

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 15-001

LISA SHELTON  
January 28, 2015

WHEREAS, Lisa Shelton ("Shelton"), requested a hearing to contest the proposed disciplinary action initiated against her on June 5, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-13-091; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Shelton'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 Shelton a two calendar day suspension of her occupational license in the above-referenced case in the matter of DC-13-091; and

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



- i. At 20:24 hours, Rutherford retrieved a metal cart to carry table fills to the gaming floor. At 20:24 hours, Petitioner provided Rutherford the fill for table #501 in a bird cage. She then gave Rutherford several racks of chips with no bird cage as the fill for table #408.
    - ii. At 20:55 hours, Rutherford arrived back at the JPH and received four more table fills from Petitioner. Three of the four fills were not secured in bird cages, but all were transported on the same unsecured cart.
  - c) At 20:38 hours, Security Officer Dalton Moore arrived at the Sunset JPH and signed the table fill slips for tables #104 and #402. The Petitioner then provided Moore with a metal non-transparent cart to carry out the table fill. Upon leaving the JPH, Moore's metal cart contained a bird cage and several racks of unsecured chips.
  - d) From 20:49 hours to 21:16 hours, Moore conducted the fills for tables #104 and #402 and returned to the Sunset JPH with the cart used during the fills.
  - e) At 21:38 hours, while in the Sunset JPH, Moore placed three bird cages on the open and unsecure cart in order to conduct a table fill. As Moore loaded the cart with the three bird cages, Security Officer Steven Bowens placed two additional bird cages on the same cart.
  - f) At 21:45 hours, Moore and Bowers left the JPH to conduct table fills. Several minutes later they were confronted by agents of the Commission.
5. Petitioner testified that they had thirty table fill orders to fill which would require two bird cages, but she only had two bird cages. She further testified that the Plexiglas on the metal carts would have been transparent, but that the lids were old and scratched. Petitioner stated that she received approval from her manager and security to use the carts. Petitioner admitted that the cart lid was not clear enough to see through.
  6. Petitioner's actions in allowing table fills to be conducted using an unsecured cart 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 D, §§ 6.08 & 6.09, and the Company's internal control system ("ICS") Chapter D, §§ 6.08 & 6.09.

## 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 D, § 6.08 states, ". . . (t)he Cage Cashier will present the ordered chips to the Security Officer in a clear chip carrier . . ."
9. The Company's ICS, Chapter D, § 6.08 states, ". . . (t)he Cage Cashier will present the ordered chips to the Security Officer in a clear chip carrier . . ."
10. "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**

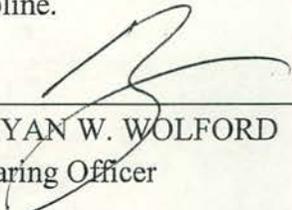
The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner was responsible for creating the table fills and for presenting the fills to security personnel in compliance with the gaming laws and regulations. Petitioner knew that the security personnel were using the carts to transport multiple table fills, and that the Plexiglas lids to the carts were not transparent. Though Petitioner presented some of the table fills to security personnel in clear bird cages, Petitioner also presented racks of unsecured chips that were subsequently placed in the non-transparent cart.

Petitioner's actions in allowing table fills to be conducted using an unsecured cart discredits the Missouri gaming industry. Petitioner did not meet her 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 June 5, 2013 to impose a two (2) calendar day suspension against Petitioner is affirmed as a proper and appropriate discipline.

DATED: November 26, 2014

  
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BRYAN W. WOLFORD  
Hearing Officer