

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-18-002
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, Tropicana St. Louis, LLC, is subject to the provisions of §§ 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS²

6. The MGC completed a compliance audit for the period of period of July 1, 2015 through January 31, 2017, and issued MGC Audit Report 17-08 to the Casino.
7. During that audit, the following exceptions were noted which had been previously noted in MGC Audit Report 15-15, issued to the Casino for the period of April 1, 2014 through June 30, 2015:
 - a. The sides of all used cards were not examined for crimps, bends, cuts, and shavings, and the full back of the cards were not inspected with an ultraviolet light.

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

² 20170509006

- i. The previous audit report, Report 15-15, finding A-3, noted that during observations of the used card inspection on February 26, 2015, the sides of all cards were not examined properly;
 - ii. The current audit, Report 17-08, noted that during observations of the used card inspection on October 11, 2016, Security Officers performing the inspection of used cards were still not adequately inspecting the sides of all cards for crimps, cuts, and shavings, nor were they inspecting the full back of the cards with an ultraviolet light. The Security Officer performing the inspection stated that he only made sure that no cards were missing from decks which were placed into order prior to the inspection.
- b. Sealed envelopes which contained poker decks with broken seals that were not put into play did not contain the date, time, or signature of the Poker Supervisor.
 - i. The previous audit report, Report 15-15, finding B-9, noted that observations of the pick-up of used poker cards on February 26, 2015, revealed that sealed envelopes which contained poker decks with broken seals that were not put into play did not contain the date, time, or signature of the Poker Supervisor;
 - ii. During procedures to follow up to finding B-9 in Report 15-15, it was noted during observations of the pick-up of used poker cards on February 22, 2016, that sealed envelopes which contained poker decks with broken seals that were not put into play did not contain the date, time, or signature of the Poker Supervisor. A compliance directive was issued to the Poker Manager on August 3, 2016, to correct the violation; and
 - iii. The current audit, Report 17-08, noted that observations of the pick-up of used poker cards on October 11, 2016, revealed sealed envelopes, which contained poker decks with broken seals that were not put into play did not contain the date, time, or signature of the Poker Supervisor.
- c. Poker card replacement decks were not reconciled to the Replacement Deck Log at least weekly, and the Log was not signed by the Poker Manager or Table Games Assistant Shift Manager and Security Officer.
 - i. The previous audit report, Report 15-15, finding B-14, noted that poker card replacement decks were not reconciled to the Replacement Deck Log at least weekly. Instead, the poker card replacement decks were only reconciled when the poker decks became too depleted and were to be destroyed;
 - ii. During procedures to follow-up to finding B-14 in Report 15-15, it was noted during observations on February 22, 2016, that poker card replacement decks were not reconciled to the Replacement Deck Log. Instead, the poker card replacement decks were only reconciled when the poker decks became too depleted and were to be destroyed. A compliance directive was issued to the Director of Security on August 2, 2016, to correct the violation; and

- iii. The current audit, Report 17-08, found that poker card replacement decks were never reconciled to the Replacement Deck Log weekly, and that the Replacement Deck Log was not signed by the Poker Manager or Table Games Assistant Shift Manager and Security Officer. Instead, replacement decks were destroyed when they became depleted.
- d. The Poker Dealer did not adequately check the entire back of each card to ensure it was not flawed, scratched, or marked in any way.
 - i. The previous audit report, Report 15-15, finding B-3, noted three observations of poker table openings when the Poker Dealer failed to check the entire back of each card to ensure it was not flawed, scratched, or makes in any way; and
 - ii. During three observations of poker table openings during the current audit, Report 17-08, the Poker Dealer did not adequately check the entire back of each card to ensure it was not flawed, scratched, or marked in any way.

LAW

- 8. 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 in an amount determined by the Commission.
- 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[.]

10. 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 or Class B licensee or an agent or employee of a Class A or Class B licensee are deemed to be unsuitable conduct for which the Class A or Class B 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., as amended from time-to-time. Any agent or employee of a Class A or Class B licensee that is involved in a violation of the minimum internal control standards may be subject to fine, discipline, or license revocation.
- (4) Violations of the Class B licensee’s internal control system [(“ICS”)] by the Class A or Class B licensee or an agent or employee of the Class A or Class B licensee shall be *prima facie* evidence of unsuitable conduct for which the Class A or Class B 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., as amended from time-to-time.

11. Title 11 CSR 45-5.184(16) states, in pertinent part, as follows:

- (16) When the envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, they shall be inspected within forty-eight (48) hours by a member of the security department who has been trained in proper card inspection procedures. The cards will be inspected for tampering, marks, alterations, missing or additional cards, or anything that might indicate unfair play.

* * *

(D) The procedures for inspecting all decks required to be inspected under this subsection shall, at a minimum, include:

- 1. The sorting of cards sequentially by suit or using an automated deck checking device to establish all cards are present;
- 2. The inspection of the backs of the cards with an ultraviolet light; and
- 3. The inspection of the sides of the cards for crimps, bends, cuts, and shaving.

12. The MICS, Chapter F, § 8.03, states as follows:

Prior to being placed into play, all decks shall be inspected by both the Poker Dealer and a Poker Supervisor. Card inspection at the gaming table shall require each deck to be sorted into sequence and into suit to ensure that all cards are in the deck. The inspection shall also include checking the entire back of each card to ensure that it is not flawed, scratched or marked in any way.

- (A) If, after checking the cards, the Poker Dealer finds that a card is unsuitable for use, the deck shall be removed from play and a Poker Supervisor shall bring a replacement deck from the pit stand.
- (B) The unsuitable card(s) shall be placed in a transparent sealed envelope or container, identified by the table number, date, and time and shall be signed by the Poker Dealer and Poker Supervisor assigned to that table. The Poker Supervisor shall maintain the envelope or container in a secure place within the Poker Room until collected by a Security Officer.
- (C) The remaining incomplete deck shall be maintained in a separate container in a secure place within the Poker Room until collected by a Security Officer.
- (D) The Poker Supervisor shall record on the collection envelope or container the table number, date and time the cards were placed on the table and then sign the collection envelope or container.

13. The MICS, Chapter F, § 8.09, states, in pertinent part, as follows:

At the end of the gaming day or, in the alternative, at least once each gaming day at approximately the same time:

(A) The Poker Supervisor shall:

* * *

- (2) place all decks with broken seals that were not put into play in a sealed envelope or container, which identifies the date and time and is signed by the Poker Supervisor[.]

14. The MICS, Chapter F, § 8.14, states, in pertinent part, as follows:

Security personnel shall keep a record of all cards removed from the replacement decks. The record shall include time, date, color, value, suit, reason for replacement, and the name of the individual who replaced the card(s). The replacement deck(s) shall be reconciled to the record at least weekly. Once a replacement deck has been depleted to the point it is no longer useful, the remaining cards in the replacement deck shall be destroyed or canceled.

15. The Casino's ICS, Chapter F, § 8.14, states, more specifically, as follows:

Security personnel shall keep a record (Replacement Deck Log, Form R-13) of all cards removed from the replacement decks. The record shall include time, date, color, value, suit, reason for replacement, and the name of the Security Officer who replaced the card(s). The replacement deck(s) shall be reconciled to the record at least weekly and signed by the Poker Manager or Table Games Assistant

Shift Manager and Security Officer on the Replacement Deck Log (Form R-13). Once a replacement deck has been depleted to the point it is no longer useful, the remaining cards in the replacement deck shall be destroyed or canceled.

VIOLATIONS

- 16. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to properly inspect and document the handling of poker cards, thereby violating 11 CSR 45-5.184, MICS, Chapter F §§ 8.03, 8.09 and 8.14, and the Casino's ICS, Chapter F § 8.14.
- 17. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 313.812.14 (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.

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 January, 2018, to:

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

Herbert M. Kohn
Chairman
Missouri Gaming Commission