

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 14-055

RICHARD REECE
August 27, 2014

WHEREAS, Richard Reece ("Reece"), requested a hearing to contest the proposed disciplinary action initiated against him on March 28, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-13-150; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Reece'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 Reece a five calendar days suspension of his occupational license in the above-referenced case in the matter of DC-13-150; 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: Richard M. Reece

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Case No. 13-150

License Number: 151659

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 April 20, 2013 making a request for a hearing by Richard M. Reece (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated March 28, 2013. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on May 29, 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 November 26, 2012, Petitioner was employed by IOC-Cape Girardeau, LLC ("Company") as the Chief of Security aboard the *Isle Casino Cape Girardeau* ("Casino").
2. On November 26, 2012, Sergeant Fredrick Bierer ("Sgt. Bierer") of the Missouri State Highway Patrol began an investigation after discovering that members of the security department were improperly issuing vendor and visitor badges.
3. On November 26, 2012, Sgt. Bierer was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.
4. Sgt. Bierer's investigation revealed the following:
 - a) On November 26, 2012 at 10:00 a.m. Sgt. Bierer entered the Casino's security department and spoke with on-duty security dispatcher Security officer Jody Gibbar about the procedures dictating the issuance of visitor and vendor badges. Gibbar responded that he did not know of any written procedure on how to properly issue and collect such badges.
 - b) Further inspection on the matter revealed several missing badges that could not be accounted for and several incomplete Vendor/Visitor log entries. Security Supervisor Todd Cruts was confronted about the apparent discrepancies and remarked that although he was aware of a written procedure pertaining to the issuance and collection of the badges, he was not familiar with it.

- c) After reviewing the Casino's Internal Control System, Cruts acknowledged that the security department was not collecting identifying information before issuing the badges and they were not notifying the Commission of lost or missing badges.
 - d) When confronted with the investigatory findings and apparent oversights within the security department, the Petitioner told Sgt. Bierer that he was aware of how important it was to maintain an accounting of the badges being issued but that he could not account for, nor could he provide a list of, the missing badges.
5. Petitioner admitted that some Security Department personnel were not familiar with the process for issuing Vendor/Visitor badges, and that he had the duty to train his subordinates. Petitioner also admitted that he had the duty to know all of the gaming rules, regulations, and internal controls.
 6. Petitioner's actions or inactions in failing to ensure that the security department employees were aware of and following the required procedures for the issuance and collection of Vendor and Visitor badges 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 N § 4.08; and the Company's Internal Control Standards ("ICS") Chapter N § 4.08.

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. 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 Company's ICS Chapter N, § 4.08 states:
 - (1) Any Vendor must provide a valid form of ID in exchange for a badge . . .
 - (2) Any visitor must provide a valid form of ID or a member of management will sign out the badge. The member of management will be responsible for issuing and collecting the badge.
 - (3) Issuance and receipt of the badge will be noted on the Visitor/Vendor Log . . .
 - (4) . . . It will be the Lead Security's responsibility to follow up on any badges not returned on a daily basis . . .
 - (5) In the event that a badge is lost, . . . (t)he MGC Agent will be notified and a Security Incident Report will be created . . .

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, as Chief of Security, was responsible for ensuring that the Security Department personnel followed all rules, regulations, and internal control standards. Petitioner testified that some of his personnel were not familiar with the process of issuing and collecting Vendor/Visitor badges.

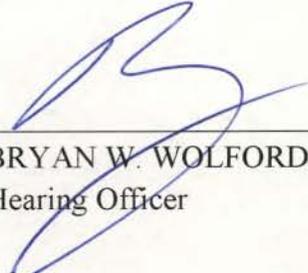
Petitioner's actions or inactions in failing to ensure that the security department employees were aware of and following the required procedures for the issuance and collection of Vendor and Visitor badges discredits the Missouri gaming industry. Petitioner did not meet his high burden of proof of clear 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 March 28, 2013 to impose a **Five (5) calendar day suspension** against Petitioner is affirmed as a proper and appropriate discipline.

DATED: _____

July 17, 2014



BRYAN W. WOLFORD
Hearing Officer