

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-14-314
Missouri Gaming Company)

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 Penn National Gaming, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Penn National Gaming, Inc., is the parent organization or controlling entity of the Missouri Gaming Company (the "Company").
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 Argosy Riverside Casino (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. On September 15, 2013, Security / EMT Officer Shawn Kerr allowed an underage person onto the gaming floor after the individual presented him with false identification.
7. The underage person was on the gaming floor for approximately five hours and 40 minutes before he was discovered and removed from the Casino.
8. The patron gambled at slot machines and table games but did not consume any alcohol while on the Casino floor.
9. A total of 17 other Casino employees came in contact with the underage person but failed to check his identification to verify that he was at least 21 years of age.

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

² 20130915004

LAW

10. 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.

11. 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[.]

12. Section 313.817, RSMo, states, in pertinent part, as follows:

4. A person under twenty-one years of age shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted.

* * *

7. It shall be unlawful for a person to present false identification to a licensee or a gaming agent in order to gain entrance to an excursion gambling boat, cash a check or verify that such person is legally entitled to be present on the excursion gambling boat. Any person who violates the provisions of this subsection shall be guilty of a class B misdemeanor for the first offense and a class A misdemeanor for second and subsequent offenses.

13. Section 313.830.2(1), RSMo, makes it a “class B misdemeanor for the first offense and a class A misdemeanor for the second and subsequent offenses for ... permitting a person under the age of twenty-one to make a wager while on an excursion gambling boat.”

14. 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.

15. Both the MICS, Chapter, N § 4.01, and the Casino's ICS, Chapter N § 4.01, forbid anyone under 21 years of age from gaining access to the casino floor or being allowed to place a wager.

16. Title 11 CSR 45-10.030 states, in pertinent part, as follows:

- (1) Licensees shall promptly report to the commission any facts which the licensee has reasonable grounds to believe indicate a violation of law (other than minor traffic violations), minimum internal control standard requirements or commission rule committed by licensees, their employees or others, including, without limitation, the performance of licensed activities different from those permitted under their license.

* * *

- (3) In the event that a licensee or employees of the licensee knows or should have known that an illegal or violent act has been committed on or about the licensed premises, they shall immediately report the occurrence to law enforcement authorities and shall cooperate with law enforcement authorities and agents of the commission during the course of any investigation into an occurrence.

* * *

- (7) All occupational licensees shall have a working knowledge of Chapter 313.800, RSMo et seq., *Code of State Regulations*, Title 11 Division 45, and the internal controls of the Class A or B licensees for whom they are currently employed by as they pertain to the responsibilities and limitations of their job

VIOLATIONS

- 17. The acts or omissions of employees or agents of the Casino, as described above, constitute a failure of the Casino to prevent an underage patron from entering the Casino floor and placing wagers, thereby violating §§ 313.817.4 and 313.830.2(1), RSMo, 11 CSR 45-10.030(1), (3), and (7), and MICS, Chapter N § 4.01, and the Casino’s ICS, Chapter N § 4.01.
- 18. 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

- 19. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against the Casino as the holder of a Class B license.
- 20. THEREFORE, it is proposed that the Commission fine Missouri Gaming Company, 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:

Tim Kelley
Argosy Riverside Casino
777 NW Argosy Pkwy.
Riverside, MO 64150

Darryl T. Jones
Vice-Chairman
Missouri Gaming Commission