

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 19-006

KATRINA ROBERSON
February 27, 2019

WHEREAS, Katrina Roberson (“Roberson”), requested a hearing to contest the proposed disciplinary action initiated against her on June 5, 2018, 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 Roberson’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-18-080; 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: Katrina Roberson

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Case No. 18-080

Applicant.

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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 June 20, 2018 making a request for a hearing by Katrina Roberson (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Disposition of Occupational Gaming License dated June 5, 2018. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on November 7, 2018. Petitioner appeared in person. The Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On May 17, 2018, 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 application for a Level II Occupational License contained the following question numbered 14(b): "Have you ever been arrested, detained, charged, indicted, convicted, pleaded guilty or nolo contendere (no contest), or forfeited bail concerning any crime or offense, in any federal, state, or local jurisdiction, including any findings or pleas in a suspended imposition of sentence? If yes, complete the following chart." The chart asked for details.
4. Petitioner checked the box marked "No" indicating that she had nothing to disclose. Petitioner did not provide any further answer on the chart in question 14(b).
5. The Commission's investigator, David Leitman, conducted an investigation interview with Petitioner on May 9, 2018. Mr. Leitman testified that he specifically asked Petitioner if she had any contact at all with law enforcement or the courts and Petitioner did not disclose any contact.

6. The Commission's investigation revealed that Petitioner was arrested by the Missouri Highway Patrol Gaming Division on July 20, 2004 for Theft over \$500, a Class D felony.
7. At hearing, Petitioner testified that she was brought in for questioning by Commission agents in July of 2004, but that she was never told she was under arrest. She testified that she was suspended for 30 days by her employer, and that she voluntarily left employment after her suspension. Petitioner testified that she was never charged or detained as a result of the incident.
8. On cross examination, Petitioner admitted that she was fingerprinted and photographed as a result of the July 20, 2004 incident.

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. (2017) states: "[a] license shall not be granted if the applicant has not established the applicant's good repute and moral character or if the applicant has pled 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 her a license. Petitioner failed to disclose a felony arrest by the Missouri State Highway Patrol Gaming Division in which she was alleged to be a co-conspirator in a theft of over \$500. Petitioner was afforded several opportunities to disclose the arrest during the application process, and at each opportunity, she chose to conceal the July 20, 2004 arrest.

The application process by written documents and by a personal interview provided clear instruction of the duty to disclose and to correctly state information called for in the application process. Petitioner did not comply with the requirement to disclose any past arrests to the Commission. Petitioner's testimony did not overcome the legal authority that rests with the Commission to deny Petitioner a Level II license based upon the statutory finding that the Petitioner must establish their good repute and moral character. Petitioner did not meet her 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 she is suitable for a Level II Occupational license in that Petitioner pled guilty to a felony. The decision of the Commission dated June 5, 2018 is affirmed as a proper denial of a license for Petitioner.

DATED: December 27, 2018



BRYAN W. WOLFORD
Hearing Officer