

**STATE OF OHIO
CASINO CONTROL COMMISSION**

In re: :
 : Case No. 2012-0169
ANTHONY ZINGALE, :
CASINO GAMING EMPLOYEE LICENSEE :
 :
 Licensee. :

ORDER REVOKING CASINO GAMING EMPLOYEE LICENSE

On February 27, 2013, Anthony Zingale filed with the Ohio Casino Control Commission (“Commission”) an application for a Casino Gaming Employee License. The Commission conducted a suitability investigation of Zingale to determine his eligibility for such a license. Having found Zingale suitable for licensure, the Commission issued a Casino Gaming Employee License to Zingale on or about April 4, 2012.

During an administrative investigation of Zingale, the Commission discovered sufficient derogatory information to warrant issuance of a Notice of Intent to Revoke, Suspend, Limit, Condition, Restrict, Penalize, and/or Fine and Opportunity for Hearing (“Notice”), dated November 27, 2012. (Hr’g Ex.A.) Zingale received the Notice, sent via certified mail, on November 30, 2012. (Hr’g Ex. B.) Pursuant to R.C. 119.07 and 3772.04, Zingale had the right to a hearing if requested within 30 days of the Notice’s mailing. Zingale so requested and the Commission scheduled a hearing for December 13, 2012; and upon its own motion, the Commission continued the hearing until December 27, 2012. (Hr’g Ex. C.) Upon Zingale’s request, and without objection from the Commission, the hearing was continued until January 23, 2013. Zingale appeared at the hearing with counsel. Accordingly, the Commission held the hearing as scheduled before Hearing Examiner John T. Williams (“Examiner”).

After presentation and submission of the evidence at the hearing, the Examiner closed the record. (Tr. 114.) The Examiner prepared a Report and Recommendation (“R&R”), which he submitted on February 22, 2013. Therein, the Examiner found that: 1) Zingale’s conduct constituted a failure of good behavior for which administrative action against Zingale’s license under R.C. 3772.04 is appropriate, 2) Zingale failed to establish by clear and convincing evidence that his casino gaming employee license should not be subject to administrative action, 3) the Commission proved by a preponderance of the evidence that Zingale failed to notify the Commission of his termination by his casino employer, and 4) administrative action against Zingale’s casino gaming employee license for his failure to report his termination is not appropriate. As a result of these findings, the Examiner recommended that the Commission take administrative action against Zingale’s casino gaming employee license. (R&R p. 14-15.)

On February 26, 2013, the Commission sent Zingale, via certified mail, a copy of the R&R. (App. #1; App. #2.) Zingale received the R&R on March 1, 2013, (App. #2), giving him until April 1, 2013, to file objections, see R.C. 3772.04(A)(2). Zingale did so on March 28, 2013, (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 April 17, 2013, for final adjudication.

WHEREFORE, in consideration of the foregoing and upon a quorum and majority vote of the members, the Commission **ADOPTS IN PART AND MODIFIES IN PART** the Examiner's R&R with modifications.

In his R&R, the Examiner found in Conclusions of Law No. 2 that the Commission demonstrated by a preponderance of the evidence that Zingale's conduct constituted "a failure of good behavior." Chapter 3772 of the Revised Code does not authorize the Commission to take administrative action for an applicant or licensee's "failure of good behavior." However, R.C. 3772.10(B), (C)(7), and (D)(1) authorize the Commission to investigate an applicant or licensee's suitability. Zingale's violation of the Horseshoe Casino Cleveland's employee handbook constitutes unsuitable conduct, for which administrative action is appropriate. Accordingly, the Commission modifies the Examiner's conclusion that Zingale's conduct constitutes "a failure of good behavior." Zingale failed to establish by clear and convincing evidence that he remains suitable for licensure as a casino gaming employee, as required by R.C. 3772.10.

Second, the Commission modifies the Examiner's conclusion that the Commission failed to establish that it communicated with applicants and licensees their duty to notify the Commission of their termination by their employer. The Examiner acknowledged A.C. 3772-8-04(A) amplifies R.C. 3772.10(D)(1). An applicant and licensee's duty to update is conspicuously spelled out in Zingale's Casino Gaming Employee Application. Furthermore, it is not just any information that Zingale failed to update the Commission with, but rather, he failed to inform the Commission he had been terminated from the very employment for which his license was issued. Zingale never denied that he failed to report his termination to the Commission. Zingale violated A.C. 3772-8-04 by not notifying the Commission of his termination. Accordingly, the Commission modifies the Examiner's conclusion of law that administrative action for Zingale's failure to report his termination is not appropriate.

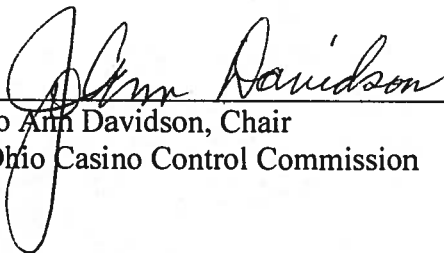
Finally, the Examiner recommended that the Commission take administrative action against Zingale's casino gaming employee license under R.C. 3772.04. In the Notice of Hearing, the Commission stated its intent to take administrative action, including revoking, suspending, and/or limiting, conditioning, or otherwise restricting Zingale's casino gaming employee license. The Commission modifies the Examiner's recommendation to clarify that the administrative action will be revocation of Zingale's license.

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

- 1) Zingale's Casino Gaming Employee License is **REVOKED**;
- 2) Zingale shall immediately surrender his license credential to the Commission;
- 3) Zingale is **PROHIBITED** from working or otherwise serving in any capacity that requires a license under R.C. Chapter 3772;

- 4) Zingale 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 A.C. 3772-1-04; and
- 5) A certified copy of this Order shall be served upon Zingale, 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

The Party is hereby notified that pursuant to O.R.C. 119.12, this Commission Order may be appealed by filing a Notice of Appeal with the Commission setting forth the Order that the Party 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 O.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.