the appropriate level of
20 probative value in your consideration.

21 THE HEARING OFFICER: I will do that. As I have
22 indicated at the outset, this is a flexible hearing. The
23 rules of evidence are much looser. The letter may have some
24 evidentiary value and I will provide it with the probative
25 analysis that it is appropriate in the circumstance. And I

1 will note as well, again, I'm going to offer the parties the
2 opportunity to submit a post-hearing brief. And I simply
3 pointed out earlier that the letterhead was missing at the
4 top. I would presume that the Lottery can verify or not the
5 authenticity of the letter at that point in its brief.

6 MR. POLIN: Yes.

7 REXCROSS-EXAMINATION

8 BY MR. POLIN:

9 Q Mr. Obey, can you tell us again who gave you this
10 document?

11 A Cal's News in Lynn.

12 Q I'm sorry, what was the first word there?

13 A C-a-l-s.

14 Q And they are a Lottery sales agent?

15 A Yeah.

16 MR. WARREN: Exactly.

17 THE WITNESS: Exactly.

18 BY MR. POLIN:

19 Q And when did they give you this document?

20 A Right after it came out. I happened to see it
21 there. They had it hanging up.

22 Q Why did they give you this document?

23 A I asked them for a copy. You know. I saw it
24 hanging up. They had it on their glass window there where
25 the tickets were. Where the cigars were, actually.

1 Q So, Cal's News had this letter hanging up, you
2 went in and saw it and you asked for --

3 A Yeah, I go in there a lot. I'm very friend with
4 them. They were my customers when I went into construction.
5 So.

6 Q So, this would have been around 2015, after June
7 2015?

8 A Yes, it was after that, yeah.

9 MR. POLIN: Nothing further.

10 THE WITNESS: So, I didn't think I was doing
11 anything wrong. I still don't.

12 MR. WARREN: No other questions.

13 THE HEARING OFFICER: On that note, again, if the
14 Lottery would like to proceed with its closing?

15 MR. POLIN: Yes. The Lottery is willing to brief
16 this out after the transcript becomes available. And I'll be
17 brief. The Lottery after the testimony heard here, the
18 Lottery's position would still be to request Mr. Mayo to
19 affirm the prize claim suspension that has been moved to be
20 imposed by the Compliance Department. Um, it is the
21 Lottery's position that some, a majority of these tickets at
22 least, have been acquired illegitimately. Um, and it seems
23 applicable that this CMR should be applied and the
24 suspension should be imposed as a means to discourage such
25 illegitimate activities.

1 THE HEARING OFFICER: Understood. Thank you.

2 MR. WARREN: Okay. Our position is he is not doing
3 anything illegal as shown by both that letter and the fact
4 that there are no regulations against assignment of tickets.
5 But it appears that that only applies to tickets that have
6 been signed. Because otherwise a ticket for the Lottery
7 purposes as per the regulations is unsigned, it is in bearer
8 form and whoever owns it, whoever possesses it, owns it as
9 far as the Lottery is concerned and as per the letter, free
10 to transfer such tickets between consenting adults as long
11 as it is not being done for an illegal purpose. There is no
12 proof whatsoever that it is being done for an illegal
13 purpose here. And he has to sign the claim form every time
14 saying he is not doing it for an illegal purpose.

15 Now, they know he's -- the Lottery knows he is a
16 high-frequency casher. Exhibit 1, you look at the RE to the
17 letter sent, they don't identify him as high-frequency
18 winner. They identify him as a high-frequency casher. And he
19 freely admits he is a casher. Now, he technically fits
20 within the definition of high-frequency winner because it is
21 a very technical definition of 20 or more prizes of, I
22 think, \$1,000 over -- within a year. But for a suspension to
23 occur, that has to be shown to be factually or statistically
24 improbable. And that's where they failed here because he is
25 cashing other people's tickets. He is not the winner. And in

1 fact on his description, it is factually -- it is
2 statistically probable that someone who does this with the
3 huge regularity that he has done, over 40 years, will be
4 cashing that many tickets regularly. There is a complete
5 explanation for it.

6 There is no evidence that he has been drawing all these
7 winning things himself. And that might raise a legitimate
8 suspicion that he is scamming the Lottery or scams the
9 games, but you would have to show that he is actually
10 purchasing all these tickets and nobody, as they say, goes
11 around to that many lottery locations to buy tickets.

12 Now, you know, I understand that it is regulated. They
13 don't want people winning their child support payments,
14 their tax payments. There is no evidence that Frank has been
15 doing that. He is known locally. He has got a big family.
16 He's got, as you can see, he is a very friendly, outgoing
17 guy. People get to know him. 'Hey, Frank. Can you do this?'
18 'Hey Frank,' You know? And it grows, and it grows, and it
19 grows and he is in there playing all of these games himself
20 with a lot of heavy hitter lottery people. Something I know
21 nothing about. But, ah, you hear of it. And so he's got
22 lots, and lots, and lots of opportunity to cash these
23 tickets. You know, if you want to regulate cashing, do so.
24 You know, you can put it right on the claim form. You know.
25 'I hereby certify I am not cashing this ticket for some

1 other winner.' And then you get in trouble for what he is
2 doing. But that's not the issue here. That's not the
3 problem. And they're -- but they seem to be picking on
4 somebody who is doing this legitimately. You know, it is
5 just -- there is nothing that backs up. In fact, these
6 statistics -- two statistical exhibits, to me, they are
7 perfect. They absolutely show there is no way he can be
8 winning all these -- buying all these winning tickets. And
9 that's really what this is all about because he is not
10 buying all these winning tickets. He is cashing other
11 people's tickets which makes it absolutely statistically
12 probable that he is going to show up with more than 20
13 tickets over \$1,000 within a year, and in fact far, far, far
14 more than that when he does this as his only business now
15 besides playing the lottery himself.

16 So, I think the requisite finding, you know, can't be
17 made on the evidence that has been submitted here because I
18 think this evidence is actually helpful in showing that he
19 couldn't possibly be the winner.

20 So, thank you.

21 THE HEARING OFFICER: Thank you, Mr. Warren. At
22 this point if nobody has anything else to add, I will close
23 the hearing but before I do that, I will provide the parties
24 -- I will let the parties know that they have the
25 opportunity to submit a post-hearing brief to me and I would

1 suggest that that brief be provided to me within one week
2 after the transcript has been issued, which will take
3 approximately two to three weeks. Mr. Warren, would you
4 object to that timeframe?

5 MR. WARREN: No. I don't really need a transcript.
6 I have a pretty good memory of what was said. The transcript
7 would be more for an appeal as far as I'm concerned.

8 THE HEARING OFFICER: My memory may not be as good
9 as yours.

10 MR. WARREN: I don't do these administrative
11 hearings very often. So, it may work completely different at
12 this level. I don't know.

13 THE HEARING OFFICER: My memory isn't as good as
14 yours. And I'm not sure Greg's is. But I --

15 MR. POLIN: I would prefer a transcript.

16 THE HEARING OFFICER: Okay. That's fine.

17 MR. WARREN: That's fine, too. By me. I'm just
18 used to, in Court the transcript only comes with the appeal.

19 THE HEARING OFFICER: Right. Well, we have the
20 transcriptionist here anyways, so that's part of the point.
21 So, within a week after the transcript is made available,
22 I'll expect briefs to be returned. If anybody wanted to
23 submit one earlier than that, that's fine as well. But I
24 just want to at least afford the parties the opportunity to
25 take a look at the transcript if they so choose.

1 MR. WARREN: I'd be happy to. I don't think I have
2 any vacation planned. When the transcript comes out, I'm
3 gone a week but if that came up, I'd let you know.

4 THE HEARING OFFICER: Agreed?

5 MR. POLIN: Agreed.

6 THE HEARING OFFICER: Okay. That said, I'll close
7 the hearing. Thank you all for coming.

8 MR. POLIN: Thank you.

9 MR. WARREN: Thank you.

10 (The hearing was adjourned at 12:08 p.m.)

11

