

IN THE MISSOURI GAMING COMMISSION

In Re:)
IOC – Cape Girardeau, LLC) DC-14-312

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 Isle of Capri Casinos, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Isle of Capri Casinos, Inc., is the parent organization or controlling entity of the IOC – Cape Girardeau LLC.
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 IOC – Cape Girardeau LLC (the "Casino").
5. As the holder of a Class B license, the Casino is subject to the provisions of §§ 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS²

6. At all relevant times as alleged herein, the Casino operated 24-hour gaming.
7. On August 6, 24, and 25, 2013, Casino personnel failed to perform the required turnstile readings, specifically:
 - a. On August 6, 2013, the turnstile readings were completed at 12:24 a.m., instead of midnight;
 - b. On August 24, 2013, the turnstile readings were not completed at 8 p.m.; and

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

² 20130828004

- c. On August 25, 2013, the turnstile readings were done at 3:35 a.m., instead of at 4:00 a.m.

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 regulations;
 - (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming[.]
10. At the conclusion of the excursion, 11 CSR 45-11.060(6)(A) requires the licensee to “take a reading of the exit turnstile. The licensee shall record a reading of the entry turnstile upon the conclusion of the time for entry for each excursion.”

11. Title 11 CSR 45-9.060 states, in pertinent part, as follows:

- (3) Violations of the minimum internal control standards by a Class A licensee or an agent or employee of a Class A licensee are deemed to be unsuitable conduct for which the Class A 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.
- (4) Violations of the Class A licensee’s internal control system by the 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

agents or employees may be subject to discipline pursuant to Section 313.805(6), RSMo, and 11 CSR 45-1 et seq.

12. The MICS, Chapter, J § 1.02, requires licensees who operate 24-hour gaming to do the following:

- (A) Submit a schedule of daily operating hours to the MGC at least fourteen working days (M-F) preceding the initial implementation of 24-hour gaming.
- (B) Close each Wednesday morning at the end of Tuesday's gaming day for at least one hour and shall remain closed until the casino is cleared of patrons and turnstile and progressive meter readings are recorded.
- (C) Complete a manual count of patrons remaining on the casino floor at the end of each Sunday, Monday, Wednesday, and Thursday gaming days. The internal control system shall include the procedures for conducting manual counts. The higher of the turnstile or manual counts shall be used to calculate admission fees due.
- (D) Follow the approved schedule of gaming excursions, even during holiday periods.

13. The Casino's ICS, Chapter, J § 1.02, states as follows:

Procedures for ticket and turnstile accounting are as follows:

A) Two Sets of Turnstiles

- (1) Turnstiles meter readings on both sets for all entrance and all exit turnstiles will be recorded on the Passenger Count Sheet (J1) for each cruise period.
- (2) The formula for calculating taxable passengers by cruise is as follows: turnstile entrances plus stay overs.
- (3) The formula for calculating stay overs is as follows: stay overs from the previous cruise plus turnstile entrances from the previous cruise minus turnstile exits from the previous cruise.
- (4) If any discrepancies between the two turnstile calculations exist, the higher count shall be used for the purposes of the admissions tax.

(B) Manual Procedures

- (1) Manual procedure for entry will be used if either of the automated entry turnstiles should fail. If both entry turnstiles should fail, generic cards as

well as hand clickers will be utilized. In the event an exit turnstile should go down, another exit turnstile will be opened. If all exit turnstiles should go down, we will use hand clickers for the count.

- (2) Generic cards shall be available to the patron at a location separate from the turnstile.
- (3) A Fan Club Representative shall swipe the generic card from any boarding patron which records the date, time and cruise time into MS Excel for each admission.
- (4) The generic cards shall be counted and recorded on the Passenger Count Sheet at the end of each cruise.
- (5) Exits shall be counted via manual hand clicker. This amount will be noted on the Passenger Count Sheet.
- (6) Surveillance shall be notified in the event of any automated turnstile failure. Turnstile entrance coverage shall be retained by surveillance in such instances.
- (7) The formula for calculating taxable passengers by cruise is as follows: generic cards (physical count) plus stay overs from the previous cruise period.
- (8) The formula for calculating stay overs is as follows: stay overs from the previous cruise plus generic cards from the previous cruise minus manual hand clicker exits from the previous cruise.

VIOLATIONS

14. The acts or omissions of employees or agents of the Casino, as described above, constitute a failure of the Casino to perform the required turnstile readings at the end of the excursion on three occasions in August 2013, thereby violating 11 CSR 45-11.060(6)(A), MICS, Chapter J § 1.02, and the Casino's ICS, Chapter J § 1.02.
15. The Casino 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

16. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against IOC – Cape Girardeau LLC, as the holder of a Class B license.

17. THEREFORE, it is proposed that the Commission fine IOC – Cape Girardeau LLC, the amount of \$5,000 for the violations set forth herein.

Darryl T. Jones
Vice-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 August, 2014, to:

Lyle Randolph
IOC-Cape Girardeau LLC
777 N. Main
Cape Girardeau, MO 63701

Darryl T. Jones
Vice-Chairman
Missouri Gaming Commission