

IN THE MISSOURI GAMING COMMISSION

In Re:)
IOC – Cape Girardeau, LLC) DC-15-167

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 Isle of Capri Casinos, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Isle of Capri Casinos, Inc., is the parent organization or controlling entity of the IOC – Cape Girardeau LLC (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 *IOC – Cape Girardeau LLC* (the "Casino").
5. As the holder of a Class B license, the Company 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 July 14, 2014, the MGC was notified that Poker Dealer Taylor A. Phillips ("Phillips") failed to collect the Rake and/or the Bad Beat on numerous poker games for over a week.
7. Corporal William Fox of the Missouri State Highway Patrol conducted an investigation and made the following findings:
 - a. Phillips worked as a poker dealer during the timeframe covering July 2 to July 13, 2014;
 - b. At all relevant times as alleged herein, Phillips dealt Texas Hold 'Em poker. During that time, surveillance footage showed Phillips failing to collect the Rake and/or the Bad Beat a total of 232 times;

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

² 20141026013

- c. The total estimated loss from the Rake as a result of Phillips' actions was \$675.00, and the estimated loss from the Bad Beat was \$231.00; and
- d. Poker Room Supervisors Lisa Dodson, Shana Ames, and Robert Zimmerling were present at the games during which many of these incidents involving Phillips occurred.

LAW

- 8. 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.
- 9. 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;

* * *

- (9) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850.

- 10. Title 11 CSR 45-9.060 states, in pertinent part, as follows:

- (3) Violations of the minimum internal control standards [("MICS")] 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 agent or employee is subject to administrative penalty 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 [(“ICS”)] 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.

11. 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.

* * *

- (4) Licensees shall take reasonable actions to safeguard from loss all tokens, tickets, chips, checks, funds, and other gaming assets.

* * *

- (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.

12. MICS, Chapter C, § 1.01 states, in pertinent part, as follows:

Detailed procedures for each game that the Class A licensee implements shall be included in the ICS as approved by the MGC. The following controls shall be addressed:

* * *

- (G)describe procedures for the collection of bets and payouts including requirements for IRS purposes[.]

13. The Casino’s ICS, Chapter C, § 14 states, in pertinent part, as follows:

The initial Bad Beat Jackpot seed amount will be \$2,500. After the initial seed, the Bad Beat Jackpot will be funded by the \$1.00 collected from qualifying games when the pot hits \$20.00. The primary jackpot, secondary fund and tertiary fund will increase by a predetermined Bad Beat Jackpot amount of each \$1.00 collected...A \$1.00 maximum amount will be removed from each pot that totals \$20.00 or more including the rake.

* * *

The bad beat jackpot will apply to Texas Hold'em cash games exclusively.

14. The Casino's ICS, Chapter C, § 15, describing Texas Hold'em Poker, states, in pertinent part, as follows:

The Isle Casino - Cape Girardeau will use one or more of the following procedures in determining and extracting the rake:

1. A straight percentage rake[.]
2. A sign describing the type and amount of rake to be collected pursuant to above will be posted at each poker table.

* * *

5. Once the dealer has extracted the rake and the pot and any side pots have been collected by the winning player or players, no additional rake will be taken by the dealer

15. MICS, Chapter F, § 11.01 states that "if the Class B Licensee offers a Bad Beat or Special Hand Jackpot, all funds collected for the jackpot shall be used to fund the primary, secondary, and tertiary jackpots and be available for poker players to win."

16. The Casino's ICS, Chapter F, § 11.01 states that the Casino "will offer a Bad Beat or Special Hand Jackpot, all funds collected for the jackpot shall be used to fund the primary, secondary, and tertiary jackpots and be available for poker players to win."

VIOLATIONS

17. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to ensure that the table games' Rake and/or Bad Beat are collected and to otherwise protect casino assets, thereby violating 11 CSR 45-10.030(1), (4), and (7), the Commission's Minimum Control Standards ("MICS"), Chapter C, § 1.01 and Chapter F, § 11.01, and the Casino's Internal Control Standards ("ICS"), Chapter C, §§ 14 and 15 and Chapter F, § 11.01.

18. The Company 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 Company as the holder of a Class B license.

20. THEREFORE, it is proposed that the Commission fine IOC – Cape Girardeau LLC, the amount of \$10,000 for the violations set forth herein.

Leland M. Shurin
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 _____, 2015, to:

Lyle Randolph
IOC-Cape Girardeau LLC
777 N. Main
Cape Girardeau, MO 63701

Leland M. Shurin
Chairman
Missouri Gaming Commission