

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-14-460
PNK (River City), 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 2000,¹ with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Pinnacle Entertainment, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Pinnacle Entertainment Inc. is the parent organization or controlling entity of PNK (River City), 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 *River City Casino* ("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 FACTS²

6. On at least four separate occasions in April 2014, Deli Attendant Mary Tate ("Tate") and Lead Deli Attendant Lindsey Wirth ("Wirth") allowed patrons to purchase alcoholic beverages in the Burger Brothers restaurant on the gaming floor using the patrons' complimentary "My Choice" points.
7. The training materials provided to Tate and Wirth by Casino management contained the following inconsistencies:
 - a. Tate's package did not have a place for a manager's signature, although Wirth's package did;
 - b. Wirth signed the documents in her training package, but there were no manager signatures in her package;

¹ All statutory references are to RSMo 2000, unless otherwise specified

² 20140509006

- c. In some of the documents contained in Wirth’s package, her signature and the dates on which the documents were allegedly signed were in different colored ink; and
 - d. Wirth signed a document titled “MGC: Missouri Gaming Commission,” which stated, in part, “You can accept comps as payment on the NON-gaming side, but never on the gaming side of the bar” (emphasis added). Tate’s package did not contain this same document or language.
8. Food and Beverage Assistant Manager Michael Grover (“Grover”) failed to report each instance when Wirth and Tate allowed patrons to use their “My Choice” points to obtain complementary beverages, although he was aware of each instance.

LAW

9. 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.
10. 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[.]

11. Title 11 CSR 45-5.053, states, in pertinent part as follows:

- (3) The holder of a Class A license is expressly prohibited from the following activities:

* * *

(D) Failing to comply with or make provision for compliance with all federal, state and local laws and regulations pertaining to the operation of a license, including ... violating alcoholic beverage laws or rules;

* * *

(M) Failing to report to the commission known or suspected violations of commission rules and applicable law[.]

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. Title 11 CSR 45-12.090(22) forbids “ an excursion liquor licensee, through actions of his/her own or of an employee, [from supplying] any intoxicating liquor in any quantity whatsoever free of charge or as a complimentary to any person on the gaming floor of the premises.”

15. Both the MICS and the Casino’s ICS, Chapter A, § 1.10, state as follows:

Class A Licensees shall provide all employees with training regarding the Missouri Riverboat Gambling Act, Missouri Gaming Commission Rules and

Regulations, Class A Licensee's Internal Control System and procedures in a brief outline or general description. Each employer shall ensure that employees, prior to performing the functions/duties of their jobs, are adequately trained as to the applicable statutes, regulations and Internal Control System that apply to their specific job functions. The Class A Licensee shall maintain a record of all mandatory training. A current copy of the Class A Licensee's entire Internal Control System shall be readily accessible to all employees in their department.

VIOLATIONS

16. The actions or omissions of employees or agents of the Company as described above constitute failure to properly train its employees and failing to promptly report the regulatory violations, thereby violating 11 CSR 45-5.053(3)(D) and (M), 11 CSR 45.10.030(1) and (7), 11 CSR 45-12.090(22), MICS, Chapter A, § 1.10, and the Casino's ICS, Chapter A, § 1.10.
17. 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

18. 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.
19. THEREFORE, it is proposed that the Commission fine PNK (River City), LLC, the amount of \$5,000 for the violations set forth herein.

Darryl T. Jones
Vice-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 December, 2014, to:

Chris Plant, General Manager
River City Casino
777 River City Casino Boulevard
St. Louis, MO 63125

Darryl T. Jones
Vice-Chairman
Missouri Gaming Commission