

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 16-046

ALEXIS M. POLLARD
September 28, 2016

WHEREAS, Alexis M. Pollard ("Pollard"), requested a hearing to contest the proposed disciplinary action initiated against her on March 29, 2016, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-16-047; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Pollard's 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 issues to Pollard a revocation of her occupational license in the above-referenced case in the matter of DC-16-047; 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:)
)
ALEXIS M. POLLARD) Case No. DC 16-047
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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 a request for hearing dated March 31, 2016, submitted by Ms. Alexis M. Pollard (hereinafter referred to as "Licensee"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated March 29, 2016. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a hearing on June 21, 2016, where the Commission's attorney, Ms. Carolyn H. Kerr, appeared to present evidence and arguments of law. However, though properly notified of the Hearing date and time, Licensee appeared not.

FINDINGS OF FACT

1. Licensee holds a Level II Occupational license granted by the Commission for employment on an excursion gambling boat licensed by Commission.
2. On February 23, 2013, Licensee was employed as a Dealer at the Ameristar Casino located in the State of Missouri.
3. At all relevant times as alleged herein, Trooper David Leitman ("Leitman") was an investigator employed by the Commission.
4. On November 9, 2015, a computer inquiry through the Missouri State Highway Patrol revealed Licensee had been arrested by the Audrain County Sheriff's Department, a fact that had been unreported to Trooper Leitman during a rehire interview with Licensee on November 5, 2015.
5. Trooper Leitman's investigation revealed the following:
 - i. Licensee's Occupational License was changed to "casino restricted" when Licensee left a job at the Isle of Capri Casino in Boonville;
 - ii. During a rehire interview at the Casino, Trooper Leitman asked Licensee if anything had changed since she left the job in Booneville;
 - iii. Licensee was also asked if she had had any contact with the police or courts in that intervening time period;
 - iv. Licensee denied any change in status or any contact with the police or courts; and

- v. Licensee failed to disclose that she had been arrested on October 24, 2015, for theft.
6. Licensee was properly notified of a Hearing in this matter for June 21, 2016, but appeared not.

CONCLUSIONS OF LAW

1. "The Commission shall have the full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to 313.850." Section 313.805, MO. REV. STAT. 2000.
2. "A holder of any license shall be the subject to 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 or the State of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action . . . the following acts or omissions 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. 2000.
3. "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 this 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).
4. The burden of proof is at all times on the Licensee. The Licensee 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).
5. "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).
6. "The Commission shall have the following powers: . . . to access any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission . . ." Section 313.805(6), MO. REV. STAT. 2000.
7. Commission's Exhibit 1 (Correspondence from Commission to Licensee dated March 29, 2016, along with the Preliminary Order for Disciplinary Action); Commissioner's Exhibit 2 (Correspondence from Licensee to Commission dated March 31, 2016, requesting a hearing); Commission's Exhibit 3 (Investigation Report for Incident 20151110002); and Commission's Exhibit 4 (Correspondence dated April 25, 2016, notifying Licensee of the date, time and place for said Hearing, along with the "received" green card) were all received into evidence.
8. Licensee's failure to report her October 24, 2015, arrest to her interviewer is injurious to the public health, safety, morals, good order and general welfare of the people of the State of Missouri and

discredits the Missouri gaming industry and the State of Missouri, in that Licensee's acts or omissions violate 11 CSR 45-4.260(4)(N) and 11 CSR 45-10.020(2) and (3).

DISCUSSION

The actions or omissions of Licensee as described in the Findings of Fact paragraphs 4 and 5, including all subparts, above, violate 11 CSR 45-4.260(4)(N) and 11 CSR 45-10.020(2) and (3), and, thus, provide grounds to discipline Licensee's Occupational License pursuant to §§ 313.805 and 313.812.14(1), (2) and (9), RSMo and 11 CSR 45-4.260(4)(E), (F), (N) and (Q).

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Licensee did not appear at the requested Hearing and, hence, did not meet her burden of proof to show clearly and convincingly that she should not be subject to discipline as per paragraph 7, *supra*. The decision of the Commission dated March 29, 2016, is affirmed as a proper form of discipline to impose upon Licensee, being revocation of her Level II Occupational license.

Dated:

August 1, 2016



Chas. H. Steib, Hearing Officer