

FILED  
APR 13 2016  
4/13/16  
Board Clerk PGCB

BEFORE THE  
PENNSYLVANIA GAMING CONTROL BOARD

COMMONWEALTH OF PENNSYLVANIA :  
GAMING CONTROL BOARD :  
BUREAU OF INVESTIGATIONS : PETITION FOR PLACEMENT  
AND ENFORCEMENT, : ON EXCLUSION LIST  
Petitioner :  
v. :  
 : BCC Referral #SH-E-0406064-16  
JOSEPH S. MERLINO, :  
A.K.A. SKINNY JOEY MERLINO :  
Respondent. :

PETITION FOR PLACEMENT OF JOSEPH S. MERLINO, A.K.A. SKINNY JOEY MERLINO ON THE EXCLUSION LIST.

AND NOW comes the Petitioner, Commonwealth of Pennsylvania, Gaming Control Board ("Board"), Bureau of Investigations and Enforcement through the Office of Enforcement Counsel and files this Petition for Placement of Joseph S. Merlino, a.k.a. Skinny Joey Merlino on the Exclusion List and in support thereof states the following:

PARTIES

1. Petitioner, Commonwealth of Pennsylvania, Gaming Control Board ("Board"), Bureau of Investigations and Enforcement ("BIE"), and the Office of Enforcement Counsel, maintains its headquarters at 303 Walnut Street, Strawberry Square, 10<sup>th</sup> Floor, Verizon Tower, Harrisburg, Pennsylvania 17101.
2. SugarHouse HSP Gaming, L.P. d/b/a/ SugarHouse Casino is the holder of a Category 2 license as approved by the Board and issued on January 10, 2008, and renewed annually

thereafter and has its principal place of business at 1080 North Delaware Avenue, Philadelphia, PA 19125.

3. The proposed excluded person is Joseph S. Merlino, a.k.a. Skinny Joey Merlino ("Mr. Merlino"), whose last known addresses are in Florida and Pennsylvania.
4. On March 9, 2016, Mr. Merlino was investigated for allegedly being involved in an altercation with another patron during a Blackjack game at SugarHouse Casino. Mr. Merlino has been identified as a member of organized crime by various law enforcement agencies.
5. Mr. Merlino is a white male, date of birth March 16, 1962. If Mr. Merlino is placed on the excluded person list, the information in this averment will be provided to the slot machine licensees as required by 58 Pa. Code § 511a.2.

**STATEMENT OF JURISDICTION**

6. The Office of Enforcement Counsel, pursuant to 4 Pa. C.S. § 1517(a.2)(1)(iii), has the authority to initiate, in its sole discretion, proceedings for non-criminal violations of the Pennsylvania Race Horse Development and Gaming Act ("Act") by filing a complaint or other pleading with the Board.
7. The Bureau of Investigations and Enforcement will, on its own initiative, or upon referral by a law enforcement agency or a slot machine licensee investigate a person to determine whether the person meets the criteria for exclusion provided in the Act and regulations. 58 Pa. Code § 511a.4.(a).

8. Upon completion of an investigation, if the Bureau determines that an individual should be placed on the exclusion list, it will file a petition for exclusion with the Board, identifying the candidate, setting forth a factual basis for the petition and including information demonstrating that the individual satisfies the criteria for exclusion under §1514 of the Act or Chapter 511a of the regulations. 58 Pa. Code § 511a.4(b).
9. Venue is proper pursuant to 58 Pa. Code § 491a.8(e), which states that hearings will be conducted in Harrisburg, Pennsylvania, unless otherwise directed by the Board.

**RELEVANT STATUTORY AND REGULATORY SECTIONS**

10. The Gaming Act and the regulations promulgated thereunder provide that the Board shall establish a list of persons who are to be excluded or ejected from any licensed facility whose presence would be inimical to the interest of the Commonwealth or of licensed gaming therein, including persons with pending charges or indictments for a gaming or gambling crime or a crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction. 4 Pa. C.S. § 1514; 58 Pa. Code § 511a.3(a)(4)(vii).
11. Pursuant to the regulations, a person's presence may be considered "inimical to the interest of the Commonwealth or of licensed gaming therein, or both" if known attributes of the person's character and background meet one or more of the following criteria: (1) are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of the operation of a licensed facility; (2) may reasonably be expected to impair the public perception of, and confidence in, the strict regulatory process created by the Gaming Act; or (3) creates or enhances a risk of the fact or appearance of unsuitable, unfair or illegal practices, methods or activities in the

conduct of gaming or in the business or financial arrangements incidental thereto. 58 Pa. Code § 511a.3.(b).

12. Pursuant to the regulations, a finding of inimicality may be based upon the nature and notoriety of the character or background of the person, the history and nature of the involvement of the person with licensed gaming in this Commonwealth or another jurisdiction, or with a particular slot machine licensee or licensees or an affiliate, intermediary, subsidiary or holding company thereof, the nature and frequency of contacts or associations of the person with a slot machine licensee or licensees, or with employees or agents thereof, and other factors reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of gaming operations, the gaming industry and its employees. 58 Pa. Code §511a.3.(c).
13. Pursuant to the regulations, the criteria for exclusion or ejection from licensed gaming in Pennsylvania would include a career or professional offender whose presence in a licensed facility would, in the opinion of the Board, be inimical to the interest of the Commonwealth or of licensed gaming therein. 58 Pa. Code §511a.3(a)(1).
14. Pursuant to the regulations, the criteria for exclusion or ejection from licensed gaming in Pennsylvania would include a person who has been convicted of a criminal offense under the laws of any state or the United States which is punishable by more than one year in prison, or who has been convicted of any crime or offense involving moral turpitude, and whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both. 58 Pa. Code §511a.3(a)(3).
15. Pursuant to the regulations, the criteria for exclusion or ejection from licensed gaming in Pennsylvania would include a person whose presence in a licensed facility would be

inimical to the interest of the Commonwealth or of licensed gaming therein, or both, because said presence would pose a threat to the safety of the patrons, employees or persons on the property of a slot machine licensee. 58 Pa. Code §511a.3(a)(4)(iv).

16. Pursuant to the regulations, the criteria for exclusion or ejection from licensed gaming in Pennsylvania would include persons whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both, based on said persons having been convicted of a gambling crime or crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction. 58 Pa. Code §511a.3(a)(4)(viii).
17. Pursuant to the regulations, the criteria for exclusion or ejection from licensed gaming in Pennsylvania would include persons whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both, based on said persons having performed an act or having a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming, including, being identified with criminal activities in published reports of various Federal and State legislative and executive bodies that have inquired into criminal or organized criminal activities. 58 Pa. Code §511a.3(a)(4)(ix).

**BRIEF OVERVIEW OF FACTS**

18. On April 4, 2016, the Pennsylvania Gaming Control Board's Bureau of Casino Compliance ("BCC") referred a compliance review regarding the investigation of Mr. Merfino by the SugarHouse Casino Security and Surveillance Departments.

19. BCC's compliance review revealed Mr. Merlino could have been criminally charged by the Pennsylvania State Police with Disorderly Conduct, 18 Pa. C.S. §5503(a)(1) (4) (a summary offense) and Harassment, 18 Pa. C.S. §2709(a)(1) (a summary offense).
20. Pursuant to the SugarHouse Casino Security and Surveillance Departments' investigation on March 9, 2016, at 1:45 a.m. there was an altercation between three unknown men on the casino floor. Security responded to the scene and a large group of males, including Mr. Merlino were asked to leave SugarHouse Casino. The large group of males, including Mr. Merlino complied and left the casino. Subsequently the Security Department notified the BCC about the incident and inquired as to whether Mr. Merlino was on the Board's Involuntary Exclusion List. The BCC advised the Security Department that Mr. Merlino was not on the list. The Security Department manager advised the BCC Mr. Merlino and a group of subjects associated with him were in SugarHouse Casino gambling when they got into an altercation with another group of patrons in Pit 2. The Security Department manager advised the BCC that the altercation was over the two groups trying to play at the same table game. The large group of males, including Mr. Merlino reportedly threatened the other group and threatened that they would wait outside for them.
21. The BCC conducted further investigation. A surveillance review of Mr. Merlino revealed that he was in the company of 12 other males and two women. At 12:49 a.m. on March 9, 2016, the first two subjects of Mr. Merlino's group entered SugarHouse Casino. At 12:52 a.m. surveillance coverage showed Mr. Merlino and three other men in his group enter the casino. At 12:56 a.m. surveillance coverage showed six more members of Mr.

- Merlino's group enter the casino. Finally, at 1:17 a.m. the twelfth male member of Mr. Merlino's group was recorded on surveillance coverage entering SugarHouse Casino.
22. At 1:44 a.m. Mr. Merlino was recorded on surveillance coverage playing Blackjack on table BJ 206 when another patron bought in at the game and engaged Mr. Merlino in conversation. At 1:45 a.m. surveillance coverage showed Mr. Merlino and the other patron appear to be engaged in an argument.
  23. At 1:45 a.m. surveillance coverage showed a member of Mr. Merlino's group leave a slot machine he was playing and he confronted the patron sitting next to Mr. Merlino at Blackjack table BJ 206. The patron stood up from the game and surveillance coverage showed that the patron and the member of Mr. Merlino's group began shoving one another.
  24. The surveillance coverage also showed that a second member of Mr. Merlino's group confronted the patron and threw three punches at him.
  25. SugarHouse Casino security officers arrived immediately and escorted the two members of Mr. Merlino's group away from the area at 1:46 a.m.
  26. Surveillance coverage recorded Mr. Merlino and the patron who was confronted and assaulted by members of Mr. Merlino's group at Blackjack table BJ 206 shaking hands at 1:51 a.m.
  27. At 1:53 a.m. surveillance coverage showed Mr. Merlino and the group of subjects in his company leave the area at Blackjack table BJ 206 and exiting SugarHouse Casino.
  28. At 1:54 a.m. surveillance coverage showed Mr. Merlino and all of the members of his group get in their vehicles and leave the casino property.

29. The Pennsylvania State Police were notified of this incident after it occurred but did not charge anyone.
30. Mr. Merlino could have been charged with Disorderly Conduct, 18 Pa. C.S. §5503(a)(1)(4) (a summary offense) and Harassment, 18 Pa. C.S. §2709(a)(1) (a summary offense).
31. Mr. Merlino has been identified as a member of organized crime by various law enforcement agencies.
32. On December 3, 2001, Mr. Merlino was convicted in the United States District Court for the Eastern District of Pennsylvania on three counts of Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. § 1962(d) RICO Conspiracy; and two counts of 18 U.S.C. § 1962(c) & 2 RICO. Mr. Merlino was sentenced to 168 months (14 years) in prison, three years of supervised release, fined \$25,000.00, pay \$337,943.89 in restitution and issued a special assessment of \$800.
33. On December 3, 2001, Mr. Merlino was convicted in the United States District Court for the Eastern District of Pennsylvania on one count of Illegal Gambling, 18 U.S.C. § 1955 & 2; three counts of Receipt of Stolen Goods, 18 U.S.C. § 659 & 2; and Conspiracy to Receive Stolen Goods, 18 U.S.C. § 371. Mr. Merlino's prison sentences for these convictions were ordered to run concurrent with his sentences for his RICO convictions.
34. On December 4, 2003, Mr. Merlino's convictions were affirmed on appeal by the United States Court of Appeals for the Third Circuit.
35. On March 15, 2011, Mr. Merlino was released from prison, the Federal Correctional Institution in Terre Haute, Indiana and transferred to a halfway house in Florida where he remained on supervised release until 2015.

36. On October 24, 2014, Mr. Merlino was found to have violated his supervised release when it was determined by the United States District Court for the Eastern District of Pennsylvania that he had violated the terms of his supervised release when he allegedly met with a member of organized crime at a Florida restaurant. Mr. Merlino was sentenced to four months in prison. The court also held that upon his release after the four months in prison, Mr. Merlino would no longer be on supervised release.
37. On April 24, 2015, the United States Court of Appeals granted Mr. Merlino's appeal and reversed the court order of October 24, 2014, and ordered that Mr. Merlino be released.
38. Based upon the allegations contained in the aforementioned paragraphs, Mr. Merlino meets the criteria of exclusion as set forth in 58 Pa. Code § 511a.3.(a)(1), (3), (4)(iv), 4(viii) and 4(ix).

**WHEREFORE**, Petitioner seeks to place Mr. Joseph S. Merlino, a.k.a. Skinny Joey Merlino on the excluded person's list under the procedures set forth in 58 Pa. Code §511a.4.

DATED: April 12, 2016

Respectfully Submitted  
Office of Enforcement Counsel  
Cyrus Pitre  
Chief Enforcement Counsel

By:



James J. Armstrong, Esquire  
Pennsylvania Supreme Court ID # 54073  
Assistant Enforcement Counsel, East  
Commonwealth of Pennsylvania  
Pennsylvania Gaming Control Board  
Office of Enforcement Counsel  
1001 East Hector Street, Suite 230  
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VERIFICATION

I, William Gavigan, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: 4-12-16

  
William Gavigan  
Investigator  
Bureau of Investigations and Enforcement

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of April, 2016, a copy of the Petition for Placement of Joseph S. Merlino (a.k.a. Skinny Joey Merlino) on the Exclusion List was served upon the following in the manner of certified mail and first class mail:

Joseph S. Merlino  
210 NE 69<sup>th</sup> Circle  
Boca Raton, FL 33487

Joseph S. Merlino  
c/o Merlino's Restaurant  
39 SE 1<sup>st</sup> Avenue  
Boca Raton, FL 33432

Joseph S. Merlino  
c/o Deborah Merlino  
3222 S. Sydenham Street  
Philadelphia, PA 19145



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