

**STATE OF OHIO
CASINO CONTROL COMMISSION**

In re: :
 :
R&J Development, LLC & : Case Nos. 2021-SLIC-084 – -086
Ronald Schlosser :
Skill-Based Amusement Machine :
License Applicants. :

May 18, 2022 FINAL ORDER
DENYING SKILL-BASED AMUSEMENT MACHINE LICENSE APPLICATIONS

Ronald Schlosser filed a Skill-Based Amusement Machine Key Employee License Application, and R&J Development, LLC (“R&J Development”) filed a Type-C Skill-Based Amusement Machine Operator License Application and a Type-C Skill-Based Amusement Machine Location License Application (“Applications”) with the Ohio Casino Control Commission (“Commission”), after which the agency conducted suitability investigations to determine their eligibility for licensure. As a result of the investigations, the Commission discovered sufficient derogatory information to warrant issuance of separate Notices of Opportunity for Hearing (“Notices”).

Upon proper service of the Notices, Schlosser and R&J Development each had the right to a hearing if timely requested. They so requested, and the Commission held a joint hearing before Hearing Examiner Robert C. Angell (“Examiner”). Schlosser and R&J Development appeared at the hearing, represented by counsel, and the Commission held the hearing scheduled before the Examiner.

After presentation and submission of the evidence, the Examiner closed the record and prepared a Report and Recommendation (“R&R”) for Commission consideration. Review of the R&R finds that the Examiner urges denial of the Applications. A copy of the R&R was duly served upon Schlosser and R&J Development, giving them an opportunity to file objections, *see* R.C. 3772.04(A)(2), which they did through counsel. These objections have been considered by the Commission.

The matter is now before the Commission for final adjudication.

WHEREFORE, the Commission **ADOPTS IN PART AND MODIFIES IN PART** the Examiner’s R&R.

Specifically, the Commission adopts the R&R’s Basis for Hearing, Appearances, Date of Hearing, Issues, Witnesses, Summary of Evidence, Conclusions of Law, and Recommended Order sections, as well as the R&R’s Findings of Fact paragraphs 1-7g, without modification—unless otherwise stated below.

For the reasons explained below, the Commission modifies the following: the R&R's Conclusions of Law paragraph C, the R&R's Findings of Fact paragraphs 7b and 7h, any reference to Ohio Adm.Code 3772-50-06 throughout the R&R, any reference to "10677 Johnstown Road, Newark, Ohio," and the final paragraph of the R&R, which states the objection period.

First, the R&R's Conclusions of Law paragraph C (R&R page 14), incorrectly states the applicants have a burden of persuasion to show they are entitled to receive a license. The correct standard of proof, and the one correctly described in the R&R's Conclusions of Law paragraph B (*Id.*), is that the applicants are required to prove their suitability for a license by clear and convincing evidence, as required by R.C. 3772.10(B).

Second, in the R&R's Findings of Fact paragraph 7b (R&R page 13), the R&R mistakenly states the advertisements were posted at the Jacksontown Road location, when in fact, they were posted at the 241 S. 5th Street location.

Next, in the R&R's Findings of Fact paragraph 7h (R&R page 14), the R&R determined that R.C. 119.14 is not applicable to this case and the alleged violations are not paperwork violations within the meaning of the statute. However, after finding the alleged violations are not paperwork violations, the R&R, in the same paragraph, goes on to find that the failure to update the Commission of the Jacksontown Road location could be a paperwork violation that is not a minor violation. (*Id.*) As R.C. 119.14(F) states, "[n]othing in this section shall be construed to diminish the responsibility for any citizen or business to apply for and obtain a permit, license, or authorizing document that is required to engage in a regulated activity, or otherwise comply with state or federal law." R.C. 119.14(F). As such, R&J Development still had to comply with state law and submit a duty to update to the Commission as required by Ohio Adm.Code 3772-50-11 and is not entitled to the benefit of R.C. 119.14 in this instance.

Additionally, Ohio Adm.Code 3772-50-06 is referred to throughout the R&R, however it does not apply to these cases. Ohio Adm.Code 3772-50-06 governs Type-B skill-based amusement machine operator licensure. R&J Development submitted two applications: a Type-C skill-based amusement operator license application and a Type-C skill-based amusement machine location license application. As such, Ohio Adm.Code 3772-50-07, which governs Type-C skill-based amusement machine operator licensure, is the applicable provision in this case as it relates to R&J Development's Type-C skill-based amusement machine operator license application.

The R&R, and the Notices, reference a location at "10677 Johnstown Road, Newark, Ohio." The Commission obtained this address through correspondence with the Licking Township Zoning Department. While listed as "Newark," according to Schlosser and R&J Development's counsel, who would have sufficient notice and knowledge, the address is technically located in Licking Township.

Lastly, the final paragraph of the R&R incorrectly cites to R.C. 119.09 and allows for 10 days to file objections. However, the applicable statute here is R.C. 3772.04(A)(2), which allows for 30 days to file objections.

Given the evidence admitted at the hearing, the unmodified portions of the R&R, and the above reasoning, the Commission makes the following modifications to the R&R: (1) Findings of Fact paragraph C is deleted, (2) Findings of Fact paragraph 7b is modified to refer to the 241 S. 5th Street location, (3) Paragraph 7h is deleted, (4) A new Finding of Fact paragraph 7h is inserted stating that there were no paperwork violations and R.C. 119.14 is not applicable, (5) Any mention of “10677 Johnstown Road, Newark, Ohio” is to be construed to refer to 10677 Jacksontown Road in Licking Township, (6) Ohio Adm.Code 3772-50-06 is to be construed to refer to Ohio Adm.Code 3772-50-07, and (7) The objection period is modified to cite to R.C. 3772.04(A)(2) and extend the objection period to 30 days pursuant to that section.

WHEREFORE, the Commission **FINDS** and **CONCLUDES** as follows:

Ronald Schlosser and R&J Development failed to establish their suitability for licensure by clear and convincing evidence, as set forth in their Notices, and there were no paperwork violations under R.C. 119.14.

WHEREFORE, the Commission **ORDERS** as follows with respect to Ronald Schlosser and R&J Development:

- 1) Their applications are **DENIED**.
- 2) They are **PROHIBITED** from reapplying for licensure for three years from entry of this Order, pursuant to Ohio Adm.Code 3772-50-03.
- 3) This constitutes a **FINAL DETERMINATION** for purposes of Ohio Adm.Code 3772-50-09(C), thereby rendering any associated Skill-Based Amusement Machine Registration ineffective.
- 4) They are **PROHIBITED** from starting or continuing to operate in any capacity or manner that requires a license under Ohio Adm.Code Chapter 3772-50.
- 1) A certified copy of this Order shall be served upon them, via certified mail, return receipt requested, and their counsel of record, if any, via ordinary mail.

IT IS SO ORDERED.


June E. Taylor, Chair
Ohio Casino Control Commission

NOTICE OF APPEAL RIGHTS

The Party is hereby notified that pursuant to R.C. 119.12, the 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 Franklin County 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.