

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 17-007
APPROVING SETTLEMENT AGREEMENT AND FINAL ORDER

JACQUELINE E. WOODY
January 11, 2017

WHEREAS, on February 24, 2016, the Missouri Gaming Commission issued a Preliminary Order for Disciplinary Action (“Order”) against Jacqueline E. Woody (“Woody”); and

WHEREAS, Woody filed a request for hearing on that Order on or about March 24, 2016, and a hearing was scheduled before the Hearing Officer, Case No. 16-019; and

WHEREAS, Woody and the Commission have come to a settlement agreement concerning the issues presented in the proposed discipline (a copy of which is attached).

NOW, THEREFORE, BE IT RESOLVED, that the Commission hereby approves the Settlement Agreement and Final Order concerning Jacqueline E. Woody, Case No. 16-019.

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

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MISSOURI GAMING COMMISSION
ENFORCEMENT

IN THE MISSOURI GAMING COMMISSION

In Re: Jacqueline E. Woody)
)
License Number: MGC145836,)
)

DC-16-019

SETTLEMENT AGREEMENT AND FINAL ORDER

This SETTLEMENT AGREEMENT ("Settlement Agreement") is made subject to approval of the Missouri Gaming Commission ("Commission") pursuant to 11 CSR 45-13.065, and is entered into between the Enforcement Division of the Commission ("Staff") and Jacqueline E. Woody ("Ms. Woody") as authorized by 11 CSR 45-13.065 and will become a FINAL ORDER of the Commission effective upon approval by the Commission.

GENERAL MATTERS

WHEREAS, the Commission is a state commission created under Chapter 313, RSMo,¹ with jurisdiction over gaming activities, including riverboat gambling activities and the licensing and disciplining of holders of Level II Occupational Licenses, in the State of Missouri; and

WHEREAS, the Staff is charged with the review and investigation of the activities of holders of Missouri Gaming Licenses ("Licensees") and the investigation of individuals and entities seeking to receive a Missouri Gaming License; and

WHEREAS, the Commission has, pursuant to § 313.004.4, RSMo, and 11 CSR 45-4.260(1), delegated and authorized the Executive Director to carry out its duties as set forth in

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



Chapter 313, RSMo, including the supervision, regulation, and making the initial determination of discipline for Level I and II Occupational Licensees; and

WHEREAS, the Executive Director issued Ms. Woody a Level II Occupational License for employment on an excursion gambling boat licensed by the Commission, (License # MGC145836); and

WHEREAS, Ms. Woody, as the holder of a Level II License is subject to the provisions of §§ 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission; and

FACTS

1. In 2015, Ms. Woody was employed by *Lumiere Place Casino & Hotels* (“Casino”), which is owned and operated by Tropicana St. Louis, LLC, a Class B riverboat gambling licensee, as its Marketing Manager.

2. On April 9, 2015, Bally Technologies (“Bally”) sent the Director of IT Geno Palumbo (“Palumbo”) Field Advisory ACSC 2015-002 via email notifying the Casino that it had identified certain issues in the ACSC sweepstakes program which caused entries into the Casino’s sweepstakes to be deleted if the Casino manually adjusted the player’s table rating and notified the Casino that ACSC 11.5SP6 would correct the issue.

3. On April 10, 2015, Palumbo forwarded the Field Advisory email to Licensee, among others.

4. Ms. Woody allegedly failed to notify the MGC of the Field Advisory, alerting the Casino staff of potential problems in the ACSC sweepstakes program.

5. After a software update designed to fix the sweepstakes issues identified by Bally's April 9, 2015 Field Advisory was installed, the Casino conducted drawings for the \$60K Convertible Giveaway beginning at 2 p.m. on June 20, 2015.

6. When conducting the 2:30 p.m. drawing on June 20, 2015, Ms. Woody noticed there were no active entries showing in the system, alerting her to potential problems with the manner in which the promotion was being conducted, and notified Bally of the problem, but allegedly did not notify the MGC of those same problems.

7. Ms. Woody sent an email on June 23, 2015, to Palumbo, among others, advising them that the sweepstakes entries were still not corrected but allegedly did not send any notification to the MGC regarding the Casino problems with the promotion and the sweepstakes' entries.

8. Bally informed Palumbo, Ms. Woody, and others that the modification to the utility may not be ready to be used for the July 4, 2015 drawing, but Ms. Woody allegedly failed to notify the MGC of the information received from Bally.

LAW

9. Section 313.805, RSMo, states, in pertinent part, as follows:

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

* * *

(5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;

(6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as

well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645;

* * *

(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules.

10. 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 regulation;
- (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming;

* * *

- (8) Obtaining or attempting to obtain any fee, charge, or other compensation by fraud, deception, or misrepresentation;
- (9) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850.

11. Under 11 CSR 45-4.260(4)(E), (F), and (Q), the Commission may suspend or revoke an occupational license of any person if any of the following occur:

- a. The Licensee fails “to comply with or make provisions to comply with Chapter 313, RSMo, the rules of this commission, or any federal, state, or local law or regulation,” under 11 CSR 45-4.260(4)(E);
 - b. The Licensee “fails to comply with any rule, order or ruling of the commission or its agents,” under 11 CSR 45-4.260(4)(F); and/or
 - c. The Licensee’s actions demonstrate “incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850, RSMo,” under 11 CSR 45-4.260(4)(Q).
12. 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.

SETTLEMENT

13. Nothing contained in this Settlement Agreement and Final Order (“Settlement Agreement”) shall be deemed to be or construed as an admission of liability or guilt by Ms. Woody with respect to any of the claims in the Preliminary Order for Disciplinary Action No. DC 16-019. Rather, this Settlement Agreement is made by the parties in order to reasonably and conclusively resolve the disputed claims without incurring the uncertainty, burden, and expense of continued contested proceedings in this matter.

14. Without admitting liability or guilt with respect to any claim in the Preliminary Order filed against her, Ms. Woody agrees that she accepts the following penalty against her Level

II Gaming License: One (1) calendar day suspension to be served within four (4) months of the date on which this Settlement Agreement becomes effective (the "Discipline").

15. In consideration of Ms. Woody's agreement to the Discipline, the Commission agrees that the Preliminary Order in DC 16-019 is hereby modified to require a one (1) calendar day suspension.

16. Ms. Woody agrees that if the Discipline is not completed within the four (4) months noted, Ms. Woody agrees and acknowledges that the Commission may pursue its legal remedies, as necessary and without limitation, as authorized by Chapter 313, RSMo, and Title 11, Chapter 45 of the Code of State Regulations, including, but not limited to, filing or refiling any further Preliminary Orders, including refiling the Preliminary Order in DC 14-198, if it deems appropriate.

17. The Discipline is agreed to herein in satisfaction all pending and potential disciplinary actions relating to the activities, actions, and/or inactions described in the Preliminary Order and the Commission's investigation report. Ms. Woody agrees to withdraw her timely filed Request for Hearing and waives her rights to pursue an appeal of the Preliminary Order. The Commission agrees not to initiate any further disciplinary actions against Ms. Woody with respect to the activities, actions, and/or inactions described in the Preliminary Order and the Commission's investigation report.

18. Each signatory to this Settlement Agreement certifies by signing that he or she is fully authorized, in his or her own capacity, or by the named party he or she represents, to accept the terms and provisions of this Settlement Agreement in their entirety, and agrees, in his or her personal or representational capacity, to be bound by the terms of this Settlement Agreement.

19. In consideration of the foregoing, the parties agree to the termination of any further proceedings related to this matter.

20. The terms in this Settlement Agreement are an appropriate disposition of this matter and entry of this Settlement Agreement is in the public interest.

21. This Agreement shall be effective and binding as of the date it is approved by majority vote of the Commission, as a body, as is evidenced by the certification of approval contained at the end of this document.

22. Should the Commission for any reason fail to approve this Agreement by majority voted, Ms. Woody shall have the right to pursue her timely filed Request for Hearing and continue with her appeal of the Preliminary Order, and the Commission shall have the right to re-file the Preliminary Order of Discipline in DC 16-019, if it deems appropriate.

23. The terms set forth in this Settlement Agreement are an appropriate disposition of this matter and entry of this Settlement Agreement is in the public interest

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Jacqueline E. Woody has the right to a hearing, but that Jacqueline E. Woody has waived the hearing and consented to the execution of this Settlement Agreement and hereby submit this Settlement Agreement to the Commission for its approval.

Jackie Woody _____ 10-18-2016

Jacqueline E. Woody _____
Jacqueline E. Woody Date

Carolyn H. Kerr
Carolyn H. Kerr _____
Missouri Bar No. 45718 Date 12-8-16

Legal Counsel
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William K. Seibert, Jr.

William K. Seibert, Jr.
Executive Director
Missouri Gaming Commission
P.O. Box 1847
3417 Knipp Drive
Jefferson City, MO 65102

12-13-2016

Date

FINAL ORDER

NOW, THEREFORE, pursuant to the authority granted by §§ 313.805 and 313.812 RSMo, and 11 CSR 45-13.065 the above Settlement Agreement becomes a FINAL ORDER of the Commission.

THEREFORE, the Commission imposes a One (1) calendar day suspension against the occupational license of Jacqueline E. Woody, to be carried out within four (4) months of the date on which this Settlement Agreement becomes effective.

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 Settlement Agreement and Final Order to be mailed, postage prepaid, this _____ day of January, 2017, to:

Robert Cantwell
Lathrop & Gage LLP
7701 Forsyth Blvd., Suite 500
St. Louis, MO 63105

Herbert M. Kohn
Chairman
Missouri Gaming Commission

IN THE MISSOURI GAMING COMMISSION

In RE: Jacqueline E. Woody)
) DC 16-019
License Number: MGC145836)

PRELIMINARY ORDER FOR DISCIPLINARY ACTION

Comes now the Executive Director of the Missouri Gaming Commission, through counsel, and acting in his official capacity, pursuant to 11 CSR 45-13.050, and states as follows:

1. The Missouri Gaming Commission (the "Commission") 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 has, pursuant to § 313.004.4, RSMo, and 11 CSR 45-4.260(1), delegated and authorized the Executive Director to carry out its duties as set forth in Chapter 313, RSMo, including the supervision, regulation, and making the initial determination of discipline for Level I and II Occupational Licensees.

3. The Executive Director issued Jacqueline E. Woody ("Licensee") a Level II Occupational License for employment on an excursion gambling boat licensed by the Commission (License # MGC145836).

4. The Commission issued a Class B riverboat gambling license to Casino One Corporation ("Company"), to conduct games on and operate the excursion gambling boat known as the *Lumiere Place Casino & Hotels* ("Casino").

5. As the holder of an occupational license, Licensee is subject to the provisions of §§ 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

6. The Commission believes the following facts to be true:²

- a. At all relevant times as alleged herein, Licensee was employed by the *Lumiere Place Casino and Hotels* as a Marketing Manager;
- b. At all relevant times as alleged herein, Tabitha Perkins ("Perkins") was employed as an EGD Specialist by the MGC;
- c. On July 13, 2015, Perkins initiated an investigation into issues the Casino was experiencing with the computer module running its sweepstakes to determine if the Casino conducted its promotions according to their published rules as well as to find out how long the Casino staff was aware of those issues; and

¹ All statutory references are to the Revised Statutes of Missouri (2000), unless otherwise specified.

² GIR20151125001

- d. Perkins's investigation revealed the following facts:
- i. On April 9, 2015, Bally Technologies ("Bally") sent the Director of IT Geno Palumbo ("Palumbo") Field Advisory ACSC 2015-002 via email notifying the Casino that it had identified certain issues in the ACSC sweepstakes program which caused entries into the Casino's sweepstakes to be deleted if the Casino manually adjusted the player's table rating;
 - ii. The Field Advisory notified the Casino that ACSC 11.5SP6 would correct the issue;
 - iii. On April 10, 2015, Palumbo forwarded the Field Advisory email to Licensee, Special Events and Promotions Supervisor Tricia Allen ("Allen"), and Director of Marketing James Baker ("Baker");
 - iv. Licensee failed to notify the MGC of the Field Advisory, alerting the Casino staff of potential problems in the ACSC sweepstakes program;
 - v. On June 15, 2015, the MGC approved the Casino's request to install the ModPack 3, a software update designed to fix the sweepstakes issues identified by Bally's April 9, 2015 Field Advisory;
 - vi. On June 20, 2015, the Casino conducted drawings for the \$60K Convertible Giveaway beginning at 2 p.m.;
 - vii. When conducting the 2:30 p.m. drawing on June 20, 2015, Licensee and Allen noticed there were no active entries showing in the system and notified Bally of the problem;
 - viii. Licensee did not notify the MGC on June 20, 2015, after she and Allen noticed the 2:30 p.m. drawing failed to show any active entries, alerting them to potential problems with the manner in which the promotion was being conducted;
 - ix. On June 22, 2015, Bally sent Licensee's June 20 email to Palumbo, along with its April Field Advisory confirming that the problem with the drawing was related to the information described in that Field Advisory;
 - x. Palumbo forwarded that email to Licensee, Data Marketing Specialist Daryl Hood, Players' Club Supervisor Joseph Knaeble, Slot Performance Manager Michael Babinski, Baker, and Allen on the same day;
 - xi. Licensee sent an email on June 23, 2015, to Palumbo, among others, advising them that the sweepstakes entries were still not corrected;

- xii. Licensee did not send any notification on June 23, 2015, to the MGC regarding the Casino problems with the promotion and the sweepstakes' entries;
- xiii. On June 26, 2015, Compliance Officer Ryan Miller notified Sergeant Smith of the MGC that the Casino was having problems with its table games promotion. Licensee was present for this notification;
- xiv. Palumbo received another email on July 1, 2015, from Director of Casino Operations Michael Bechard asking if incorrect table game patron's ratings could be corrected. Instead of answering that email, Palumbo forwarded it to Licensee and Allen, asking them if table game employees could start to manually adjust player ratings again;
- xv. Bally informed Palumbo, Licensee, Allen, and Baker that the modification to the utility may not be ready to be used for the July 4, 2015 drawing; and
- xvi. Licensee failed to notify the MGC of the information received from Bally.

7. Licensee's failure to promptly alert the MGC of the sweepstakes entry problems 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, in that Licensee's acts or omissions violate 11 CSR 45-10.030(1) and (7).

8. Section 313.805, RSMo, states, in pertinent part, as follows:

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

* * *

- (5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;
- (6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645;

* * *

(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules.

9. 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 regulation;
- (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming;

* * *

- (9) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850.

10. Under 11 CSR 45-4.260(4)(E), (F), and (Q), the Commission may suspend or revoke an occupational license of any person if any of the following occur:

- a. The Licensee fails "to comply with or make provisions to comply with Chapter 313, RSMo, the rules of this commission, or any federal, state, or local law or regulation," under 11 CSR 45-4.260(4)(E);
- b. The Licensee "fails to comply with any rule, order or ruling of the commission or its agents," under 11 CSR 45-4.260(4)(F); and/or
- c. The Licensee's actions demonstrate "incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850, RSMo," under 11 CSR 45-4.260(4)(Q).

11. 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.

* * *

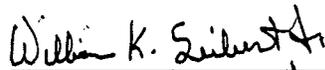
- (7) All occupational licensees shall have a working knowledge of Chapter 313.800, RSMo et seq., *Code of State Regulations*, Title 11 Division 45, and the internal controls of the Class A or B licensees for whom they are currently employed by as they pertain to the responsibilities and limitations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

12. The actions or omissions of Licensee as described in paragraph 6, including all subparts, above, violate 11 CSR 45-10.030(1) and (7), and, thus, provide grounds to discipline Licensee's occupational license pursuant to §§ 313.805 and 313.812.14(1), (2), and (9), RSMo, and 11 CSR 45-4.260(4)(E), (F), and (Q).

PENALTY PROPOSED

13. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against Licensee, as a Level II occupational licensee.

14. THEREFORE, it is proposed that the Commission impose the following penalty against the license of Licensee for the violations set forth herein: **Three (3) calendar day suspension.**



William K. Seibert, Jr.
Executive Director
Missouri Gaming Commission

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she caused a true and correct copy of the foregoing to be mailed, postage prepaid, this 24th day of February, 2016, to:

Jacqueline E. Woody
3143 Lackland Ave.
St. Louis, MO 63116


Angela Franks
Angela Franks
Designated Principal Assistant
Missouri Gaming Commission