

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 14-036

TODD R. CRUTS  
June 25, 2014

WHEREAS, Todd R. Cruts ("Cruts "), requested a hearing to contest the proposed disciplinary action initiated against him on September 13, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-13-382; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Cruts' request and the Hearing Officer has submitted the proposed Findings of Fact, Conclusions of Law and Final Order attached hereto (collectively the "Final Order") for approval by the Commission; and

NOW, THEREFORE, BE IT RESOLVED, that the Commission has reviewed the Final Order and hereby issues to Cruts a five day suspension of her occupational license in the above-referenced case in the matter of DC-13-382; and

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission.

**BEFORE THE MISSOURI GAMING COMMISSION**

In Re:

TODD R. CRUTS

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Case No. DC 13-382

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER**

The above-captioned matter comes before the Missouri Gaming Commission (hereinafter referred to as "Commission") upon a request for hearing dated October 11, 2013, submitted by Mr. Todd R. Cruts (hereinafter referred to as "Licensee"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated September 13, 2013. The designated Hearing Officer, Mr. Chas. H. Steib, conducted a hearing on April 9, 2014, where the Licensee and the Commission's attorney, Ms. Carolyn H. Kerr, appeared to present evidence and arguments of law.

**FINDINGS OF FACT**

1. Licensee holds a Level II Occupational License granted by the Commission for employment on an excursion gambling boat licensed by Commission.
2. On April 11, 2013, Licensee was employed as a Security Supervisor for a casino located at Cape Girardeau, Missouri.
3.
  - a. Licensee instructed Security Officers under his supervision to fix errors on their Card Inspection Logs.
  - b. Licensee reviewed Card and Dice Inspection Logs before a scheduled audit, found errors that Security Officers under his supervision had made and instructed them to fix these errors on their Inspection Logs.
  - c. Licensee had the Security Officers fill out new Logs, without voiding the originals
4. Sworn testimony was received April 9, 2014, from Licensee and Sergeant Timothy Crowe of the Missouri Highway Patrol.
5. Commission Exhibit 1 – Preliminary Order for Disciplinary Action sent to Licensee; Exhibit 2 – Licensee correspondence requesting a Hearing; and Exhibit 3 – Report of Sergeant Timothy Crowe; were admitted into evidence without objection at the Hearing April 9, 2014.

**CONCLUSIONS OF LAW**

1. "The Commission shall have the full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to 313.850." Section 313.805, MO. REV. STAT. 2000.
2. "A holder of any license shall be the subject to imposition of penalties, suspension or revocation of such license, or if the person is an applicant for licensure, the denial of the application, for

any act or failure to act by himself or his agents or employees, that is injurious to the public health, safety, morals, good order and general welfare of the people of the State of Missouri, or that would discredit or tend to discredit the Missouri gaming industry or the State of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action . . . the following acts or omissions may be grounds for such discipline: (1) Failing to comply with or make provision for compliance with Sections 313.800 to 313.850, the rules and regulations of the Commission or any federal, state or local law regulation; . . . "Section 313.812.14, MO. REV. STAT. 2000.

3. "The State has a legitimate concern in strictly regulating and monitoring riverboat gaming operations. As such, any doubt as to the legislative objective or intent as to the Commission's power to regulate riverboat gaming operations in this State must be resolved in favor of strict regulation." *Pen-Yan Investment, Inc. v. Boyd Kansas City, Inc.*, 952 S.W.2d 299, 307 (Mo. App. 1997).

4. The burden of proof is at all times on the Licensee. The Licensee shall have the affirmative responsibility of establishing the facts of his/her case by clear and convincing evidence . . ." Regulation 11 CSR 45-13.060(2).

5. "Clear and convincing evidence" is evidence that "instantly tilts the scales in the affirmative when weighed against the opposing evidence, leaving the fact finder with an abiding conviction that the evidence is true." *State ex rel. Department of Social Services v. Stone*, 71 S.W.3d 643,646 (Mo. App. 2002).

6. "The Commission shall have the following powers . . . to access any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission . . ." Section 313.805(6), MO. REV. STAT. 2000.

7. Section 313.812.14(1), RSMO (2000), states that a Licensee may be disciplined for failing to comply with or make provisions for compliance with Section 313.800 to 313.850, the rules and regulations of the Commission of any federal, state or local law or regulation.

8. Section 313.812.14(2), RSMO (2000), states that a Licensee may be disciplined for failing to comply with any rule, order of ruling of the Commission or its agents pertaining to gaming.

9. Section 313.812.14(9), RSMO (2000), states that a Licensee may be disciplined for incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties by Sections 313.800 to 313.850.

10. Under 11 CSR 45-9.060(3), violations of the Commission's Minimum Internal Control Standards ("MICS") by a Class A licensee or an agent or employee of the Class A licensee are deemed to be unsuitable conduct for which the Class A licensee and/or its agent or employee is subject to administrative penalty pursuant to Section 313.805(6), RSMO (2000), and 11 CSR 45-1 *et seq.*; as amended from time to time.

11. Under 11 CSR 45-9.060(4), violations of the Class A licensee's Internal Control System ("ICS") by the Class A licensee or an agent or employee of the Class A licensee shall be prima facie evidence of unsuitable conduct for which the Class A licensee and/or its agents or employees may be subject to discipline pursuant to Section 313.805(6), RSMO (2000), and 11 CSR 45-1 *et seq.*; as amended from time to time.

12. MICS R 2.03 states "All information shall be recorded in ink or other permanent form. Monetary corrections to a figure originally recorded may only be made in ink by crossing out the error, entering the correct figure, and obtaining the initials of the employee making the change and the initials of the employee's supervisor. Non-monetary corrections shall be initialed by the employee making the correction. If an Accounting Department employee makes the corrections after the completion and transfer of the documentation, that individual shall initial the correction(s) and include their MGC license number."

13. MICS R 6.01 states "In the event a form has to be voided, the original and all copies shall be marked "void" and accompanied by the signature of the employee voiding the form and an employee verifying the void, with a brief explanation of why it was voided. If a void is required because a sequentially numbered form failed to print, this information, along with the form control number, date, and time, shall be recorded in a supplemental document and retained."

14. IOC-Cape Girardeau LLC ICS R 2.03 states "All information shall be recorded in ink or other permanent form. Monetary corrections to a figure originally recorded are made in in ink by crossing out the error, entering the correct figure, and obtaining the initials of the employee making the change and the initials of the employee's supervisor. Non-monetary corrections shall be initialed by the employee making the correction. If an Accounting Department employee makes the corrections after the completion and transfer of the documentation, that individual shall initial the correction(s) and include their MGC license number."

15. IOC-Cape Girardeau LLC ICS R 2.03 states "In the event a form has to be voided, the original and all copies shall be marked "void" and accompanied by the signature of the employee voiding the form and an employee verifying the void, with a brief explanation of why it was voided. If a void is required because a sequentially numbered form failed to print, this information, along with the form sequential/control number, date, and time, shall be recorded in a supplemental document and retained."

16. The action and omissions of Licensee in paragraph 5 above violates the following statutes, rules, MICS, or ICS: Section 313.812.14, RSMO, Section 313.812.14(1), (2) and (9), 11 CSR 45-12.090(3) and (4), MICS R 2.03 and 6.01 and IOC-Cape Girardeau, LLC ICS ICS R 2.03 and 6.01.

17. Licensee is subject to discipline for such violations pursuant to 11 CSR 45-9.060(3) and (4), Section 313.805(6), RSMO (2000), and Section 313.812.14, RSMO (2000).

### **DISCUSSION**

The original erroneous Logs should have been voided, and accompanied by a brief description of why the original records were voided.

Licensee's actions and inactions in instructing the Security Officers under his supervision to properly make corrections/additions to Card Inspection Logs violates Section 313.812.14, RSMO, Section 313.812.14(1), (2), and (9), 11 CSR 45-12.090(3) and (4), MICS R 2.03 and 6.01 and IOC-Cape Girardeau, LLC ICS ICS R 2.03 and 6.01.

### **FINAL ORDER**

WHEREFORE, IT IS ORDERED AND ADJUDGED that Licensee did not meet his burden of proof to show clearly and convincingly that he should not be subject to discipline for not instructing the Security

Officers under his supervision to properly make corrections and additions to Card Inspection Logs. The decision of the Commission dated September 13, 2013, is affirmed as a proper form of discipline to impose upon Licensee, being a five (5) day suspension of his Level II Occupational License.

Dated:

May 28, 2014

Chas H Steib  
Chas. H. Steib, Hearing Officer