

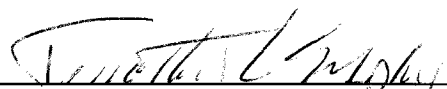
**ORDER 2007-9**

**AN ORDER OF THE INDIANA GAMING COMMISSION  
CONCERNING THE REQUEST FOR WAIVER OF  
FELONY DISQUALIFICATION OF DANIEL STIEMANN  
FW-06-04**

The Indiana Gaming Commission having reviewed this matter and the attached Findings of Fact hereby **ADOPTS THE RECOMMENDATION** of the review officer granting Mr. Stiemann's request for a waiver of his felony disqualification.

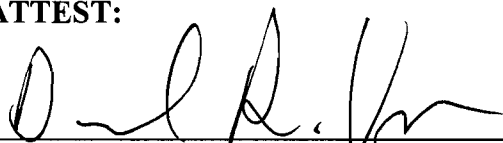
**IT IS SO ORDERED, THIS THE 8<sup>th</sup> DAY OF MARCH, 2007.**

**THE INDIANA GAMING COMMISSION:**



Timothy L. Murphy, Vice-Chair

**ATTEST:**



Donald R. Vowels, Secretary

**INDIANA GAMING COMMISSION  
REQUEST FOR WAIVER OF FELONY CONVICTION DISQUALIFICATION  
OF DANIEL F. STEIMANN  
FW-06-04**

**FINDINGS OF FACT AND RECOMMENDATION**

Adam F. Packer, Staff Attorney for the Indiana Gaming Commission ("Commission") and review officer for the request for a felony waiver of Mr. Daniel F. Stiemann makes the following report:

**LEGAL AND PROCEDURAL BACKGROUND**

1. On or about October 4, 2006, the Petitioner, Daniel F. Stiemann, submitted to the Commission an application for a level 2 occupational license to work as a casino host at French Lick Resort • Casino.
2. Mr. Stiemann disclosed in his application that, in 1987, he was convicted of felony use of controlled substance in Arapahoe County, Colorado. This crime is substantially similar to Indiana Code 35-48-4-6.
3. Pursuant to Indiana Code 4-33-8-3, the Commission may not issue a license to an individual who has been convicted of a felony. On that basis, Commission staff denied Mr. Stiemann's application on October 4, 2006.
4. On or about October 6, 2006, the Commission received Mr. Stiemann's petition for a felony waiver pursuant to Indiana Code 4-33-8-11.
5. Executive Director Ernest Yelton appointed the undersigned, an attorney on the Commission's staff, to serve as the review officer in this matter.
6. On December 4, 2006, the undersigned conducted a hearing regarding Mr. Stiemann's petition.
7. At the hearing, Mr. Stiemann appeared *pro se*, offered testimony, and presented evidence in support of his request.
8. The undersigned recorded the hearing. The recording is part of the record in this matter.
9. The Commission may only waive a felony disqualification if the individual qualifies for a waiver in accordance with Indiana Code 4-33-8-11. Mr. Stiemann qualifies for a waiver under subsection (e) of that section.

10. Pursuant to Indiana Code 4-33-8-11 (b), the Commission may only waive a felony disqualification if the individual has demonstrated by clear and convincing evidence the individual's rehabilitation.
11. In accordance with Indiana Code 4-33-8-11 (c), in determining whether the Petitioner has demonstrated rehabilitation, the commission shall consider the following factors:
  - a. The nature and duties of the position applied for by the individual.
  - b. The nature and seriousness of the offense or conduct.
  - c. The circumstances under which the offense or conduct occurred.
  - d. The date of the offense or conduct.
  - e. The age of the individual when the offense or conduct was committed.
  - f. Whether the offense or conduct was an isolated or a repeated incident.
  - g. A social condition that may have contributed to the offense or conduct.
  - h. Evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational education, successful participation in a correctional work release program, or the recommendation of a person who has or has had the individual under the person's supervision.
  - i. The complete criminal record of the individual.
  - j. The prospective employer's written statement that:
    - i. the employer has been advised of all of the facts and circumstances of the individual's criminal record; and
    - ii. after having considered the facts and circumstances, the prospective employer will hire the individual if the commission grants a waiver.

### **FINDINGS OF FACT**

1. On or about September 27, 2006, the Commission received a letter from Keith Schnulle, Vice President of Human Resources at French Lick Resort • Casino, indicating that French Lick Resort • Casino had been advised of the facts regarding Mr. Stiemann's criminal record and that French Lick Resort • Casino will employ him as a casino host "if the commission grants a waiver of the 'felony disqualification'" and issues him a license.
2. Mr. Stiemann is currently fifty-three years old. He resides in French Lick, Indiana. He is originally from Indianapolis and graduated from North Central High School. He has lived in French Lick for approximately thirty months. He is currently employed at French Lick Resort • Casino in a position that does not require licensure. He has had a variety of careers in his lifetime, recently as an insurance agent in Jasper, French Lick, Indianapolis, and Evansville. He has also been in retail sales positions and managed a cosmetology business. The common thread among all jobs that Mr. Stiemann has had is that he prefers to work closely with people in a customer service or sales capacity and is equally at ease with strangers and the general public.

3. Mr. Stiemann described the duties of a casino host to be assisting high-caliber players and customers with dining, lodging, and other hospitality-related matters. He said that the goal is to make good customers happy and relaxed and be available to assist those customers. Most of Mr. Stiemann's responsibilities will be inside the gaming area but outside of sensitive areas such as the pit, surveillance, and cage.
4. Mr. Stiemann was convicted of use of a controlled substance in 1987. He testified that he had just been laid off and was getting desperate for money. A neighbor knew of his financial troubles and offered to pay Mr. Stiemann's mortgage payments if he would deliver some cocaine to a location in the Denver, Colorado area. Unbeknownst to Mr. Stiemann, the neighbor was under federal investigation for drug trafficking and the neighbor wanted to use Mr. Stiemann to gauge how close the government was to his operation. Mr. Stiemann testified that he was arrested soon after arriving in Colorado. Mr. Stiemann was sentenced to one year of probation and did not have to attend any drug treatment.
5. Mr. Stiemann was thirty-two (32) years old when he committed the offense.
6. This was an isolated incident in Mr. Stiemann's life. He has three other offenses on his record: a 1976 armed robbery that was not prosecuted; a 1987 DWI; and a 2003 improper turn. These offenses would not result in an adverse licensing decision independent of the felony conviction. The 1976 armed robbery charge resulted from Mr. Stiemann's then-girlfriend leaving him and stealing his personal possessions. Soon thereafter, he began seeing people wearing his clothes and using his possessions. He obtained information about one particular stranger who had Mr. Stiemann's stereo. Mr. Stiemann and a friend went to this person's house to speak with him. At some point, Mr. Stiemann's friend displayed a gun and the arrests followed. The charges were not prosecuted after Mr. Stiemann agreed to pay the stranger the amount he had paid Mr. Stiemann's ex for the property.
7. Mr. Stiemann is married to a former co-worker who has submitted a letter attesting to Mr. Stiemann's character. This letter is part of the record. They have known each other since the early 1990s. They own their house in French Lick.
8. Mr. Stiemann did not disclose the 1976 armed robbery arrest in his application for occupational license. If his felony waiver is granted, he will be placed on six months' probation for failing to disclose his full criminal record.
9. Nothing indicates that Mr. Stiemann is likely to commit any further offenses related to controlled substances. He is remorseful for his offense and remarked several times that his act was "stupid."

## RECOMMENDATION

Based on the foregoing, Mr. Stiemann has demonstrated by clear and convincing evidence that he has been rehabilitated and should be granted a waiver of his felony disqualification. The statutory guidelines provide a useful framework for evaluating the facts of Mr. Stiemann's case:

1. The nature and duties of his position require him to interact with customers and provide services to them, and his history does not indicate that he will be compromised in those job duties. His position at French Lick Resort • Casino will not give him access to the cage or pit.
2. The nature of his conviction was very serious, but he has not displayed any propensity for controlled substance possession, use, or sale in the twenty-plus years since the offense.
3. Mr. Stiemann was in a dire financial situation and took an illegal step to try to remedy that situation.
4. The offense occurred in 1987.
5. Mr. Stiemann was 32 years old when he committed the offense.
6. The offense was isolated. Mr. Stiemann has had no other criminal activity as to controlled substances.
7. Mr. Stiemann did not offer any evidence of a social condition that influenced his actions.
8. Mr. Stiemann did not offer any evidence of formal counseling or treatment; he testified that he was not using drugs so he did not need any treatment.
9. His armed robbery charge is notable, but the fact that it was not prosecuted speaks to the situation. Additionally, his only other non-traffic offense is a nearly twenty-year old DWI.
10. Finally, French Lick Resort • Casino has indicated that they will hire Mr. Stiemann even after being made aware of his history.

Therefore, I recommend that the Commission grant a waiver of felony disqualification to Daniel F. Stiemann.

Respectfully Submitted,

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Adam F. Packer  
Staff Attorney

DATE: \_\_\_\_\_