

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 14-089

JAMIE CAGLE
December 3, 2014

WHEREAS, Jamie Cagle ("Cagle"), requested a hearing to contest the proposed disciplinary action initiated against her on November 13, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-13-423; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Cagle'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 Cagle a one calendar day suspension of her occupational license in the above-referenced case in the matter of DC-13-423; 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: Jamie Ellen Cagle

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Case No. 13-423

License Number: 131090

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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 December 11, 2013 making a request for a hearing by Jamie Cagle (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated November 13, 2013. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on September 25, 2014 where the Petitioner and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On April 17, 2013, Petitioner was employed by IOC-Caruthersville, LLC ("Company") as a Receiving Coordinator aboard the *Lady Luck Casino, Caruthersville* ("Casino").
2. On April 17, 2013, Trooper Deborah Miller ("Tpr. Miller") of the Missouri State Highway Patrol, initiated a regulatory investigation at the Casino after observing the inspection of a shipment of cards from the supplier.
3. On April 17, 2013, Tpr. Miller was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.
4. Tpr. Miller's investigation revealed the following:
 - a) On April 17, 2013, Petitioner did not properly inspect shipments of cards received by the Casino in that Petitioner did not ensure that the white boxes of cards were removed from the brown shipping box and individually inspected. Petitioner was not present during the entire inspection process of the new shipment of cards as required.
 - b) Petitioner removed the plastic wrap from the shipment and inspected the outer brown box for damage. Petitioner then went to her office where she could not observe the rest of the inspection process.

- c) Lead Pit Manager Paul Bowman and Security Lead Lillie Roberts completed the inspection. Neither Bowman nor Roberts removed all of the white boxes of cards from the brown shipping box.
5. At hearing, Petitioner admitted that the licensees present during the inspection might not have done the inspection in depth.
6. Petitioner's actions and inactions in failing to ensure that a proper inspection of a shipment of cards to the Casino by the supplier discredits the Missouri gaming industry and the State of Missouri, and violates Section 313.812.14 RSMo. (2012), Section 313.812.14(1), (2), & (9), RSMo. (2012), 11 CSR 45-9.060(3) & (4); 11 CSR 45-5.185(2); the Commission's Minimum Internal Control Standards ("MICS") Chapter D, § 11.01; and the Company's Internal Control Standards ("ICS") Chapter D, § 11.01.

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. 2010.
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. Under 11 CSR 45-9.060(3), violations of the Commission's Minimum Internal Control Standards ("MICS") by a Class A licensee or an agent or employee of the 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. (2012) and 11 CSR 45-1 *et. seq.*; as amended from time to time.
7. Under 11 CSR 45-9.060(4), violations of the Class A licensee's internal control system ("ICS") by a 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 agent or employee is subject to discipline pursuant to Section 313.805(6) RSMo. (2012) and 11 CSR 45-1 *et. seq.*; as amended from time to time.
8. The Commission's Minimum Internal control Standards ("MICS") Chapter D, § 11.01 states, "When cards and dice are received from the supplier, the packages shall be inspected for proper quantity and obvious damage by at least two employees from different departments . . ."
9. The Company's Internal Control Standards ("ICS") Chapter D, § 11.01 states, "When cards and dice are received from the supplier, the packages shall be inspected for proper quantity and obvious damage by at least two employees from different departments . . ."
10. "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 was responsible for receiving card shipments from suppliers and ensuring that the proper procedures were followed with regard to the shipment. The cards must be inspected for proper quantity and any obvious damage by personnel

from at least two different departments within the Casino. Petitioner had the requisite number of personnel on hand to conduct the inspection, but neither Petitioner nor the other licensees removed each and every one of the white boxes of cards from the shipping carton to conduct a proper inspection for obvious damage to the shipment.

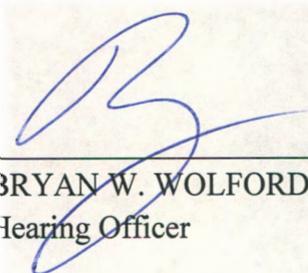
Petitioner's actions and inactions in failing to ensure that a proper inspection of a shipment of cards to the Casino by the supplier discredits the Missouri gaming industry and the State of Missouri. Petitioner did not meet her high burden of proof of clear and convincing evidence in showing that no 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 November 13, 2013 to impose a **one (1) calendar day suspension** against Petitioner is affirmed as a proper and appropriate discipline.

DATED:

October 24, 2014


BRYAN W. WOLFORD
Hearing Officer