

BEFORE THE COLORADO LIMITED GAMING CONTROL COMMISSION

STATE OF COLORADO

Case No. DC 93002

ORDER OF DISMISSAL

IN THE MATTER OF THE PETITION FOR DECLARATORY ORDER OF
J.E. LOSAVIO, JR.,

Petitioner.

This matter came before the Colorado Limited Gaming Control Commission ("Commission") concerning a Petition for Declaratory Order filed by J.E. Losavio, Jr. on November 15, 1993. Having considered the issues raised in said Petition, the Commission declines to answer the questions presented.

Therefore, the Petition for Declaratory Order filed by J.E. Losavio, Jr. is hereby dismissed without further action.

IT IS SO ORDERED.

Dated this 16th day of December, 1993, Nunc Pro Tunc December 2, 1993.

FOR THE COLORADO LIMITED
GAMING COMMISSION


DANIEL R. HYATT
Chairperson

AG Alpha No. GA AD FBLLX
AG File No. DLS9304606.MS

STATE OF COLORADO
COLORADO LIMITED GAMING CONTROL COMMISSION
PETITION FOR DECLARATORY ORDER

Pursuant to the provisions of Rule 47.1-601, I, J. E. Losavio, Jr., of 616 West Abriendo Avenue, Pueblo, Colorado, am a person adversely affected by the actions of the Commission, and hereby petition the Commission for it's Declaratory Order with respect to the following:

1. On September 15, 1993, the Colorado Limited Gaming Control Commission issued Dolly's Casino, Inc., doing business as Pick-A-Dilly's Casino conditional temporary operator and retailer licenses until October 14, 1993. The action of the Commission was as follows:

(a) MEETING OF SEPTEMBER 15, 1993: "The Chair calls for a motion to issue temporary retailers' and operators' licenses to Dolly's Casino, Inc., doing business as Pick-A-Dilly Casino. These licenses will be issued upon expiration of the current licenses and expires on October 14, 1993. These licenses will be conditional upon payments by Sam Brown of all payments due as of October 14, 1993 to Joe Losavio. Motion was carried."

(b) On October 14, 1993 the said Gaming Commission issued an order stating that there were no conditions on the licenses of Dolly's Casino, Inc., other than Commission approval of any new stockholders.

2. The facts and circumstances which give rise to the issues to be answered by the Commission's Declaratory Order are:

(a) On or about January 14, 1993, Petitioner herein, Sam Brown, and Brown's counsel, John Tipton, met with Mark Walters, an investigator for the Gaming Commission. The purpose of the meeting was to determine the status of the application for a license for Dolly's Casino, Inc. Mr. Walters informed the said individuals that the license could be completed except for the pending application of the Petitioner herein and investigation of one other stock holder. Mr. Walters indicated that the investigation of Petitioner herein would take several more months to complete, and a license could not be issued to Dolly's Casino, Inc., in the interim.

(b) In a scenario orchestrated by Mr. Walters,

Petitioner herein transferred one hundred and twenty shares of stock to Sam Brown in return for the payment of \$200,000.00 to Petitioner by Mr. Brown in monthly installments. The documents evidencing this transfer were reviewed and modified on one and possibly two occasions by Mr. Walters to meet his approval, the approval of Roger Morris, and the approval of the Division of Gaming.

(c) As a condition of Petitioner's transfer of stock, Petitioner was not allowed to retain his stock certificates as collateral for the debt. The sale of stock for a promissory note is usually secured by possession of the stock certificates until the note is paid. In this case, Petitioner was not permitted to possess his certificates until he was paid. As a result of the conditions imposed by the Division of Gaming, Mr. Brown's debt to Petitioner is unsecured. Mr. Brown is allowed to keep the stock certificates and also refuse payment.

(d) Mr. Brown, who is the majority stockholder of Dolly's Casino, Inc., has stated that he intends to liquidate the corporation as soon as possible. Under these circumstances, with the impossibility of ever obtaining approval of the Commission to a transfer of stock to Petitioner's wife in a timely manner, the option to purchase was rescinded and Mr. Brown was requested to make payments.

(e) Mr. Brown has indicated that he will not make payments on this note.

3. The precise issues to be answered by the Declaratory Order are:

(a) After a transfer of stock to Sam Brown as designed, orchestrated and approved by officials of the Division of Gaming, and after a prior order from the Commission requiring approval of the licenses being conditioned upon the payment by Brown to Losavio for such stock, Petitioner herein desires to know why the Commission is not honoring it's order of September 15th, 1993, and requiring that a debt of \$200,000.00 be paid to Petitioner as compensation for stock he gave up at the direction of the Division of Gaming.

(b) Did the Licensee violate the express or implied condition that Petitioner be bought out by purchasing the stock but refusing to pay for the purchase of said stock?

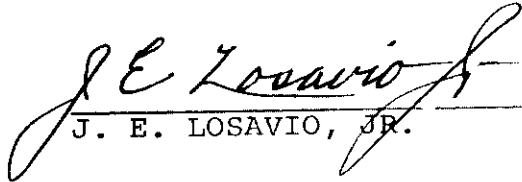
(c) Is the Licensee disqualified pursuant to C.R.S. 12-47.1-510(b) for failing to inform the Division of the change

of a material fact, i.e., non-payment of the Losavio note, or misleading the Division on such subject?

(d) Did the Licensee commit an unlawful act in violation of C.R.S. 12-47.1-801(g) by failing to provide information to the Limited Gaming Commission regarding Mr. Losavio as a person loaning money or supplying financing?

(e) Did the Licensee provide false or misleading information in violation of C.R.S. 12-47.1-802 by not informing the Commission of Mr. Brown's decision not to pay for Mr. Losavio's stock?

Dated at Pueblo, Colorado this 8th day of November, 1993.


J. E. LOSAVIO, JR.

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