

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC 22-077
PNK (River City), 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”) is a State commission created under Chapter 313, RSMo, with jurisdiction over gaming activities, including riverboat gambling activities, in the state of Missouri.

2. The Commission issued a Class A gaming license to PENN Entertainment, Inc. to develop and operate Class B gaming licensees in the state of Missouri.

3. PENN Entertainment, Inc. is the parent organization or controlling entity of PNK (River City), LLC (the “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 River City Casino (the “Casino”).

5. As the holder of a Class B license, the Company is subject to the provisions of Sections 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS¹

6. On January 10, 2022, Sergeant Samuel Buchheit (“Sgt. Buchheit”) of the Missouri State Highway Patrol (“MSHP”), acting as an agent of the Commission, spoke with Casino Compliance Manager Ann Happel (“Happel”) about his concerns regarding the Casino Count Room, specifically that the Count Room contained a microwave and a refrigerator, and that Casino personnel were bringing in food and drink and playing music at such a loud volume to render the Count Room’s audio listening capabilities essentially null.

7. On January 14, 2022, while monitoring the Casino’s Count Room, Sgt. Buchheit observed the following:

a. Count Team Member Laverne Nixon (“Nixon”) entered the Count Room with a non-transparent personal beverage container;

¹ GIR 20220114002

b. Count Team Member Patrice Gray (“Gray”) entered the Count Room with a non-transparent personal beverage container; and

c. A non-transparent white paper bag containing non-transparent white boxes of food, which belonged to Gray, two (2) bags of potato chips and two (2) bags of FunYuns, and two (2) humidifiers were located inside the Count Room.

8. After observing the aforementioned, Sgt. Buchheit spoke with Gray, who informed him that she had been bringing similar items into the Count Room since she began working at the Casino. Gray was issued a Level II Occupational license on August 23, 2021.

9. Additionally, Sgt. Buchheit contacted Casino Lead Surveillance Agent Thai Vu (“Vu”) regarding his observations. In response, Vu provided Sgt. Buchheit with a report in which Vu indicated that on January 12, 2022, several Count Team members brought bags of potato chips into the Count Room. Additionally, Sgt. Buchheit was provided several photos by Surveillance Shift Manager Phillip Noose of the Count Room on January 12, 2022, which showed non-transparent personal beverage containers directly next to funds.

10. Due to the above-stated conduct, Sgt. Buchheit issued Compliance Directives to several Count Team members and a Notice of Investigation to the Casino.

11. On January 20, 2022, Sgt. Buchheit again monitored the Count Room and observed the following:

a. Multiple puzzle books (crosswords and Sudoku) were in a hanging file folder on the wall of the Count Room;

b. A clear personal beverage container and a non-transparent personal beverage container located next to cash counting machines inside the Count Room; and

c. Count Team Assistant Manager James Alexander engaging in a “FaceTime” call on his personal cellular telephone lasting approximately 37 minutes while conducting his job duties inside the Count Room.

LAW

12. 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.

13. Section 313.812, RSMo, states, in pertinent part, as follows:

14. 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 such person or such person's 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.

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 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.

15. 11 CSR 45-10.030 states, in pertinent part, as follows:

(4) Licensees shall take reasonable actions to safeguard from loss all tokens, tickets, chips, checks, funds, and other gaming assets.

* * *

(6) Class A, Class B, and supplier licensees shall ensure that all agents and occupational licensees employed by said licensees shall have a working knowledge of Missouri Gaming Statutes, Chapter 313.800, RSMo et seq., Code of State Regulations, Title 11 Division 45, the commission’s published minimum internal control standards and the licensee’s system of internal controls as they pertain to the responsibilities and limitations of their job.

(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.

16. 11 CSR 45-5.053 states, in pertinent part, as follows:

(2) It is the policy of the commission to require that all riverboats and gaming conducted on riverboats be operated in a manner suitable to protect the public health, safety, morals, good order, and general welfare of Missouri. Responsibility for the employment and maintenance of suitable methods of operation rests with the holder of an operator’s license and willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for disciplinary action, up to and including license revocation.

17. The Commission’s MICS, Chapter G, states, in pertinent part, as follows:

4.02 A security officer shall inspect all containers, equipment, paperwork, and other items being removed from the count room or cart storage room; except for locked storage carts.

4.03 The count room and cart storage room shall provide maximum security for the items housed and activities conducted therein and shall have:

- (A) steel doors and solid outer walls enclosing each room;
- (B) no windows that can be opened;
- (C) secured vents, ducts, flooring, and ceilings. The Internal Control System shall describe how these items are secured and the materials used to do so;
- (D) clear, glass-like count tables for emptying, sorting, and counting the contents of the drop devices;
- (E) a landline telephone; and
- (F) only trash bags of clear design.

* * *

4.06 The count room and cart storage room shall not contain any supplies and equipment not related to the count process, and shall not be used for storage of supplies. A water cooler utilizing transparent water jugs shall be allowed.

* * *

4.11 No persons in the count room and cart storage room shall be permitted to carry a pocketbook or other similar container unless such container is transparent.

4.12 Non-transparent containers, other than currency/TITO/chip transport carts, may only be permitted in the count room and cart storage room if they are not placed within five feet of any currency in the room and they are inspected by a security officer upon removal from the room.

18. The Casino's ICS, Chapter G, states, in pertinent part, as follows:

4.02 A security officer shall inspect all containers, equipment, paperwork, and other items being removed from the count room or cart storage room; except for locked storage carts. (G-4.02)

4.03 The Soft Count Room and cart storage room shall provide maximum security for the items housed and activities conducted therein and shall have:

- (A) solid outer wall enclosing each room and steel doors capable of being locked from the inside by the count team and have a dual locking system on the outside requiring two (2) separate keys to access;
- (B) no windows that can be opened adjacent to any unsecured area;

- (C) the ceiling is composed of a wire mesh system lacking ceiling panels. The ceiling duct work and vents are restricted in size and are unable to support a person. In addition, the vents and ducts are secured with wire mesh to prevent someone from concealing funds. The floor is composed of concrete and covered with laminate flooring. If necessary, the vents shall be secured from the inside;
- (D) a clear, glass-like count table for emptying, sorting and counting the contents of drop devices;
- (E) a landline telephone for required and emergency calls; and
- (F) only trash bags of clear design. (G-4.03)

* * *

4.06 The count room and cart storage room shall not contain any supplies and equipment not related to the count process, and shall not be used for storage of supplies. A water cooler utilizing transparent water jugs shall be allowed. (G-4.06)

* * *

4.11 No persons in the count room and cart storage room shall be permitted to carry a pocketbook or other similar container unless such container is transparent. (G-4.11)

4.12 Non-transparent containers, other than currency/TITO/chip transport carts, may only be permitted in the count room and cart storage room if they are not placed within five feet of any currency in the room and they are inspected by a security officer upon removal from the room. (G-4.12)

VIOLATIONS

19. The Company's actions in permitting items not related to the count process, such as a refrigerator, a microwave, humidifiers, food and drink containers, and puzzle books, into the Count Room and allowing Count Room personnel to engage in improper behavior when inside the Count Room, such as playing loud music and making "FaceTime" calls, 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 the Company's acts violate 11 CSR 45-10.030(4), (6), and (7), and the Casino's ICS and the Commission's MICS, Chapter G, Sections 4.02, 4.03, 4.06, 4.11, and 4.12.

20. Furthermore, the aforementioned actions by the Company also demonstrate that the Company tolerated unsuitable methods of operation in violation of 11 CSR 45-5.053(2).

21. The Company is therefore subject to discipline for such violations pursuant to Sections 313.805 and 313.812.14 (1) and (2), and (9) RSMo, 11 CSR 45-9.060(3) and (4), and 11 CSR 45-5.053(2).

PENALTY PROPOSED

22. Under Section 313.805, RSMo, the Commission has the power to assess any appropriate administrative penalty against the Company as the holder of a Class B license.

23. THEREFORE, it is proposed that the Commission fine PNK (River City), LLC the amount of \$5,000 for the violations set forth herein.

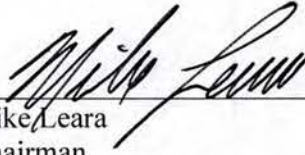


Mike Leara
Chairman
Missouri Gaming Commission

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a true and correct copy of the foregoing to be mailed, postage prepaid, this 9th day of December 2022, to:

Steve Peate
River City Casino
777 River City Casino Blvd.
St. Louis, MO 63125



Mike Leara
Chairman
Missouri Gaming Commission