

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 18-003

ANTHONY W. CALANDRO
January 10, 2018

WHEREAS, Anthony W. Calandro ("Calandro"), requested a hearing to contest the Notice of Exclusion initiated against him on March 29, 2017, by the Commission's issuance of a Resolution Excluding him from Excursion Gambling Boats and Facilities in Missouri; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Calandro'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 approves and adopts the attached Final Order in the matter of DC-17-071; 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:

ANTHONY W. CALANDRO

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Case No. DC-17-071

MISSOURI GAMING COMMISSION

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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 "MGC" "Commission") upon receipt of a request for a Hearing by Anthony W. Calandro (hereinafter referred to as "Calandro" "Petitioner"). Said request for Hearing was in response to Calandro's Request that the Commission Resolution No. 17-020, dated March 29, 2017, permanent placement on the Exclusion List be modified to only run concurrently with his supervised probation sentence of three (3) years as ordered by the United States District Court for the Eastern District of Missouri. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a Hearing on September 14, 2017. The Commission's attorney, Mrs. Carolyn Kerr, appeared to present evidence and arguments of law. Calandro appeared and testified.

FINDINGS OF FACT

1. On November 8, 2012, Calandro was found guilty in the United States District Court of the Eastern District of Missouri of Health Care Fraud, sentenced to seventy-two (72) months imprisonment, three (3) years supervised probation upon release and to pay \$966,863.45 in restitution (MGC Ex.6, p.000002).

2. On November 8, 2012, Calandro was found guilty in the United States District Court for the Eastern District of Missouri of False Statements Relating to Health Care matters, sentenced to seventy-two (72) months imprisonment, three (3) years supervised probation upon release and to pay \$966,863.45 in restitution (MGC Ex.6, p.000003).

3. All seventy-two (72) months sentences of Calandro were to be served concurrently (MGC Ex.6, p.000003).

4. On January 23, 2013, Calandro pleaded guilty in the United States District Court, Eastern District of Missouri, to Mail Fraud and was sentenced to imprisonment for seventy-two (72) months and three (3) years supervised probation upon release (MGC Ex.5, p.000001).

5. On January 23, 2013, Calandro pleaded guilty to False Statements and Concealment of Facts in Relation to Documents Requested by the Employee Retirement Employee Income Security Act of 1974 and was sentenced to imprisonment for seventy-two (72) months and three (3) years supervised probation upon release (MGC Ex.5, p.000002).

6. On August 1, 2014, Calandro pleaded guilty in the Circuit Court for the 21st Judicial Circuit of Missouri to the Felony CRSMo 570.030 Theft/Stealing and sentenced to incarceration of three (3) years, to be concurrent with all other sentences (MGC Ex.4, p.1).

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7. Calandro, after serving the incarceration sentences, was released from the Federal Prison at Pekin, Illinois, July 6, 2017 (Tr.8, 1.2-3).

8. Calandro is currently making restitution of the \$966,863.45 sentence, pursuant to automatic debit on his gross monthly income at the rate of \$500.00 or ten (10) percent (Tr.21, 1.9-10).

9. On March 29, 2017, pursuant to Commission Resolution No. 17-020, Anthony W. Calandro, was placed on the Exclusion List and prohibited from entering or having any contact of any kind with any Missouri riverboat gaming operation (MGC Ex.1, p.2).

10. Calandro Exhibits A through J and MGC Exhibits 1 through 9 were admitted into the Record.

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. 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).

3. "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).

4. "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).

DISCUSSION

11 CSR 45-15.010 Duty of Exclude states in part:

(1) No excluded person shall be permitted entry into any portion of a riverboat gaming operation. When a person is placed on the exclusion list by the commission, this person shall be prohibited from contact of any kind with any Missouri riverboat gaming operation unless and until a determination is made by the commission or a court to the contrary

11 CSR 45-15.030 Criteria for Exclusion or Election and Placement on an Exclusion List states in part:

(1) The commission may place a person on the exclusion list or eject that person from a riverboat gaming operation pending a hearing if the person has -
(A) Been convicted of a felony in any jurisdiction of any crime of moral turpitude or of a crime involving gaming;

- (B) Violated either the Act or these rules;
- (C) Performed any act or had a notorious or unsavory reputation which would adversely affect public confidence and trust in gaming;

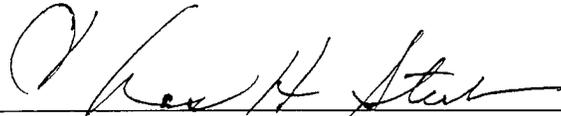
Albeit Calandro's extensive rehabilitation efforts evidenced by the Exhibits Calandro introduced at the Hearing of September 14, 2017, compliance with 11 CSR 45-15.030 *et seq.* and Calandro's criminal history mandate that Calandro be barred from entry into any portion of a riverboat gaming operation and his name remain permanently on the Exclusion List.

FINAL ORDER

WHEREFORE, THE PREMISES CONSIDERED, IT IS ORDERED AND ADJUDGED that Calandro did not show by clear and convincing evidence that his exclusion from Missouri gaming operation should be modified and therefore his name should remain permanently on the Exclusion List.

Dated:

October 25, 2017



Chas. H. Steib, Hearing Officer