

**STATE OF OHIO
CASINO CONTROL COMMISSION**

In re: :
 : Case No. 2018-LIC-011
Dion Flores, :
CASINO GAMING EMPLOYEE LICENSEE :
 :
 Licensee. :

ORDER REVOKING CASINO GAMING EMPLOYEE LICENSE

On September 26, 2017, Dion Flores filed a Casino Gaming Employee License Renewal Application with the Ohio Casino Control Commission (“Commission”). Thereafter, the Commission conducted a suitability investigation of Flores to determine his eligibility for renewal of his Casino Gaming Employee License (“License”). Having found him suitable for licensure, the Commission renewed his License, effective November 24, 2017.

During a later administrative investigation of Flores, the Commission discovered sufficient derogatory information to warrant issuance of a Notice of Opportunity for Hearing (“Notice”), dated June 13, 2018. Flores received the Notice, sent via certified mail, on June 25, 2018.

Pursuant to R.C. 119.07 and 3772.04, Flores had the right to a hearing if requested within 30 days of the Notice’s mailing. Flores so requested, and the Commission scheduled a hearing for July 19, 2018; and upon its own motion, the Commission continued the hearing until August 30, 2018. Flores then requested a continuance, which Hearing Examiner Margaret Brewer (“Examiner”) granted until October 4, 2018. The Commission held the hearing as scheduled; Flores did not appear but did submit written contentions, which were admitted into the record during the hearing.

After presentation and submission of the evidence at the hearing, the Examiner closed the record. The Examiner prepared a Report and Recommendation (“R&R”), which she submitted on November 13, 2018. Therein, the Examiner recommended that the Commission revoke Flores’s License.

On November 15, 2018, the Commission sent Flores, via certified mail, a copy of the R&R. The R&R was returned to the Commission marked “unclaimed” and was resent, via ordinary mail with a certificate of mailing, on December 27, 2018. Therefore, Flores had until January 28, 2019, to file objections. *See* R.C. 3772.04(A)(2). Flores did not do so.

In accordance with R.C. 119.07 and 3772.04, the matter was submitted to the Commission on February 20, 2019, 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.

Specifically, the Commission adopts the R&R except as to the modifications to paragraphs 13, 15, 17, and 19, which are detailed below. The reasons for doing so are to apply the appropriate burden of proof—by a preponderance of the evidence—and to apply this burden to the Commission rather than to Flores.

Paragraph 13 is stricken and replaced with: Because Flores is a licensee, and not an applicant, the Commission has the burden to prove, by a preponderance of the evidence, that Flores is no longer suitable to maintain a License. *Zingale v. Ohio Casino Control Comm.*, 8th Dist. Cuyahoga No. 101381, 2014-Ohio-4937, ¶ 44.

Paragraph 15 is stricken and replaced with: “[A] preponderance of the evidence means the greater weight of evidence. * * * The greater weight may be infinitesimal, and it is only necessary that it be sufficient to destroy the equilibrium.” *Trotters, Inc. v. Ohio State Liquor Control Comm.*, 10th Dist. Franklin, 2006-Ohio-2448, ¶ 38 (quoting *State v. Stumpf*, 32 Ohio St. 3d 95, 102, 512 N.E.2d 598 (1987)) (defining preponderance of the evidence in the case of an appeal from a revocation of a liquor permit).

Paragraph 17 is stricken and replaced with: In his written contentions, Exhibit A, Flores claims that what he did on April 15, 2018, has been done by others and no one else has been terminated from the casino. This statement is a mere assertion. Weighing this assertion against the Commission’s evidence, the agency has carried the greater weight of the evidence and has proven by a preponderance of the evidence that Flores is no longer suitable to maintain his casino gaming employee license.

Paragraph 19 is stricken and replaced with: Upon review of all the facts herein, the requirements imposed by R.C. 3772.10, and the discretion possessed by the Commission, Flores is not suitable to maintain his licensure as a casino gaming employee. Therefore, the Examiner recommends that Flores’s licensure as a casino gaming employee in Ohio be revoked.

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

- 1) Flores’s License is **REVOKED**.
- 2) Flores shall immediately **SURRENDER** his license credential to the Commission.
- 3) Flores is **PROHIBITED** from working or otherwise serving in any capacity that requires a license under R.C. Chapter 3772.
- 4) Flores is **PROHIBITED** from reapplying for licensure under R.C. Chapter 3772 for three years from the date the Order is served upon him, absent a waiver granted by the Commission commensurate with Ohio Adm.Code 3772-1-04.
- 5) A certified copy of the Order shall be served upon Flores, via certified mail, return receipt requested, and his 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.