

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 17-001

SUSAN FRKOVIC  
January 11, 2017

WHEREAS, Susan Frkovic ("Frkovic"), requested a hearing to contest the proposed disciplinary action initiated against her on April 7, 2016, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-16-054; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Frkovic's 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 Frkovic a revocation of her occupational license in the above-referenced case in the matter of DC-16-054; 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: Susan Frkovic

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Case No. 16-054

License Number: 117600

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**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 receipt of a letter dated April 15, 2016 making a request for a hearing by Susan Frkovic (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated April 7, 2016. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on September 20, 2016 where the Petitioner and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

**FINDINGS OF FACT**

1. On January 24, 2016 and all times relevant hereto, Petitioner was employed by St. Louis Gaming Ventures, LLC ("Company") as a Dealer aboard the *Hollywood Casino St. Louis* ("Casino").
2. On January 25, 2016 Sergeant Matthew LoPane ("Sgt. LoPane") of the Missouri State Highway Patrol was contacted by the Casino about a possible theft.
3. On January 25, 2016, Sgt. LoPane was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.
4. Sgt. LoPane' investigation and review of surveillance video recordings revealed the following:
  - a) The Petitioner was working her shift as a dealer on January 24, 2016.
  - b) Toward the end of her shift, the Petitioner was repeatedly adjusting the purple \$1,000 chips at her table over the course of sixteen minutes. .
  - c) The Petitioner intentionally placed two of the purple \$1,000 chips into her pocket before clearing her hands and leaving the gaming table.
  - d) On January 25, 2016, the Petitioner called the Casino and reported that she found two purple \$1,000 chips in her pocket when she arrived home from her previous

work shift. She then reported to the Commission office at the Casino and provided a written statement claiming that she must have accidentally put the chips in her pocket after her shift the previous day.

5. Petitioner testified at hearing that she was sick on January 24, 2016 when she started her shift and that she only came to work because the Casino was short on dealers. She testified that she was short of breath and had an extreme headache, and that she does not recall even dealing at table 602, the table from which the purple chips were taken. She testified that she has no memory of placing the chips in her pocket.
6. Sgt. LoPane testified that he did not observe any apparent signs of distress or medical issues with the Petitioner in the fifteen minutes of surveillance video at the time of the theft. He testified that Petitioner had no reason to be touching the purple \$1,000 chips as no players were betting the \$1,000 chips. He testified that he believed her actions to place the chips in her pocket were intentional.
7. Petitioner's actions in stealing \$2,000 worth of Casino chips is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri and discredits the Missouri gaming industry and the State of Missouri, and violates Section 570.030 RSMo. (2016); Section 313.812.14 RSMo. (2016), 11 CSR 45-4.260(4)(E), (F), (L), (M), (P), & (Q); and 11 CSR 45-10.030(1), (3), & (7).

### **CONCLUSIONS OF LAW**

1. "The Commission shall have full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to 313.850." Section 313.805 MO. REV. STAT. 2010.
2. "A holder of any license shall be subject to the 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 of the state of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action . . . the following acts 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 regulation." Section 313.812.14 MO. REV. STAT. 2012.

3. "The burden of proof is at all times on the petitioner. The petitioner 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).
4. "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).
5. "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 the 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).
6. Section 570.030.1 RSMo. (2016) states "A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion."
7. 11 CSR 45-10.030(1) states "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 of rule committed by licensees, their employees or others..."
8. "The commission may . . . revoke or suspend an occupational license of any person . . . who has failed to comply with or make provision for complying with Chapter 313, RSMo, the rules of this commission, or any federal, state, or local law or regulation." Regulation 11 CSR 45-4.260(4)(E).

## DISCUSSION

The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner has worked in the gaming industry for nearly nineteen years. She was an experienced Dealer, and she knows her obligations as a Level II licensee. Petitioner intentionally placed two purple \$1,000 chips into her pocket from the gaming table, and thereby committed the crime of felony Stealing under Missouri law. Petitioner further failed to notify the Commission or the Casino of her actions until the day following the theft. The

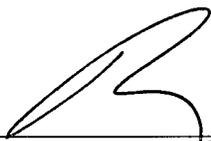
Hearing Officer specifically finds Petitioner's testimony that an illness made her unaware that she stole the chips to be not credible based upon the evidence presented at hearing.

Petitioner's actions in stealing \$2,000 worth of Casino chips is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri and discredits the Missouri gaming industry. Petitioner did not meet her high burden of proof of clear and convincing evidence in showing that no violation occurred.

**FINAL ORDER**

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner is found to have violated Missouri law and is subject to discipline at the discretion of the Commission. The decision of the Commission dated April 7, 2016 to impose a Revocation against Petitioner is affirmed as a proper and appropriate discipline.

DATED: November 3, 2016

  
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BRYAN W. WOLFORD  
Hearing Officer