

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-14-014  
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") 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. 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.
4. The Commission issued a Class B riverboat gambling license to The Missouri Gaming Company. ("Company"), to conduct games on and operate the excursion gambling boat known as Argosy Riverside Casino ("Casino").
5. As the holder of a Class B 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 FACTS<sup>1</sup>

6. On December 21, 2012, Ms. Kelly Florea, an Electronic Gaming Device ("EGD") Coordinator with the Missouri Gaming Commission, began an investigation of Personal Banking Transaction variances for the gaming days of December 20 and 21 of 2012.
7. On December 21, 2012, Ms. Flora, an EGD Coordinator, was acting as an agent for the Commission.
8. Ms. Florea's investigation and review of surveillance coverage revealed the following:

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<sup>1</sup> 20130131001

- a. On December 21 and 22, 2012, in two separate emails, the Licensee notified Missouri Gaming Commission (MGC) Electronic Gaming Device (EGD) Coordinator Kelly Floria of Personal Banker Transaction (PBT) variances for the gaming day of December 20 and 21, 2012. Several EGDs experience Non-Cashable Electronic Promotion In (NCEP In) variances of which the cause was unknown. The notes for these EGDs stated 'Under Investigation'.
- b. On December 28, 2012 Florea emailed Financial Controller Jeremy Howland asking for an update on the variance investigation from December 20, 2012. Howland replied, "We investigated as much as we could on our end and didn't see anything that we have experienced before. I actually opened a case with ATI this morning (attached). I also submitted to them the reports and information that I had ran during my investigation." Howland had opened a case with Aristocrat (system manufacturer) at 9:22 a.m. on December 28, 2012. The details of the case read, "On gaming date 12/20/2012 we experienced (16) machine variances for PBT that we haven't seen before. The Meter CUR (current / period) incremented but the System CUR (current / period) didn't. We see the records on the transactions tab in Diagnostic Monitor, but they didn't hit the patrons account in SuperPlaymate. In Diagnostic Monitor, under Report, PersonalBanker Transaction, the records don't appear on the report either."
- c. On January 7, 2013 at 9:34 a.m., Florea emailed both Howland and the Aristocrat compliance manager Jacquie Hunter asking for an update on the case. Ms. Hunter's response at 2:40 p.m. stated, "Lisa Muñoz has been working the case. From her: "The variances are because the meter incremented and the system transaction did not post to the EFT table. However, the download did actually occur, absolving the variance. OASIS just wrote to rt\_badtx for some reason". Howland's response at 6:13 p.m. was as follows, "Aside from machine #61410 (this variance offset the next day), we have determined that the variances on both the 29<sup>th</sup> and 29<sup>th</sup> are of the same issue. ATI nor local resources have identified the cause, but the Personal transactions went to the RT\_BADTX table. In this case the System CUR (current / period) was incorrect and the meter was correct. We should have added the transaction to the system rather than adjusting the meter. I believe this will result in adjustment to the amount of gaming tax that was remitted. On January 8, 2013, Howland submitted a corrected Betters file for gaming dates December 20 and 21, 2012 to account for the NCEP In transactions. The correction resulted in a difference of \$250 in AGR and \$52.50 in gaming tax.
- d. On January 10, 2013, Florea initiated an investigation into the PBT variance investigation process and subsequent adjustments made for the NCEP In variances identified on the gaming days of December 20 and 21, 2012.

- e. After reviewing the documentation, it appeared the 'Transactions' tab within Diagnostic Monitor was part of the PBT variance investigations for the gaming days of December 21 and 29, 2012. During the PBT variance investigation done for the gaming day of December 20, 2012 it appears Diagnostic Monitor was used but only the 'PersonalBanker' tab and not the 'Transactions' tab. Florea sent a request to Argosy IT department for the complete transaction listing from Diagnostic Monitor for the December 20, 2012 gaming day.
- f. After further review, it appears all PBT NCEP In transactions were present within the transaction listing. By adding those transactions together the total matched the Meter CUR (current / period) and not the System CUR (current / period) seen on the PBT variance report.

### LAW

- 9. 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.
- 10. 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.
- 11. 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.
- 12. 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.
- 13. Under 11 CSR 45-10.030(4), Licensees shall take reasonable actions to safeguard from loss all tokens, tickets, chips, checks, funds, and other gaming assets.
- 14. Under 11 CSR 45-9.060(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., 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.

15. Under 11 CSR 45-4.020(10) rules adopted prior to May 30, 2008 which previously referred to a Class A licensee shall refer to both a Class A and B licensee unless specifically identified otherwise.
16. Under the Commission's MICS, Chapter U, § 2.18, The Class B Licensee shall, on each gaming day, in an MGC approved format, prepare a meter comparison report for all EGDs with Cashless, Promotional, or Bonusing options enabled. The reports will compare the Cashless (i.e., WAT In, WAT Out, CEP In, CEP Out, NCEP In, and NCEP Out) and Bonusing (i.e., machine paid external bonus payout and attendant paid external bonus payout) deltas of the EGD internal soft meters with the meter deltas of the respective system. The EGD soft meter deltas may be obtained by manually recording the values at the EGD, or by polling the EGD using the respective system. Any meter variance between the deltas of the EGD and the respective system shall be reconciled prior to filing the daily tax transmittal with the MGC. Transaction detail reports or other tools shall be used to investigate the cause of the variance. If it is determined that an adjustment must be made to ensure the AGR calculations are correct, an appropriate adjustment shall be made by an Accounting employee to correct the system reports. The adjustment must be documented and maintained. The documentation shall indicate who made the adjustment and the amount of the adjustment. The original daily electronic drop reports listing any variances, the transaction detail reports used to investigate the variances, and any corresponding adjustments to correct the variances shall all be maintained as source documentation to support the daily tax remittal. The MGC EGD department shall be notified of any variance and the results of the investigation by the end of the next gaming day.

### **VIOLATIONS**

17. The actions or omissions of employees or agents of the Company as described above constitute a failure of the Casino to abide by the regulations concerning the proper investigations of PBT transactions. The conduct alleged above violates 11 CSR 45-10.030(4) and the Commission's MICS, Chapter U § 2.18. The Company is subject to discipline for such violations under 11 CSR 45-9.060(3), and Sections 313.805(6), 313.812.14, 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 B license.
19. THEREFORE, it is proposed that the Commission fine Missouri Gaming Company the amount of \$2,500 for the violations set forth herein.

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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. John Chaszar, General Manager  
Argosy Riverside Casino  
777 NW Argosy Parkway  
Riverside, MO 64150

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Dr. Barrett Hatches  
Chairman  
Missouri Gaming Commission