STATE OF OHIO CASINO CONTROL COMMISSION

In re:

Case No. 2012-0147

TIMOTHY SHREWSBERY, CASINO GAMING EMPLOYEE LICENSE APPLICANT

Respondent.

ORDER DENYING CASINO GAMING EMPLOYEE LICENSE APPLICATION

On August 6, 2012, Respondent Timothy Shrewsbery filed a Casino Gaming Employee License Application ("Application") with the Ohio Casino Control Commission ("Commission"). (Hr'g Ex. F.) Thereafter, the Commission conducted a suitability investigation of Shrewsbery 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 October 26, 2012. (See Hr'g Ex. A.) Shrewsbery received the Notice, sent via certified mail, on October 27, 2012. (Hr'g Ex. B.) Pursuant to R.C. 119.07 and 3772.04, Shrewsbery had the right to a hearing if requested within 30 days of the Notice's mailing. Shrewsbery so requested and the Commission scheduled a hearing for November 5, 2012; and upon its own motion, the Commission continued the hearing until November 27, 2012. (Hr'g Ex. C.) Shrewsbery appeared at the hearing without counsel. Accordingly, the Commission held the hearing as scheduled before Hearing Examiner Thomas Montgomery ("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. 13-14), which he submitted on December 31, 2012. Therein, the Examiner found and concluded that Shrewsbery: 1) submitted a Casino Gaming Employee License Application ("Application") that contained false information, in violation of R.C. 3772.10(C); 2) failed to set forth all of the information required by the Commission's Application, in violation of R.C. 3772.10(C)(5), 3772.131(D), and Ohio Adm. Code 3772-8-02(A); 3) has been convicted of, or pleaded guilty or no contest to, one or more offenses that have an element of moral turpitude and therefore is statutorily disqualified from and otherwise ineligible for licensure under R.C. 3772.07 and 3772.10(C)(7), respectively; and 4) failed to prove his suitability for licensure by clear and convincing evidence, as required by R.C. 3772.10(B). (R&R 5.) As a result of these findings and conclusions, the Examiner recommended that the Commission deny Shrewsbery's Application. (Id. at 6.)

On January 3, 2013, the Commission sent Shrewsbery, via certified mail, a copy of the R&R. (App. #1; App. #2.) Shrewsbery received the R&R on January 4, 2013, (App. #2), giving him until February 4, 2013, to file objections, see R.C. 3772.04(A)(2) and 1.14. Shrewsbery did not do so, however.

In accordance with R.C. 119.07 and 3772.04, the matter was submitted to the Commission on February 13, 2013, 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 and conclusions regarding Allegations #1 and #4 in the Notice of Intent to Deny and Opportunity for Hearing ("Notice") and his recommendation of denial is adopted without modification, his findings and conclusions regarding Allegations #2 (i.e., failure to set forth all information required by the Commission) and #3 (i.e., convicted of, or pleaded guilty or no contest, to one or more offenses having an element of moral turpitude) are hereby modified.

The Examiner found and concluded that Shrewsbery failed to set forth certain information required by the Application. The Examiner did so correctly with respect to Shrewsbery's failure to include a public indecency violation, which Shrewsbery was required to disclose in response to Application Question #8. Accordingly, that part of the finding and conclusion remains as a justification for denial. The Commission hereby modifies the Examiner's further finding and conclusion related to this allegation, which is that Shrewsbery failed to include his 1999 financial judgment as part of the Application. This part of the conclusion and finding is modified because Shrewsbery was not required to disclose the judgment since it was outside of the 10 year period stated in the Application. Moreover, the Commission neither alleged in the Notice nor presented evidence during the hearing that Shrewsbery failed to include that judgment as part of his Application. Thus, the financial judgment portion of this finding and conclusion is not used as a justification for denying Shrewsbery's Application.

Additionally, in its Notice, the Commission alleged that Shrewsbery has been convicted of, or pleaded guilty or no contest to, one or more offenses that have an element of moral turpitude, in violation of R.C. 3772.07 and 3772.10(C)(1). Upon reviewing the evidence, the Examiner agreed that Shrewsbery's two convictions—1993 public indecency and 1997 importuning—constituted offenses that have an element of moral turpitude. The Commission should not modify this portion of the finding and conclusion. The Examiner, however, further found and concluded that Shrewsbery's 1999 financial judgment also constituted a disqualifying offense. This part of the finding and conclusion should be modified because it is legally inaccurate. The automatic disqualifying offense provision requires a criminal conviction, see R.C. 3772.07; here, the financial judgment was a civil matter, not criminal, and, therefore, is not relied upon as a reason for denying Shrewsbery's Application.

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

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

IT IS SO ORDERED.

nn 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.