

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-16-068  
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 October 15, 2015, MGC staff discovered that Electronic Gaming Device (EGD) DD0701/Asset 1412 contained revoked bill acceptor software version 2.50/2.32.
7. Bill acceptor software version 2.50/2.32 was supposed to be removed from the gaming floor by October 14, 2010.
8. Nothing in the Casino's Machine Entry Authorization Log (MEAL) book indicated that the bill acceptor software for EGD DD0701/Asset 1412 had been changed after 2008.
9. In May 2013, former Slot Performance Manager William Kee ("Kee") was issued a Compliance Directive and instructed to complete a floor audit of all bill acceptor software to ensure that all EGD software was approved and up to date. Kee was instructed to have this audit complete by August 8, 2013.

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

<sup>2</sup> 20151016004

10. During a standard Phase II testing procedure conducted on or about July 6, 2015, MGC staff found that the BV software in a different EGD was not approved for use.
11. On or about September 23, 2015, MGC staff discovered another EGD containing revoked bill acceptor software. The deadline for removal of the software in that EGD was April 24, 2012.

### LAW

12. 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.
13. 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[.]
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. Both the MICS, Chapter E § 1.10, and the Casino's ICS, Chapter E § 1.10, require the following:

Class B Licensees shall ensure all EGDs offered for patron play shall contain hardware and software currently approved for use in the state; and upon notification of any revocation of approval shall replace the revoked hardware or software within the time frame set forth by the MGC.

### **VIOLATIONS**

16. The actions or omissions of employees or agents of the Company as described above constitute failure of the Casino to ensure that its EGDs contained current software approved for use, thereby violating MICS, Chapter, E § 1.10 and the Casino's ICS, Chapter E § 1.10.
17. 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**

18. 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.
19. 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 April, 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