MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 16-030

MICA L. SKILLINGTON
May 25, 2016

WHEREAS, Mica L. Skillington ("Skillington"), requested a hearing to contest the proposed disciplinary action initiated against her on December 8, 2015, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-15-348; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Skillington'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 Skillington a one (1) calendar day suspension of her occupational license in the above-referenced case in the matter of DC-15-348; 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: Mica L. Skillington	)	
	)	
	)	Case No. 15-348
License Number: 129115	)	

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 January 6, 2016 by Mica Skillington (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated December 8, 2015. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on March 15, 2016 where the Petitioner and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On August 24, 2015 and all relevant times herein, Petitioner was employed by St. Louis Gaming Ventures, LLC ("Company") as Director of Marketing aboard the *Hollywood Casino St. Louis* ("Casino").

2. On August 24, 2015, Trooper Kimberly House ("Tpr. House") of the Missouri State Highway Patrol was notified of a problem with the Casino's Cash Cool Down promotion ("the Promotion").

3. On August 24, 2015, Tpr. House was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.

4. Tpr. House's investigation revealed the following:

    a) According to the published rules, the Promotion was supposed to operate as follows:

        i. Slot players and table games players would be awarded one entry to a weekly drawing for every 50 points earned through their play; and
        ii. Every player who swiped his or her Player's Card at the promotional kiosk would earn one entry to the weekly drawing; and
        iii. Players could activate their entries beginning at 4:00 p.m. until ten minutes prior to the first weekly drawing on each Saturday in August of 2015; and

iv. The Promotion was set up to begin on July 27, 2015, and run through August 29, 2015.

b) The Casino's Senior Promotions Coordinator, Nichole Jernigan ("Jernigan") created the Promotion and forwarded it to Licensee for review and approval on July 21, 2015.

c) While creating the Promotion, Jernigan failed to set the table games entries to mirror the slot play entries as described in the written rules of the Promotion.

d) Licensee finished her review and approved the Promotion as created by and set up by Jernigan on July 23, 2015. Licensee failed to thoroughly check and verify that the Promotion would proceed without any errors and in compliance with the Promotion's written rules.

e) Licensee was responsible for making sure that the Casino's promotions complied with its own written rules and all gaming laws and regulations.

5. Petitioner testified that her subordinate Jernigan was responsible for the error, and that Jernigan admitted to making the error. She testified that she reviewed the promotional system to the best of her abilities by looking at the overview of the Promotion, which only allows her to see the dates, times, dates and times of drawings, and number of winners. Petitioner testified that she cannot see or verify the points and entries associated with the Promotion. Petitioner stated that she reasonably verified everything that she was able to verify, and that Promotion did run on the correct dates and times stated in the rules.

6. Petitioner's actions in failing to ensure all eligible patrons were entered into the Promotion's drawing in accordance with the Promotion's written rules is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri and discredits the Missouri gaming industry and the State of Missouri, and violates Section 313.812.14 RSMo. (2015), 11 CSR 45-5.181, and 11 CSR 45-10.030(1), (2), and (7).

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. 2015.

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. 2015.

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. 11 CSR 45-5.181(2) states, "licensee[s] may provide promotional activities . . . provided the promotional activity is not structured or conducted in a manner that reflects negatively on the licensee, the commission, or the integrity of gaming in Missouri and complies with [its written rules].”

7. "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 the Director of Marketing, was responsible for making sure that the Casino's promotions complied with its own written rules and all gaming laws and regulations of the State of Missouri. However, the Promotion, in violation of its written rules, was awarding table games players fifty times more drawing entries than slot players. As a result of the incorrect accumulation of entries for table games players, the Casino paid out nearly $40,000.00 in assets to correct the error. The evidence showed that Petitioner approved the Promotion, and verified that it was running correctly. Though Petitioner did not have the immediate ability to view the points and entries during her verification of the Promotion, she could have and should have researched further into the Promotion to see that the correct drawing entries were encoded. Petitioner was ultimately responsible to ensure that the Promotion was free from errors and in compliance with its rules.

Petitioner's actions in failing to ensure all eligible patrons were entered into the Promotion's drawing in accordance with the Promotion's written rules is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri and 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 December 8, 2015 to impose a one (1) calendar day suspension against Petitioner is affirmed as a proper and appropriate discipline.

DATED: April 28, 2016

BRYAN W. WOLFORD
Hearing Officer