

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 18-001

FREW AREGA  
January 10, 2018

WHEREAS, Frew Arega ("Arega"), requested a hearing to contest the proposed disciplinary action initiated against him on April 12, 2017, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-17-031; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Arega'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 issues to Arega a revocation of his occupational license in the above-referenced case in the matter of DC-17-031; 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:

FREW Z. AREGA

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Case No. DC-17-0

MISSOURI GAMING COMMISSION

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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 "MGC" "Commission") upon receipt of a request for a Hearing by Frew Z. Arega (hereinafter referred to as "Licensee" "Petitioner"). Said request for Hearing was in response to the Commission's Preliminary Order for Disciplinary Action of March 29, 2017, to Revoke the Licensee's Level II Occupational License. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a Hearing on September 14, 2017. The Commission's attorney, Mrs. Carolyn Kerr, appeared to present evidence and arguments of law. Licensee appeared and was represented by Legal Counsel, Gerard Diekman, Esq.

**FINDINGS OF FACT**

1. On November 30, 2016, Licensee was employed as a Dealer at Ameristar Casino (Tr.p.12, 1.9).

2. On July 23, 2015, Licensee executed a Missouri Gaming Commission Application for Statewide Self-Exclusion (the DAP List) by which he agreed to refrain from entering or attempting to enter all Missouri Casinos during the time period he was on the DAP List (MGC Ex. 5, p.2, Sec.2, 1.4).

3. MGC Exhibit 5 states:

The consequences of you violating this agreement are criminal trespass charges and denial of any winnings resulting from gambling while on the List of Disassociated Persons (MGC Ex.5, p.2, 1.7-8),

4. On November 30, 2016, Licensee entered the gambling floor at Lumiere Casino. (Tr.p.16, 1.6-8).

5. On November 30, 2016, Licensee admitted that he had been on the gaming floor at Lumiere Casino one week prior to November 30, 2016 (sic November 23, 2016) (Tr.p.16, 1.17-18).

6. At the Hearing of September 14, 2017, Licensee Stipulated and Agreed that he had been arrested at Lumiere Casino; had voluntarily prior signed with the DAP (List); and there was a violation of the DAP (List) (Tr.p.33, 1.21-24).

7. MGC Exhibit 1 (Preliminary Order for Disciplinary Action filed against Mr. Frew Z. Arega); Exhibit 2 (Licensee's Request for Hearings); Exhibit 3 (Gaming Incident/Investigation Report of November 30, 2016, reported by Corporal Samuel Buchheit); Exhibit 4 (DAP Information Sheet regarding Frew Z.

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Arega); Exhibit 5 (Missouri List of Disassociated Persons Application for Statewide Self-Exclusion executed by Frew Arega); and Exhibit 6 (Letter of August 18, 2015, from the Missouri Gaming Commission notifying Mr. Arega that he was placed on the DAP List based on his Application for same) were admitted into the Record.

### 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 Licensee 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 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).

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

The evidence in this matter clearly established that Licensee had placed himself on the DAP List on July 23, 2015, and that Licensee acknowledged that he would be arrested for trespass if he entered a Missouri excursion gambling boat in violation of the DAP agreement. Licensee further acknowledged on his DAP Application his understanding of 11 CSR 45-17 regarding the DAP List which is promulgated pursuant to RsMO 313.813. As per RsMO 313.813, any person that has been self-excluded is guilty of trespassing in the first degree if such person enters an excursion gambling boat. The evidence adduced and the Stipulations entered leave little doubt that Licensee's conduct as set out in paragraphs 4 and 5 violated the DAP List agreement Licensee executed July 23, 2015.

**FINAL ORDER**

WHEREFORE, THE PREMISES CONSIDERED, IT IS ORDERED AND ADJUDGED that Licensee did not meet his burden of proof to show by clear and convincing evidence that his Level II Occupational License should not be revoked and, therefore, Licensee's Level II Occupational License should be Revoked.

Dated:

October 25, 2017



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Chas. H. Steib, Hearing Officer