

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 19-040

JOSEPH R. MAHFOOD
September 25, 2019

WHEREAS, Joseph R. Mahfood (“Mahfood”), requested a hearing to contest the Notice of Exclusion entered against him on February 27, 2019, by the Commission's issuance of a Resolution 19-010 Excluding him from Excursion Gambling Boats and Facilities in Missouri; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Mahfood’s request and the Hearing Officer has submitted the proposed Findings of Fact, Conclusions of Law and Final Order attached hereto (collectively the "Final Order") for approval by the Commission; and

NOW, THEREFORE, BE IT RESOLVED, that the Commission has reviewed the Final Order and hereby approves and adopts the attached Final Order in the matter of Hearing No. 19-046; and

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission.

.BEFORE THE MISSOURI GAMING COMMISSION

In Re: Joseph Mahfood

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Case No. 19-046

License Number: None

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

The above-captioned matter comes before the Missouri Gaming Commission (hereinafter referred to as "Commission") upon receipt of a letter and written petition dated March 25, 2019 making a request for a hearing by Joseph Mahfood (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Resolution of Exclusion dated February 27, 2019. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on June 27, 2019 where the Petitioner and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law. The Petitioner appeared in person and with counsel, Mr. John Kilo.

FINDINGS OF FACT

1. On February 27, 2019 the Commission enacted Resolution 19-010 regarding exclusion of Petitioner Joseph Mahfood from excursion gambling boats and facilities in Missouri. The Resolution resulted in Petitioner being permanently placed on the Exclusion List.

2. On August 22, 2017, Petitioner pled guilty to the felony of Conducting an Illegal Gambling Business, in violation of Title 18 U.S.C. § 1955, the felony of Transportation of Aid in a Racketeering Enterprise, in violation of Title 18 U.S.C. §§ 1952(a)(3) and 1952(a)(3)(A), two counts of felony Laundering of Monetary Instruments in violation of Title 18 U.S.C. §§ 1956(a)(1)(B) and 1956(a)(1) and 18 U.S.C. §§ 1957(a) and (b)(1), and the felony of Filing a Fraudulent Tax Return in violation of Title 26 U.S.C. § 7206(1) in the United States District Court Eastern District of Missouri. From January 1, 2008 through August 28, 2014, Mr. Mahfood and two other defendants conducted an illegal gambling business involving sports betting and conducted financial transactions affecting interstate commerce involving the proceeds of his gambling activities. Mr. Mahfood also filed a false tax return with the Director, Internal Revenue Service Center by materially understated his previous year's income and by materially misrepresenting the reported income from gambling. The Court sentenced Mr. Mahfood to a term of three years' probation and requiring him to complete 100 hours of community service. He was ordered to pay an assessment of \$500 and restitution in the amount of \$147,450.00 to the Internal Revenue Service. Under the terms of his probation, Mr. Mahfood was prohibited from engaging in any form of gambling and or entering any gambling or casino establishment.

3. On December 14, 2018, Petitioner's probation was terminated early by the court, and Petitioner was deemed to have successfully completed his supervision.
4. On March 25, 2019, Petitioner filed a written petition with the Commission pursuant to 11 CSR 45-15.050 to be removed from the Exclusion List.
5. Petitioner testified at hearing that he agreed that it was lawful for him to be placed on the Exclusion List. He testified that he completed all of his terms of his Federal probation, including performing over 100 hours of community service for the Ronald McDonald House at Mercy Hospital. He testified that he was discharged from probation after only 13 months of supervision. Petitioner admitted his responsibility to his prior Federal crimes and expressed remorse at his conduct. He requested that the Commission remove him from the Exclusion List when his original three-year probationary period would have ended on November 21, 2020. He also testified that he would like permission to be on Missouri casino properties for the sole purpose of dining while he is on the Exclusion List.

CONCLUSIONS OF LAW

1. "The Commission shall have full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to 313.850." Section 313.805 MO. REV. STAT. 2017.
2. "The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing the facts of his/her case by clear and convincing evidence . . ." Regulation 11 CSR 45-13.060(2).
3. "Clear and convincing evidence" is evidence that "instantly tilts the scales in the affirmative when weighed against the opposing evidence, leaving the fact finder with an abiding conviction that the evidence is true." *State ex. rel. Department of Social Services v. Stone*, 71 S.W.3d 643, 646 (Mo. App. 2002).
4. "The state has a legitimate concern in strictly regulating and monitoring riverboat gaming operations. As such, any doubt as to the legislative objective or intent as to the Commission's power to regulate riverboat gaming operations in the state must be resolved in favor of strict regulation." *Pen-Yan Investment, Inc. v. Boyd Kansas City, Inc.*, 952 S.W.2d 299, 307 (Mo. App. 1997).
5. 18 U.S.C. § 1955 states, in relevant part:

- (a) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined under this title or imprisoned not more than five years, or both.

* * *

- (1) "illegal gambling business" means a gambling business which—
- (i) is a violation of the law of a State or political subdivision in which it is conducted;
 - (ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and
 - (iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of \$2,000 in any single day.

6. 11 CSR 45-15.030.1 states, in relevant part, "The commission may place a person on the exclusion list or eject that person from a riverboat gaming operation pending a hearing if the person has . . . (A) Been convicted of a felony in any jurisdiction of any crime of moral turpitude or of a crime involving gaming . . ."
7. 11 CSR 45-15.050 states, "Any person who has been placed on any exclusion list may petition the commission in writing and request that his/her name be removed from this list."

DISCUSSION

The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner knowingly and voluntarily pled guilty to the Federal crime of Conducting an Illegal Gambling Business, and other Federal offenses, pursuant to a negotiated plea. The crime necessarily involves gaming in that an essential element of the offense is that the offender engages in a gambling business. Therefore, the Commission was legally permitted to place the Petitioner on the Exclusion List.

Further, a condition of the Petitioner's Federal probation is that he shall not engage in any form of gambling during his supervised probation. Petitioner's probationary supervision period was scheduled to end on November 21, 2020. However, due to the Petitioner's successful completion of his supervision requirements, his lack of violations, and his acceptance of responsibility for his past criminal conduct, the Federal court terminated his probation after just 13 months of supervision.

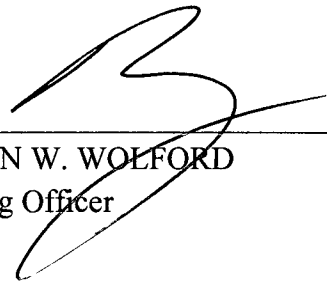
At hearing, Petitioner took full responsibility for his Federal crimes. He provided examples of his conduct and behavior since his guilty plea and by all accounts, Petitioner has led a productive and honorable life since committing his crimes. He agreed with the Commission's

Resolution to place him on the Exclusion List, but believes that the exclusion should be limited to a term of three years. It is the opinion of the Hearing Officer that while Petitioner has abided by the laws since his arrest, it has only been twenty months since he entered the guilty plea. Given that short duration, Petitioner should not be removed from the Exclusion List at this time nor should the Commission establish a definite future date for his removal from the list. Petitioner did not meet his high burden of proof of clear and convincing evidence in showing that he should be removed from the Exclusion List. However, Petitioner is encouraged to continue with the progress he has made since his crimes, and to reapply for removal from the Exclusion List in the future.

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner is found to be properly placed on the Exclusion List. His Petition for Removal is DENIED.

DATED: July 29, 2019



BRYAN W. WOLFORD
Hearing Officer