

## Chapter 14

### Hearing Regulation

#### Regulation # R400-04:GC-14

**Section 1. Purpose.** The purpose of these Hearing Regulations is to provide consistency and uniformity in hearings held by the Gaming Commission and to set forth the rules governing the conduct of the hearing and the participants.

**Section 2. Authority.** Tribal Gaming Ordinance #02-400-01 and Gaming Commission Ordinance # 04-400-04 state that the Gaming Commission shall develop and promulgate regulations governing the conduct of hearings it holds for applicants or licensees who have either been denied a license, or who have had their license revoked or suspended.

**Section 3. Procedures.** All hearings pertaining to the denial, suspension, or revocation of a license held before the Gaming Commission will be conducted in accordance with this Regulation.

#### **Section 4. Definitions.**

4-1 **Hearings Examiner.** In accordance with Gaming Commission Ordinance # 04-400-04 Section 6.07 and 6.08 a Hearings Examiner shall be any person appointed by the Gaming Commission qualified in the law or possessing knowledge or expertise in the subject matter of the hearing which the Gaming Commission, or any member thereof, has the power or authority to hold. The examiner shall not have the power to make findings or issue Orders.

#### **Section 5. Proof of Service.**

5-1 All notices regarding the denial, suspension, or revocation of a license and associated documents shall be served by certified mail return receipt requested or by personal service. Verification of proof of service is required.

5-2 Proof of service shall be provided by a certificate or affidavit of service. A certificate or affidavit of service shall be signed by the person serving the notice or document, shall specify the date of service, and shall specify whether service was accomplished by certified mail or personal service.

**Section 6. Appearances.** Applicants or licensees shall appear for the hearing in person. Applicants or licensees may bring a representative or attorney of their choice and at their own expense, however will be expected to testify on their own behalf.

**Section 7. Default.** The failure of an applicant or licensee to appear at the hearing shall constitute a default and an admission of any facts that may have been alleged in regard to said applicant or licensee. The Gaming Commission may take action based on such default or admission or any other evidence without further notice to the applicant or licensee. Upon receipt

of written request outlining an emergency situation the Gaming Commission may re-schedule the hearing. Supporting documentation affirming the emergent matter and/or situation may be required.

## **Section 8. Hearing Rules.**

### **8-1 Admissibility of Evidence and Witnesses.**

- (a) Any evidence deemed relevant by the Gaming Commission may be admitted.
- (b) Individuals who have first-hand knowledge of relevant events or information are eligible to be witnesses.

### **8-2 Communications with Gaming Commissioners.** Neither party (Gaming Commissioners or licensee) shall communicate, directly or indirectly, with each other.

### **8-3 Continuances.** Continuances of hearings may be granted by the Gaming Commission. The party requesting a continuance must provide the request in writing to the Gaming Commission office. The request for continuance must provide the specific reasons for the request. A party may be required to provide supporting documentation affirming the specific reason (i.e., death, hospitalization of self or immediate family member, etc.).

## **Section 9. Decision of the Gaming Commission.**

- 9-1 Within fourteen calendar days from the date of the hearing the Gaming Commission shall render a written decision containing findings of fact and conclusions of law.
- 9-2 A copy of the decision shall be provided to the applicant or licensee. A copy will also be placed in the applicant's or licensee's file.

## **Section 10. Appeal of Decision of the Commission.** A finding or licensing decision of the Gaming Commission, including but not limited to a decision to deny, suspend, revoke, modify or condition any license may be appealed to the Tribal Court by the applicant or licensee.

## **Section 11. Confidential and Privileged Materials.** Any document(s) or other material(s) produced in the process of the hearing that is the subject of a privilege, is confidential under applicable law, or is subject to a confidentiality agreement, the documents shall be marked "confidential" before disclosure or use in the hearing. Parties shall not further disseminate confidential or privileged materials except to counsel of record in the action, necessary Gaming Commission staff, or the Gaming Commission.