

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 18-059

LINDA K. BOONE
December 5, 2018

WHEREAS, Linda K. Boone ("Boone"), requested a hearing to contest the proposed disciplinary action initiated against him on March 1, 2018, 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 Boone'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-18-063; 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:)
)
LINDA BOONE) Case No. DC-18-063
)

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 dated March 1, 2018, submitted by Linda Boone (hereinafter referred to as "Applicant"). Said request for Hearing was in response to the Commission's Disposition of Occupational Gaming License Application dated March 1, 2018. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a Hearing on September 11, 2018, 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 executed, on February 7, 2018, a Commission Level 11 Occupational License Application Personal Disclosure Form 2 on which Applicant failed to disclose the following:

Applicant plead guilty to/convicted of a felony [RSMo 313.812.8], as follows: 1) Arrest: 01/08/1992, KCMOPD; Receiving Stolen Property-Class C Felony, Jackson CO Cir Ct; Guilty – SIS May 7, 1992; and 2) Arrest: 07/09/1999, KCMOPD; Possession of Controlled Substance-Class C Felony, Jackson CO Cir Ct; Guilty - SIS April 5, 2001.

2. Upon being adduced by Mrs. Carolyn Kerr, Counsel for MGC, the following evidence was admitted into the Record: MGC Exhibit 1 – Disposition of Occupational Gaming Application License issued to Linda Boone dated March 1, 2018; MGC Exhibit 2 – Linda K. Boone Request for Hearing dated March 1, 2018, received March 5, 2018; MGC Exhibit 3 – MGC License Denial Checklist re: Linda K. Boone; MGC Exhibit 4 – Level II Occupational License Application Personal Disclosure Form 2 submitted February 7, 2018; MGC Exhibit 5 – MGC Gaming Employee Personnel Change Notice/Update dated February 22, 2018; MGC Exhibit 6 – Court Records regarding Case CR 92-0020 (Receiving Stolen Property, Class C Felony) and Case CR 99-06386 (Possession of a Controlled Substance, Class C Felony), both of Jackson County, Missouri, Circuit Court; and MGC Exhibit 7 – Certified Mail Receipt of Notice of Hearing.

3. Notification of the date, place and time for the Hearing requested by Applicant was sent to Applicant and received by Applicant.

4. 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

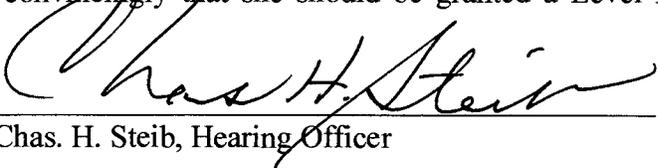
Although notification of the appointed time, date and place for the Hearing was mailed to Applicant and Applicant received same. Applicant failed to appear.

FINAL ORDER

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

Dated:

September 29, 2018


Chas. H. Steib, Hearing Officer