

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 14-030

MARK GOLDSWORTHY  
June 25, 2014

WHEREAS, Mark Goldsworthy ("Goldsworthy"), residing at 7338 Whitehall Colonial Lane, Shrewsbury, Missouri, was found to be unsuitable for a Level II Occupational License on April 1, 2013; and

WHEREAS, pursuant to 11 CSR 45-13.050, Goldsworthy has requested a hearing to contest the commission's finding of unsuitability for a Level II Occupational License; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Goldsworthy's application for a Level II Occupational License, and the Hearing Officer has submitted the Proposed Findings of Fact, Conclusions of Law and Final Order attached hereto (collectively, the "Order") for approval by the Commission;

NOW, THEREFORE, BE IT RESOLVED, that the Commission has reviewed the Order and the record of the hearing and hereby approves and adopts the attached Findings of Fact, Conclusions of Law and Final Order in the matter of Goldsworthy's request for a Level II Occupational License and by so doing, denies Goldsworthy a Level II Occupational License.

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



license. Petitioner did, in fact, plead guilty to the charge and submitted the court information to the Commission.

7. Petitioner argued that the Colorado offense was a gaming offense and not a gambling-related offense, which would make him ineligible to hold a Missouri Occupational Gaming License.
8. Sections 313.800 to 313.850 RSMo., and Title 11, Division 45, of the Code of State Regulations, make no distinction between a "gaming-related" and a "gambling-related" offense.

### CONCLUSIONS OF LAW

1. "The Commission shall have full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to 313.850." Section 313.805 MO. REV. STAT. 2010.
2. "A holder of any license shall be subject to the 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 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 MO. REV. STAT. 2010.
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 . . ." 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 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. "Within the five (5)-year period immediately preceding application for an occupational license . . . a conviction, plea of guilty or *nolo contendere*, or the entering of an Alford plea in any jurisdiction for the following . . . shall make the applicant or licensee unsuitable to hold an occupational license: 1) any gambling-related offense." Regulation 11 CSR 45-4.260(5).

### **DISCUSSION**

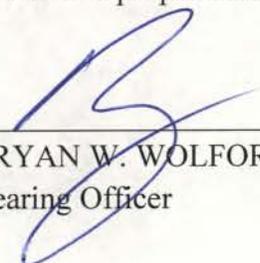
The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. Petitioner had the burden to show by clear and convincing evidence that the Commission should grant him a license. Petitioner admitted to pleading guilty to the Colorado misdemeanor of accepting a tip from a patron while he was a supervisor at Lodge Casino in Blackhawk, Colorado. The Colorado statute specifically prohibits the act of employees in supervisory positions from accepting gratuities from patrons at licensed gaming establishments. Neither the Colorado statutes and regulations nor the Missouri statutes and regulations make any distinctions between "gaming" and "gambling," and the terms are used synonymously. As such, the offense to which the Petitioner pled guilty is a gambling-related offense.

Petitioner's testimony did not overcome the legal authority that rests with the Commission to deny Petitioner his license based upon his plea of guilty to a gambling-related offense in Colorado. The law expressly states that persons who have plead guilty to any gambling-related offense are unsuitable to hold an occupational license. Petitioner did not meet his burden of proof by clear and convincing evidence that would necessitate a reversal of the Commission's decision to find Petitioner unsuitable for licensure.

### **FINAL ORDER**

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner did not meet his burden of proof to show that he is suitable for a Level II Occupational license in that Petitioner failed to provide the information needed on his application for a Level II Occupational License. The decision of the Commission dated April 1, 2013 is affirmed as a proper denial of a license for Petitioner.

DATED: April 11, 2014

  
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BRYAN W. WOLFORD  
Hearing Officer