

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-16-176  
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,<sup>1</sup> 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 FACTS<sup>2</sup>

6. On Monday, January 4, 2016, Sergeant T. M. Barthelmass, assigned to the Gaming Division at Lumière Place, arrested a 19 year old female for 12 counts of "Present false identification to gain entry to gambling boat," seven counts of "Purchase/attempt to purchase, or possession of liquor by minor," and four counts of "Person under the age of 21 make/attempt to make a wager while on an excursion gambling boat.
7. A review of surveillance revealed that the above-referenced underage female was allowed access onto the gaming floor on six different occasions between December 30, 2015 and January 4, 2016.
8. Between January 1 and January 4, 2016, 17 individual licensees employed by the Casino checked the underage individual's identification but failed to recognize that it was a

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<sup>1</sup> All statutory references are to RSMo 2000, unless otherwise specified

<sup>2</sup> 20160307004

fraudulent ID and allowed the minor to enter and/or remain on the casino floor, make wagers, or purchase and/or consume alcoholic beverages.

9. Between January 1 and January 4, 2016, 35 individual licensees employed by the Casino failed to check the minor's identification to verify her identity and/or to verify that she was over 21 years of age, before allowing her to make wagers or purchasing and/or consuming alcoholic beverages.
10. The above-referenced underage female was on the casino floor for more than 21 hours over that four-day period.

### 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. Section 311.310.1, RSMo, states, in pertinent part, as follows:

Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, ..., shall be deemed guilty of a misdemeanor....

14. Section 313.817.4, RSMo, forbids “a person under twenty-one years of age [from making] a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted.”

15. Section 313.817.7, RSMo, states as follows:

It shall be unlawful for a person to present false identification to a licensee or a gaming agent in order to gain entrance to an excursion gambling boat, cash a check or verify that such person is legally entitled to be present on the excursion gambling boat. Any person who violates the provisions of this subsection shall be guilty of a class B misdemeanor for the first offense and a class A misdemeanor for second and subsequent offenses.

16. Section 313.830.2, RSMo, states as follows:

2. A person is guilty of a class B misdemeanor for the first offense and a class A misdemeanor for the second and subsequent offenses for any of the following:
  - (1) Permitting a person under the age of twenty-one to make a wager while on an excursion gambling boat;
  - (2) Making or attempting to make a wager while on an excursion gambling boat when such person is under the age of twenty-one years; or
  - (3) Aiding a person who is under the age of twenty-one in entering an excursion gambling boat or in making or attempting to make a wager while on an excursion gambling boat.

17. Title 11 CSR 45-5.053, states, in pertinent part as follows:

- (3) The holder of a Class A license is expressly prohibited from the following activities:

\* \* \*

- (D) Failing to comply with or make provision for compliance with all federal, state and local laws and regulations pertaining to the operation of a license, including ... violating alcoholic beverage laws or rules;

\* \* \*

- (M) Failing to report to the commission known or suspected violations of commission rules and applicable law[.]

18. 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.

19. 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.

\* \* \*

- (3) In the event that a licensee or employees of the licensee knows or should have known that an illegal or violent act has been committed on or about the licensed premises, they shall immediately report the occurrence to law enforcement authorities and shall cooperate with law enforcement authorities and agents of the commission during the course of any investigation into an occurrence.

\* \* \*

- (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.

20. Title 11 CSR 45-12.090(3) states as follows:

Sale to Minors and Other Persons. An excursion liquor licensee shall not, through actions of his/her own or of an employee, sell, vend, give away its or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, to any person intoxicated or appearing to be in the state of intoxication, or to a habitual drunkard. A licensee shall not permit any person under the age of twenty-one (21) years, any intoxicated person, or any habitual drunkard to consume intoxicating liquor on the licensed premises.

21. MICS, Chapter N, § 3.01 requires Class B licensees to include detailed procedures in their ICS regarding intoxicated persons.

22. The Casino's ICS, Chapter N, § 3.01(B) provides, in pertinent part, as follows:

Intoxicating liquor shall not be served to anyone under the age of twenty-one or to any guest who is apparently intoxicated. Security officers shall assist in the verification of the age of a potential under age guest.

23. Both the MICS, Chapter N § 4.01, and the Casino's ICS, Chapter N § 4.01, forbid anyone under 21 years of age from gaining access to the casino floor or being allowed to place a wager.

24. Both the MICS, Chapter N § 4.04, and the Casino's ICS, Chapter N § 4.04 state that "the enforcement of admission and gambling restrictions for persons under 21 years of age shall include, at a minimum, checking their government-issued photo identification."

### **VIOLATIONS**

25. The actions or omissions of employees or agents of the Company as described above constitute failure of the Licensee to adequately monitor and verify that all patrons are over the age of 21 before allowing them to enter the casino, make or attempt to make any wagers, and purchase or consume alcoholic beverages, thereby violating 311.310, 313.817 and 313.830 RSMo, 11 CSR 45-5.053, 11 CSR 45-10.030, 11 CSR 45-12.090, the MICS, Chapter N §§ 4.01 and 4.04, and the Company's ICS, Chapter N §§ 3.01, 4.01 and 4.04.

26. 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**

27. 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.

28. THEREFORE, it is proposed that the Commission fine Tropicana St. Louis, LLC, the amount of \$5,000 for the violations set forth herein.

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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 September, 2016, to:

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

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Herbert M. Kohn  
Chairman  
Missouri Gaming Commission