

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-14-010
Penn National Gaming, Inc.)

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, with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Penn National Gaming, Inc. (the "Company"), 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 Missouri Gaming Company and St. Louis Gaming Ventures, LLC.
4. The Commission issued a Class B riverboat gambling license to Missouri Gaming Company ("Company"), to conduct games on and operate the excursion gambling boat known as Argosy Riverside Casino ("Casino") and to St. Louis Gaming Ventures, LLC to operate Hollywood St. Louis Casino ("Casino").
5. As the holder of a Class A license, the Company is subject to the provisions of Sections 313.800 to 313.850, RSMo. 2000, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS¹

6. On November 5, 2012, Trooper Joshua Breitbach assigned to the Gaming Division at Hollywood St. Louis Casino was contacted by Compliance Manager Jeffrey Hendricks who advised him of an issue regarding the local OASIS system there not flagging approximately 1,600 Disassociated Persons (DAP's). The issue was a result of information originating from PENN corporate personnel who entered the information in the local OASIS system and then sent it down through their servers to Hollywood St. Louis Casino's system.

¹ 20121105007

LAW

7. Under Section 313.805(6), RSMo 2000, 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.
8. Under Section 313.812.14, RSMo 2000, a holder of any license is subject to imposition of penalties, suspension or revocation of such license 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.
9. Under Section 313.812.14(1), RSMo 2000, a licensee may be disciplined for failing to comply with or make provisions 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.
10. Under Section 313.812.14(2), RSMo 2000, a licensee may be disciplined for failing to comply with any rule, order or ruling of the Commission or its agents pertaining to gaming.
11. Under 11 CSR 45-17.010, (1) There is hereby created a “List of Disassociated Persons” (List) which shall consist of those persons who have complied with the applicable provisions of 11 CSR 45-17 and have been placed on such List by the director. The List is established for the purpose of allowing problem gamblers to formally notify the commission that they no longer intend to visit excursion gambling boats in Missouri. The request to be placed on the List shall be made only by the individual seeking to be placed on the List. Each person seeking placement on the List acknowledges that it is his/her responsibility to refrain from visiting excursion gambling boats in Missouri and that by being placed on the List s/he shall have a criminal complaint filed against him/her for trespassing if s/he is discovered on an excursion gambling boat by the commission or any Class B licensee.
 - (2) Any Class B licensee or its agent or employee that identifies a person present on an excursion gambling boat and has knowledge that such person is included on the List shall immediately notify or cause to notify the commission and a Class B licensee’s security officer on duty. Once it is confirmed that the person is on the List, the Class B licensee shall—
 - (A) Notify the commission agent on duty of the presence of a Disassociated Person on the excursion gambling boat;
 - (B) Refrain from paying out any jackpots or winnings to patrons on the List; and
 - (C) Cooperate with the commission agent in reporting the incident to the proper prosecuting authority and request charges be filed under section 313.813 or 569.140, RSMo, for criminal trespassing, a class B misdemeanor.

(3) Any wager placed by a person on the List is hereby declared to be an unauthorized transaction and all chips and electronic credits in the possession of a Disassociated Person at the time s/he is discovered on an excursion gambling boat are presumed to be items used in exchange for or to facilitate, through the enactment of this rule, a violation of section 313.805, RSMo, and therefore subject to forfeiture as provided under sections 513.600 to 513.646, RSMo.

(4) A Class B licensee or its agent(s) or employee(s) may be disciplined by the commission if—

(A) It can be shown by a preponderance of the evidence that the Class B licensee or its employee(s) or agent(s) knew a person on the List was present on the excursion gambling boat and, despite such knowledge, failed to follow the procedures required by this rule; or

(B) The Class B licensee or its employee(s) or agent(s) failed to follow its procedures for complying with the provisions of 11 CSR 45-17 et seq.

(5) All Class B licensees shall have thirty (30) days from the effective date of this rule to submit internal controls that are subject to approval by the commission which set forth the following:

(A) The licensee's plan for removing those persons on the List from mailing lists advertising its Missouri operation, such as marketing offers, slot club programs, VIP member programs, telemarketing programs, and other such marketing promotions, however this rule shall not be construed to prohibit mass mailings to "Resident"; and

(B) The licensee's plan for denying access by persons on the List to—

1. Check cashing privileges, cash advances, credit/debit card transactions, and wire transfers;

2. Special club programs such as slot clubs and VIP cards;

3. The issuance of credit, if applicable; and

4. Gaming privileges, tournaments, promotions, and payment of taxable winnings or prizes.

(6) Any individual who had been placed on the List and who receives any mailing or marketing material prohibited by subsection (5)(A) shall have a continuing obligation to notify the commission of the receipt of such mailing.

(7) After an individual's application for placement on the List has been processed by the commission staff and the individual's name is added to the List, that individual shall remain on the List until such time as the requirements for removal from the List as described in 11 CSR 45-17.060 have been met.

12. Under 11 CSR 45-9.060(3), violations of the minimum internal control standards 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., as amended from time to time. Any agent or employee of a Class A

licensee that is involved in a violation of the minimum internal control standards may be subject to fine, discipline or license revocation.

16. The Missouri Internal Control Standards (MICS) Chapter Q, § 2.01 states, the Class B Licensee shall:
 - (A) Download the updated List of Disassociated Persons (DAP List) from the designated MGC server at least once every seven calendar days and update DAP information in all associated applications within five calendar days of the download of new or updated information. The Internal Control System shall identify the applications that are required to be updated;
 - (B) Upon receipt of the DAP List or an addition to the List, flag any existing disassociated person's player account(s) or, if no account exists, create a new account for the disassociated person which clearly denotes that the individual is a disassociated person and is barred from entering the gaming floor or from receiving a player's card. The Internal Control System shall specify which job position(s) is (are) responsible for flagging the accounts.

VIOLATIONS

17. The actions or omissions of employees or agents of the Company constituted a failure to update the DAP List and allowing DAPs to obtain player's cards and to gamble. The conduct as alleged is a violation of 11 CSR 45-17.010 and The Commission's MICS Chapter Q, § 2.01 (A) & (B). Company is subject to discipline for such violations under 11 CSR 45-9.060(3), sections 313.805(6), 313.812.14 and 313.812.14(1) & (2) RSMo.

PENALTY PROPOSED

18. Under Section 313.805(6), RSMo 2000, the Commission has the power to assess any appropriate administrative penalty against the Company, as the holder of a Class A license.
19. THEREFORE, it is proposed that the Commission fine Penn National Gaming, Inc. the amount of \$5,000 for the violations set forth herein.

Dr. Barrett Hatches
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 _____, 2014, to:

Mr. Frank Donaghue
Penn National Gaming, Inc.
825 Berkshire Boulevard, Ste. 200
Wyomissing, PA 19610

Dr. Barrett Hatches
Chairman
Missouri Gaming Commission