

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 21-039

ALFRED BROWN
August 25, 2021

WHEREAS, the Missouri Gaming Commission (hereafter, "Commission") placed Alfred Brown ("Brown") on the Exclusion List by Commission Resolution No. 16-018, dated April 27, 2016, excluding him from Excursion Gambling Boats and Facilities in Missouri; and

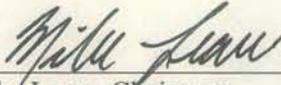
WHEREAS, on March 12, 2021, Brown filed a Request with the Commission for a hearing to have his name be removed from Exclusion List pursuant to 11 CSR 45-15.040 and 11 CSR 45-15.050; and

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 Brown'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-21-0014, retaining Alfred Brown'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: Alfred Brown

)

)

)

Case No. 21-014

License Number: None

)

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 March 12, 2021 making a request for a hearing by Alfred Brown (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Resolution of Exclusion dated April 27, 2016. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on May 4, 2021 where the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law. The Petitioner, though duly notified of the location, date, and time of the hearing, did not appear and no one acting on behalf of the Petitioner appeared.

FINDINGS OF FACT

1. On March 30, 2021, the Commission sent a letter to Petitioner by certified mail, return receipt requested, to his last-known address at 13224 Thornhill Drive, St. Louis, Missouri 63131. The letter notified the Petitioner that her hearing before the Commission's hearing officer was scheduled for Tuesday, May 4, 2021 at 9:00 a.m. at the Commission's Central Office located at 3417 Knipp Drive, Jefferson City, Missouri 65102. The Letter also provided the Commission's telephone number at (573) 526-4080. On February 27, 2019 the Commission enacted Resolution 19-010 regarding exclusion of Petitioner Alfred Brown from excursion gambling boats and facilities in Missouri. The Resolution resulted in Petitioner being permanently placed on the Exclusion List.
2. Petitioner did not appear at 9:00 a.m. and nobody on Petitioner's behalf called or appeared. The Hearing Officer conducted two other matters and, after calling the halls and checking the telephones, waited until 12:11 p.m. to start the hearing.
3. On May 5, 2015, Petitioner pled guilty to the felony of Filing a False Tax Return in violation of Title 26 U.S.C. § 7206(1), in the United States District Court Eastern District of Missouri. Mr. Brown failed to report significant income on his tax return Form 1040 for tax years 2008, 2009, and 2010. The Court sentenced Mr. Brown to a term of imprisonment totaling twelve months and one day, followed by one year of supervised release. He was ordered to pay an assessment of \$100.00 and restitution in the amount of \$99,038.00 to the Internal Revenue Service. Under the terms of his restitution agreement, Mr. Brown was ordered to pay his restitution in installments of \$500.00 per month until paid in full.

4. On April 27, 2016, the Commission enacted Resolution 16-018 regarding exclusion of Petitioner Alfred Brown from excursion gambling boats and facilities in Missouri pursuant to 11 CSR 45-15.030.1 for pleading guilty to a felony crime involving moral turpitude. The Resolution resulted in Petitioner being permanently placed on the Exclusion List.
5. On March 12, 2021, Petitioner filed a written petition with the Commission pursuant to 11 CSR 45-15.050 to be removed from the Exclusion List. In his Petition, Mr. Brown alleged that his tax returns were inaccurate because he needed extra money for a family emergency. He stated that he did agree to plead guilty pursuant to an *Alford* plea even though he thought that the allegations made by the prosecutor were unfounded and unsubstantiated.

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. 2017.
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. 26 U.S.C. § 7206(1) states, in relevant part:

Any person who:

- (1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties

of perjury, and which he does not believe to be true and correct as to every material matter;

* * *

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

6. 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 . . ."
7. 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

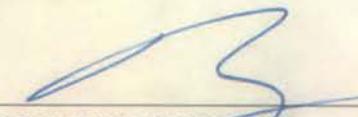
The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner knowingly and voluntarily pled guilty to the Federal crime of Filing a False Tax Return, pursuant to a negotiated plea. The crime is a felony crime of moral turpitude because it contains as an essential element the willful intent to make a false statement under penalty of perjury. Therefore, the Commission was legally permitted to place the Petitioner on the Exclusion List.

Petitioner failed to appear at the hearing and to present evidence as to why he should be removed from the Exclusion List. Therefore, the 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