

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 15-023

PAULETTE MCCOY
March 25, 2015

WHEREAS, Paulette McCoy (“McCoy”), requested a hearing to contest the proposed disciplinary action initiated against her on September 10, 2014, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-14-247; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on McCoy’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 McCoy a two (2) calendar day suspension of her occupational license in the above-referenced case in the matter of DC-14-247; 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: Paulette D. McCoy

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Case No. 14-247

License Number: 300878

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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 a letter dated October 7, 2014 making a request for a hearing by Paulette McCoy (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated September 10, 2014. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on February 10, 2015 where the Petitioner and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On March 30, 2014, Petitioner was employed by PNK (River City), LLC ("Company") as a Count Team Manager aboard the *River City Casino* ("Casino").
2. On March 30, 2014, Trooper Rhonda Shanika ("Tpr. Shanika") of the Missouri State Highway Patrol was notified that Petitioner had joined the Bill Validator ("BV") count team that was already in the process of a drop without first having her jump suit checked by security.
3. On March 30, 2014, Tpr. Shanika was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.
4. Tpr. Shanika's investigation and review of surveillance video recordings revealed the following:
 - a) On March 30, 2014 at 6:00 a.m., the jump suit inspection for the BV drop team ended, and the team entered the Casino floor to begin the drop.
 - b) Petitioner arrived late to work. At 6:05 a.m., Petitioner retrieved her jump suit from her locker and at 6:09 a.m., she entered the Casino floor and joined the BV drop in progress without having her jumpsuit inspected by security before participating in the BV drop.

5. Petitioner testified that she did not have her jump suit inspected prior to entering the gaming floor, but that the suit was in her locked locker. Petitioner testified that her suit was inspected upon completion of the BV drop.
6. Petitioner's actions or inactions in joining a BV drop without first having her jump suit inspected 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 45-10.030(1), (3), and (7), the Commission's Minimum Internal Control Standards ("MICS") Chapter G, § 5.16, and the Company's internal control system ("ICS") Chapter G, § 5.16.

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 Minimum Internal Control Standards, Chapter G, § 5.16 states, "Drop and count team members . . . shall wear a one-piece, pocketless jump suit . . . Security shall inspect the drop apparel before each drop to ensure the drop apparel has not been altered. . ."
9. The Company's ICS, Chapter N, § 5.16 states, "Drop and count team members . . . shall wear a one-piece, pocketless jump suit . . . Security shall inspect the drop apparel before each drop to ensure the drop apparel has not been altered. . ."
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

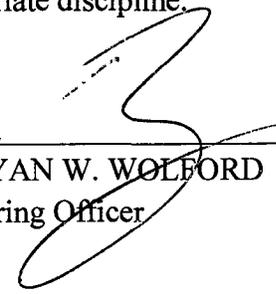
The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner, as a Count Room Manager, was responsible for ensuring that all BV drop team members, including herself, follow Missouri gaming laws and regulations when conducting drops. Petitioner arrived late after Security had inspected the BV drop team. Petitioner retrieved her jump suit and proceeded to join the drop without first ensuring that her suit was inspected by security.

Petitioner's actions or inactions in joining a BV drop without first having her jump suit inspected 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 September 10, 2014 to impose a two (2) calendar day suspension against Petitioner is affirmed as a proper and appropriate discipline.

DATED: February 24, 2015


BRYAN W. WOLFORD
Hearing Officer