

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 14-027

MARSHALL BEARD
June 25, 2014

WHEREAS, Marshall Beard ("Beard"), requested a hearing to contest the proposed disciplinary action initiated against him on March 7, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-12-485; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Beard'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 Beard a revocation of his occupational license in the above-referenced case in the matter of DC-12-485; and

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

- c) After picking up the twenty dollar bill, the Licensee continued walking through the Casino's back hallway. At 2:58 p.m. the Licensee returned to the gaming floor and took his post as a dealer/box person at table game 207.
 - d) After picking up the twenty dollar bill, but before he returned to his post at table 207, the Licensee passed two security officers but did not turn over the twenty dollar bill he had discovered on the floor.
 - e) At 3:54 p.m. the Commission agents responded to table game 207 and escorted the Licensee to the Commission office. At the office, the agents confronted the Licensee with their findings and observations with regard to the twenty dollar bill he picked up in the back hallway. After turning over the twenty dollar bill the Licensee told the agents, "My initial thought was to turn it (the twenty dollar bill) in to the soft count, but then I thought it would be best to turn it over to security."
5. Petitioner admitted that he picked up the twenty dollar bill and did not turn it over to security promptly. Petitioner testified that he regrets picking up the bill, and that he knows the rules of the Casino because he has been employed there for seven years.
6. Petitioner's actions or inactions in failing to ensure that allegations of theft were promptly reported to the Commission 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), (M), (O) & (Q).

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. Section 570.030 RSMo. (2012) prohibits theft or stealing of property or services valued less than \$500.
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 has held an Occupational Gaming License for over seven years and is familiar with the gaming rules and laws of Missouri. Petitioner picked up the twenty dollar bill and placed it in his pocket. Petitioner passed two security officers before returning to his duty post and did not turn over the bill to either officer. Petitioner failed to return the twenty dollar bill and failed to seek its rightful owner.

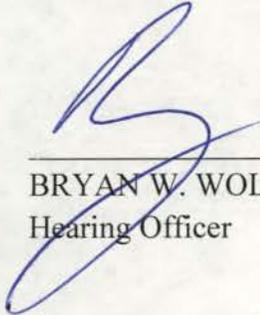
Petitioner's actions in committing a theft by picking up the twenty dollar bill and not immediately turning it over to security discredits the Missouri gaming industry. Petitioner did not meet his high burden of proof of clear and convincing evidence in showing that no violation occurred.

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 7, 2013 to impose a Revocation against Petitioner is affirmed as a proper and appropriate discipline.

DATED: _____

April 29, 2014



BRYAN W. WOLFORD
Hearing Officer