

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-15-200
Casino One Corporation)

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 Tropicana Entertainment, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Tropicana Entertainment, Inc., is the parent organization or controlling entity of Casino One Corporation ("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 *Lumiere Place Casino & Hotels* ("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 December 6, 2014, Electronic Gaming Device (EGD) Specialist Jennifer Casebeer discovered an EGD at location DD3002/Asset 4174 that had been placed into service for patron play prior to Phase II testing.
7. The EGD at location DD3002/Asset 4174 was part of a block of EGDs that had been moved for the Casino's carpet installation on or about November 29, 2014.
8. Because the EGD at Location DD3002/Asset 4174 had not been placed out of service prior to the move, it allowed play to resume when put back into place on the Casino floor on or about December 4, 2014.

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

² 20141222006

9. The EGD at location DD3002/Asset 4174 was played from December 4, 2014, until December 6, 2014, when a patron cashed out for \$110.08. At that time, that EGD recorded a total coin in of \$758.35 on 1,073 handle pulls.

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 of 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. 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.

13. 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.

14. Title 11 CSR 45-5.190 states as follows:

- (2) Electronic gaming devices shall –

- (A) Be subject to testing prior to implementation within the state and at any time thereafter by the commission or an independent testing laboratory designated by the commission, and subject to review and approval by the commission for adherence to the regulatory and technical standards adopted or approved by the commission;

* * *

- (4) In addition to the requirements of this rule, all licensees shall comply with Chapter E of the Minimum Internal Control Standards as authorized by 11 CSR 45-9.030.

15. Both the MICS and the Casino’s ICS, Chapter E, § 4.03 require that “EGDs, redemption kiosks, and related systems [] be Phase II tested following a new installation, change or conversion of the CPSM, or relocation of the device prior to placing the device into service.

16. Both the MICS and the Casino’s ICS, Chapter E, § 4.04 state that “[a]ny EGD that has not passed Phase II testing shall not be placed into service for patron play.”

17. Both the MICS and the Casino’s ICS, Chapter E, § 4.05 state that [t]he individual licensee who places an EGD into service for patron play is responsible for ensuring the EGD has met all regulatory requirements (reel strip test, Software/CPU seal, passed Phase II testing, etc.).”

VIOLATIONS

- 18. The actions or omissions of employees or agents of the Company as described above constitute failure of the Casino to assure that no EGD is placed into service prior to Phase II testing, thereby violating 11 CSR 45-5.190, 11 CSR 45.10.030(1), (4), and (7), MICS, Chapter, E §§ 4.03, 4.04, and 4.05, and the Casino’s ICS, Chapter E §§ 4.03, 4.04, and 4.05.
- 19. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 314.812.14(1) and (2), RSMo and 11 CSR 45-9.060(3) and (4).

PENALTY PROPOSED

- 20. 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.
- 21. THEREFORE, it is proposed that the Commission fine Casino One Corporation, the amount of \$2,500 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 June, 2015, to:

Jeffrey A. Babinski
Vice President & General Manager
Lumière Place Casino & Hotels
999 North Second
St. Louis, MO 63102

Leland M. Shurin
Chairman
Missouri Gaming Commission