

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 21-037

ANTHONY CALANDRO
August 25, 2021

WHEREAS, the Missouri Gaming Commission (hereafter, "Commission") placed Anthony Calandro ("Calandro") on the Exclusion List by Commission Resolution No. 17-020, dated March 29, 2017, excluding him from Excursion Gambling Boats and Facilities in Missouri; and

WHEREAS, on November 16, 2020, Calandro filed a written petition with the Commission for a hearing to have his name be removed from Exclusion List pursuant to 11 CSR 45-15.040 and 11 CSR 45-15.050; and

WHEREAS, on May 4, 2021, an administrative hearing was held, pursuant to 11 CSR 45-13.010, et seq., and 11 CSR 45-15.010, et seq., 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 adopts the attached Final Order in the matter of DC 17-071, retaining Anthony Calandro's name on the Exclusion List; and

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

SO ADOPTED.



Mike Leara, Chairman
Missouri Gaming Commission

.BEFORE THE MISSOURI GAMING COMMISSION

In Re: Anthony Calandro

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Case No. 17-071

License Number: None

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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 and written petition dated November 16, 2020 making a request for a hearing by Anthony Calandro (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Resolution of Exclusion dated March 29, 2017. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on May 4, 2021 where the Petitioner and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On November 8, 2012, Petitioner Anthony Calandro was found guilty in the United States District Court, Eastern District of Missouri of Health Care Fraud and False Statements Relating to Health Care matters. He was sentenced on both charges to seventy-two (72) months imprisonment followed by three (3) years supervised probation upon release and to pay \$966,863.45 in restitution. Both seventy-two (72) month sentences were to be served concurrently.
2. On January 23, 2013, Petitioner pled guilty in the United States District Court, Eastern District of Missouri to Mail Fraud and Concealment of Facts in Relation to Documents Requested by the Employee Retirement Employee Income Security Act of 1974. He was sentenced on both charges to seventy-two (72) months imprisonment followed by three (3) years supervised probation upon release.
3. On August 1, 2014, Petitioner pled guilty in the Circuit Court for the 21 Judicial Circuit of Missouri to Theft/Stealing in violation of § 570.030 RSMo. He was sentenced to incarceration of three (3) years, concurrent with all other sentences.
4. On March 29, 2017 the Commission enacted Resolution 17-020 regarding exclusion of Petitioner Anthony Calandro from excursion gambling boats and facilities in Missouri. The Resolution resulted in Petitioner being permanently placed on the Exclusion List

5. On April 24, 2017, Petitioner filed a written petition with the Commission for a hearing to have his name removed from the Exclusion List. Following the hearing, the Commission enacted Resolution 18-003 denying the petition for exclusion.
6. On September 14, 2020, Petitioner's probation was discharged, and Petitioner was deemed to have successfully completed his supervision.
7. On November 16, 2020, Petitioner filed a written petition with the Commission pursuant to 11 CSR 45-15.050 to have his name removed from the Exclusion List.
8. Petitioner testified that he successfully completed his incarceration and supervised release. He testified that he continues to pay his restitution in monthly increments of \$387.00 that is automatically debited from his Social Security income. Petitioner states he tries to pay an additional \$500.00 per month when he can, and that he still owes several hundred thousand dollars of his restitution. Petitioner admitted that he attended RDAP or rehabilitation for drug and alcohol problems during his incarceration, and that the rehabilitation included gambling counseling. His exhibits admitted into evidence show his progress toward rehabilitation. He requested that the Commission remove him from the Exclusion List so that he can be on gambling properties and participate in gaming.
9. Master Sergeant Amy Johnson of the Gaming Division of the Missouri State Highway Patrol testified on behalf of the Commission about an incident that occurred on September 21, 2020 involving the Petitioner. Petitioner had entered Hollywood Casino St. Louis and gambled with the player's card of his wife, Linda Calandro. Petitioner had won a jackpot on a slot machine, and Master Sergeant Johnson became aware that he was on the Exclusion List. She stated that the Petitioner told her that he mistakenly believed he could gamble again because he had been released from supervision. She stated that even though he was not lawfully on the gaming floor, she used her discretion as a gaming officer to allow him to leave rather than citing him for criminal trespass.

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. 2020.
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 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).
5. 11 CSR 45-15.030.1 states, in relevant part, "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 . . ."
6. 11 CSR 45-15.050 states, "Any person who has been placed on any exclusion list may petition the commission in writing and request that his/her name be removed from this list."

DISCUSSION

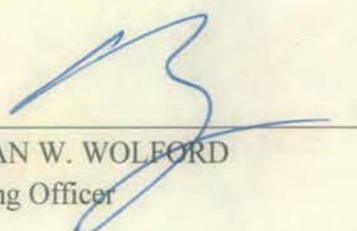
The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, the Commission previously upheld the Petitioner's placement on the Exclusion List for committing felonies involving moral turpitude. Petitioner subsequently completed his sentences of incarceration and supervised release successfully and is now requesting removal from the Exclusion List.

At hearing, Petitioner provided examples of his conduct and behavior from the date of his convictions and by all accounts, Petitioner has led a productive and law-abiding life since committing his crimes. Though Petitioner was discovered on the gaming floor of Hollywood Casino St. Louis using a player's card belonging to his wife to gamble, he is afforded the benefit of the doubt as to his mistaken belief that he could be at a Missouri casino following his completion of Federal supervision. However, the Petitioner has not satisfied all of the conditions of his criminal convictions in that he still owes a substantial amount of restitution to the Federal government. He was also convicted of multiple felonies involving moral turpitude. Therefore, Petitioner should not be removed from the Exclusion List at this time. Petitioner did not meet his high burden of proof of clear and convincing evidence in showing that he should be removed from the Exclusion List.

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner is found to be properly placed on the Exclusion List. His Petition for Removal is DENIED.

DATED: June 29, 2021



BRYAN W. WOLFORD
Hearing Officer