

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 17-014

GORDON THOMAS
March 1, 2017

WHEREAS, Gordon Thomas ("Thomas"), requested a hearing to contest the proposed disciplinary action initiated against him on October 6, 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 Thomas' 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-16-199; 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:)
)
GORDON THOMAS) Case No. DC-16-199
)

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 a request for Hearing submitted October 6, 2016, by Gordon Thomas (hereinafter referred to as "Applicant"). Said request for Hearing was in response to the Commission's Disposition of Occupational Gaming License Application dated October 6, 2016. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a Hearing on December 20, 2016, where the Commission's attorney, Mrs. Carolyn H. Kerr, appeared to present evidence and arguments of law. However, though notice of the Hearing date and time was sent to Applicant's last stated address, Applicant appeared not.

FINDINGS OF FACT

1. Applicant disclosed in the Level II Occupational License Application Personal Disclosure Form 2 the following arrests and charges regarding his background:

- a. 2003 Driving While Intoxicated Junction City, Kansas
No Insurance
No Operator's License
- b. 1991 Driving While Intoxicated Junction City, Kansas
No Insurance
No Operator's License
- c. 1988 Shoplifting Junction City, Kansas
- d. 1988 Possession of an Open Container Junction City, Kansas
- e. 1988 Shoplifting Junction City, Kansas
- f. 1987 Conspiracy to Distribute Junction City, Kansas
- g. 1986 Shoplifting Junction City, Kansas

2. The Missouri Criminal History regarding Applicant obtained from the Criminal Justice Information Services Division of the Missouri Highway Patrol reflects that between 1984 and 1993 Applicant had been arrested for the following offenses: Theft (June 23, 1984); Theft (July 20, 1984); Burglary (February 18, 1985); Consumption or Sale of Liquor by Minor (February 18, 1985); Possession of Hallucinogenic (June 18, 1985); Driving While License Suspended (April 18, 1988); Burglary (March 23, 1988); Driving While License Suspended (November 26, 1988); Contempt of Court (December 18,

2014); Terroristic Threat (September 22, 1989); Theft (May 29, 1990); Contempt of Court (November 17, 1990); Failure to Appear (November 8, 1992); Contempt of Court (December 26, 1993); Contempt of Court (November 9, 1993) (MGC Exhibit 7).

3. MGC Exhibits No. 1 (Disposition of Occupational Gaming License Application); No. 2 (Written Statement of Gordon Thomas dated October 6, 2016); No. 3 (Correspondence of Gordon Thomas dated October 7, 2016); No. 4 (Notice of Duty to Disclose Arrests and Convictions); No. 5 (MGC Applicant Interview Form); No. 6 (MGC Level II Occupational License Application Personal Disclosure Form 2); and No. 7 (Missouri Highway Patrol Criminal History Record regarding Gordon Thomas) were admitted into the Record without objection.

4. Notification of the December 20, 2016, date and 1:00 p.m. time for the Hearing requested by Applicant was sent to Applicant's last known address.

5. At the appointed time and the appointed date for said Hearing, the Applicant, although thrice called, appeared not.

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 Applicant 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 or 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 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).

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).

6. "The MGC shall have the following powers: . . . to access any appropriate administrative penalty against an Applicant, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the MGC . . ." Section 313.805(6), MO. REV. STAT. 2000.

DISCUSSION

Although notification of the appointed time, date and place for the Hearing was mailed to Applicant's last known address, Applicant failed to appear.

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Applicant did not appear and, hence, did not meet his burden of proof to show clearly and convincingly that he should be granted a Level II Occupational Gaming License, same is DENIED.

Dated: _____

January 24, 2017

Chas H Steib

Chas. H. Steib, Hearing Officer