

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 14-018

KIMBERLY ALEXANDER
April 30, 2014

WHEREAS, Kimberly Alexander ("Alexander"), requested a hearing to contest the proposed disciplinary action initiated against her on July 5, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-13-176; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Alexander'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 Alexander a one calendar day suspension of her occupational license in the above-referenced case in the matter of DC-13-176; 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: Kimberly Alexander

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Case No. 13-176

Applicant.

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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 September 9, 2013 making a request for a hearing by Kimberly Alexander (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated July 5, 2013. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on February 20, 2014. Although duly notified of the time and place for the hearing, Petitioner did not appear and no one on her behalf appeared. The Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On February 5, 2014, the Commission sent a letter to Petitioner by certified mail, return receipt requested, to her address at 228 Cascade Drive, St. Charles, Missouri 63303. The United States Post Office confirmed its date of delivery to the Petitioner as February 7, 2014, when the Petitioner signed the receipt. The letter notified the Petitioner that her hearing before the Commission's hearing officer was scheduled for February 20, 2014 at 9:00 a.m. at the Commission's office located at 9900 Page Avenue, Suite 107, St. Louis, Missouri 63132. The Letter also provided the Commission's telephone number at its principal office at (573) 526-4080 and the Commission's telephone number at its St. Louis office at (314) 877-4370.
2. Hearing Officer Wolford waited until 9:13 a.m. on February 20, 2014 to start the hearing after first calling the halls of the Commission's St. Louis office and central office to determine if Petitioner was present or had telephoned.
3. On December 9, 2012, Petitioner was employed by Ameristar Casino St. Charles, Inc ("Company") as a Count Specialist aboard the *Ameristar Casino St. Charles*.
4. On December 9, 2012, Trooper Gregory Hansen ("Tpr. Hansen") of the Missouri State Highway Patrol was contacted by Slot Supervisor Karen Magruder about the discovery of an unsecured bill validator door on a Casino electronic gaming device.

5. On December 9, 2012, Tpr. Hansen was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.
6. Tpr. Hansen's investigation and review of surveillance video recordings revealed the following:
 - a) On December 9, 2012 at 6:00 a.m. the Licensee accessed the bill validator door on electronic gaming device #1N-10-7-17003.
 - b) After conducting the exchange, the Licensee attempted to close the bill validator door. The Licensee had difficulty closing the bill validator door and had to hit the door several times in an attempt to make sure it was secure. After believing the bill validator door was secured, the Licensee removed her key and continued to the next electronic gaming device in the drop process.
 - c) Later that day at 12:28 p.m. Slot Service Specialist Kidist Chala accessed electronic gaming device #1N-10-7-17003 in order to conduct a paper fill on the machine and noticed that the bill validator door was unsecured.
7. Petitioner's actions in failing to ensure that the bill validator door on electronic gaming device #1N-10-7-17003 was secure 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 45-4.260(4)(E), (F), & (Q); the Commission's Minimum Internal Control Standards ("MICS") Chapter E, § 1.04, the Company's internal control system ("ICS") Chapter E, §1.04.

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. The Commission's MICS, Chapter E, § 1.04 states, "All EGD main, belly glass, bill validator accesses and drop compartment doors shall be alarmed and shall be locked when not open for an authorized purpose."
7. "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).
8. "Failure of the petitioner to appear at the hearing shall constitute an admission of all matters and facts alleged by the commission in its notice of commission action and a waiver of the petitioner's rights to a hearing . . ." Regulation 11 CSR 45-13.060.

DISCUSSION

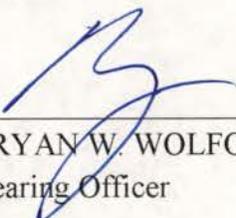
The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner noticed that the bill validator door on the electronic gaming device was difficult to secure. She physically hit the door several times in an attempt to secure it. After removing the key from the door following her attempts to shut it, the Petitioner failed to ensure that the door was properly locked and secured.

Petitioner's actions in failing to ensure that the bill validator door on electronic gaming device #1N-10-7-17003 was secure 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 July 5, 2013 to impose a one (1) calendar day suspension against Petitioner is affirmed as a proper and appropriate discipline.

DATED: March 3, 2014



BRYAN W. WOLFORD
Hearing Officer