

ORDER 2011-237

AN ORDER AFFIRMING ALJ MICHAEL COOK'S ORDER ON MOTION ON SUMMARY JUDGMENT IN COMPLAINT NO. 2011-EX-02.

Pursuant to IC 4-21.5-3-29, the Commission, as the ultimate authority for the agency, reviews order by an ALJ made under IC 4-21.5-3-27. The Commission then issues a final order affirming, modifying, or dissolving the ALJ's order. Also pursuant to IC 4-21.5-3-29, the Commission may remand the matter with or without instructions to an administrative law judge for further proceedings.

The Commission has considered the following factors:

1. On September 8, 2004, Mr. Albert Matysak was placed on the Commission exclusion list.
2. On September 16, 2004, Mr. Matysak appealed his placement on the exclusion list.
3. A hearing was held with ALJ Dave Rimstidt on January 21, 2005.
4. On February 18, 2005, ALJ Rimstidt issued Findings of Fact, Conclusions of Law, and a Recommendation that Mr. Matysak's appeal be denied and that his placement on the exclusion list be upheld.
5. On March 3, 2005, Mr. Matysak filed Exceptions to the Findings of Fact.
6. On March 8, 2005, ALJ Rimstidt issued an Amended Findings of Fact, Conclusions of Law, and Recommendation. The new Findings of Fact changed some details of the previous Findings, but the ALJ's recommendation that Mr. Matysak's appeal be denied and that the Commission affirm his placement on the exclusion list remained unchanged.
7. On March 23, 2005, the Commission affirmed the ruling by ALJ Rimstidt's that Mr. Matysak had been validly placed on the exclusion list.
8. There is no evidence that Mr. Matysak timely and properly appealed the Commission's March 23, 2005 final order.
9. On April 6, 2011, the Commission filed for a violation of 68 IAC 6-1-1 and sought the forfeiture of \$1,752.66, alleging that Mr. Matysak had violated 68 IAC 6-1-1 by entered the gaming area of Blue Chip Casino on March 18, 2011 and winning a jackpot of \$1,719.
10. On September 29, 2011, ALJ Michael Cook issued an Order On Motion for Summary Judgment, which included a conclusion that the Commission was entitled to forfeiture of a \$1,719 jackpot won by Albert Matysak at the Blue Chip Casino on March 18,

2011, because Mr. Matysak was an excluded person at the time he entered the gaming area and won the jackpot.

11. On October 11, 2011, Mr. Matysak filed with the Commission a "Motion for ALJ to Reconsider and Objection to The Granting of the Commission's Motion for summary Judgment."

COMMISSION ACTION

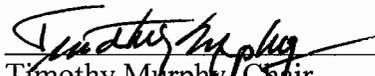
After reviewing the foregoing and in accordance with IC 4-21.5-3-29, the Commission hereby:

AFFIRMS

the Administrative Law Judge's Order of September 29, 2011 in the complaint no. 2011-EX-02. Pursuant to IC 4-21.5-3-6, this Order will become effective fifteen (15) days after it is served.

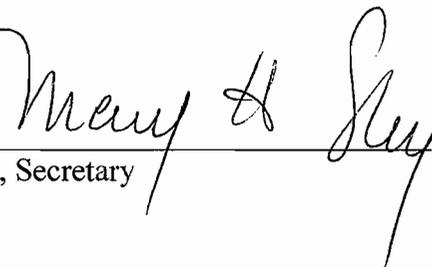
IT IS SO ORDERED THIS THE 10th DAY OF NOVEMBER, 2011.

THE INDIANA GAMING COMMISSION:



Timothy Murphy, Chair

ATTEST:



Mary Shy, Secretary