

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 14-057

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-13-156; 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 ten calendar days suspension of his occupational license in the above-referenced case in the matter of DC-13-156; and

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission.

- b) After learning of Tpr. Lomedico's findings on November 29, the Licensee assured the Commission that the security department would from that point forward follow the appropriate procedures as required with the Casino's internal controls for the issuance and documentation of temporary badges.
 - c) On Sunday December 2, 2012 at approximately 7:00 p.m., Cpl. James followed up on Tpr. Lomedico's earlier investigation and responded to Security Dispatch. In the Security Dispatch office, he encountered Security Officer Michael Valentine and asked him if any temporary badges had been issued that day. Confused, Valentine showed Cpl. James the Vendor/Visitor Log. The log showed an entry issuing a vendor/visitor pass to an employee for the purpose of allowing the employee to attend work.
 - d) Security Lead Kenneth Lane was also present in the Security Dispatch and was asked about his understanding of the policy and procedures to be followed when an employee shows up to work without their access badge. Lane stated he was told to issue a vendor badge to the employee and document it in the Vendor/Visitor Badge Log.
 - e) Lane then asked Security Officer Matt Hinkle his understanding of the correct procedure to follow when employees show up without their access badge. Hinkle told Lane that Security Supervisor Alan Schoen had earlier told him to follow the internal controls and issue temporary badges to employees that forget their access badges. Lane stated that he had not received the directive received by Hinkle.
 - f) After further review of the Vendor/Visitor Badge Log, after November 29, 2012, revealed that two additional employees were issued vendor/visitor passes after showing up for work without their access badges.
5. Petitioner admitted that the internal controls were not followed and accepted responsibility for the oversight.
6. Petitioner's actions or inactions in failing to ensure that the security department received and was following the internal controls dictating the issuance and recording of temporary employee access 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 § 4.05; and the Company's Internal Control Standards ("ICS") Chapter N § 4.05.

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 Commission's MICS Chapter N, § 4.05 C through D states that "(a)ny employee who has lost their employee access or gaming license badge will obtain a temporary employee access badge from Security Dispatch... A Temporary Badge Issue Log (N2) . . . will be completed and submitted."
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 was aware that Security Department personnel were not following the internal controls regarding the issuance of temporary employee badges on November 29, 2012. Petitioner assured the Commission that the Security Department would follow all internal controls from that point forward. As of December 2, 2012, the Security Department still was not following the internal controls regarding the issuance of temporary employee badges. Petitioner testified that the blame rests on him, and that he failed to ensure that the internal controls were being followed by his staff.

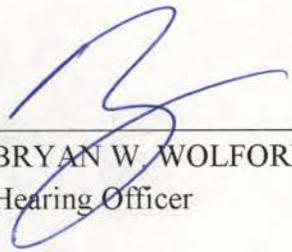
Petitioner's actions or inactions in failing to ensure that the security department received and was following the internal controls dictating the issuance and recording of temporary employee access badges discredits the Missouri gaming industry. Petitioner did not meet his high burden of proof of clear 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 **Ten (10) calendar day suspension** against Petitioner is affirmed as a proper and appropriate discipline.

DATED: _____

July 17, 2014



BRYAN W. WOLFORD
Hearing Officer