

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 21-058

FERNANDO M. BARTOLOTTA

December 1, 2021

WHEREAS, the Missouri Gaming Commission (hereafter, "Commission") placed Fernando M. Bartolotta ("Bartolotta") on the Exclusion List by Commission Resolution No. 09-107, dated December 2, 2009, excluding him from Excursion Gambling Boats and Facilities in Missouri; and

WHEREAS, on March 16, 2021, Bartolotta filed a Request with the Commission for a hearing to have his name be removed from Exclusion List pursuant to 11 CSR 45-15.040 and 11 CSR 45-15.050; and

WHEREAS, on October 7, 2021, an administrative hearing was held, pursuant to 11 CSR 45-13.010, et seq., and 11 CSR 45-15.010, et seq., on Bartolotta'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 adopts the attached Final Order in the matter of DC-21-036, retaining Fernando M. Bartolotta's name on the Exclusion List; and

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

SO ADOPTED.



Mike Leara, Chairman
Missouri Gaming Commission

BEFORE THE MISSOURI GAMING COMMISSION

In Re:)
)
Fernando M. Bartolotta) CASE NO. DC 21-0036
)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER

This matter comes before the Missouri Gaming Commission (the “Commission”) upon receipt of a letter from Fernando M. Bartolotta (the “Petitioner”) dated March 16, 2021, requesting a hearing in response to Commission’s Resolution of Exclusion dated December 7, 2009. The designated Hearing Officer, Fawzy T. Simon, conducted a hearing on 10/7/2021 where Ms. Carolyn Kerr, Counsel for Commission, appeared to present evidence and arguments of law. Petitioner did not appear.

FINDINGS OF FACT

1. Petitioner was placed on the exclusion list on December 2, 2009.
2. Petitioner made proper application for, and was granted, a hearing to be held on October 7, 2021.
3. Said hearing was convened and Petitioner, although having been given proper notice, appeared not.

CONCLUSIONS OF LAW

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. “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).**
3. “Failure of the Petitioner to appear at the hearing shall constitute an admission of all matters and facts alleged by the commission in its notice of commission action and a waiver of the petitioner’s rights to a hearing.” **11 CSR 45-14.060(8).**

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, the petitioner was placed on the exclusion list on December 2, 2009. Although the petitioner made proper application to be removed from that list, and a hearing was granted, the petitioner failed to appear at that hearing. Per subsection 8 of the regulations related to hearings, petitioner's hearing was, by his own action, waived.

CONCLUSION

Petitioner did not meet his burden of proof of showing by clear and convincing evidence that s/he should be removed from the Exclusion List

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner is found to be properly placed on the Exclusion List. His/her Petition for Removal is **DENIED**.

Dated: October 11, 2021

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

Fawzy Simon