MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 16-015

YONATAN GHEBREGZIABHER
April 27, 2016

WHEREAS, Yonatan Ghebregziabher ("Ghebregziabher"), requested a hearing to contest the proposed disciplinary action initiated against him on September 9, 2015, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-15-264; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Ghebregziabher'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 modifies the Final Order and issues to Ghebregziabher a thirty (30) day suspension of his occupational license, instead of revocation, in the above-referenced case in the matter of DC-15-264; 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:	)	
	)	
YONATAN GHEBREGZIABHER	)	Case No. DC-15-264
	)	
	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

The above-captioned matter comes before the Missouri Gaming Commission (hereinafter referred to as "Commission" "MGC") upon a request for hearing submitted by Yonatan Ghebregziabher (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the MGC's Preliminary Order for Disciplinary Action dated September 9, 2015. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a hearing on January 21, 2016, where the Petitioner and the MGC's attorney, Mrs. Carolyn H. Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. Petitioner holds a Level II Occupational Gaming License granted by the MGC for employment at a casino licensed by the MGC.

2. On July 13, 2010, Petitioner executed a MGC Notice Of Duty To Disclose Arrests And Convictions (MGC Exhibit 3, p.10) which required Petitioner to disclose within ten (10) days any material change in information from his Application submitted, including arrests, convections, guilty pleas and disciplinary actions.

3. On October 29, 2014, Petitioner pled guilty to the Class A Misdemeanor of Committing/Assisting Another In Committing Fraud/Deception during License Application, in violation of §302.233 RSMo.

4. On May 22, 2015, the Platte County Circuit Court entered a Judgment denying Petitioner's Petition for Limited Driving Privilege.

5. On June 3, 2015, Corporal Taylor T. Pitts, a member of the Missouri Highway Patrol assigned to the Gaming Commission at the Argosy Casino, initiated a regulatory investigation which found that Petitioner had not disclosed Items 3 or 4, *supra*, as required by 11 CSR 45-4.260(5) and 11 CSR 45-10.020(2) and (3).

6. At the Missouri Gaming Commission (MGC) Hearing conducted January 21, 2016, MGC Exhibit 1 (Cover Letter dated September 9, 2015, and Preliminary Order for Disciplinary Action); MGC Exhibit 2 (Correspondence of Petitioner dated September 15, 2015, requesting a Hearing); and MGC Exhibit 3 (Gaming Incident Report No. 20150603006) were all admitted into evidence without objection. Further, Petitioner's Exhibit A (Missouri Department of Revenue Reinstatement Notice); Exhibit B (Order of Discharge); and Exhibit C (Copy of Petitioner's Missouri Driver's License) were admitted into evidence without objections.

CONCLUSIONS OF LAW

1. "The MGC 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 denial of Licensee's application for a gaming employee license by the MLGCA provides grounds to discipline Licensee's occupational license pursuant to §§ 313.805(6) and 313.812.14(4), RSMo, and CSR 45-4.260(4)(G).

3. "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 MGC or any federal, state or local law regulation; . . . "Section 313.812.14, MO. REV. STAT. 2000.

4. "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 MGC'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).

5. 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).

6. "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).

7. "The MGC shall have the following powers . . . to access any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the MGC . . ." Section 313.805(6), MO. REV. STAT. 2000.

8. Pursuant to 11 CSR 45-4.260(4)(A), (E), (F), (N), and (Q), the Commission may suspend or revoke an occupational license of any person if any of the following occur:

   a. The Licensee "has been convicted of a crime or has been guilty of, plead guilty or *nolo contendere* to, or entered an Alford plea to a crime . . . for violations of any federal, state, county or city law including ordinance violations," under 11 CSR 45-4.260(4)(A);

9. Pursuant to Title 11 CSR 45-10.020:

   (2) All Level II occupational licensees and applicants shall have a continuing duty to disclose in writing, within ten (10) calendar days, any material change in the information provided in the application forms and requested material submitted to the commission.

(3) The duty to disclose changes in information shall continue throughout any application period or period of licensure granted by the commission. This duty shall be in addition to any other reporting requirements[.]

10. The actions or omissions of Licensee as described *supra* violate 11 CSR 45-4.260(5) and 11 CSR 45-10.020(2) and (3), and, thus, provide grounds to discipline Licensee's occupational license pursuant to §§ 313.805 and 313.812.14(1), (2), and (9), RSMo, and 11 CSR 45-4.260(4)(A), (E), (F), (N), and (Q).

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner did not meet his burden of proof to show clearly and convincingly that he should not be subject to discipline. The decision of the Executive Director of MGC dated September 9, 2015, is affirmed as a proper form of discipline to be imposed upon Petitioner. Petitioner's License for the violations aforesaid should be revoked.

Dated: February 14, 2016

Chas. H. Steib, Hearing Officer