

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-16-215  
Tropicana St. Louis, LLC )

## 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 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 Tropicana St. Louis, LLC ("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 FACTS<sup>2</sup>

6. On April 28, 2016, the MGC discovered revoked Bill Validator (BV) software in an Electronic Gaming Device (EGD) located at AA4503, asset number 3507.
7. On October 22, 2010, the aforementioned BV software was revoked due to an issue with accepting a ticket or bill (note) without issuing credit(s).
8. The Casino's Machine Entry and Access Log (MEAL) book also had incomplete and/or improper entries and included the use of unapproved abbreviations, making the MGC unable to determine the specific licensee(s) at fault. However, MGC staff was able to determine that the BV was exhibiting the behavior as described in the revocation documentation.

---

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

<sup>2</sup> 20160505003

9. The MGC cited the Casino four times in 2015 for having revoked or unapproved BV software installed in its EGDs. The Casino was assessed a fine of \$5,000 for one of those incidents which occurred on October 15, 2015.

### 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.

\* \* \*

- (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. Both the MICS and the Casino's ICS, Chapter E, § 1.03, state, in relevant part, as follows:

Except for access involving scheduled drops, all access to EGDs shall be documented by the person who opened the EGD on an EGD Entry Access Log (MEAL book). MEAL book entries shall be complete and legible, and may not contain predefined codes for the types of work performed. If acronyms are used, they shall be defined in the internal control system. The MEAL book shall be kept inside the EGD at all times. The person who opens the EGD and signs the MEAL book is responsible for all activity inside the EGD. MEAL books shall be retained for at least one year after the EGD is removed from service and disposed of by the Class B Licensee. MEAL books shall be archived in a manner which they can be immediately retrieved.

15. The Casino's ICS, Chapter E, § 1.03 sets forth the approved abbreviations and/or acronyms to be used when completing MEAL book entries.

16. Both the MICS and the Casino's ICS, Chapter E, § 1.10 require the Company to "ensure all EGDs offered for patron play [to] contain hardware and software currently approved for use in the state; and upon notification of any revocation of approval [to] replace the revoked hardware or software within the time frame set forth by the MGC.

### **VIOLATIONS**

17. The actions or omissions of employees or agents of the Company as described above constitute failure of the Casino to ensure that the MEAL book entries were complete and used predefined codes and/or acronyms and that its EGDs did not contain revoked software, thereby violating 11 CSR 45.10.030 and the MICS, Chapter E, §§ 1.03 and 1.10, and the Company's ICS, Chapter E, §§ 1.03 and 1.10.

18. 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**

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 Tropicana St. Louis, LLC, the amount of \$7,500 for the violations set forth herein.

---

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:

Brian Marsh  
General Manager  
Lumière Place Casino & Hotels  
999 North Second  
St. Louis, MO 63102

---

Herbert M. Kohn  
Chairman  
Missouri Gaming Commission