

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-16-096
Tropicana St. Louis, LLC)

PRELIMINARY ORDER FOR DISCIPLINARY ACTION

Comes now the Missouri Gaming Commission acting in its official capacity pursuant to 11 CSR 45-13.050, and states as follows:

1. The Missouri Gaming Commission (the "Commission" or "MGC") is a state commission created under Chapter 313, RSMo 2000,¹ with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Tropicana Entertainment, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Tropicana Entertainment, Inc., is the parent organization or controlling entity of Tropicana St. Louis, LLC ("Company").
4. The Commission issued a Class B riverboat gambling license to the Company to conduct games on and operate the excursion gambling boat known as *Lumiere Place Casino & Hotels* ("Casino").
5. As the holder of a Class B license, the Company is subject to the provisions of §§ 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS²

6. On October 27, 2015, a person on the Disassociated Person ("DAP") List notified Cpl. Samuel Buchheit of the Missouri State Highway Patrol ("MSHP") that he received a promotional mailing from the Casino.
7. A review of the Casino's Advanced Casino System Corporation (ACSC) computer program indicated that the DAP had been designated to receive a promotional item called "Ultimate Gift 20 Tickets."
8. The Casino's Marketing department sent this promotional item five DAPs.
9. Although the Casino's ACSC program properly flagged the five DAP accounts, they were not removed from the mailing list.

¹ All statutory references are to RSMo 2000, unless otherwise specified

² 20151027003

10. A review of the Casino's ACSC revealed that the Casino maintained a mailing list containing the names and addresses of 119 DAPs and three were individuals on the Missouri Involuntary Exclusion List.

LAW

11. Under § 313.805(6), RSMo, the Commission may assess any appropriate administrative penalty against a licensee, including but not limited to, suspension, revocation or penalties of an amount determined by the Commission.

12. Section 313.812.14, RSMo, states, in pertinent part, as follows:

A holder of any license shall be 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 commission shall take appropriate action against any licensee who violates the law or the rules and regulations of the commission. Without limiting other provisions of this subsection, 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 or regulations;
- (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming[.]

13. Title 11 CSR 45-17.010, states, in pertinent part as follows:

- (4) A Class B licensee or its agent(s) or employee(s) may be disciplined by the commission if—
 - (A) It can be shown by a preponderance of the evidence that the Class B licensee or its employee(s) or agent(s) knew a person on the List was present on the excursion gambling boat and, despite such knowledge, failed to follow the procedures required by this rule; or
 - (B) The Class B licensee or its employee(s) or agent(s) failed to follow its procedures for complying with the provisions of 11 CSR 45-17 et seq.

14. Title 11 CSR 45-9.060 states, in pertinent part, as follows:

- (3) Violations of the minimum internal control standards [(“MICS”)] by a Class A licensee or an agent or employee of a 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, and 11 CSR 45-1 et seq.
- (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, and 11 CSR 45-1 et seq.

15. Title 11 CSR 45.10.030 states, in pertinent part, as follows:

- (1) Licensees shall promptly report to the commission any facts which the licensee has reasonable grounds to believe indicate a violation of law (other than minor traffic violations), minimum internal control standard requirements or commission rule committed by licensees, their employees or others, including, without limitation, the performance of licensed activities different from those permitted under their license.

* * *

- (7) All occupational licensees shall have a working knowledge of Chapter 313.800, RSMo et seq., *Code of State Regulations*, Title 11 Division 45, and the internal controls of the Class A or B licensees for whom they are currently employed by as they pertain to the responsibilities and limitations of their job.

16. Both the MICS, Chapter P, § 2.07, and the Casino’s ICS, Chapter P, § 2.07 require

The Class B Licensee [to] remove excluded persons from their mailing lists, such as marketing offers, slot club programs, coupon promotions, and other marketing promotions. This rule shall not be construed to prohibit mass mailings to “Resident” or mass distributions not directed toward specific individuals.

17. The MICS, Chapter Q § 2.01, and the Casino’s ICS, Chapter Q § 2.01 both state, in pertinent part as follows:

[The Casino] shall:

- (D) Remove DAPs from all mailing lists (including but not limited to electronic mail, marketing offers, slot club programs, coupon promotions, and other marketing promotions) within five (5) calendar days of the download of new or updated information. This rule does not prohibit mass mailings to “Resident” or mass distributions not directed toward specific individual.

VIOLATIONS

- 18. The actions or omissions of employees or agents of the Company as described above constitute failure of the Casino to remove and/or assure that DAPs and Excluded Persons are removed from its mailing lists, thereby violating 11 CSR 45-17.010, 11 CSR 45.10.030(1), (3), and (7), MICS, Chapter P § 2.07 and Chapter Q § 2.01, and the Casino's ICS, Chapter P § 2.07 and Chapter Q § 2.01.
- 19. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 314.812.14(1) and (2), RSMo and 11 CSR 45-9.060(3) and (4).

PENALTY PROPOSED

- 20. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against the Company, as the holder of a Class B license.
- 21. THEREFORE, it is proposed that the Commission fine Tropicana St. Louis, LLC, the amount of \$15,000 for the violations set forth herein.

Herbert M. Kohn
Chairman
Missouri Gaming Commission

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a true and correct copy of the foregoing to be mailed, postage prepaid, this ____ day of May, 2016, to:

Brian Marsh
General Manager
Lumière Place Casino & Hotels
999 North Second
St. Louis, MO 63102

Herbert M. Kohn
Chairman
Missouri Gaming Commission