MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 15-018

RONALD QUEEN
March 25, 2015

WHEREAS, Ronald Queen ("Queen"), requested a hearing to contest the proposed disciplinary action initiated against him on August 14, 2014, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-14-177; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Queen'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 finds that Queen should not be disciplined in the matter of DC-14-177; 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:	)	
	)	
RONALD QUEEN	)	Case No. DC 14-177
	)	
	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

The above-captioned matter comes before the Missouri Gaming Commission (hereinafter referred to as "MGC") upon a request for hearing submitted by Ronald Queen (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the MGC's Preliminary Order for Disciplinary Action dated August 14, 2014. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a hearing on December 11, 2014, where the Petitioner and the MGC's attorney, Mrs. Carolyn H. Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. Petitioner at all relevant times herein held a Level II Occupational Gaming License granted by the MGC for employment on an excursion gambling boat licensed by the MGC.

2. On February 28, 2014, a Meeting was conducted by and among several employees, including Petitioner, a Count Room Manager, and Count Clerk, Ring Bol ("Ring"), at the Isle of Capri Casino.

3. Following said Meeting, and behind closed doors, an altercation occurred between Petitioner and Ring, the only occupants of the room.

4. The altercation continued out into the storage area of the Casino.

5. The Missouri Highway Patrol Investigator, Corporal Alex Whitehead, testified under oath that he was unable to determine who was the aggressor in the aforesaid altercation (Tr.p.23 l.15)

6. Petitioner testified under oath that Ring had been in an agitated state in the Meeting and Petitioner had instructed Ring to go home (Tr.p.28 l.5).

7. Petitioner testified under oath that behind the closed door Ring attacked him (Tr.p.30 l.3).

8. Petitioner testified under oath that the altercation continued into the storage room because the Petitioner attempted to separate himself from Ring (Tr.p.28 l.18).

9. No opposing evidence was adduced to discredit Petitioner's version of the altercation which depicted Ring as the aggressor in this matter or that Petitioner did not attempt to separate himself from Ring.

CONCLUSIONS OF LAW

1. "The MGC 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 MGC or any federal, state or local law 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 MGC'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 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).

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).

DISCUSSION

The credible evidence adduced in this matter reveals a casino Count Room Manager who attempted to defuse an angry employee by suggesting the employee go home to return on the following Monday. The testimony, uncontroverted, further reveals that said employee, Ring became aggressive and assaulted Petitioner who attempted to separate himself from the altercation.

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner did meet his burden of proof in that his testimony when weighed against any opposing evidence, leaves the finder of fact with the conviction that Petitioner should not be disciplined in this matter and a three (3) calendar day suspension not be imposed on Petitioner.

Dated: May 26, 2015

Chas. H. Steib, Hearing Officer