

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 22-030

PURE QUACH  
May 25, 2022

WHEREAS, Pure Quach ("Quach"), requested a hearing to contest the proposed disciplinary action initiated against him on January 12, 2022, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-21-058; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Quach'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 Pure Quach a thirty (30) day suspension of his occupational license in the above-referenced case in the matter of DC-21-058; and

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

  
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Mike Leary  
Chairman  
Missouri Gaming Commission

**BEFORE THE MISSOURI GAMING COMMISSION**

In Re: )  
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Pure Quach ) CASE NO. DC-21-0058  
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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER**

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This matter comes before the Missouri Gaming Commission (the “Commission”) upon receipt of a letter from Pure Quach (the “Licensee”) dated January 19, 2022, requesting a hearing in response to Commission’s Preliminary Order for Disciplinary Action dated January 12, 2022. The designated Hearing Office, Fawzy T. Simon, conducted a hearing on 3/2/2022 where Licensee and Mr. Ed Grewach, Counsel for Commission, appeared to present evidence and arguments of law.

**FINDINGS OF FACT**

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1. On July 8, 2021, and all times relevant to this proceeding, Licensee held a Missouri Gaming Level II License, numbered MGC145673.
2. On that date, Licensee was employed as a Dealer at Harrah’s Kansas City Casino.
3. On April 6, 2012, Licensee enrolled in the Disassociated Persons (DAP) program.
4. On April 19, 2017, Licensee’s status on the DAP was rescinded.
5. On March 27, 2018, Licensee re-enrolled in the DAP program and was placed on the DAP List as a “Lifetime Permanent” disassociated person.
6. On July 8, 2021, Licensee was found to have been on the gambling floor of the Argosy Riverside Casino.
  - a. In viewing Commission’s Exhibit 4, a compiled collection of surveillance video displaying Licensee at the Argosy, Licensee was shown entering the gaming floor, exchanging U.S. currency for casino chips at a mini-baccarat table, sitting at a different mini-baccarat table, placing several wagers, approaching the casino cages, exchanging casino chips for U.S. currency, leaving the casino area and walking towards the parking garage, elevators, being questioned by Cpl. Taibi of the Missouri State Highway Patrol (MSHP), and being taken into custody by Cpl. Taibi and directed to the MSHP office.

- b. Per the testimony of Cpl. Taibi, Licensee was taken into custody and issued a citation for trespass.
7. No evidence was presented that Licensee reported being issued a citation for the offense of trespassing.
8. In Commissions Exhibit 2, which is the letter from Licensee requesting a hearing on this matter and which was admitted by the Commission without objection, Licensee admits that he “didn’t understand the law so well so I made a mistake.” During the hearing it was readily apparent that Licensee had difficulty with the English language, resulting in concepts having to be explained in more simplistic language than would otherwise be necessary<sup>1</sup>.
9. Further in Exhibit 2, Licensee expresses remorse, understanding of his wrongdoing, and a promise to correct the conduct in the future. This is consistent with the posture taken by Licensee during the hearing.

#### **CONCLUSIONS OF LAW**

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1. “The Commission shall have full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to Section 313.850.” **RSMo.**
2. “A holder of any license shall be subject to the imposition of penalties, suspension, or revocation of such licensee, 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 RSMo.**
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...” **11 CSR 45-13.060(2).**

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<sup>1</sup> This comment is not meant to be derogatory towards Licensee, nor is it meant to excuse Licensee’s conduct as all occupational licensees are required to have a working knowledge of the statute and rules as those statutes and rules pertain to the Licensee’s responsibilities and job limitations. The language barrier does, however, inform the Hearing Officer as to the totality of the circumstances of the incident at question.

4. “Clear and convincing evidence...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 Dept. 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. Any person who has been self-excluded is guilty of trespassing in the first degree if such person enters an excursion gambling boat. **Mo. Rev. Stat. §313.813 and §569.140.1.**
7. Licensees shall report to the Commission any violation of law or commission rule committed by a licensee and shall report to and cooperate with law enforcement authorities in their investigation of the alleged offense. **11 CSR 45-10-030.**
8. All licensees shall have a working knowledge of the statutes and regulations pertaining to the responsibilities and limitations of their jobs. *Id.*

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## DISCUSSION

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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, Licensee entered the gaming floor of a Missouri Excursion Gambling Boat after having placed himself on the DAP list with a permanent lifetime ban, and the failing to report having committed the offense of trespass in the first degree.

Licensee’s action in so doing 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. Licensee did meet his/her burden to show by clear and convincing evidence that no violation occurred.

Licensee appears to have no other instances of having violated his status as a disassociated person. Further, in both his letter to the Commission requesting a hearing and in his testimony and demeanor during his hearing, Licensee displayed significant

remorse for his actions and has promise not to repeat the conduct. This Hearing Officer found the remorse and pledge of compliance on the part of Licensee to be genuine and credible.

### FINAL ORDER

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**WHEREFORE, IT IS ORDERED AND ADJUDGED** that Licensee did not meet his/her burden of proof to show by clear and convincing evidence that s/he should not be subject to discipline for entering the gaming floor of a Gaming Excursion Boat. The decision of the Commission dated January 12, 2022 to discipline Licensee is affirmed as proper and appropriate. However, due to Licensee's lack of history of violations, his cooperation with Cpl. Taibi during the MSHP investigation, and his attitude of remorse and contrition, it is this Hearing Officer's recommendation that the discipline in this matter be reduced to suspension of Licensee's Level II gaming license for a period of thirty (30) calendar days.

Dated: March 31, 2022

A handwritten signature in black ink, appearing to read 'Fawzy Simon', written over a horizontal line.

Fawzy Simon