

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 14-052

FREDERICK W. BEVILL  
September 17, 2014

WHEREAS, Frederick W. Bevill ("Bevill"), requested a hearing to contest the proposed disciplinary action initiated against him on October 23, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-13-415; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Bevill'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 Bevill a thirty calendar days suspension of his occupational license in the above-referenced case in the matter of DC-13-415; 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: Frederick Wayne Bevill )  
 )  
 ) Case No. 13-415  
License Number: 312738 )

**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 an undated letter received December 2, 2013 making a request for a hearing by Frederick Bevill (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated October 23, 2013, and delivered to Petitioner on November 13, 2013. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on June 5, 2014 where the Petitioner, his attorney Joseph P. Bednar, Jr., and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

**FINDINGS OF FACT**

1. On April 20, 2013, Petitioner was employed by Heartland Poker Tour ("HPT") as a Director of Media, and working an event while aboard the *River City Casino* ("Casino").
2. On April 20, 2013 the Petitioner accepted a tip from the fourth place finisher in the HPT event at the Casino.
3. Licensee accepted the tip in the total of \$1,300.00 in chips, which he cashed at the Main Cage in exchange for currency.
4. Licensee dispersed the \$1,300 tip to other Commission Level 2 licensees that were part of the HPT tournament crew.
5. Petitioner admitted to accepting the tip and distributing it to the HPT production crew in his written statement to the Commission.
6. Petitioner's actions in accepting a tip from a poker tournament patron and dispersing it to other Level 2 licensees who were not performing jobs described in 11 CSR 45-8.130(2), 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 45-9.060(4); 11 CSR 45-8.130; and River City Casino ICS T - 1.03.

## 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(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.
7. 11 CSR 45-8.130 states, "(1) Except as provided in this rule, no occupational licensee may accept a tip, gift, or loan from any player or patron,

(2) Level II occupational licensees may accept tips for casino-related services performed by the licensee, or paid leave based on work, that is performed in a nonsupervisory capacity as a dealer, poker dealer, cage cashier, slot attendant, food and beverage personnel, valet, ticketing personnel, or other positions as approved by the director."

8. River City Casino ICS T - 1.03 states, "Occupational licensees may accept gifts from vendors but not from players or patrons. Any gift with a fair market value of \$25 or more shall be documented on a vendor Gift Log (Form UU)."
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 Media Director for the Heartland Poker Tour, was approached by the fourth place finisher in an event at the Casino who wanted to provide a tip to the HPT production crew. Petitioner accepted the tip in casino chips, and exchanged the chips for currency, which he passed out to the members of the production crew. The production crew members were not serving in a nonsupervisory capacity as dealers, poker dealers, cage cashiers, slot attendants, food and beverage personnel, valets, ticketing personnel, or other positions approved by the director. As such, Petitioner and the production crew members were not allowed to receive tips.

Petitioner's actions in accepting a tip from a poker tournament patron and dispersing it to other Level 2 licensees who were not performing jobs described in 11 CSR 45-8.130(2), 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.

The Commission's proposed discipline of Revocation of the Petitioner's license is not proper and appropriate discipline. In analyzing fourteen disciplinary decisions against Level 2 licensees for wrongfully accepting tips from June 2005 through January 2013, the average punishment imposed is a ten (10) day suspension. In the four (4) cases that resulted in revocation of the licensee's gaming license, the revoked licensees each had aggravating factors in their cases including soliciting the tip from the patron, threatening the patron, or lying to the Commission's agent. In Petitioner's case, he did not solicit the tip from the patron, nor did he lie to the Commission or otherwise attempt to hinder the Commission's investigation of the violation.

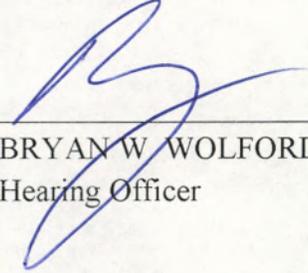
Therefore, a suspension of Petitioner's license is proper and appropriate discipline in this instance.

**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 October 23, 2013 to impose a Revocation against Petitioner is vacated, and a **thirty (30) calendar day suspension** is imposed against Petitioner as a proper and appropriate discipline.

DATED: \_\_\_\_\_

June 16, 2014

  
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BRYAN W. WOLFORD  
Hearing Officer