

New Hampshire Racing & Charitable Gaming Commission
Commission Meeting
June 25, 2014
14-06

Present: Timothy J. Connors, Chairman
Anthony B. Urban, Secretary
Frederick H. Booth, Member
Dennis H. Caza, Member
Michael J. Gatsas, Member
Lynn M. Presby, Member
Paul M. Kelley, Director
Sudhir K. Naik, Deputy Director
Valerie King, Procedures Administrator
Stephen Johnston, Supervisor-Gaming Operations
Billie Jean Arseneault, Gaming/Licensing Supervisor
Linda Glaser, Auditor
Stratos Argiras, Auditor
Amir Alic, Auditor
Linda Darrow, Administrative Secretary

In Attendance: Dick Bouley, Nick Bonardi, Ed Callahan, Rick Newman, Representative Lovejoy, Ryan Gloddy, Jamie Timbas, Anthony Fusco, Mike McLaughlin, Susan Geiger, Dan Mullen, Shawn Flanagan, Jack Saltiel, Al Nigro and others.

The Chairman called the meeting to order at 10:00 a.m. Director Kelley introduced Ms. Valerie King, the new Procedures Administrator.

Ms. Darcie Isabelle Hearing

At 10:02 a.m., the Chairman opened the hearing for Ms. Darcie Isabelle relative to the denial of her application for a Games of Chance License. The chairman swore in those who were to testify:

Ms. Darcie Isabelle
Mr. Anthony Fusco – Oceanfront Gaming

After testimony was given, the Chairman asked if anyone else had any testimony or evidence to offer. There being none, the Chairman closed the hearing at 10:13 a.m. Based on all evidence received and all testimony heard, on a motion by Commissioner Urban, seconded by Commissioner Booth and unanimously voted for the following:

IN THE MATTER OF
Ms. Darcie Isabelle

Decision & Order
Appeal of Denial of Games of Chance
Secondary Game Operator License

Finding of Facts

1. On May 20, 2014, the NH Racing and Charitable Gaming Commission (Commission) received a Secondary Game Operator License Application from Darcie M. Isabelle, 60 Roberts Road, Barrington, NH 03825. The application requested employment to be a dealer, run a roulette wheel, and hand of chips for the Oceanfront Gaming, Inc.
2. Thereafter, Gaming Licensing Supervisor Billie Jean Arseneault reviewed Ms. Isabelle's application for licensure.
3. Ms. Isabelle noted on page 2, section 3, item A of her application that she had been convicted of a felony or a misdemeanor, and further noted that she had been convicted of a Class B misdemeanor for "disorderly conduct" in October of 2013.
4. Ms. Isabelle signed her application on May 14, 2014, and certified that the information which he provided was true, accurate and complete.
5. Pursuant to a duly executed (by Ms. Isabelle) authorization for the release of criminal history record, the Commission received a copy of Ms. Isabelle's Criminal History Record from the NH Department of Safety.
6. Supervisor Arseneault reviewed Ms. Isabelle's criminal history, and noted that Ms. Isabelle's Criminal History Record revealed that, in addition to the conviction noted on her application, Ms. Isabelle had also received the following convictions:
 - a. A Class B misdemeanor, to wit: Theft by Unauthorized Taking (violation date: 7/18/2011). On February 8, 2012, the justice of the Rockingham Superior Court dispensed a guilty conviction and 50 hours of community service, and 12 months at a House of Corrections, suspended pending good behavior.
 - b. A Class B misdemeanor, to wit: Criminal Threatening (violation date: 5/2/2011). On December 9, 2011, the Justice of the Exeter District Court dispensed a guilty conviction and a \$1,000 fine with \$500 suspended pending 1 year of good behavior.
 - c. Class B misdemeanor, to wit: Theft by Unauthorized Taking (violation date 10/23/10). On January 6, 2011, the Justice of the Plaistow District Court dispensed a guilty conviction and a \$500 fine, suspended in lieu of community service.
 - d. A Class A misdemeanor, to wit: Simple Assault (violation date: 12/6/2008). On November 15, 2010, the Justice of the Exeter District Court dispensed a guilty conviction and a 1,000 fine with \$750 suspended pending 2 years of good behavior.
7. On May 21, 2014, after reviewing the application in conjunction with the applicable RSA's and the Criminal History Record, Supervisor Arseneault denied Ms. Isabelle's application and notified her of the same via certified mail, return receipt requested. In the letter, Supervisor Arseneault also notified Ms. Isabelle of her appellate rights and enclosed an Appeal Form.
8. On June 6, 2014, the Commission received Ms. Isabelle's request for an appeal.
9. In the Appeal Form, Ms. Isabelle stated that she has not gotten into any trouble since her "conspiracy to commit theft charge" (see item a. above). She also stated that she had served only as a "look out" for the crime, and "did not attempt to 'steal' anything".
10. On June 25, 2014, Ms. Isabelle provided testimony at the hearing stating, among other things:
 - a. She was aware that she may have an attorney represent her interests before the Appeal Hearing; however she desired to proceed without a lawyer.
 - b. She was aware that the audio portion of the Appeal Hearing was being "tape recorded".

- c. She is aware that the denial of her application was based upon her criminal history.
- d. She takes full responsibility for the conviction, saying that these incidents occurred when she was still in High School, and associating with the wrong people. She stated that she has learned her lesson, and does her best to make better choices.
- e. She noted that she is currently working toward her Associates Degree in Communications and intends to continue her studies at Framingham State University for a degree in Fashion Merchandising.
- f. For the foregoing reasons, she is asking the Commission to reconsider the initial denial of her application.

Conclusions of Law

1. Pursuant to RSA 287-D:2-b VI, "...no person who has in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or who has violated any of the statutes or rules governing charitable gambling in the past shall operate a game of chance licensed under this chapter...".
2. Pursuant to RSA 287-D:8, II, the Commission has the authority to determine eligibility and fitness for licensure.
3. Based on testimony given and information received, the Commission rendered a decision regarding Ms. Isabelle's Appeal of Denial for a Secondary Game Operator Games of Chance License.
4. The Commission concludes that each license application/appeal hearing, is separate and distinct from every other application/appeal hearing, and a decision on an application/appeal hearing is based on the information and/or testimony received regarding that specific application/appeal hearing.
5. Based on testimony given and information received, the Commission determines that the issuance of a Secondary Game Operator Licenses would be denied in this instance.
6. Based on testimony given and information received, the Commission concludes, pursuant to RSA 287-D:8, II, that Ms. Isabelle is not eligible or fit for licensure at this time.

Order

The Racing & Charitable Gaming Commission orders that the denial of Ms. Darcie Isabelle's 2014 Secondary Game Operator Application for a Secondary Game Operator License is **upheld**.

So Ordered.

On a motion by Commissioner Urban, seconded by Commissioner Booth and unanimously voted to approve and place on file the minutes dated May 28, 2014, with the following corrections:

- a. Page 2, under Correspondence: "A motion was made by Commissioner Presby and seconded by Commissioner Booth to approve on a trial basis . . ." was corrected to "A motion was made by Commissioner Booth and seconded by Commissioner Presby to approve on a trial basis. . ."
- b. Page 2, under Correspondence: language was clarified regarding the pilot program and the number of machines to be operated per facility. No more than two machines per facility.

- c. Page 1, under the Decision and Order for Club Mont Royal: *Chairman Connors* and the RCGC staff will perform an unannounced site visit to review Club Mont Royal's procedures.

On a motion by Commissioner Urban, seconded by Commissioner Booth and unanimously voted to place on file the Racing & Charitable Gaming statistics for the fiscal period of July 1, 2013 – May 31, 2014.

The Games of Chance/Bingo/Lucky 7 warning letters/late financials spreadsheets were reviewed. Deputy Director Naik noted all were in except for American Legion Post 98. Discussion ensued relative to following established policy regarding late financials and when an organization needs to appear at a hearing before the Commission. Staff is to report back with the policy at the next Commission meeting. The spreadsheets were accepted and placed on file.

On a motion by Commissioner Booth, seconded by Commissioner Urban and unanimously voted to place the Games of Chance State and Charity revenue spreadsheets on file.

Deputy Director Naik provided a summary of the Rockingham Gaming LLC audit report. Other than minor procedural and documentation issues needing to be fine-tuned, no major issues of concern were found. Discussion ensued. On a motion by Commissioner Urban, seconded by Commissioner Gatsas and unanimously voted to send staff to Rockingham Gaming, LLC in 120 days to confirm audit recommendations have been completed. Deputy Director Naik thanked Auditors Glaser, Argiras and Alic for their work in completing the audit and thanked the Rockingham Park employees for their cooperation and assistance during the course of the audit.

The draft guidelines for the Electronic Poker/Blackjack Pilot Program were reviewed. The following items/concerns were raised:

- a. How often will the facility/game operator who uses these devices provide financial reporting information on each table? (staff to determine when and how often)
- b. Clarify the total number of devices allowed at each location. (a total of two devices per facility)
- c. The Commission is to be notified whenever a device is added/exchanged/removed from any facility.
- d. The pilot program will have one start date and one end date, yet to be determined. All eligible to participate in the pilot will need to adhere to these dates. All machines will be decommissioned on the end date, regardless of whether they were in the location 150 days or 30 days.
- e. Who determines the time frame to cash vouchers? (House rules make that determination)
- f. What happens to the devices if a charity does not want to use them?
- g. The subcommittee will continue to meet during the pilot program to develop rules with the goal of bringing them before JCAR at some point in the future.
- h. The State, Commission and charities are not to incur any costs during the pilot program.
- i. These devices are considered class II devices.

The following disclaimer is to be added to the Electronic Poker/Blackjack Pilot Program and the Electronic Lucky 7 Pilot Program: "These guidelines as adopted by the Commission are temporary guidelines and shall not be construed to be permanent rules or guidelines and the Commission is not obligated to adopt or incorporate any or all of these guidelines into current or future rules adopted by the Commission."

Director Kelley will update the draft guidelines and present them at the next meeting.

The draft guidelines for the Electronic Lucky 7 Pilot Program were reviewed. Many of the items/concerns listed above also apply to this pilot program. Other items raised:

- a. Staff, rather than the Commission, will evaluate the electronic devices brought in for review by participants. Staff will report back to the Commission as needed.
- b. The POS tickets need to be submitted to staff for approval. The approval process can be done in five days or less, once staff receives the tickets.

Director Kelley will update the draft guidelines and present them at the next meeting

Tabled Items:

- a. Moratorium on submission of new games – this item will be addressed at the next meeting.

Correspondence:

- a. Summary of RCGC monthly activities for month ended May 30, 2014 was accepted and placed on file.

Old Business:

- Commissioner Gatsas noted that the account wagering balance information from Seabrook and Rockingham is over the required limits.
- Club Mont Royal has hired a CPA to follow up on the observations which were noted in the audit conducted by RCGC. Staff will follow up with the CPA.
- The Chairman noted that the Commission provided conditional approval back in April to the license application of Hinsdale Harness LLC to conduct simulcast wagering subject to approval of the AG's office. No response has yet been received from the AG's office. Mr. McLaughlin, representing Hinsdale Harness LLC, requested a non-public setting to provide an update on Hinsdale.

New Business:

- Mr. Jack Saltiel and Mr. Al Nigro of Eclipse Gaming Systems provided a short overview of their company their plans to participate in the pilot program.
- Director Kelley informed the Commission that Miss New Hampshire lost its 501c standing with the IRS. Twenty-one (21) smaller charities fall under their umbrella and are affected. The smaller charities are currently applying for their own 501c status and Miss New Hampshire is appealing. Discussion ensued. On a motion by Commissioner Presby, seconded by Commissioner Booth and unanimously voted to allow Miss New Hampshire (and the smaller umbrella charities) to continue operations pending the outcome of the appeal. Staff was asked to obtain a letter from Miss New Hampshire stating that they are appealing the IRS decision, that the umbrella charities are applying for their own 501c standings and asking that they and their umbrella charities be allowed to continue to operate charitable gaming activities until the appeal process is complete.
- Director Kelley informed the Commission that Sullivan County Humane Society planned an event to be held at the Moose Lodge in Claremont. In the meantime, the Moose Lodge in Claremont had its license pulled by the national organization. If the Moose Lodge offers use of its building regardless, can Sullivan County Humane Society hold their event there? Discussion ensued. On a motion by Commissioner Gatsas, seconded by Commissioner Booth and unanimously voted to allow Sullivan County Humane Society to hold its event at the Moose Lodge under the following conditions: use of the hall will be free; this will be

allowed only on a one-time basis for the August event; and Sullivan County Humane Society will find a licensed charitable hall for all future events they plan to conduct.

- Director Kelley informed the Commission that Diamond Distributors is buying Ray's Novelties, which includes their ticket inventory. Even though tickets normally are obtained from a licensed manufacturer, in this case a distributor will be allowed to obtain the tickets of a distributor they are purchasing.
- Mr. Flanagan announced that Atlantic Gaming was opening for business at the Hampton Beach Casino June 26th.
- The Governor issued an executive order to make sure all state agencies follow up on LBA audit findings. Deputy Director Naik has followed up on the agencies last audit but some items need to be updated due to changes that have occurred.

There being no questions or comments from the audience, at 11:30 a.m., on a motion by Commissioner Booth, seconded by Commissioner Urban and by a unanimous roll call vote the Commission voted to adjourn the regular meeting and go into nonpublic session as allowed under RSA 91-A:3, II(c)

Connors	-	Yes
Caza	-	Yes
Booth	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Urban	-	Yes

At 11:55 a.m., on a motion by Commissioner Urban, seconded by Commissioner Booth and by a unanimous roll call vote the Commission voted to come out of the nonpublic session and permanently seal the nonpublic minutes.

Connors	-	Yes
Caza	-	Yes
Booth	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Urban	-	Yes

The next meetings are scheduled for Wednesday, July 9, 2014 at 10:00 a.m. in conference room 100 at the Walker Building and Tuesday, August 12, 2014 at 10:00 a.m. in conference room 100 at the Walker Building.

The Chairman closed the public meeting at 12:00 noon.

Respectfully Submitted,

Anthony B. Urban
Secretary