STATE OF OHIO
CASINO CONTROL COMMISSION

In re:	:	Case No. 2012-0015
VERONICA JOHNSON, CASINO GAMING EMPLOYEE LICENSE APPLICANT	:	
Respondent.	:	

ORDER DENYING CASINO GAMING EMPLOYEE LICENSE APPLICATION

On February 27, 2012, Respondent Veronica Johnson filed an application for a casino gaming employee license with the Ohio Casino Control Commission ("Commission"). (Hr'g Ex. I.) Thereafter, the Commission conducted a suitability investigation of Johnson to determine her 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.) Johnson received the Notice, sent via certified mail, on May 2, 2012. (Hr'g Ex. B.) Pursuant to R.C. 119.07 and 3772.04, Johnson had the right to a hearing if requested within 30 days of the Notice's mailing. Johnson so requested and the Commission scheduled a hearing for May 15, 2012; and upon its own motion, the Commission continued the hearing until May 31, 2012. (Hr'g Ex. C.)

Through a letter, dated May 8, 2012, the Commission provided Johnson with supplemental information regarding the allegations contained in the Notice. (Hr'g Ex. D.) Johnson did not appear in person at the hearing, but instead provided her position in writing, as authorized under R.C. 119.07. (Hr'g Ex. J.) 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. 13), which he submitted on June 28, 2012. Therein, the Examiner found with respect to Notice Allegation #1 that Johnson submitted a Casino Gaming Employee License Application ("Application") that contained false information, in violation of R.C. 3772.10(C)(2). (R&R ¶¶ 14-19.) The Examiner, however, did not render an express finding or recommendation regarding Johnson's suitability for licensure (i.e., Notice Allegation #2); instead, the Examiner intimated on more than one occasion that Johnson appears to be otherwise suitable for licensure. (Id. ¶¶ 17-18.) Nonetheless, as a result of his finding pertaining to Notice Allegation #1, the Examiner recommended that the Commission deny Johnson's Application.

On June 29, 2012, the Commission sent Johnson, via certified mail, a copy of the R&R. (App. #1; App. #2.) Johnson received the R&R on or before June 16, 2012, (see App. #3), giving her until August 15, 2012, to file objections, see R.C. 3772.04(A)(2) and 1.14. Johnson did so on July 16, 2012, (App. #3), and the Commission considered her 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 Examiner's finding regarding Notice Allegation #1 (i.e., Johnson's failure to disclose a 1988 arrest for two drug offenses) and his recommendation of denial are adopted without modification, his intimations concerning and ultimate abstention from rendering a finding regarding Allegation #2 (i.e., Johnson's suitability for licensure) are hereby modified and included as a basis for denying Johnson's Application.

Johnson submitted to the Commission an Application containing false information; as a result, she cannot prove her suitability for licensure by clear and convincing evidence. Therefore, in addition to being denied licensure for providing false information in violation of R.C. 3772.10(C)(2), Johnson is denied for failing to prove her suitability as required by R.C. 3772.10(B) and (C)(7).

As the Examiner found and the record supports, Johnson 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)**." (R&R ¶ 16; Hr'g Ex. I.) Johnson did so even though, while in Kentucky in 1988, she had been arrested for and charged with two drug offenses—one concerning cocaine and the other marijuana. (Hr'g Exs. J & K.) And though not expressly included in the Notice, Johnson entered into a plea deal whereby the original charges were dismissed and she pled guilty to Unlawful Possession of Cocaine, a Class A Misdemeanor. (See Hr'g Exs. I & K.) In so doing, the federal court sentenced Johnson to 30 days incarceration and 1 year probation. (Hr'g Ex. K.)

To justify her false response to Question 8, Johnson wrote that "in my haste, I focused mostly on the events that occurred within the last 5-10 years, as oppose [sic] to any that was over 20 years." (Hr'g Ex. J.) This statement, however, does not negate Johnson's lack of candor on her Application, especially since she knew about the arrest, charges, and ultimate disposition—to be sure, she spent 30 days in jail, received 1 year of probation, (Hr'g Ex. K), and was apparently questioned about this issue during an IRS employment investigation in 2006, (Hr'g Ex. J). Thus, the Examiner's finding that Johnson submitted an Application containing false information and recommendation to deny on that basis remains undisturbed.

Despite this finding and recommendation, the Examiner did not render a finding or recommendation regarding Johnson's suitability for licensure (i.e., Notice Allegation #2). (See generally R&R.) If anything, the Examiner tacitly found her to be suitable. (See R&R ¶¶17-18.) For example, the Examiner posited more than once that other than her failure to disclose, Johnson appears to be otherwise suitable for licensure. (Id.) Any such statement (or tacit 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, an applicant must prove their suitability by clear and convincing evidence. R.C. 3772.10(B). An applicant cannot do so though 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 cannot be suitable for licensure. Thus, regardless of Johnson's suitability before, during, or after the 1988 Kentucky incident, her failure to truthfully disclose this past transgression precludes a finding that she proved her suitability by clear and convincing evidence.

Consequently, the Commission modifies the Examiner's R&R as it relates to Johnson's suitability for licensure because Johnson provided an Application that contained false information. In so doing, the Commission finds that Johnson did not prove her suitability for licensure by clear and convincing evidence, as required by R.C. 3772.10(B) and (C)(7). Therefore, in addition to her ineligibility for falsifying her Application, Johnson 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:

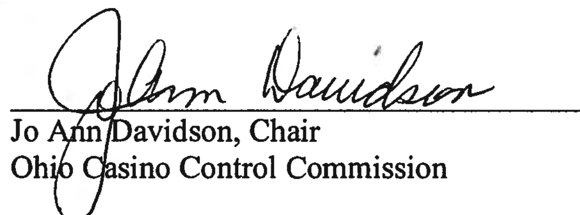
1) Johnson's Application is **DENIED**;

2) Johnson is **PROHIBITED** from working or otherwise serving in any capacity that requires a license under R.C. Chapter 3772; and

3) Johnson is **PROHIBITED** from reapplying for licensure under R.C. Chapter 3772 for three years from the date this Order is served upon her, 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 Johnson, via certified mail, return receipt requested, and her 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.