

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 14-077

ALLIE L. THIGPEN
October 29, 2014

WHEREAS, Allie L. Thigpen (“Thigpen”), requested a hearing to contest the proposed disciplinary action initiated against him on April 30, 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 Thigpen’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-14-251; and

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission, however Thigpen shall be allowed to reapply for an occupational license on or after October 30, 2014.

BEFORE THE MISSOURI GAMING COMMISSION

In Re:

ALLIE LAVERNE THIGPEN

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Case No. DC 14-251

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 a request for a hearing dated May 27, 2014, submitted by Mr. Allie Laverne Thigpen (hereinafter referred to as "Applicant"). Said request for hearing was in response to the Commission's Disposition of Occupational Gaming License Application dated April 30, 2014. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a hearing on August 20, 2014, where the Commission's attorney, Ms. Carolyn H. Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On March 31, 2014, Applicant submitted a Level II Occupational License Application.
2. Said Application was denied because of a failure to disclose arrest/conviction [11 CSR 45-4.260 (4)], as follows: Failed to disclose an arrest for marijuana possession 1st Degree by Birmingham, Alabama, on 8/16/90, failed to disclose an arrest for traffic by Fairfield MS in or around 1995, failed to disclose an arrest in or around 2001-2002 by Birmingham, Alabama, for assault (domestic violence).
3. An Interview was held April 2, 2014, at which testimony was received from Applicant by Laura Nehring, Commission Investigator.
4. On May 27, 2014, Applicant filed a request for a Hearing regarding said denial (Commission Exhibit 2).
5. A Commission Hearing was scheduled for April 30, 2014, and rescheduled to August 20, 2014, at the request of Applicant.
6. At a Commission Hearing on August 20, 2014, Applicant was not represented by Legal Counsel although having been advised of his rights to be represented thereat.
7. At said Commission Hearing Commission Exhibit 1 (Deposition of Occupational Gaming License; Exhibit 2 (Applicant Request For Hearing); Exhibit 3 (License Denial Checklist); Exhibit 4 (Missouri Gaming Commission Applicant Interview Form); and Exhibit 5 (Missouri Gaming Commission Level II Occupational License Application Personal Disclosure Form 2) were all admitted into evidence without objection.

8. Throughout the aforesaid application process, Applicant failed to disclose the information set out in paragraph 2, *supra*, although the Commission Investigator questioned the Applicant, at the time, whether he had ever been arrested, detained, charged, indicted, convicted, pled guilty or no contest.

9. Following a fingerprint check, the information set out in paragraph 2, *supra*, was ascertained by the Commission Investigation, Applicant stated, he "didn't understand what they meant by arrested" (Tr.p.19), "I didn't think it (information of paragraph 1) would even be there" (Tr.p.20); and "To my knowledge I kind of forgot about some of that stuff" (Tr.p.21).

10. Prior to the fingerprint check results being received, Applicant was issued a Temporary Gaming License.

11. An arrest of Applicant for marijuana possession 1st Degree in Birmingham, Alabama, on 8/16/90; an arrest for a Traffic violation in Fairfield, Mississippi, in 1995; and an arrest for domestic violence in Birmingham, Alabama, in 2001, all had occurred and all of which Applicant failed to disclose in his Occupational Gaming License Application.

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. "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).

DISCUSSION

At the Hearing August 20, 2014, the fingerprint and public arrest information database was recognized as part of the Applicant's file. That database reveled the arrest record of Applicant set out in paragraph 2 hereof all of which Applicant failed to disclose on his Occupational Gaming License Application.

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Applicant did not meet his burden of proof to show clearly and convincingly that he should receive an Occupational Gaming License. The Disposition of Occupational Gaming License Application denying said License dated April 30, 2014, is affirmed.

Dated:

September 12, 2014

Chas H Steib
Chas. H. Steib, Hearing Officer