

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 13-110

ROBBIE REEDER
December 4, 2013

WHEREAS, Robbie Reeder ("Reeder"), requested a hearing to contest the proposed disciplinary action initiated against him on May 1, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-13-057; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Reeder'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 Reeder a three calendar day suspension of his occupational license in the above-referenced case in the matter of DC-13-057.; 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: Robbie Reader)
)
) Case No. 13-057
License Number: 311792)

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 a letter dated May 17, 2013 making a request for a hearing by Robbie Reader (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated May 1, 2013. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on November 1, 2013 where the Petitioner and the Commission's attorney, Mr. Christopher Hinckley, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On September 29, 2012, Petitioner was employed by Lady Luck Casino ("Company") as a Food and Beverage Manager aboard the *Lady Luck Casino, Caruthersville* ("Casino").
2. On October 14, 2012 at approximately 9:20 p.m. Sergeant Carisa Goins ("Sgt. Goins") of the Missouri State Highway Patrol was contacted by Security Supervisor Krissy McCraig about a possible theft.
3. On October 11, 2012, Sgt. Goins was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.
4. Sgt. Goins' investigation and review of surveillance video recordings revealed the following:
 - a) During the evening of October 11, 2012, Food and Beverage Manager Josh Trimue was contacted by Cocktail Waitress Dana Morgan who informed Trimue that some of her prescription pain pills (Hydrocodone) were missing and she believed they were taken out of her purse at work. Specifically, Morgan alleged that she had refilled her bottle of 30, and 8 were missing. The next day, October 12, 2012, Trimue contacted his supervisor, the Petitioner, and told him about Morgan's allegations and beliefs.
 - b) On Saturday, October 13, 2012, Morgan told Trimue three pills were missing from her purse. This time, Morgan claimed that she had six pills at the beginning

of her shift but only had three pills left at the end of her shift. Trimue again contacted his manager, the Petitioner, to let him know.

- c) On a third occasion, Morgan notified Trimue of her missing prescription medication on Sunday, October 14, 2012. Morgan told Trimue one pill was missing from her purse which she had been checking periodically during the course of her shift. Trimue again contacted his manager, the Petitioner, in the early morning hours of October 14, and Petitioner instructed Trimue to notify a security supervisor and a gaming officer. Later that same day, October 14, 2012, at 9:30 p.m., Security Supervisor Kristy McCraig notified the Commission about the allegations of theft reported by Morgan.
- d) The Petitioner, when confronted about his knowledge of the incidents, stated, "I, Robbie Reader, received a phone call on 10/14/2012 in the late afternoon from Josh Trimue, F & B supervisor, stating that Dana, Cocktail Server, had some prescription meds taken out of her purse under the bar. I instructed Josh to call security, surveillance, and gaming to get a report and investigation started. I ask which Security Supervisor was on. Josh stated, Krissy. So, at this time, we hung up and I call Rhonda Gooch, HR Manager, to let her know what was going on. After that, called Josh back to let him know that I had already notified HR. Told him since I was out of town back home, gave him my other cell number in case anyone needed to contact me. Then when I came in this past Tuesday, 10/23/12, HR had notified me that Heather had been taken off the floor by gaming and she was suspended pending the outcome of the investigation. On 10/25/12, I was informed that Heather was no longer with the company."
- e) On November 9, 2012, Petitioner was again interviewed due to the discrepancies of when, and how many times, Trimue contacted the Petitioner with information about the reported thefts. The Petitioner responded that he did not recall having a conversation with Trimue regarding Morgan's missing pills until Sunday, October 14, 2012. The Petitioner said Trimue contacted him in the afternoon and informed him of the incident. The Petitioner again recalled instructing Trimue to contact the surveillance department, the security supervisor, and the on-duty Missouri Gaming Commission Agent when Trimue informed him of the nature of the incident. The Petitioner did not claim to have any recollection of speaking with Trimue about Morgan's missing prescription medications until he received a call on Sunday, October 14, 2012.
- f) A later inspection of the Petitioner's company cell phone records revealed the following:

- On Thursday, October 11, 2012 at 11:22 p.m., the Petitioner's phone records showed an outgoing call to Trimue's cell phone, which was the same night Morgan was at home yet contacted Trimue by phone to let him know she suspected the theft of the pills from her purse, yet had no proof the theft had occurred on casino property. The call lasted seven minutes.
- On Sunday, October 14, 2012 at 6:22 a.m., Trimue called Reeder's company phone. The call was made the morning after Morgan had told Trimue in person she brought six pills to work, yet only had three left at the end of her Saturday night shift. The time of the call seemed to support Trimue's description of the events prior to the time Sgt. Goins was notified of the theft. The call lasted seven minutes.

g) Evidence indicates that, at a minimum, the Petitioner was informed of possible thefts during the early morning of November 14, 2012. Members of the Food & Beverage Department, however, were aware of the reported thefts as early as October 12. The incidents of theft were not reported to the Commission until 9:30 p.m. on October 14, 2012.

5. Petitioner admitted that the MGC boat agent on duty was not notified promptly.
6. Petitioner's actions or inactions in failing to ensure that allegations of theft were promptly reported to the Commission discredits the Missouri gaming industry and the State of Missouri, and violates Section 313.812.14 RSMo. (2012), Section 313.812.14(1), (2), & (9), RSMo. (2012), 11 CSR 45-4.260(4)(E), (F), & (Q); and 11 CSR 45-10.030(1), (2), & (3).

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. 2010.
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. 2012.

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. Under 11 CSR 45-9.060(3), violations of the Commission's Minimum Internal Control Standards ("MICS") by a Class A licensee or an agent or employee of the 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. (2012) and 11 CSR 45-1 *et. seq.*; as amended from time to time.
7. Under 11 CSR 45-9.060(4), violations of the Class A licensee's internal control system ("ICS") by a 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 agent or employee is subject to discipline pursuant to Section 313.805(6) RSMo. (2012) and 11 CSR 45-1 *et. seq.*; as amended from time to time.
8. 11 CSR 45-10.030(1) states "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 of rule committed by licensees, their employees or others..."
9. "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

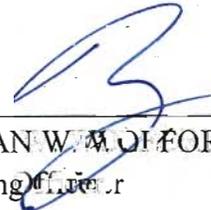
The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner had reasonable grounds to believe that a theft had occurred on October 14, 2012 at 6:22 a.m. at the latest. Petitioner did not ensure that MGC had been notified, and MGC had, in fact, not been notified until fifteen hours later at 9:30 p.m. The Hearing Officer does not find Petitioner's testimony - that Petitioner was not notified of the incident until 6:30 p.m. on October 14, 2012 - to be credible.

Petitioner's actions or inactions in failing to ensure that allegations of theft were promptly reported to the Commission discredits the Missouri gaming industry. Petitioner did not meet his 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 May 1, 2013 to impose a three (3) calendar day suspension against Petitioner is affirmed as a proper and appropriate discipline.

DATED: November 12, 2013



BRYAN W. WELFORD
Hearing Officer