

New Hampshire Racing & Charitable Gaming Commission
Commission Meeting
May 6, 2015
15-05

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
Suzanne Robidoux, Gaming/Licensing Supervisor
Amir Alic, Gaming Audit Supervisor
Robert White, Gaming Enforcement Investigator
Linda Darrow, Administrative Secretary

In Attendance: Nick Bonardi, Gregg Barber, Ryan Gloddy, Ed Callahan, Dick Bouley, Jamie Timbas, Jan DiMarzio, Rick Newman, Susan Geiger, Anthony Fusco, Michael McLaughlin, Linda Glaser, Keith Fournier, Tyler Astoria, Chad Kageleiry, Susan Manchester, Robert O'Connell, Peggy Casey, Jacqui Wood, representatives from Grover Gaming, Technology Exclusive, World Touch Gaming, and others.

Chairman Connors called the meeting to order 11:00 a.m. He called for the scheduled hearings to begin.

Mr. Keith Fournier Hearing

At 11:05 a.m., Chairman Connors opened the hearing for Mr. Keith Fournier relative to the revocation of his Primary Game Operator license. He swore in those who were to testify:

Mr. Keith Fournier

After testimony was given, Chairman Connors asked if anyone else had any testimony or evidence to offer. There being none, he closed the hearing at 11:15 a.m.

Mr. Tyler Astorian Hearing

At 11:15 a.m., Chairman Connors opened the hearing for Mr. Tyler Astorian relative to the denial of his application for a Secondary Game Operator license. He swore in those who were to testify:

Mr. Tyler Astorian

After testimony was given, Chairman Connors asked if anyone else had any testimony or evidence to offer. There being none, he closed the hearing at 11:20 a.m.

Deputy Director Naik reviewed the observations that resulted from an audit performed of Seacoast Bingo LLC, Cooperative Bank Account for the period of July 2011 to November 2014. Mr. Chad Kageleiry of Seacoast Bingo and his counsel Attorney Susan Manchester responded to the observations and answered questions from the Commission. Representatives from three of the charities that are part of the Cooperative made themselves available to answer questions as well. In order to obtain accurate answers to some of the more detailed questions, Director Kelley will work with Mr. Kageleiry to obtain the needed information. He will provide his findings to the Commission at the next meeting.

Deputy Director Naik thanked Linda Glaser for performing the audit and also for her years of service with the agency.

On a motion by Commissioner Booth, seconded by Commissioner Urban and unanimously voted to approve and place on file the minutes dated April 6, 2015.

On a motion by Commissioner Booth, seconded by Commissioner Caza and unanimously voted to place on file the Racing & Charitable Gaming statistics for the fiscal period of July 1, 2014 – April 26, 2015.

The Games of Chance/Bingo/Lucky 7 warning letters spreadsheet was reviewed. Deputy Director Naik noted that all responses have been received. The spreadsheet was accepted and placed on file.

The Games of Chance State and Charity revenue spreadsheets were reviewed and placed on file.

Mr. Rick Newman addressed the Commission regarding “shared bingo”. He expressed concern that the legislature would approve the concept but allow only one bingo hall to control all shared bingo in the State. He believes any licensee should be able to participate as a host or a participating location. Mr. Bouley, representing Catholic War Veterans also expressed concern. Attorney McLaughlin believes the current language of the bill will prevent a monopoly. Discussion ensued. Bingo Mundo, a division of Quebec Lottery, will be appearing before the House Ways and Means subcommittee on May 12th. Both Director Kelley and Procedures Administrator King will be in attendance. They will continue to follow developments with “shared bingo”. The Commission approved the concept of shared bingo on November 25, 2013. On a motion by Commissioner Gatsas, seconded by Commissioner Booth and unanimously voted to reiterate their support of the concept of shared bingo as long as it maximizes revenue for charities and the state and does not create a monopoly.

E-max Gaming Corporation, a division of Arrow International, Inc., submitted a request for approval of modification of the previously approved E-BOT Dispenser, which improves the reliability of the ticket purchase process. Arrow also submitted a request for approval of four Lucky 7 games (Triple Bonus, Lion’s Pride, Biker Betty and Wild Crazy 7’s) for use with the E-BOT device. Procedures Administrator King noted that staff reviewed the modifications and the Lucky 7 tickets and found both to be in compliance. On a motion by Commissioner Booth, seconded by Commissioner Urban and unanimously voted to approve the modifications and the Lucky 7 tickets.

Procedures Administrator King provided rulemaking timelines for the Bingo and Games of Chance rules. The draft Bingo and Games of Chance rules were previously provided to the Commission for their review, and the Fiscal Impact Statements and Rulemaking Notice Forms were provided in the agenda packet. Discussion ensued. On a motion by Commissioner Booth, seconded by Commissioner Gatsas and unanimously voted to approve the drafts as written and move forward

with rulemaking. Ms. King will submit the Fiscal Impact Statement to the Legislative Budget Assistant immediately. The public hearing date will be set at the next Commission meeting.

Correspondence:

None.

Old Business:

- Commissioner Gatsas noted that the account wagering balance information from Seabrook and Rockingham fall within the required limits.

At 12:25 p.m., Chairman Connors called for a short recess. He called the meeting back to order at 12:30 p.m.

New Business:

Director Kelley noted that representatives from Grover Gaming, Technology Exclusive and World Touch Gaming were present to demonstrate their electronic Lucky 7 devices and were asking for approval of these machines, tickets and waiver requests they each submitted relative to the requirement of Pari 1109.01(d). Staff was given demonstrations previously and determined all three machines and tickets submitted comport with the rules promulgated by the Commission and adopted by JLCAR.

Attorney McLaughlin argued that the Commission could not approve the devices because the agenda only indicated “demonstrations” of the devices, and that moving forward with approvals would be a violation of the public’s Right-to-Know (RSA 91-A). To address Attorney McLaughlin’s concern the approvals were brought up under “New Business”. Mr. McLaughlin also argued that the devices could not be approved before corrections were made to the statute per JLCAR recommendations (to correct the definition of “a deal” to remove the reference to boxed or bagged tickets.) Procedures Administrator King informed the Commission that JLCAR approved the rules unconditionally and as such, the Commission was free to proceed with approving electronic devices. It was further noted that staff has been in contact with Representative Hatch to correct the statutory language. Discussion ensued and the decision was made to move forward with the approvals under “New Business”.

Grover Gaming

Mr. Kevin Morse of Grover Gaming made his presentation. A question and answer period followed. Discussion ensued. On a motion by Commissioner Booth, seconded by Commissioner Presby and unanimously voted to approve Grover Gaming’s electronic Lucky 7 device (Eagle Strike 1 Electronic Pull-tab System), related tickets (Oil Rush, Party Crashers, Lucky Striker, Henry’s Harvest and Major Cash) and waiver request. This waiver shall be valid conterminous with Grover Gaming’s manufacture license. To renew this waiver, a renewal request needs to be submitted as part of Grover Gaming’s annual license renewal packet. Specifically, the waiver was granted to allow:

1. The following information to appear on the video screen rather than on the exterior or the ticket as required by Pari 1109.01(d)(1)-(2):
 - a. The number of winners and respective winning number(s) or symbol(s); and
 - b. The prize amounts within a deal;
2. The following information to appear on the interior rather of the ticket as required by Pari 1109.01(d)(3)-(7):
 - a. The price of each ticket;

- b. The game name;
- c. The game form number;
- d. The serial number; and
- e. The name or logo of the manufacturer of the ticket.)

Technology Exclusive

Attorney Susan Geiger, representing Technology Exclusive, and Mr. Phil Lulek made themselves available to field questions from the Commission. Discussion ensued. On a motion by Commissioner Booth, seconded by Commissioner Urban and unanimously voted to approve Technology Exclusive's electronic Lucky 7 device, related tickets (American Glory and Nevada Club) and waiver request. This waiver shall be valid conterminous with Technology Exclusive's manufacture license. To renew this waiver, a renewal request needs to be submitted as part of Technology Exclusive's annual license renewal packet. Specifically, the waiver was granted to allow:

1. The following information to appear on the video screen rather than on the exterior or the ticket as required by Pari 1109.01(d)(1)-(2):
 - a. The number of winners and respective winning number(s) or symbol(s); and
 - b. The prize amounts within a deal;
2. The following information to appear on the interior rather of the ticket as required by Pari 1109.01(d)(3)-(7):
 - a. The price of each ticket;
 - b. The game name;
 - c. The game form number;
 - d. The serial number.)

World Touch Gaming

Mr. Don Feichter of World Touch Gaming made himself available to field questions from the Commission. Discussion ensued. On a motion by Commissioner Booth, seconded by Commissioner Caza and unanimously voted to approve World Touch Gaming's electronic Lucky 7 device (WTG Pull-Tab System with POS v15.4.29.1), related tickets (\$.25 and \$.50 denominations of American Anthem, Barnyard Bash, Clover Cash, Cold Cash, Dark and Bark, En Fuego, Fahrenheit 777, Golden Sand-dollar, Gridiron Gold, Juice Bar, Loot N Fruit, Marty 2, Merlin's Magic, Prospector Saloon, Rocky's Riches, Rok N Whirl, Roughneck Riches, Tunzamunny, Victory Lane, Witchy Riches, Yatuka) and waiver request. This waiver shall be valid conterminous with World Touch Gaming's manufacture license. To renew this waiver, a renewal request needs to be submitted as part of World Touch Gaming's annual license renewal packet. Specifically, the waiver was granted to allow:

1. The following information to appear on the video screen rather than on the exterior or the ticket as required by Pari 1109.01(d)(1)-(2):
 - a. The number of winners and respective winning number(s) or symbol(s); and
 - b. The prize amounts within a deal;
2. The following information to appear on the interior rather of the ticket as required by Pari 1109.01(d)(3)-(7):
 - a. The price of each ticket;
 - b. The game name;

- c. The game form number;
- d. The serial number; and
- e. The name or logo of the manufacturer of the ticket.)

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
Mr. Keith Fournier

Decision & Order
Appeal of Revocation of Games of Chance
Primary Game Operator License

Finding of Facts

1. On March 26, 2015, the NH Racing and Charitable Gaming Commission (Commission) received a Secondary Game Operator License Application from Mr. Keith Fournier, 21 Howe Street, Rochester NH. The application requested employment to be a dealer, run a roulette wheel, and hand of chips for Rockingham Gaming, LLC.
2. On March 24, 2015, the Commission was notified that charges had been brought against Mr. Fournier relative to a domestic incident. Staff subsequently confirmed that charges had been filed.
3. On April 6, 2015, having not received any communication from Mr. Fournier, the Commission suspended Mr. Fournier's Primary Game Operator license due to his failure to report misdemeanor charges brought against him, as required by the conditional approval of his license. On April 7, 2015, a letter to this affect was sent to Mr. Fournier, which included information regarding his right to appeal the decision.
4. On April 13, 2015, the Commission received Mr. Fournier's request to appeal the Commission's decision, and on April 14, 2015, a letter was sent to Mr. Fournier notifying him that his appeal would be heard on May 6, 2015.
5. On May 6, 2015, Mr. Fournier provided testimony at the hearing stating, among other things:
 - a. He was aware that he may have an attorney represent his interests before the Appeal Hearing; however he desired to proceed without a lawyer;
 - b. He was aware that the audio portion of the Appeal Hearing was being recorded;
 - c. He was aware that the suspension of his Primary Game Operator License was based upon his failure to notify the Commission of recent charges brought against him;
 - d. He acknowledged full responsibility for failing to notify the Commission, and further stated that his failure was unintentional. Mr. Fournier indicated that he had misunderstood the requirement, thinking he only needed to report charges that resulted in a guilty verdict and not (unsubstantiated) charges that where pending a court decision. Mr. Fournier also stated that, due to the restraining order against him, he was unable to immediately retrieve the Commission's order from his home so he was unable to confirm his requirements under the order. Mr. Fournier further stated that he would accept the decision of the Commission, but wanted to stress that he was not the man that the charges make him appear to be, and that he would never strike a woman. For the foregoing reasons, he asked the Commission to reconsider the suspension of his license.

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 Mr. Fournier's appeal of the suspension of his Primary Game Operator 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 suspension a Primary Game Operator Licenses would be upheld in this instance.
6. Based on testimony given and information received, the Commission concludes, pursuant to RSA 287-D:8, II, that Mr. Fournier is not eligible for licensure at this time. Mr. Fournier may petition the Commission for reconsideration of its decision upon the conclusion of his pending court case.

Order

The Racing & Charitable Gaming Commission orders that the suspension of Mr. Fournier's 2015 Primary Game Operator license be upheld. Mr. Fournier may petition the Commission for reconsideration of its decision upon the conclusion of his pending court case relative to charges brought against him by his wife, Carol Gaudette-Fournier, on or about March 23, 2015.

Based on all evidence received and all testimony heard, on a motion by Commissioner Urban, seconded by Commissioner Caza and voted, with Commissioner Presby voting against, for the following:

IN THE MATTER OF
Mr. Tyler Astorian

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

Finding of Facts

1. On March 26, 2015, the NH Racing and Charitable Gaming Commission (Commission) received a Secondary Game Operator License Application from Tyler A. Astorian, 9 Rouse Drive, Boscawen, NH. The application requested employment to be a dealer, run a roulette wheel, and hand of chips for Rockingham Gaming, LLC.
2. Thereafter, Gaming Licensing Supervisor Susan Robidoux reviewed Mr. Astorian's application for licensure.
3. Mr. Astorian noted on page 2, section 3, item A of his application that he had been convicted of a felony or a misdemeanor, and further noted that he had been convicted of

two counts of simple assault, one count of breach of bail and one count of obstructing justice.

4. Mr. Astorian signed his application on March 27, 2015, and certified that the information which he provided was true, accurate and complete.
5. Pursuant to a duly executed (by Mr. Astorian) authorization for the release of criminal history record, the Commission received a copy of Mr. Astorian's Criminal History Record from the NH Department of Safety.
6. Supervisor Robidoux reviewed Mr. Astorian's criminal history, and noted the following convictions:
 - a. Class A misdemeanor for breach of bail conditions with a violation date of 9/24/2013;
 - b. Class A misdemeanor for criminal mischief with a violation date of 8/2/2013;
 - c. Class A misdemeanor for simple assault with a violation date of 4/30/2013;
 - d. Class B misdemeanor for violation of a protective order with a violation date of 4/1/2013;
 - e. Class A misdemeanor for simple assault with a violation date of 1/28/2013;
 - f. Class A misdemeanor for obstructing the report of a crime or injury with a violation date of 1/28/2013; and
 - g. Class B misdemeanor for Possession of a controlled drug (marijuana) with a violation date of 9/28/2009.
7. On April 8, 2015, after reviewing the application in conjunction with the applicable RSA's and the Criminal History Record, Supervisor Robidoux denied Mr. Astorian's application and notified him of the same via certified mail, return receipt requested. In the letter, Supervisor Robidoux also notified Mr. Astorian of his appellate rights and enclosed an Appeal Form.
8. On April 22, 2015, the Commission received Mr. Astorian's request for an appeal.
9. On May 6, 2015, Mr. Astorian provided testimony at the hearing stating, among other things:
 - a. He was aware that he may have an attorney represent his interests before the Appeal Hearing; however he desired to proceed without a lawyer;
 - b. He was aware that the audio portion of the Appeal Hearing was being recorded;
 - c. He is aware that the denial of his application was based upon his criminal history;
 - d. He took full responsibility for the conviction, saying that these incidents occurred when he was in a bad relationship. Since that time, Mr. Astorian has made efforts to make better choices, and improve himself, including regularly attending AA meetings; and
 - e. For the foregoing reasons, he is asking the Commission to reconsider the initial denial of his 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 Mr. Astorian'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 reversed in this instance.
6. Based on testimony given and information received, the Commission concludes, pursuant to RSA 287-D:8, II, that Mr. Astorian is eligible and fit for licensure at this time.

Order

The Racing & Charitable Gaming Commission orders that the denial of Mr. Tyler Astorian's 2015 Secondary Game Operator Application for a Secondary Game Operator License be reversed and a license issued.

There being no questions or comments from the audience, at 1:10 p.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 1:20 p.m., on a motion by Commissioner Presby, seconded by Commissioner Caza 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, June 10, 2015 at 10:00 a.m. in Room 100 and Monday, June 29, 2015 at 10:00 a.m. in Room 100 of the Walker Building.

The Chairman closed the public meeting at 1:25 p.m.

Respectfully Submitted,

Anthony B. Urban
Secretary