

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 14-029

SHANNON HOFFMAN  
June 25, 2014

WHEREAS, Shannon Hoffman ("Hoffman"), requested a hearing to contest the proposed disciplinary action initiated against her on June 10, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-13-172; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Hoffman'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 Hoffman a three (3) calendar day suspension of his occupational license in the above-referenced case in the matter of DC-13-172; 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: Shannon Hoffman )

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Case No. 13-172

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License Number: 309180 )

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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 June 26, 2013 making a request for a hearing by Shannon Hoffman (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated June 10, 2013. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on March 4, 2014 where the Petitioner, her attorney Joseph P. Bednar, Jr., and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

**FINDINGS OF FACT**

1. On November 14, 2012, Petitioner was employed by Pinnacle Entertainment, Inc. ("Pinnacle") as a Regional Gaming Analyst Manager for the *Lumiere Place Casino* and *River City Casino*.
2. On December 5, 2012, Sergeant Brian Harrell ("Sgt. Harrell") of the Missouri State Highway Patrol began an investigation after being notified of a discrepancy involving Pinnacle's MyChoice MyMillion promotion.
3. On December 5, 2012, Sgt. Harrell was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.
4. Sgt. Harrell's investigation revealed the following:
  - a) Pinnacle ran a promotion called MyChoice MyMillion from April to December of 2012.
  - b) The promotion's rules stated that patrons were to receive one promotional entry for every 25 points of play.
  - c) Pinnacle offered the same promotion at its Belterra Resort Casino in Indianapolis, Indiana. During the course of the promotion at the Belterra Resort Casino, a problem arose where patrons were receiving more than one entry for every 25 points accumulated.

- d) In an effort to avoid the same problem from developing at Pinnacle's Missouri casinos, the Licensee made a system change to the MyChoice MyMillion points accumulation formula. The altered formula maintained a threshold of 25 points for slot play, but increased the entry threshold to 50 points for table game play whereby table game players needed to accumulate twice the number of points as slot players for one entry, contrary to the promotions rules.
  - e) This change caused table play to earn points at half the rate it should have. This change by the Licensee caused the Marketing department at both Missouri casinos to notify 5,000 patrons by postcard that they were eligible for additional entries in the MyChoice MyMillion promotion.
5. Petitioner testified that she learned that another property, Lake Charles in Louisiana, was also experiencing the same problem as was reported in Belterra. The Petitioner testified that she called Lake Charles and confirmed that they were experiencing the same issue with the MyChoice MyMillion promotion.
  6. Petitioner admitted to making system-wide changes to the MyChoice MyMillion promotion formula. Petitioner further admitted that she did not check with the two Missouri properties - *Lumiere Place Casino* and *River City Casino* - to see if they were experiencing issues with the promotion.
  7. Petitioner's actions and inactions in altering a promotional formula that resulted in misleading communications with patrons 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); 11 CSR 45-5.053(3)A & C; and 11 CSR 45-5.181(2)A, B, & C.

### **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. 2012.

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. 11 CSR 45-5.053(3)A states, "The holder of a Class A license is expressly prohibited from . . . (f)ailing to exercise discretion and good judgment to prevent incidents which might reflect on the repute of the state of Missouri and act as a detriment to the development of the industry . . ."
7. 11 CSR 45-5.053(3)C states, "The holder of a Class A license is expressly prohibited from . . . (f)ailing to conduct advertising and public relations activities in accordance with . . . honest and fair representation."
8. 11 CSR 45-5.181(2)A states, "Class B licensees may provide promotional activities such as promotional giveaways, promotional coupons, promotional games, player reward programs or similar activities for patrons without the prior approval of the commission, provided the promotional activity is not structured or conducted in a manner that reflects negatively on the licensee, the commission, or the integrity of gaming in Missouri and complies with the following: No false or misleading statements, written or oral, shall be made by a licensee or its employees or agents regarding any aspect of any promotional activity."
9. "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 testified that her responsibility as the Regional Gaming Analyst Manager was to take care of the gaming system in the Pinnacle properties and to make sure the sweepstakes run properly. Petitioner admitted to making the changes to the sweepstakes point accumulation formula for table play at Pinnacle's Missouri properties. Petitioner also admitted that she did not check with the two properties prior to changing the formula to determine whether either of the casinos were experiencing problems with the MyChoice MyMillion promotion.

The Petitioner's alteration of the MyChoice MyMillion points formula without verification that Pinnacle's Missouri casinos were experiencing the same problem as reported in Indiana and Louisiana caused table game patrons at *Lumiere Place Casino* and *River City Casino* to earn less points for the promotion than slot machine players because the points were not being awarded in accordance with the rules governing the promotion, as required by Missouri law and regulations. The Petitioner failed to assure compliance with the applicable laws and regulations.

Petitioner's actions and inactions in altering a promotional formula that resulted in misleading communications with patrons discredits the Missouri gaming industry. 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 June 10, 2013 to impose a three (3) calendar day suspension against Petitioner is affirmed as a proper and appropriate discipline.

DATED: \_\_\_\_\_

*April 30, 2014*

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BRYAN W. WOLFORD  
Hearing Officer