

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE COMPLEX
1511 PONTIAC AVENUE, BLDGS. 68-69
CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF:

KUNG JOE KEDJUMNONG,

RESPONDENT.

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DBR No. 13RA074

DECISION

Hearing Officer: Ellen R. Balasco, Esq.

Hearing Held: September 19, 2013

Appearances:

For Respondent: *No appearance by Respondent or on his behalf.*

For the Department: Jenna Algee, Esq.

I. INTRODUCTION

On September 19, 2013, this matter came on for a pre-hearing conference regarding the Order to Show Cause Why License Application Should Not Be Denied (“Order to Show Cause”), issued on or about August 22, 2013. Respondent failed to appear. Upon motion for a default judgment denying Respondent’s Concessionaire Employee’s license application, the Hearing Officer hereby recommends the entry of a default judgment against Respondent for his failure to defend of this action and a denial of his application.

II. JURISDICTION

The Department has jurisdiction over this matter pursuant R.I. Gen. Laws § 41-1-1, *et seq.*, R. I. Gen. Laws § 42-14-1, *et seq.*, and R.I. Gen. Laws § 42-35-1, *et seq.*

III. ISSUE

The issue presented in this matter is whether or not Respondent's application for a Dealer Operations Employee license should be denied by the Department based on the grounds of his not meeting the "moral character" qualifications for licensing and for his failure to appear and press his objection to the Order to Show Cause.

IV. FINDINGS OF FACT

1. Respondent applied for a Dealer license for the Twin River gaming facility on or about May 28, 2013. On his application form, the Respondent stated that he was employed by Mohegan Sun Casino in Connecticut as a valet, and that his reason for leaving was "seek better opportunity(sp).

2. On June 3, 2013, the Department's Racing and Athletics Division ("Division") was notified by the Rhode Island Lottery that the Rhode Island State Police discovered during their background investigation that the Respondent had been terminated from Mohegan Sun for misconduct on the job.

3. On or about July 22, 2013, the Department sent Respondent a letter stating that the Department intended to deny his license application, and affording him an opportunity to either withdraw the application or to request a hearing of the Department's decision.

4. On or about August 9, 2013, the Department received a handwritten letter from the Respondent requesting a hearing. That letter was attached to a copy of the Department's July 22 letter.

5. An Order to Show Cause Why License Should Not Be Denied, Notice of Hearing and Appointment of Hearing Officer was issued on August 21, 2013 and sent to the address provided on Respondent's application by first class mail, postage prepaid, and also by certified mail, return receipt requested.

6. The certified mail envelope and its contents were returned to the Department as unclaimed, but the first class mail envelope was not returned, and the Department did not receive any indication from the U.S. Postal Service that the notice was not delivered.

7. At the prehearing conference, Counsel for the Department moved for default judgment against Respondent for failing to appear, and requested that his application for license be denied.

8. Counsel for the Department presented testimony from the Division's Chief Licensing Examiner for Racing and Athletics, and also presented the Respondent's Application package and a Decision of Appeals Referee from the State of Connecticut Employment Security Appeals.

9. It is clear from the exhibits presented at hearing that the Respondent had been terminated from his prior employment at Mohegan Sun for purchasing drugs from a co-worker while on the job, and that he was untruthful when he stated on his application that he had left that employment to "seek better opportunities."

V. CONCLUSIONS OF LAW AND RECOMMENDATION

Rule 21 of *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings* provides:

If any Party to a proceeding fails to answer a complaint, plead, appear at a prehearing conference or hearing or otherwise fails to prosecute or defend an action as provided by these Rules, the Hearing Officer may enter a default judgment against the defaulting Party, take such action based on the pleadings and/or other evidence submitted by the nondefaulting Party as the Hearing Officer deems appropriate in his/her sole discretion or take such other action as the Hearing Officer deems appropriate in his/her sole discretion.

In this case, Respondent failed to appear at the prehearing conference on September 19, 2013. The Department moved for a default judgment and a denial of Respondent's license at the prehearing conference.

R.I. Gen. Laws § 41-4-9.1(c) provides that the Department may reject for good cause an application for a license. That statute further provides that, in determining whether to grant a license pursuant to this section the division may require the applicant to submit information as to: financial standing and credit; moral character; criminal record, if any; and previous employment.

It is undisputed that the Respondent answered a question on his application regarding past employment untruthfully. This is evidence that the moral character and previous employment history of the Respondent are reasonable grounds for the Department to make a determination that he has not met the requirements for licensing.

In light of Respondent's failure to defend this action and the reasons set forth in the Department's Order to Show Cause Why License Should Not Be Denied, it is recommended that Respondent's application for a Dealer/Operations Employee license be denied pursuant to Rule 21 *Central Management Regulation 2 – Rules of Procedure for Administrative Hearings* and R.I. Gen. Laws § 41-4-9.1(c).

Dated: 9/19/13

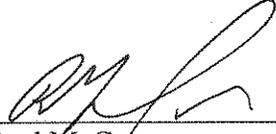


Ellen R. Balasco, Esq.
Hearing Officer

I have read the Hearing Officer's Decision and Order in this matter, and I hereby take the following action with respect to her recommendations.

ADOPT
 REJECT
 MODIFY

Dated: 23 September 2013



Paul McGreevy
Director

THIS DECISION CONSTITUTES A FINAL DECISION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT.

CERTIFICATION

I hereby certify on this 23rd day of September, 2013, that a copy of the within Decision was sent by certified and first class mail, postage prepaid to:

Kung Joe Kedjumnong at 24 Washington Street, Pawcatuck, Connecticut 06379

and by electronic mail to the following personnel of the Department of Business Regulation, 1511 Pontiac Ave, Cranston, Rhode Island 02920:

Maria D'Alessandro, Esq., Deputy Director of Commercial Licensing and Racing and Athletics

Christina Tobiasz, Chief Licensing Examiner – Racing & Athletics

Jenna Algee, Legal Counsel.

