

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 17-011

THRESSIA LEAHY
March 1, 2017

WHEREAS, Thressia Leahy ("Leahy"), requested a hearing to contest the proposed disciplinary action initiated against her on September 7, 2016 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 Leahy'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-16-178; 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:)
)
THRESSIA LEAHY) Case No. DC-16-178
)
)

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 Thressia Leahy (hereinafter referred to as "Applicant"). Said request for Hearing was in response to the Commission's denial to issue Applicant an Occupational Gaming License. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a Hearing on December 20, 2016. The Commission's attorney, Mrs. Carolyn Kerr, appeared to represent evidence and arguments of law. Applicant and her husband, Steven Leahy, appeared to testify.

FINDINGS OF FACT

1. On July 7, 2016, Applicant made application with the Commission in order to obtain a Level II Occupational License for employment in the gaming industry.
2. The application for a Level II Occupational License contained the following question numbered 14.b: "Have you ever been arrested, detained, charged (emphasis added), 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 asks for details.
3. Page 18 of said Application, initialed by Applicant contains the following language:

CIVIL, CRIMINAL AND INVESTIGATORY PROCEEDINGS

The next question asks about any arrests, charges or offenses you have committed, prior to answering this question, carefully review the definitions and instructions which follow.

DEFINITIONS: For purposes of this question:

- A. "Arrest" includes any detaining, holding, or taking into custody by any police or other law enforcement authorities to answer for the alleged performance of any "offense".
- B. "Charge" means any indictment, complaint, information, summons (emphasis added), ticket, or other notice of the alleged commission of any "offense".
- C. "Offense" means all felonies, crimes, misdemeanors, municipal ordinance violations, military court-martials, and violations of

probation or other court order. An “offense” does not include traffic or parking violations, except for driving while revoked / suspended, alcohol / drug-related traffic violations, and leaving the scene of an accident.

4. Applicant gave her written response as “no”.
5. Applicant was granted a Temporary Gaming License on July 27, 2016.
6. In response to Applicant’s application, the Commission conducted an investigation in order to determine Applicant’s suitability for employment in the gaming industry.
7. The Commission’s investigation revealed that Applicant had failed to disclose a charge of Class A Misdemeanor Theft on July 6, 2016, the day before she completed the Application herein, in the Municipal Court of Shawnee, Kansas, pursuant to which she entered a Diversion Program.
8. The Commission’s investigation further revealed that on July 6, 2016, Applicant stipulated in the Municipal Court of Shawnee, Kansas, that she was “the individual charged (emphasis added) “herein” *sic* the Class A Misdemeanor Theft.
9. Applicant admitted on September 12, 2016, “I did receive a summons to court” (Commission Exhibit 3).
10. Applicant admitted that at the time she was completing the Application here in she completely understood all the definitions shown on Page 18, without ambiguity (Tr.p.43, l.12-16).
11. Applicant admitted that pursuant to the summons, *supra*, she did appear before a Judge (Tr.p.46, l.7-9).
12. Applicant admitted that she was charged with shoplifting (Tr.p.50, l.20-22).
13. Applicant admitted that she did not tell Bradley Baker, an investigator for the Missouri Gaming Commission, that she had received a ticket for alleged shoplifting (Tr.p.52, l.5-8).
14. On September 7, 2016, Applicant’s Temporary Occupational License was seized and she was denied a Level II Occupational License for failure to disclose the charge of Class A Misdemeanor in Shawnee, Kansas.
15. On September 12, 2016, Applicant requested a Hearing regarding the denial of a Level II Occupational License (Commission Exhibit 3).
16. Commission Exhibits 1, 2, 3, 4, 5, 6 and 7 were admitted into the record without objection (Tr.p.10, l.7-25; p.11, l.1-24).

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. "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 Commission or any federal, state or local law regulation; . . . "Section 313.812.14, MO. REV. STAT. 2000.

3. The burden of proof is at all times on the Applicant. The Applicant 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 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

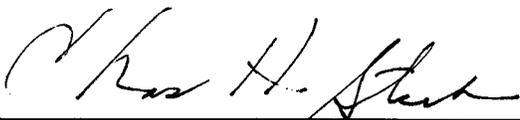
Applicant herein contends she has never been "arrested" and, hence, had no duty to disclose the incident involving Applicant in the Municipal Court of Shawnee, Kansas, Applicant admits, however, she did receive a summons to go to Court, does admit she was charged with a Class A Misdemeanor and did admit she understood the definitions contained in the Application, including the terms "charge" and "summons".

FINAL ORDER

WHEREFORE, THE PREMISES CONSIDERED, IT IS ORDERED AND ADJUDGED that Applicant did not meet her burden of proof to show by clear and convincing evidence that she should be issued a Level II Occupational License and same is DENIED to Applicant.

Dated:

January 24, 2017



Chas. H. Steib, Hearing Officer