

**STATE OF OHIO  
CASINO CONTROL COMMISSION**

*In re:*

**JOHN HUNT,  
CASINO GAMING EMPLOYEE LICENSE  
APPLICANT**

Respondent.

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Case No. 2012-0023  
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**ORDER DENYING CASINO GAMING EMPLOYEE LICENSE APPLICATION**

On February 27, 2012, Respondent John Hunt filed an application for a casino gaming employee license with the Ohio Casino Control Commission (“Commission”). (Hr’g Ex. F.) Thereafter, the Commission conducted a suitability investigation of Hunt to determine his eligibility for such a license.

During the suitability investigation, the Commission discovered sufficient derogatory information to warrant issuance of a Notice of Intent to Deny and Opportunity for Hearing (“Notice”), dated May 1, 2012. (Hr’g Ex. A.) Hunt received the Notice, sent via certified mail, on May 4, 2012. (Hr’g Ex. B.) Pursuant to R.C. 119.07 and 3772.04, Hunt had the right to a hearing if requested within 30 days of the Notice’s mailing. Hunt so requested and the Commission scheduled a hearing for May 17, 2012; and upon its own motion, the Commission continued the hearing until June 14, 2012. (Hr’g Ex. C.)

Through a letter, dated May 8, 2012, the Commission provided Hunt with supplemental information regarding the allegations contained in the Notice. (Hr’g Ex. D.) Hunt appeared at the hearing without counsel. Accordingly, the Commission held the hearing as scheduled before Hearing Examiner Andrew Cooke (“Examiner”).

After presentation and submission of the evidence at the hearing, the Examiner closed the record to prepare a Report and Recommendation (“R&R”), (Tr. 21-23), which he submitted on July 25, 2012. Therein, the Examiner found that Hunt: 1) submitted to the Commission a Casino Gaming Employee License Application (“Application”) that contained false information, in violation of R.C. 3772.10(C)(2); and 2) failed to prove, by clear and convincing evidence, his suitability for licensure as a casino gaming employee, as required by R.C. 3772.10(B). (R&R 3-4.) As a result of these findings, the Examiner recommended that the Commission deny Hunt’s Application. (Id. at 5.)

On July 26, 2012, the Commission sent Hunt, via certified mail, a copy of the R&R. (App. #1; App. #2.) Hunt received the R&R on July 28, 2012, (App. #2), giving him until August 27, 2012, to file objections, see R.C. 3772.04(A)(2) and 1.14. Hunt did so on August 13, 2012, (App. #3), and the Commission considered his filing before rendering this decision.

In accordance with R.C. 119.07 and 3772.04, the matter was submitted to the Commission on September 12, 2012, for final adjudication.

**WHEREFORE**, in consideration of the foregoing and upon a quorum and majority vote of the members, the Commission, as explained below, **ADOPTS IN PART AND MODIFIES IN PART** the Examiner's Report and Recommendation.

While the Commission adopts the Examiner's findings regarding both allegations in the Notice and his recommendation to deny Hunt's Application, it modifies a portion of the Examiner's legal conclusions—i.e., the analysis of whether the false information Hunt provided is material. In so doing, the Commission rejects the notion that it must conduct a materiality analysis once a determination has been made that a submitted Application contains false information; it does so because R.C. Chapter 3772 has no such requirement. Accordingly, the Commission adopts the R&R with modification.

As part of his legal conclusions, the Examiner found that Hunt provided false information in his application when he failed to disclose a 1977 arrest for two felony drug charges. (R&R 3-4.) Though the Examiner identified this as a "false statement," since Hunt marked "NO" in response to Application Question 8 and did not provide any information regarding the arrest, the Examiner then asked and analyzed whether the false statement was material. (Id.) And even though the Examiner determined that it was material, (id.), this was an unnecessary step because R.C. 3772.10(C)(2) does not require the falsity to be material.

In his materiality analysis, the Examiner relies on *A.E.F. Veterans Ass'n, 37th Division v. Board of Liquor Control*, 94 Ohio App. 550 (Franklin County 1953). His reliance on this case, however, is misplaced. There, the statute at issue allowed the Liquor Control Board to revoke a liquor permit if a permit holder made "any false material statement in an application." *37th Division*, 94 Ohio App. 550 at 551. Thus, under that statute, the Commission had to determine whether the false statement was material. See *id.* Here, no such prong exists. See R.C. 3772.10(C). R.C. 3772.10(C)(2) reads, in pertinent part, "The commission shall not issue a . . . license under this chapter to an applicant if . . . the applicant has submitted an application for license under this chapter that contains false information." This non-discretionary directive requires the Commission to deny those applicants who submit untruthful information as part of their applications, regardless of materiality.


Because Hunt submitted an Application containing false information, he is statutorily prohibited from licensure under R.C. 3772.10(C)(2) and cannot establish his suitability therefor by clear and convincing evidence as required by R.C. 3772.10(B) and (C)(7). Therefore, except as modified herein, the Examiner's findings regarding both Notice allegations and his recommendation of denial are appropriate and adopted.

**WHEREFORE**, in consideration of the foregoing and upon a quorum and majority vote of the members, the Commission **ORDERS** as follows:

- 1) Hunt's Application is **DENIED**;
- 2) Hunt is **PROHIBITED** from working or otherwise serving in any capacity that requires a license under R.C. Chapter 3772;

- 3) Hunt is **PROHIBITED** from reapplying for licensure under R.C. Chapter 3772 for three years from the date this Order is served upon him, absent a waiver granted by the Commission commensurate with Ohio Adm. Code 3772-1-04; and
- 4) A certified copy of this Order shall be served upon Hunt, via certified mail, return receipt requested, and his counsel of record, if any, via ordinary mail.

**IT IS SO ORDERED.**

  
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Jo Ann Davidson, Chair  
Ohio Casino Control Commission

**NOTICE OF APPEAL RIGHTS**

Respondent is hereby notified that pursuant to R.C. 119.12, this Commission Order may be appealed by filing a Notice of Appeal with the Commission setting forth the Order that Respondent is appealing from and stating that the Commission's Order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The Notice of Appeal may also include, but is not required to include, the specific grounds for the appeal. The Notice of Appeal must also be filed with the appropriate court of common pleas in accordance with R.C. 119.12. In filing the Notice of Appeal with the Commission or court, the notice that is filed may be either the original Notice of Appeal or a copy thereof. The Notice of Appeal must be filed within 15 days after the date of mailing of this Commission Order.