

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

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IN THE MATTER OF:

Baher Andrawis,

Respondent.

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DBR No.: 17GA006

DECISION

I. INTRODUCTION

This matter arose pursuant to an Order to Show Cause why License Should not be Revoked, Notice of Pre-hearing Conference, and Appointment of Hearing Officer (“Order to Show Cause”) issued to Baher Andrawis (“Respondent”) by the Department of Business Regulation (“Department”) on October 17, 2017. Pursuant to R.I. Gen. Laws § 42-4-9.1, the Respondent holds an Operations Employee License (“License”) to work as a table games dealer at Twin River. A hearing was scheduled for May 11, 2018 at which time the Respondent did not appear. Pursuant to Section 2.9 of 230-RICR-100-00-2, *Rules of Procedure for Administrative Hearing* (“Regulation”), service may be made by hand-delivery or first class mail and service is complete upon mailing when sent to the last known address of the party. In this matter, a pre-hearing conference was held on January 8 and February 12, 2018 at which times the Respondent appeared.<sup>1</sup> The matter was scheduled for hearing and continued at least twice at the request of the Respondent. It was finally rescheduled for May 11, 2018. Since the Respondent was adequately noticed of hearing, a hearing was held before the undersigned on

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<sup>1</sup> The pre-hearing conferences were informal so no recordings were made.

May 11, 2018.<sup>2</sup> Prior to the May 11, 2018 hearing date, the Department moved to amend the Order to Show Cause, and Respondent did not object. Said motion was granted on May 11, 2018. Additionally, Section 2.21 of the Regulation provides that a default judgment may be entered based on pleadings and/or evidence submitted at hearing by a non-defaulting party. The Department was represented by counsel who rested on the record.

## II. JURISDICTION

The administrative hearing was held pursuant to R.I. Gen. Laws § 42-14-1 *et seq.*, R.I. Gen. Laws § 41-4-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*, and the Regulation.

## III. ISSUE

Whether the Respondent's License should be revoked pursuant to R.I. Gen. Laws § 41-4-9.1.

## IV. TESTIMONY AND MATERIAL FACTS

Christina Tobiasz, Chief of Licensing Examination, testified on behalf of the Department. She testified that the Respondent held a gaming table dealing license ("License") for Twin River. She testified that the Department was informed by Twin River's Human Resources Department that the Respondent had been terminated from employment as of July 27, 2017. She testified that she sent the Respondent a letter stating that the Department would seek revocation of his License, and the Respondent requested a hearing. See Department's Exhibits One (1) (Respondent's 2017 renewal of License); Two (2) (Twin River August 2, 2017 notice of Respondent's termination to the Department); Three (3) (Department's August 10, 2017 notice to Respondent regarding

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<sup>2</sup> The Respondent acknowledged receiving notice of hearing via his email. He also communicated via email for scheduling purposes.

License revocation); Four (4) (Respondent's request for hearing made on August 28, 2017); and Five (5) (Twin River's April 23, 2018 confirmation of the July 27, 2017 termination).

## V. DISCUSSION

### A. **Legislative Intent**

The Rhode Island Supreme Court has consistently held that it effectuates legislative intent by examining a statute in its entirety and giving words their plain and ordinary meaning. *In re Falstaff Brewing Corp.*, 637 A.2d 1047 (R.I. 1994). If a statute is clear and unambiguous, "the Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings." *Oliveira v. Lombardi*, 794 A.2d 453, 457 (R.I. 2002) (citation omitted). The Supreme Court has also established that it will not interpret legislative enactments in a manner that renders them nugatory or that would produce an unreasonable result. See *Defenders of Animals v. DEM*, 553 A.2d 541 (R.I. 1989) (citation omitted). In cases where a statute may contain ambiguous language, the Rhode Island Supreme Court has consistently held that the legislative intent must be considered. *Providence Journal Co. v. Rodgers*, 711 A.2d 1131, 1134 (R.I. 1998). The statutory provisions must be examined in their entirety and the meaning most consistent with the policies and purposes of the legislature must be effectuated. *Id.*

### B. **Standard of Review for an Administrative Hearing**

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 (2002). Unless otherwise specified, a preponderance of the evidence is generally required in order to prevail. *Id.* See *Lyons v. Rhode Island Pub. Employees Council 94*, 559 A.2d 130, 134 (R.I. 1989) (preponderance standard is the "normal" standard in civil cases). This means that for each element to be proven,

the fact-finder must believe that the facts asserted by the proponent are more probably true than false. *Id.* When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric Co. v. Carbone*, 898 A.2d 87 (R.I. 2006).

**C. Statute**

R.I. Gen. Laws § 41-4-9.1 states in part as follows:

Licensing of concessioners, vendors, and pari-mutuel totalizator companies. –  
(a) All persons, firms, partnerships, associations, or corporations desiring to operate any concession allied to any dog racing track, shall apply for a license to the division of racing and athletics, on such forms and in such a manner as prescribed by regulations of the division. The division by regulations shall establish other occupational licensing for all employees of the concessions, all pari-mutuel employees, and all persons employed in any other capacity by the race track management, and for other persons engaged in racing activities at any dog racing track.

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(c) 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; previous employment; corporate, partnership or association affiliations; ownership of personal assets; and such other information as it deems pertinent to the issuance of the license. The division may reject for good cause an application for a license, and it may suspend or revoke for good cause any license issued by it after a hearing held in accordance with chapter 35 of title 42 and subject to further appeal procedures provided by § 41-2-3.

**D. Whether the Respondent’s License Should be Revoked**

The Department sought to revoke the Respondent’s License pursuant to R.I. Gen. Laws § 41-4-9.1 because the Respondent’s employment at Twin River was terminated.

It is undisputed that the Respondent is no longer employed by Twin River. See Department’s Exhibits Three (3) and Five (5). R.I. Gen. Laws §41-4-9.1 and 230-RICR-30-30-2, *Gaming and Athletics License Application Regulation* (“License Regulation”), provide that the Department shall establish occupational licensing for all employees of at gaming facilities.<sup>3</sup>

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<sup>3</sup> The License Regulation defines “gaming facility” as “any building, enclosure, or premises at which pari-mutuel, simulcast, or slot operations are conducted.”

Section 2.3 of the Licensing Regulations defines an “Operations Employee” as “any individual, other than management, employed by a Gaming Facility to handle money used in the pari-mutuel, simulcast, slot operations, and/or table games at the facility.” Section 2.4 of the same regulation requires an “Operations Employee License” for “[a]ll individuals employed in the simulcast operation of the Gaming Facility are required to hold an Operations Employee License.”

The purpose of said license is to license operations employees (such as dealers) at gaming facilities (such as Twin River). Without employment as an operations employee, an applicant/employee cannot obtain an Operations Employee License. Indeed, obtaining such a license is required for anyone employed as an operations employee by Twin River. Unlike a license that allows the holder to practice in a specified field (often after demonstrating certain specified knowledge) without a condition of employment in that field, this type of license is tied to employment. Thus, some licenses do not require employment to be held by a licensee. However, the Respondent’s License is required upon employment as an operations employee at a gaming facility in Rhode Island. Without employment, such a license cannot be held. Thus, employment as an operations employee at Twin River is a condition of licensing. The Respondent was terminated from such employment so he cannot hold the License. The Respondent’s termination from employment at Twin River is grounds to revoke his License.

Pursuant to R.I. Gen. Laws § 41-4-9.1 and the License Regulation, the Department has grounds to revoke the Respondent’s License as he no longer is employed by Twin River.

## **VI. FINDINGS OF FACT**

1. Pursuant to Section 2.21 of the Regulation, the Respondent is declared to be in default for failing to appear at the hearing.

2. Pursuant to Section 2.21 of the Regulation and based on the testimony at hearing, the allegations in the Amended Order to Show Cause are found to be true.

3. An Order to Show Cause was sent by the Department to the Respondent on October 17, 2017 to the Respondent's address on record with the Department. The Order to Show Cause was amended by order May 11, 2018.

4. A hearing was held on May 11, 2018 at which time the Respondent did not appear. As the Respondent had adequate notice of hearing, the undersigned held the hearing.

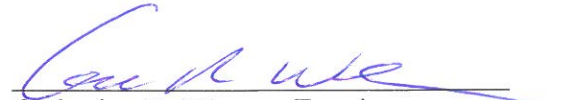
5. The Respondent is no longer employed at Twin River.

6. The facts contained in Section IV and V are reincorporated by reference herein.

**VII. CONCLUSIONS OF LAW**

Based on the foregoing, the undersigned recommends that the Respondent's License be revoked pursuant to R.I. Gen. Laws § 41-4-9.

Entered this day 8<sup>th</sup> June, 2018.

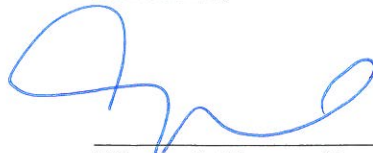
  
Catherine R. Warren, Esquire  
Hearing Officer

**ORDER**

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby take the following action with regard to the Decision and Recommendation:

ADOPT  
 REJECT  
 MODIFY

Dated: 6/11/18

  
Elizabeth Tanner, Esquire  
Director

**NOTICE OF APPELLATE RIGHTS**

**THIS ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT DOES NOT ITSELF STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.**

**CERTIFICATION**

I hereby certify that on this 11 day of June, 2018, that a copy of the within decision was sent by first class mail, postage prepaid and certified mail and by electronic delivery to Mr. Baher Andrawis, 49 Clematis Rd., Medford MA 02115 and by electronic delivery to Sara K. Tindall-Woodman, Esquire, and Maria D'Alessandro, Deputy Director, Department of Business Regulation, Pastore Complex, 1511 Pontiac Avenue. Cranston, RI.

  
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