

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 18-020

GENEEN L. HARPER
April 25, 2018

WHEREAS, Geneen L. Harper ("Harper"), requested a hearing to contest the proposed disciplinary action initiated against her on August 3, 2017, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-17-100; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Harper'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 Harper a revocation of her occupational license in the above-referenced case in the matter of DC-17-100; and

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission.

- d) Petitioner's status on the DAP List had not been rescinded as of May 12, 2017; and
 - e) Sgt. McCalister arrested Petitioner for "Trespass 1st Degree (Gambling Boat).
5. At hearing, Sgt. McCalister testified that Petitioner denied her identity to him at first, and denied having any identification on her person. However, she did produce her photo identification when she was escorted into the interview room. He testified that he confirmed that Petitioner was a DAP by the photograph in the DAP list registry.
 6. Petitioner testified at hearing that she was unaware that she was still on the DAP list because she thought her five years on the list had elapsed. She testified that she did not know that she had to ask to be removed from the list. She admitted that she made a mistake, and further stated that her trespassing charge was reduced to littering. Finally, she testified that, as of the hearing date, she had been removed from the DAP list.
 7. The Commission introduced into evidence as Exhibit 6 a letter from the Commission to Petitioner dated June 28, 2012 that confirmed her placement on the DAP list. The letter specified the rules and prohibitions of a DAP, and stated in conspicuous bold type that placement on the List of Disassociated Persons is for life. The letter further stated that Petitioner could ask to be removed from the DAP list after June 25, 2017.
 8. Petitioner's trespass on the gaming floor is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri and discredits the Missouri gaming industry and the State of Missouri, and violates Section 569.140.1 RSMo. (2017); Section 313.812.14 RSMo. (2017), 11 CSR 45-4.260(4)(E), (F), (L), (M), (P), & (Q); and 11 CSR 45-17.010 *et. seq.*

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. "A holder of any license shall be subject to the 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 of the state of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action . . . the following acts 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 or regulation." Section 313.812.14 MO. REV. STAT. 2017.

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 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).
6. Section 569.140.1, RSMo, states that "A person commits the crime of trespass in the first degree if he knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property."
7. 11 CSR 45-17.010.1 states ". . . Each person seeking placement on the List of Disassociated Persons acknowledges that it is his/her responsibility to refrain from visiting excursion gambling boats in Missouri and that by being placed on the list s/he shall have a criminal complaint filed against him/her for trespassing if s/he is discovered on an excursion gambling boat . . ."
8. "The commission may . . . revoke or suspend an occupational license of any person . . . who has failed to comply with or make provision for complying with Chapter 313, RSMo, the rules of this commission, or any federal, state, or local law or regulation." Regulation 11 CSR 45-4.260(4)(E).

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 was an experienced Dealer, and she knows her obligations as a Level II licensee. Petitioner voluntarily placed herself on the DAP list, and she

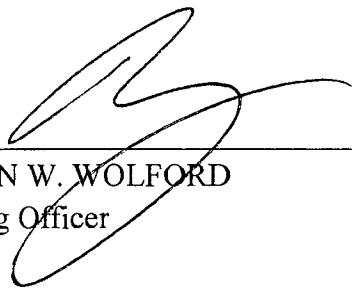
acknowledged that she understood the rules and regulations associated with being on the list. The letter she received from the Commission following her placement on the DAP list stated in conspicuous bold type that placement on the list was for life, but that she could petition the Commission to be removed from the list any time after June 25, 2017. Despite being on the list, Petitioner entered upon the gaming floor of *River City Casino* on May 12, 2017 and proceeded to gamble with her fiancé's casino card. When confronted by the Commission's boat agent, Petitioner lied about her identity. The Hearing Officer did not find Petitioner's testimony that she believed she was not on the DAP list anymore to be credible.

Petitioner's trespass on the gaming floor is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri and discredits the Missouri gaming industry. Petitioner did not meet her high burden of proof of clear and convincing evidence in showing that no violation occurred.

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner is found to have violated Missouri law and is subject to discipline at the discretion of the Commission. The decision of the Commission dated August 3, 2017 to impose a Revocation against Petitioner is affirmed as a proper and appropriate discipline.

DATED: March 26, 2018



BRYAN W. WOLFORD
Hearing Officer