COMMONWEALTH OF MASSACHUSETTS

STATE LOTTERY COMMISSION

In the Matter of:

)
YOUSEF 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.
     Considine & Furey LLP
     One Beacon Street, 22nd floor
     Boston, MA 01901
     617 723 7200

I N D E X

E X H I B I T S

1   P R O C E E D I N G S

2   (11:58 AM)

3   MR. MAYO: Good morning, everybody. My name is

4   Larry Mayo and I will be conducting the hearing today in the

5   matter of Yousef Jaafar. Again, we are here today to discuss

6   Yousef Jaafar's prize claim suspension hearing by the

7   Massachusetts State Lottery Commission. Today is May 7,

8   2019. Mr. Jaafar is appealing the decision of the

9   Massachusetts State Lottery Commission Compliance

10   Department's decision to impose a prize claim suspension

11   upon Mr. Jaafar suspending his ability to claim lottery

12   prizes with a value of $600 of more for a period of 90 days.

13   The Lottery issued a suspension notice to

14   Mr. Jaafar dated April 1, 2019, and we have marked that

15   suspension notice as Exhibit No. 1.

16   (Exhibit No. 1 was marked into

17   evidence.)

18   MR. MAYO: That suspension was imposed pursuant to

19   the high-frequency prize winner regulation contained at 961

20   CMR 2.43(2). Mr. Jaafar is here today exercising his right

21   to a director-level hearing before the prize claim

22   suspension goes into effect. The availability of a

23   director-level hearing is established in 961 CMR 2.43(3).

24   The question before me is whether Mr. Jaafar is a

25   high-frequency prize winner and whether the submission by

1 Mr. Jaafar of at least 20 claims for Lottery prizes, each

2 with a value of at least $1,000 within any period of 365

3 days is factually or statistically improbable.

4   This is an informal hearing. I'm going to observe

5 the rules of evidence established in Mass. General Law

6 Chapter 30A, Section 11. The parties will have the

7 opportunity to call and examine witnesses, introduce

8 exhibits and cross-examine witnesses who testify, and to

9 submit rebuttal evidence.

10   The Lottery's decision to suspend Mr. Jaafar -- if

11 the Lottery's decision to suspend Mr. Jaafar is supported by

12 the preponderance of the credible evidence, that its

13 decision was justified, then that decision will stand. The

14 Lottery has the burden of proof. I will allow opening

15 statements and closing statements by each of the parties.

16 Objections will either be sustained or overruled.

17   I will have the stenographer administer oaths to

18 each and all of the witnesses who are brought to testify. At

19 the close of the hearing, I will provide each party with an

20 opportunity to submit briefs, proposed findings,

21 conclusions, things of that nature, however they would like

22 to style it. I would ask that post-hearing briefs be

23 presented to me within one week after the transcript is

24 issued by the stenographer.

25   Lottery, I will hear from you.

1   MS. HODGE: Thank you Mr. Mayo. The Massachusetts

2 State Lottery Commission voted in November of 2017 to

3 authorize the executive director to promulgate rules and

4 regulations to address high-frequency prize winners. On July

5 27, 2018, 961 CMR 2.43 was amended to include Section 2,

6 which is related to high-frequency prize winners. Patterns

7 of high-frequency Lottery prize winners can defy statistical

8 odds and reason, and the Lottery questions the legitimacy of

9 such activities. The Lottery is mandated to collect

10 outstanding child support liabilities and past due tax

11 liabilities before paying Lottery prize claims in excess of

12 $600. Winners of such prizes must complete a claim where

13 they attest that they are not claiming the prize to assist

14 another in the avoidance of financial obligations.

15   Further, the Massachusetts Lottery law prohibits

16 non-lottery sales agents from selling Lottery tickets and

17 also prohibits the assignment of Lottery prize winnings

18 except under certain enumerated circumstances.

19   If high-frequency prize winners are not acquiring these

20 Lottery tickets legitimately, the Lottery has reason to

21 believe that all or some of these winnings are being

22 acquired through means that violate or otherwise do not

23 comply with the Lottery and/or other laws. The Lottery wants

24 to discourage illegitimate activities.

25   Unless the suspendee can explain how he is acquiring

1 these winning lottery tickets legitimately, the Lottery will

2 request the director's designee to affirm the Compliance

3 Department's imposition of the prize claim suspension. If it

4 is not statistically or factually probable that the

5 suspendee is acquiring these tickets legitimately, the

6 Lottery's prize claim suspension should be affirmed.

7 This is all pursuant to 961 CMR 2.43 as well as

8 961 CMR 2.03, which defines the high-frequency prize winner

9 as a person who submits at least 20 claims for Lottery

10 prizes, each with a value of at least $1,000 within a period

11 of 365 days. In this case, Yousef Jaafar has claimed 295

12 Lottery prizes of $1,000 or more between the period of July

13 27, 2018 and January 27, 2019. The total dollar amount for

14 the prize payments was $416,219.00

15 By definition, Mr. Jaafar is a high-frequency prize

16 winner as defined in 961 CMR 2.03.

17 MR. MAYO: First witness?

18 MS. HODGE: If I could call Maureen McHugh,

19 please?

20 MAUREEN McHUGH, Sworn

21 DIRECT EXAMINATION

22 BY MS. HODGE:

23 Q   Miss McHugh, if you could state and spell your

24 name for the record, please?

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

1   Q   And do you work for the Lottery?

2   A   Yes.

3   Q   What do you do?

4   A   I'm a Compliance analyst.

5   Q   How long have you been in that position?

6   A   Since May of 2000.

7   MS. HODGE: If I could give her Exhibit 2 which

8 has just been stipulated to?

9   (Exhibit No. 2 was marked into

10   evidence.)

11   BY MS. HODGE:

12   Q   Are you familiar with this document?

13   A   Yes, I am.

14   Q   How are you familiar with it?

15   A   This is one of the documents that was used to

16 determine that Mr. Jaafar was a high-frequency winner.

17   Q   How was this document created?

18   A   It was created based off another document that we

19 produce monthly for the Department of Revenue and IRS of all

20 claimants who cashed 20 or more Lottery tickets of $1,000

21 each. That list is sent monthly over to the Department of

22 Revenue and IRS.

23   Q   Are you familiar with the high-frequency prize

24 winners regulations for the Lottery?

25   A   Yes.

1   Q   How are you familiar with that?

2   A   I'm familiar from when it was enacted and based on

3 that regulation, it is how we determined that Mr. Jaafar was

4 a high-frequency winner.

5   Q   Looking at Exhibit 2 which is in front of you, can

6 you explain each column and how it was put together?

7   A   The first column is first and last name. The

8 street address, which is blacked out. The city and state and

9 zip code. And the pay date is the date that the claim was

10 paid.

11   Q   And the city, state and zip code are for

12 Mr. Yousef Jaafar?

13   A   Yes. The gross amount, that is the amount of the

14 prize. The net amount is the amount of the prize minus the

15 taxes or anything else that was paid. The office is the

16 Lottery location that the claim was paid. The next column is

17 agent number which is blacked out. And the next column is

18 the name corresponding to that agent number. And the address

19 of the agent and the city where it is located.

20   Q   By 'agent,' what does that mean?

21   A   That is the location where the ticket was

22 purchased. The product name is the type of Lottery product,

23 an on-line game or an instant ticket is a scratch ticket.

24 And if it is a scratch ticket, the number two columns is the

25 game and the book number of the ticket.

1   Q   And this document is for the time period July 27,

2 2018 and January 27, 2018?

3   A   Yes.

4   Q   And this encompasses every prize clai --

5   A   2019.

6   Q   I'm sorry. 2019. And this encompasses every prize

7 claim Mr. Jaafar had in that time period over $1,000.

8   A   Yes.

9   Q   If you could turn to page five, which is the last

10 page. On the bottom line, what is that information telling

11 me on the bottom line of this?

12   A   295 claims were paid totaling $416,219.00.

13   Q   295 claims which were paid that was all over

14 $1,000, correct?

15   A   Yes.

16   MS. HODGE: I have no further questions at this

17 time, but I would like to recall Miss McHugh.

18   CROSS EXAMINATION

19   BY MR. CONSIDINE:

20   Q   If I may, Miss McHugh. Do you know why the

21 timeframe of July 27, 2018 and January 27, 2019 was chosen?

22   A   I believe that is when the regulation went into

23 effect, January 27, 2018.

24   Q   July 27th?

25   A   Yes.

1   MR. CONSIDINE: Thank you. No further questions

2   MS. HODGE: If I could call Mr. Mandeville please?

3   PAUL MANDEVILLE, Sworn

4   DIRECT EXAMINATION

5   BY MS. HODGE:

6   Q   Good morning, Mr. Mandeville. If you could state

7   and spell your name for the record, please?

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

9   Q   Do you work at the Lottery?

10   A   I do.

11   Q   What is your title there?

12   A   I'm assistant executive director in charge of

13   Information Technology.

14   Q   How long have you been in that position?

15   A   Twenty-two years.

16   Q   If I could hand you what has been previously

17   marked as Exhibit 2, are you familiar with that document?

18   A   Yes.

19   Q   What is it?

20   A   This is a list of all of the individual payments

21   that Mr. Jaafar claimed between July 27, 2018 and January

22   27, 2019.

23   (Exhibit 3 was marked into

24   evidence.)

25   Q   If I could hand you Exhibit 3, are you familiar

1   with that document?

2   A   Yes, I am.

3   Q   What is that document?

4   A   This is an Excel spreadsheet that I put together

5   as a result of analyzing the data from the previous report.

6   Q   What do you mean by 'analyzing the data from the

7   previous report?'

8   A   In determining what the odds are of an individual

9   win, I used the data that is on the left-hand side of this

10   --

11   Q   Are you talking about Exhibit 3?

12   A   This one. Yeah. Um, I used the data that is

13   defined in all of our instant games, which is on the left

14   side of Exhibit 3 and calculated the right-hand side of

15   Exhibit 3. I broke it down into two types of games. One is

16   draw games and the other one is instant games. Draw games

17   are all on the first row, and I lumped all of the draw games

18   together. Draw games are games like Megamillions or

19   Powerball, Numbers or Keno. But the distinction is that a

20   draw game, the winners are determined by a physical draw;

21   the actual winning numbers are determined by a draw.

22   An instant game is not a random prize structure.

23   The instant games are determined up[front before we

24   actually print the game and the prize structure and the

25   prize payouts are all defined entities. So, we know exactly

1   how many prizes there are in any tier in the game, and those

2   -- the game is printed in groups of books, small pools,

3   large pools and then the entire game so that we evenly

4   distribute the winners of any tier even across the game.

5   Q   If we could look at, it looks like number 25, can

6   you explain each column and how that was collected?

7   A   Sure, the first column is the game number. As I

8   said, in draw games I just lump- them all into Game Number

9   0. But instant games all have an individual game number,

10 which just helps us to uniquely identify them. So, that

11 first column is the instate ticket game number, which is 25.

12   The next column in that case is the price point of

13 the ticket, which was $20.

14   The next is the name of the game. Ten Million

15 Dollar Big Money.

16   The next column, Column D, is the odds of winning

17 $1,000 or more. As I said, these are all predetermined

18 prize structures and the prize payouts are all determined

19 and evenly distributed through the game. So, what this is

20 telling us is that the odds of winning a prize of $1,000 or

21 more, could be $10,000, could be anything -- the odds of

22 winning $1,000 are 1 in 1,106.72.

23   The next column is the prize percentage -- the

24 prize payout per game. So, if all of the tickets in the game

25 were sold at $20 each, that would be a gross revenue figure.

1   And all the prizes were paid out, that would be the prize

2   pool. The prizes in that case in this game would be 80.4

3   percent of the gross revenue of the game.

4   Q   And that's for all of the prizes, not just $1,000

5   of more.

6   A   Correct. That's, you know, $20 up to whatever.

7   Right. The next column in black is just the game number

8   repeated, just for simplicity. The next column, Column F, is

9   the win count. So, in this particular game, that is the

10 number times that Mr. Jaafar claimed a winning ticket in

11 that particular game. So, he won 14 times in that game.

12   The next column, Column G is the number of tickets

13 that would be required to win those 14, and I've put in

14 parentheses it is Column D times Column F. So, it is the

15 odds of winning one times the number that he won, which was

16 14. So, that means that he would have had to have purchased

17 15,494.08 tickets in order to win 14 times at that prize

18 level, $1,000 or more.

19   The next is Column B times G, which is basically

20 the cost of the tickets if you were to purchase those 15,000

21 tickets. It would cost cost $309,881.60.

22   The last column is E times H, which is if you

23 spent $309,000 on that game, you would expect to win all the

24 prize values of $294,144.81. So, again, that's all the

25 prizes, low-tier, high-tier, everything.

1   Q   If we can turn to page six, which is the last page

2   of this exhibit, there is a box at the bottom of this page?

3   Can you explain what the information contained in this box

4   means?

5   A   Sure. On the left-hand side, it is the numbers.

6   So, basically 'draw games only,' was 48, and if you look at

7   the first row, the win count was 48 for Game Number Zero.

8   That corresponds to the draw game only wins. And then the

9   'instant game only' wins was 247. The sum of those is 295,

10   which matches the last page on the previous exhibit. And

11   those 295 wins totaled $416,219. But what I focused on was

12   the instant games only, which was the 247 out of the 295.

13   So, the right-hand side references those 247. So,

14   in the same line as the 'instant game only' count of 247, is

15   three numbers which are actually the sum of the columns that

16   they are under. So, for the whole 247 wins of $1,000 or more

17   for instant games only, there would have to have been

18   purchases of 758,815.79 tickets odds-wise to support those

19   2247 wins.

20   Those 758,000 tickets would have cost a total of

21    $6,150,005.67. And if you spent 6.1 million dollars on all

22   of those games, you would be expected to to win 4.8 million

23   dollars in overall prizes for the game, low-tier, high-tier,

24   everything.

25   Q   And at the bottom of that box that says,

1 'purchases required,' can you explain how those numbers were

2 calculated?

3   A   There are all based on the tickets required to win

4 for the whole thing. So, it is all based on the 758,815

5 number. If you look up at the very top in the title, the

6 period covered is July 27, 2018 to January 27, 2019. That

7 period is 184 days. So, if you took the 758,000 divided by

8 184 days, you get 4,124 tickets that would have needed to

9 have been purchased and evaluated each day. Twenty-four

10 hours in a day, that is 171 an hour. Sixty minutes in an

11 hour, that would be 2.86 tickets every minute of every day

12 for that 184 days to purchase, scratch, determine if they

13 were winners for all of those instant wins only.

14   Q   And I apologize if you already said this, but you

15 created this document from Exhibit 2, correct?

16   A   Correct. I summed up all of the line items in

17 Exhibit 2 based on game number.

18   MS. HODGE: No further questions.

19   MR. CONSIDINE: Just a couple, if I may.

20   CROSS EXAMINATION

21   BY MR. CONSIDINE:

22   Q   Mr. Mandeville, you are familiar with the

23 Megamillions game, is that fair to say?

24   A   Yes.

25   Q   What are the odds of winning that game?

1   A   I don't know the exact number, but it is about

2 300,000,000 to one to win the jackpot.

3   Q   And when you were preparing this exhibit number 4

4 -- 3, I'm sorry. Did you factor in the odds of winning each

5 of the games?

6   A   Each of the instant games. Well, I factored in the

7 odds of winning each of the instant games for $1,000 or

8 more.

9   Q   Just for $1,000 or more?

10   A   Uh, hmm.

11   THE COURT REPORTER: Say 'yes' or 'no.'

12   THE WITNESS: Yes. Sorry.

13   MR. CONSIDINE: Thank you. No further questions.

14   (The witness was excused.)

15   MS. HODGE: If I can recall Miss McHugh?

16   MAUREEN McHUGH, recalled

17   REDIRECT EXAMINATION

18   BY MS. HODGE:

19   Q   Miss McHugh, you have Exhibits 2 and 3 in front of

20 you. Did the Compliance Department review these documents?

21   A   Yes, we did.

22   Q   How did they review these documents?

23   A   Based on these two documents is what we used to

24 determine that Mr. Jaafar -- it was factually and

25 statistically improbable that Mr. Jaafar won each of those

1   lottery tickets between July 27, 2018 and January 27, 2019.

2   Q   Was it based on that review that the Compliance

3   Department recommended that Mr. Jaafar be suspended from

4   prize claims?

5   A   Yes.

6   MS. HODGE: No further questions.

7   MR. CONSIDINE: I have no further questions. Thank

8   you.

9   (The witness was excused.)

10   MS. HODGE: No further witnesses.

11   MR. CONSIDINE: Nothing from Mr. Jaafar.

12   MR. MAYO: For the record, we have the other two

13 exhibits that we have been working with in the other two

14 hearings previously.

15   MR. CONSIDINE: Thank you. Yes.

16   MR. MAYO: And they will be entered accordingly.

17   MR. POLIN: No objection.

18   MR. CONSIDINE: Thank you.

19   (Exhibits 4 and 5 were marked into

20   evidence.)

21   MR. MAYO: The opportunity to close is now

22 available. Lottery, if you are --

23   MS. HODGE: Very briefly, under the definition of

24 the high-frequency prize winner, under the Lottery's

25 regulations, Mr. Jaafar has -- the data that the Lottery has

1 collected has shown that his wins are factually or

2 statistically improbable given the high number of his

3 claims. The Lottery would ask that the decision to suspend

4 him for 90 days be affirmed.

5   MR. MAYO: Thank you.

6   MS. HODGE: Thank you.

7   MR. MAYO: We are all set. For the record, that's

8 the same exhibit, 4 and 5, as we used in the last hearing in

9 case anybody gets confused down the road.

10   MS. HODGE: Nothing further from me, thank you.

11   MR. CONSIDINE: We waive closing.

12   MR. MAYO: Thank you. The completes the hearing.

13 Thank you.

14   (The hearing was adjourned at 12:18 p.m.)

CERTIFICATE OF TRANSCRIBER

This is to certify that the attached proceedings

before: <u>State Lottery Commission</u>

in the Matter of:

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                              )
YOUSEF JAAFAR,                 )
Respondent.                   )
                              )
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Place: Dorchester, Massachusetts

Date: May 7, 2019

Were held as herein appears, and that this is the true,

accurate and complete transcript prepared from the

recordings taken of the above entitled proceeding.

<u>MaryAnn Rooney</u>   <u>05/07/19</u>
Official Reporter   Date

<u>MaryAnn Rooney </u>   <u>06/11/19</u>
Official Transcriber   Date