

**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:	:	
	:	
CHERRIE FIELDS,	:	DBR No. 14RA012
	:	
RESPONDENT.	:	

DECISION

Hearing Officer: Ellen R. Balasco, Esq.
Hearing Held: July 2, 2014
Appearances: For Respondent: *Pro se.*
For the Department: Jenna Algee, Esq.

I. INTRODUCTION

On June 24, 2014 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 by the Director of the Department of Business Regulation (“Department”) on or about May 23, 2014. At that time, the Department asserted that the Racing and Athletics Division denied the Respondent’s license application pursuant to the authority granted under Racing and Athletics Regulation 9, and R.I. Gen. Laws § 41-4-9.1(c). The matter was continued to July 2, 2014 for a full hearing at the request of the Respondent.

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 Service Employee license at the Twin River facility was rightfully denied by the Department's Racing and Athletics Division.

IV. FINDINGS OF FACT

1. The Division received a Vendor (Concessionaire) Employee license application from the Respondent on March 28, 2014.

2. At the hearing, the Department presented the Chief Licensing Examiner for the Division of Racing and Athletics, who testified that she processed the Respondent's license application, which included obtaining her national background check from the FBI through the Rhode Island Department of Attorney General.

3. In her application, the Respondent answered Question No. 28 ("Have you ever been arrested with any crime or offense in Rhode Island or any other jurisdiction in the last 10 years") by checking the box "No".

4. The criminal background check received by the Division was entered as a full exhibit at the hearing. It revealed that the Respondent had the following criminal contacts:

- a. Arrest for disorderly conduct in Cranston, RI on 11/4/10;
- b. Arrest on a warrant by Rhode Island State Police on 11/13/10;
- c. Charge of Driving Without/Expired license in Providence, RI on 5/29/12;
- d. Arrest on a warrant by Rhode Island State Police on 7/26/2012;
- e. Arrest on a warrant by Rhode Island State Police on 10/09/13.

5. Upon further investigation, the Division obtained records from the Rhode Island Courts Connect criminal database which revealed that the Respondent entered a plea of nolo contendere to a charge of Driving on a Suspended License by the Rhode Island State Police on June

30, 2011, and a second charge of Driving on a Suspended License on May 6, 2012 to which she also entered a plea of nolo contendere on July 27, 2012.

6. In her defense, Respondent testified that her untruthful answer to the application question was a “misunderstanding” in that she was of the belief that the disorderly conduct charge would be dismissed after one year. She further testified that she “never had to appear in Court” on that charge.

7. As to the other arrests and charges listed in her criminal history record, she testified that she did not believe that she had to report traffic offenses, based on a conversation she had with a potential employer at Dunkin Donuts. The Respondent also blames her young age at the time of the criminal charge of Disorderly Conduct for her actions, stating that she has since matured. She now has a son, and has to support him.

8. She further explained her behavior during the incident as “I was only waving my arms in the air to keep from wailing on her.”

9. The Respondent had no explanation of the Driving on Suspended License charges, or the arrests on warrants.

10. It was noted by the Hearing Officer that the Respondent’s demeanor during the hearing was not altogether appropriate given the circumstances. She raised her voice on occasion, interrupted a witness’ testimony and seemed annoyed that she had to go through the hearing process. She also stood up to leave before the hearing was concluded.

11. In addition to the FBI criminal history record (which is hereby ordered to be sealed and deemed by the undersigned to not be a matter of public record), the Department presented the following documents at the hearing, which were marked as full exhibits for consideration by the Hearing Officer: Employee Vendor license application form signed by the Respondent on March 28, 2014; arrest report from the Cranston Police Department.

12. The Respondent's untruthful answers to the application questions regarding her criminal history is evidence of untrustworthiness and dishonesty.

13. The description of the Respondent's behavior in the Cranston Police arrest report, such as knocking over papers and books in a classroom, and the Respondent's demeanor at the hearing in this matter are evidence that she may have difficulty managing her anger in stressful situations.

14. The Respondent's failure to appear before the Court resulting in the issuance of bench warrants against her and the Operating on Suspended License charges are evidence of her failure to respect the laws of the state.

15. Based on the documentary and testimonial evidence presented at hearing by the Department and the Respondent, and the foregoing findings of fact, the Division of Racing and Athletics has good cause to deny the application of the Respondent.

V. CONCLUSIONS OF LAW AND RECOMMENDATION

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 moral character and criminal record.

Racing and Athletics Regulation 9, Section 5(A) *Criminal Background Investigation* states that arrests and/or charges that occurred within the last ten (10) years are types that may warrant denial of application for license or permit, or renewal of a license or permit.

Section 5(B) of Regulation 9 provides a number of factors which may be considered as extenuating circumstances in granting or denying an application. One such factor is the applicant's refusal to acknowledge responsibility for arrest charges and/or offenses. In this respondent's testimony, she failed to acknowledge the warrant arrests, or the Driving on

Suspended License charges. Her explanation for the Disorderly Conduct charge was that she acted so as not to physically harm the other female involved. However the Cranston Police arrest report states that the officer "arrived on scene prior to (the dispute) becoming physical.

It is undisputed that the Respondent provided untrue, incomplete and inaccurate information and omitted material facts regarding her criminal history on the application.

The nature of her arrest and criminal charge of Disorderly Conduct shows that the Respondent engaged in an altercation in which her anger was not appropriately controlled. Based upon these facts alone, it appears that the Respondent lacks good moral character, and as such, she does not meet the requirements for licensing.

It is the considered opinion of the undersigned Hearing Officer, based on all of the testimony adduced at hearing and the documentary evidence presented, that the Division of Racing and Athletics has rightfully and with good cause denied the Respondent's application. The Hearing Officer recommends that the Director issue an Order denying the Vendor Employee application of the Respondent.

Dated: 15 July 2014



Ellen R. Balasco, Esq.
Hearing Officer

FINAL ORDER

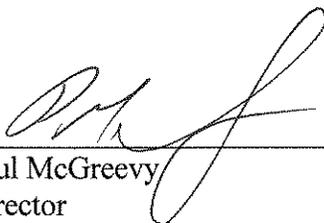
I have read the Hearing Officer's Decision and Order in this matter, and I hereby take the following action with respect to her recommendations.

ADOPT

REJECT

MODIFY

Dated: 15th July 2014



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 15th day of July, 2014, that a copy of the within Decision was sent by certified and first class mail, postage prepaid to: Cherri D. Fields, 159 Bridgham Street, A8, Providence, RI 02907; and by electronic mail to the following parties at the Department of Business Regulation: Maria D'Alessandro, Esq., Deputy Director of Commercial Licensing and Racing and Athletics; Christina Tobiasz, Chief Licensing Examiner – Racing & Athletics; Jenna Algee, Legal Counsel.

