

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 14-076

DAJA DEHAYWARD  
October 29, 2014

WHEREAS, Daja DeHayward ("DeHayward"), requested a hearing to contest the proposed disciplinary action initiated against her on May 7, 2014, 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 DeHayward'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-14-250; 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:

DAJA DEHAYWARD

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)  
) Case No. 14-250  
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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 "Commission") upon receipt on May 28, 2014, of a request for a hearing by Daja Hehayward (hereinafter referred to as "Applicant"). Said request for hearing was in response to the Commission's denial to issue Applicant an Occupational Gaming License. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a hearing on August 20, 2014. Although duly notified of the place and time for the hearing, Applicant did not appear and no one on her behalf appeared. The Commission's attorney, Mrs. Carolyn Kerr, appeared to represent evidence and arguments of law.

**FINDINGS OF FACT**

1. On April 12, 2014, Applicant made application with the Commission in order to obtain a Level II Occupational License for employment in the gaming industry.
2. The application for a Level II Occupational License contained the following question numbered 14: "Have you ever been arrested, detained, charged, indicted, convicted, pleaded guilty or nolo contendere (no contest), or forfeited bail concerning any crime or offense, in any federal, state, or local jurisdiction, including any findings or pleas in a suspended imposition of sentence? If yes, complete the following chart." The chart asks for details.
3. Applicant gave her written response as "no".
4. Applicant was granted a Temporary Gaming License.
5. In response to Applicant's application, the Commission conducted an investigation in order to determine Applicant's suitability for employment in the gaming industry.
6. The Commission's investigation revealed that Applicant had failed to disclose an arrest by the Palmyra, Missouri, Police Department for felony possession of a controlled substance.
7. The Commission's investigation further revealed that on July 10, 2014, Applicant pled guilty to a charge of Class C Felony, possession of a controlled substance.
8. Following the investigation, *supra*, Applicant was denied a Level II Occupational Gaming License.
9. On May 28, 2014, Applicant requested a hearing.
10. The Commission sent a letter to Applicant by certified mail return receipt requested to her address of 117 North Main, Apt. E, LaGrange, Missouri. The United States Postal Service confirmed its

delivery with a receipt signed by Applicant. The letter notified Applicant that her hearing before the Commission's Hearing Officer was scheduled for July 8, 2014.

11. On July 8, 2014, Applicant failed to appear but did request from the Hearing Officer a Continuance due to a transportation issue by Applicant. Applicant was granted the Continuance with the caveat that she would be scheduled for the next Hearing date of August 20, 2014. Applicant was then notified, via mail addressed to the above address, of the August 20, 2014, Hearing.

12. Hearing Officer waited past the hour of 9:30 a.m. on August 20, 2014, to start the Hearing after first calling the halls to determine if Applicant was present.

13. Applicant did not appear and no one on her behalf appeared and no telephone call was received from Applicant or from any one on her behalf.

14. Commission's Exhibit 1 (Disposition of Occupational Gaming License Application); Exhibit 2 (Applicant's Request for Hearing); Exhibit 3 (License Denial Checklist); Exhibit 4 (Applicant's Level II Occupational License Application); and Exhibit 5 (State of Missouri CaseNet Printout re: Applicant's Case No. 14LE-CR00002-01) 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 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 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 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).

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).

6. "A license shall not be granted . . . if the applicant has pled guilty to, or has been convicted of a felony." Section 313.812.8, MO. REV. STAT. 2000.

7. "Failure of the Applicant 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 Applicant's rights to a hearing . . ." Regulation 11 CSR 45-13.060.

### DISCUSSION

Although duly notified, Applicant failed to appear at the assigned place, date and time for a hearing. The purpose of the scheduled hearing was to take evidence regarding Applicant's request to have a hearing to review the Commission's decision to deny her a license. Due to the fact that Applicant did not present herself for the hearing, the law renders her nonappearance as an admission of all the allegations.

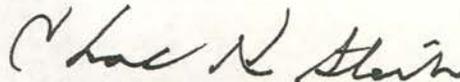
The Commission has no discretion but to deny Applicant a license for her arrest and failure to disclose a felony. The Statute mandates such action. Applicant had the burden to show by clear and convincing evidence that she is suitable to obtain a license. By her nonappearance, Applicant failed to provide any evidence which may exist to overcome the denial.

### FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Applicant is not suitable to procure a Level II Occupational License in that her criminal record shows she plead guilty to a felony crime. The Disposition of Occupational Gaming License Application denying a Level II License to Applicant dated May 7, 2014, is affirmed as a proper denial of a license for Applicant.

Dated:

September 12, 2014



Chas. H. Steib, Hearing Officer