

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-16-214  
Missouri Gaming Company )

## 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,<sup>1</sup> with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Penn National Gaming, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Penn National Gaming, Inc., is the parent organization or controlling entity of the Missouri Gaming Company (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 *Argosy Riverside Casino* (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 FACTS<sup>2</sup>

6. On January 25, 2016, a patron questioned the jackpot lock up limit of a progressive bank of Electronic Gaming Devices (EGDs) at Argosy Casino and reported the concern to the Casino's slot department.
7. On January 28, 2016, the Vice President of Casino Operations at the Casino reported that the Progressive EGDs had been configured with the incorrect jackpot lockup limit.
8. The EGD's top level progressive jackpot failed to lock up in a hand pay; therefore, the Casino could not record progressive values less than \$1,200 for reconciliation purposes.
9. The Casino's Revenue Audit department had a practice of filtering the progressive reconciliation worksheet to show only progressive jackpots at or above \$1,200. The practice

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<sup>1</sup> All statutory references are to RSMo 2000, unless otherwise specified.

<sup>2</sup> 20160303005

of filtering prevented the required reconciliation and variance investigation of those progressive jackpots by the Casino.

10. A full floor audit conducted by the Casino identified a total of 40 progressive EGDs which were incorrectly set up.

**LAW**

11. 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.

12. 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[.]

13. Title 11 CSR 45-5.200(2) states, in pertinent part, as follows:

(2) A meter that shows the accurate amount of the progressive jackpot must be conspicuously displayed at or near the machines to which the jackpot applies. At a minimum, on the same day each week while the casino is closed, each licensee shall record the amount displayed on each progressive's top award jackpot meter at the licensee's establishment, except for wide-area progressive systems and stand-alone progressives where the software for the progressive is embedded within the EGD's Critical Program Storage Media (CPSM). The top award jackpot amount shall be reconciled to the system meters by multiplying the progression rate by the amount-in for the period between which the meter amounts were recorded, less any jackpots that have occurred plus any reset amounts. In order to perform this reconciliation, the top award jackpot on these local progressive games shall require the EGD to lock-up requiring a hand-paid jackpot. .... At the conclusion of the reconciliation, if a

variance exists between the amount shown on each progressive jackpot meter and the expected amount, the licensee shall document the variance amount. The licensee shall make the necessary adjustment(s) to ensure the correct amount is displayed by the end of the gaming day following the day on which the reconciliation occurred. Explanations for meter reading differences or adjustments thereto shall be maintained with the progressive meter reading sheets. In addition to the weekly reconciliation, each licensee shall record the top award jackpot progressive meter display amount once each banking day for each non-exempt progressive EGD to ensure jackpot resets occurred properly, to determine whether the meters incremented since the last reading, and to identify any obvious atypical results which could indicate there is a problem with the progressive meter. If known variances are discovered during the daily review, which require a change to the meter display of one dollar (\$1) or more, the meter display shall be adjusted by the end of the gaming day. Each licensee shall record the base amount of each progressive jackpot the licensee offers.

### **VIOLATIONS**

14. The acts or omissions of employees or agents of the Casino, as described above, constitute a failure of the Casino to properly set up Progressive EGDs with the correct jackpot lockup limit, thereby violating 11 CSR 45-5.200(2).
15. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 313.812.14 (1) and (2), RSMo.

### **PENALTY PROPOSED**

16. 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.
17. THEREFORE, it is proposed that the Commission fine Missouri Gaming Company, the amount of \$5,000 for the violations set forth herein.

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Herbert M. Kohn  
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 December, 2016, to:

Samir Mowad  
Argosy Riverside Casino  
777 NW Argosy Pkwy.  
Riverside, MO 64150

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Herbert M. Kohn  
Chairman  
Missouri Gaming Commission