

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 15-021

MICHAEL SILAS
March 25, 2015

WHEREAS, Michael Silas ("Silas"), requested a hearing to contest the proposed disciplinary action initiated against him on November 10, 2014, by the Commission's issuance of a Disposition of Occupational Gaming License Application; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Silas' request and the Hearing Officer has submitted the proposed Findings of Fact, Conclusions of Law and Final Order attached hereto (collectively the "Final Order") for approval by the Commission; and

NOW, THEREFORE, BE IT RESOLVED, that the Commission has reviewed the Final Order and hereby approves and adopts the attached Final Order in the matter of DC-14-468; and

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission.

BEFORE THE MISSOURI GAMING COMMISSION

In Re: Michael Silas

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Case No. 14-468

Petitioner.

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

The above-captioned matter comes before the Missouri Gaming Commission (hereinafter referred to as "Commission") upon receipt of a letter dated November 10, 2014 making a request for a hearing by Michael Silas (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Disposition of Occupational Gaming License Application dated November 10, 2014. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on February 10, 2015. Petitioner and the Commission's attorney, Mrs. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On October 30, 2014, Petitioner made an application with the Commission in order to obtain a Level II Occupational License for employment in the gaming industry.
2. In response to Petitioner's application, the Commission conducted an investigation in order to determine Petitioner's suitability for employment in the gaming industry.
3. The Commission's investigation revealed that on November 16, 1989, Petitioner plead guilty to felony burglary and felony stealing in St. Louis City.
4. The Commission denied Petitioner's license application pursuant to Section 313.812.8 RSMo., which states that "[a] license shall not be granted if the applicant has plead guilty to, or has been convicted of, a felony. . ."
5. Petitioner disclosed the offense during the application process and provided the Commission with the court records.
6. Petitioner had previously held a Missouri Level II gaming license from 1994 until 2004.
7. Petitioner argued that he had received a Suspended Imposition of Sentence on his felonies, had successfully completed his probation, and believed his convictions were removed.

8. The Commission's witness, Investigator David Leitman, testified that Petitioner should not have received a license in 1994, and that there was no consistency in the investigation process back then.

CONCLUSIONS OF LAW

1. "The Commission shall have full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to 313.850." Section 313.805 MO. REV. STAT. 2010.
2. "A holder of any license shall be subject to the imposition of penalties, suspension, or revocation of such license, or if the person is an applicant for licensure, the denial of the application, for any act or failure to act by himself or his agents or employees, that is injurious to the public health, safety, morals, good order, and general welfare of the people of the state of Missouri, or that would discredit or tend to discredit the Missouri gaming industry of the state of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action . . . the following acts may be grounds for such discipline: (1) Failing to comply with or make provision for compliance with Sections 313.800 to 313.850, the rules and regulations of the commission or any federal, state, or local law or regulation." Section 313.812.14 MO. REV. STAT. 2010.
3. "The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing the facts of his/her case by clear and convincing evidence . . ." Regulation 11 CSR 45-13.060(2).
4. "Clear and convincing evidence" is evidence that "instantly tilts the scales in the affirmative when weighed against the opposing evidence, leaving the fact finder with an abiding conviction that the evidence is true." *State ex. rel. Department of Social Services v. Stone*, 71 S.W.3d 643, 646 (Mo. App. 2002).
5. "The state has a legitimate concern in strictly regulating and monitoring riverboat gaming operations. As such, any doubt as to the legislative objective or intent as to the Commission's power to regulate riverboat gaming operations in the state must be resolved in favor of strict regulation." *Pen-Yan Investment, Inc. v. Boyd Kansas City, Inc.*, 952 S.W.2d 299, 307 (Mo. App. 1997).
6. Section 313.812.8 RSMo. states, "[a] license shall not be granted if the applicant has plead guilty to, or has been convicted of, a felony. . ."

DISCUSSION

The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. Petitioner had the burden to show by clear and convincing evidence that the Commission should grant him a license. Petitioner admitted to pleading guilty to the felonies in 1989. Petitioner did adduce evidence that he had successfully held a Missouri Level II license for ten years, and an Illinois occupational gaming license for another ten years.

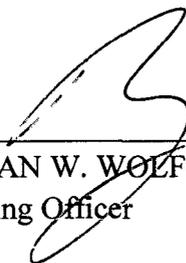
Petitioner's testimony did not overcome the legal authority that rests with the Commission to deny Petitioner his license based upon his plea of guilty to two felony offenses. The law expressly states that persons who have plead guilty to a felony offense are unsuitable to hold an occupational license. Petitioner did not meet his burden of proof by clear and convincing evidence that would necessitate a reversal of the Commission's decision to find Petitioner unsuitable for licensure.

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner did not meet his burden of proof to show that he is suitable for a Level II Occupational license in that Petitioner failed to provide the information needed on his application for a Level II Occupational License. The decision of the Commission dated November 10, 2014 is affirmed as a proper denial of a license for Petitioner.

DATED: _____

February 24, 2015



BRYAN W. WOLFORD
Hearing Officer