

**STATE OF OHIO
CASINO CONTROL COMMISSION**

In re: :
 : Case No. 2012-0008
ADAM LEONARD, :
CASINO GAMING EMPLOYEE LICENSE :
APPLICANT :
 :
 Respondent. :

ORDER DENYING CASINO GAMING EMPLOYEE LICENSE APPLICATION

On March 5, 2012, Respondent Adam Leonard 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 Leonard 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 April 20, 2012. (Hr’g Ex. A.) Leonard received the Notice, sent via certified mail, on April 24, 2012. (Hr’g Ex. B.) Pursuant to R.C. 119.07 and 3772.04, Leonard had the right to a hearing if requested within 30 days of the Notice’s mailing. Leonard so requested and the Commission scheduled a hearing for May 4, 2012; and upon its own motion, the Commission continued the hearing until May 22, 2012. (Hr’g Ex. C.)

Through a letter, dated May 8, 2012, the Commission provided Leonard with supplemental information regarding the allegations contained in the Notice. (Hr’g Ex. D.) Leonard appeared at the hearing without counsel. Accordingly, the Commission held the hearing as scheduled before Hearing Examiner John Gonzales (“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. 37), which he submitted on June 19, 2012. Therein, the Examiner found that Leonard: 1) proved, by clear and convincing evidence, his suitability for licensure as a casino gaming employee, as required by R.C. 3772.10(B), (R&R ¶¶ 13-14); 2) has not been convicted of, or pleaded guilty or no contest to, one or more offenses having an element of moral turpitude and, therefore, is not disqualified from licensure under R.C. 3772.07(D) and 3772.10(C)(1), (id. ¶¶ 15-16); and 3) submitted a Casino Gaming Employee License Application (“Application”) that contained false information, in violation of R.C. 3772.10(C)(2), (id. ¶¶ 17-22.) As a result of these findings, the Examiner recommended that the Commission deny Leonard’s Application.

On June 21, 2012, the Commission sent Leonard, via certified mail, a copy of the R&R. (App. #1; App. #2.) Leonard received the R&R on June 28, 2012, (App. #2), giving him until July 30, 2012, to file objections, see R.C. 3772.04(A)(2) and 1.14; Leonard did not do so, however.

In accordance with R.C. 119.07 and 3772.04, the matter was submitted to the Commission on August 15, 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 Examiner's findings regarding Notice Allegations #1 (i.e., failure to disclose) and #2 (i.e., disqualifying offense—moral turpitude) and his recommendation of denial are adopted without modification, his finding regarding Allegation #3 (i.e., suitability for licensure) is hereby modified and included as a basis for denying Leonard's Application.

Because Leonard submitted to the Commission an Application containing false information, he cannot prove his suitability for licensure by clear and convincing evidence. Therefore, in addition to denying his Application for providing false information in violation of R.C. 3772.10(C)(2), Leonard's Application is denied due to his failure to prove his suitability as required by R.C. 3772.10(B).

As the Examiner found and the record supports, Leonard marked "NO" in response to Question 8 of the Application, which asks whether the applicant has "ever been arrested for, charged with, or convicted of any offense in any jurisdiction (**including Ohio**)," even though, while in South Carolina in 2005, he had been arrested for, charged with, and convicted of drug possession and drug paraphernalia. (R&R ¶ 6; Hr'g Ex. F.) To justify his response, Leonard stated, among other things, that "I didn't think that it was on my permanent record" and that "I might have rushed through it without reading everything thoroughly." (Tr. 10, 22.) These statements, however, do not negate Leonard's lack of candor on his Application, especially since he could and should have checked with South Carolina before submitting his Application to the Commission. In fact, after receiving the Notice, Leonard did so and began the process to expunge the undisclosed offenses. (See *id.* 10; Hr'g Ex. 1.) Thus, the Examiner's finding that Leonard submitted an Application containing false information and recommendation to deny on that basis remains undisturbed. (See R&R ¶¶ 17-23.)

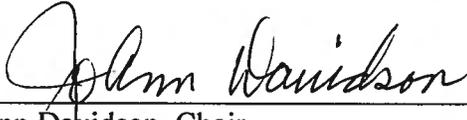
Notwithstanding this finding and recommendation, the Examiner also found that Leonard proved his suitability for licensure by clear and convincing evidence. (R&R ¶¶ 13-14.) Such a finding cannot be approved, however, because submission of an application containing false information statutorily renders an applicant ineligible for licensure under R.C. Chapter 3772. See R.C. 3772.10(C)(2). To be eligible for licensure, an applicant must prove their suitability by clear and convincing evidence. R.C. 3772.10(B). An applicant cannot do so, however, when they violate R.C. 3772.10(C), as the General Assembly expressly prohibited the Commission from licensing any such violator. In essence, by declaring an applicant who provides false information on a Commission license application ineligible to receive a license under R.C. Chapter 3772, the General Assembly determined that such an applicant is not suitable for licensure. Thus, regardless of Leonard's suitability before, during, or after the 2005 South Carolina incident, his failure to truthfully disclose his past transgressions precludes a finding that he proved his suitability by clear and convincing evidence.

Consequently, the Commission modifies the Examiner's R&R as it relates to Leonard's suitability for licensure because Leonard provided an Application that contained false information. In so doing, the Commission finds that Leonard could not prove his suitability for licensure by clear and convincing evidence, as required by R.C. 3772.10(B). Therefore, in addition to his ineligibility for falsifying his Application, Leonard is not suitable to hold a casino gaming employee license in this state.

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

- 1) Leonard's Application is **DENIED**;
- 2) Leonard is **PROHIBITED** from working or otherwise serving in any capacity that requires a license under R.C. Chapter 3772; and
- 3) A certified copy of this Order shall be served upon Leonard, via certified mail, return receipt requested, and his counsel of record, if any, via ordinary mail.

IT IS SO ORDERED.



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.