

**STATE OF OHIO
CASINO CONTROL COMMISSION**

In re:

**MELINDA RISNER,
CASINO GAMING EMPLOYEE LICENSE
APPLICANT**

Respondent.

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Case No. 2012-0012
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ORDER DENYING CASINO GAMING EMPLOYEE LICENSE APPLICATION

On February 27, 2012, Respondent Melinda Risner 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 Risner 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 May 1, 2012. (See Hr’g Ex. A.) Risner received the Notice, sent via certified mail, on May 3, 2012. (Hr’g Ex. B.) Pursuant to R.C. 119.07 and 3772.04, Risner had the right to a hearing if requested within 30 days of the Notice’s mailing. Risner 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 Risner with supplemental information regarding the allegations contained in the Notice. (Hr’g Ex. D.) Risner 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. p. 35), which he submitted on June 28, 2012. Therein, the Examiner found that: 1) Risner submitted a Casino Gaming Employee License Application (“Application”) that contained false information, in violation of R.C. 3772.10(C)(2), (R&R ¶ 17); 2) Risner 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. ¶ 13); and 3) there was no need to determine Risner’s suitability for a gaming employee license because it was recommended that her license be denied on other grounds. (Id. ¶ 18.) As a result of these findings, the Examiner recommended that the Commission deny Risner’s Application. (Id. ¶ 19.)

On June 29, 2012, the Commission sent Risner, via certified mail, a copy of the R&R. (App. #1; App. #2.) Risner received the R&R on July 7, 2012 (App. #2), giving her until August 6, 2012, to file objections, see R.C. 3772.04(A)(2); Risner did not do so, however.

On August 2, 2012, the Attorney General’s Office, on behalf of the Commission, filed a Motion for Leave to File Objections to the Report and Recommendation filed on June 28, 2012, to

address Risner's suitability for licensure under R.C. 3772.10(C)(7). On August 8, 2012, Examiner Gonzales filed an Order Denying the Commission's Request for Leave to File Objections to the Report and Recommendation, and as such, the Commission's objections were not made part of the record.

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 R&R.

While the Examiner's findings regarding Notice Allegation #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 Risner's Application.

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

As the Examiner found and the record supports, Risner marked "NO" in response to Question 8 of the Application, which asks whether the applicant has "ever been arrested for, charged with, convicted of any offense in any jurisdiction (**including Ohio**)," even though, while in Guam in 2001, she had been arrested for and charged with driving under the influence of alcohol or drugs, resisting arrest, eluding a police officer, assault on a police officer, and aggravated assault, which she pled no contest to lesser charges. Risner acknowledged that she did not disclose the 2001 arrest and conviction on her application. Thus, the Examiner found that Risner submitted an Application containing false information and recommended her license be denied.

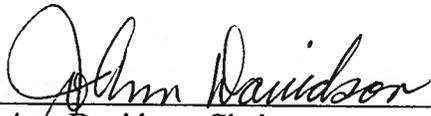
Notwithstanding his finding and recommendation, the Examiner failed to find whether Risner proved her suitability for licensure by clear and convincing evidence. The Examiner stated because it was his recommendation that Risner's Application be denied based upon her failure to disclose her 2001 arrest and conviction in Guam, there was no need to discuss her suitability for a gaming employee license. 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. To be eligible for such a licensure, an applicant must prove their suitability by clear and convincing evidence. 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. 3772, the General Assembly determined that such an applicant cannot be suitable for licensure. Thus, Risner's failure to truthfully disclose her 2001 arrest and conviction in Guam precludes a finding that she proved her suitability by clear and convincing evidence, and should have been so determined by the Examiner.

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

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

- 1) Risner's Application is **DENIED**;
- 2) Risner 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 Risner, 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.