

MISSOURI GAMING COMMISSION

COMMISSION RESOLUTION NO. 15-010
REGARDING SETTLEMENT AGREEMENT AND WAIVER OF HEARINGS

WILLIAM S. BARGMAN
January 28, 2015

WHEREAS, on August 18, 2014, the Missouri Gaming Commission issued a Preliminary Order for Disciplinary Action against William S. Bargman (“Bargman”); and

WHEREAS, Bargman has filed a request for hearing on that order and such hearing is pending before the Hearing Officer, Case No. 14-202; and

WHEREAS, Bargman and the Commission have come to a settlement agreement concerning the issues presented in the proposed discipline, (a copy of which is attached).

NOW, THEREFORE, BE IT RESOLVED, that the Commission hereby adopts the Settlement Agreement and Final Order concerning Bargman, Case No. 14-202.

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission.

WHEREAS, The Executive Director issued Bargman a Level II Occupational License (“License”) for employment on an excursion gambling boat licensed by the Commission (License # MGC116530); and

WHEREAS, Bargman, as a holder of a Level II Occupational License is subject to the provisions of Sections 313.800 to 313.850, RSMo (the “Gaming Law”), and the regulations promulgated thereunder by the Commission (the “Regulations”).

FACTS

1. Bargman was employed by the *Harrah's North Kansas City* (the “Casino”) as a Facilities Manager between August 13, 1997, and May 6, 2014.
2. Bargman had septic tank work performed at his home by Cogent Companies, Inc. (“Cogent”). Bargman received an invoice, dated November 8, 2013, for \$2,621.35 for Cogent’s work at his home.
3. According to a statement by Arthur Lindberg (“Lindberg”), Bargman contacted Lindberg at Cogent and asked him to change the invoice so that the cost of the work done at his home would be billed to the Casino. Based on Bargman’s request, a second invoice, dated February 3, 2013, in the amount of \$2,621.35 was generated and sent to the Casino.
4. Based on instructions from Bargman, Lindberg had Cogent send a third invoice to the Casino, also dated February 3, 2014, but the itemized portion of the invoice now listed “repair broken inverter parts,” labor and “MO tax” instead of “Powerflo Pump parts” and “replacement installation labor.” The total billed to the Casino by Cogent was \$2,621.35.

5. Bargman approved the third invoice for payment by the Casino in the amount of \$2,621.35 on February 28, 2014.

6. Only Bargman had the authority to authorize a vendor to perform the invoiced work.

7. None of the work that Bargman approved payment for by the Casino in the amount of \$2,621.35 on February 28, 2014, was done at or for the Casino.

8. Bargman denies the allegations and has asserted that Lindberg changed the invoice on his own initiative.

LAW

9. Bargman acknowledges and understands that under §§ 313.805 and 313.812.14(1), (2), (8), and (9), RSMo, and 11 CSR 45-4.260(4)(E), (F), (L), (M), (N), and (Q), the Commission has grounds to revoke his License for violating 11 CSR 45-10.030(1), (4), and (7).

10. Section 313.805, RSMo, states, in pertinent part, as follows:

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

* * *

(5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;

(6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645;

* * *

(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules.

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 regulation;
- (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming;

* * *

- (8) Obtaining or attempting to obtain any fee, charge, or other compensation by fraud, deception, or misrepresentation;
- (9) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850.

12. Under 11 CSR 45-4.260(4)(E), (F), (L), (M), (N), and (Q), the Commission may suspend or revoke an occupational license of any person if any of the following occur:

- a. The Licensee fails "to comply with or make provisions to comply with Chapter 313, RSMo, the rules of this commission, or any federal, state, or local law or regulation," under 11 CSR 45-4.260(4)(E);
- b. The Licensee "fails to comply with any rule, order or ruling of the commission or its agents," under 11 CSR 45-4.260(4)(F);
- c. The Licensee "is financially irresponsible," under 11 CSR 45-4.260(4)(L);
- d. The Licensee "is not of good moral character ... and would adversely affect public confidence and trust in gaming," under 11 CSR 45-4.260(4)(M);
- e. The Licensee "provides the commission or its agents with false or misleading information, documents, or data or who makes false or misleading statements to the commission or its agents," under 11 CSR 45-4.260(4)(N); and/or
- f. The Licensee's actions demonstrate "incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850, RSMo," under 11 CSR 45-4.260(4)(Q).

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.

* * *

- (4) Licensees shall take reasonable actions to safeguard from loss all tokens, tickets, chips, checks, funds, and other gaming assets.

* * *

- (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.

SETTLEMENT

14. Nothing contained in this Settlement Agreement shall be deemed to be or construed as an admission of liability or guilt by Bargman with respect to any of the claims in the Preliminary Order for Disciplinary Action No. DC 14-202 ("Preliminary Order"). Rather, this Settlement Agreement is made by the parties in order to reasonably and conclusively resolve the disputed claims without incurring the uncertainty, burden, and expense of continued contested proceedings in this matter

15. Without admitting liability or guilt with respect to any claim in the Preliminary Order, Bargman agrees that the facts set forth above constitute the grounds for the Preliminary Order that is the subject matter of this Settlement, and agrees to the suspension of his License for a period of six (6) months beginning on the date this Settlement Agreement is approved and a Final Order is entered by the Commission.

16. Bargman agrees not to request a hearing or otherwise appeal the Preliminary Order, and the Commission agrees not to initiate further disciplinary actions with respect to the same.

17. If Bargman reapplies for a Level II Occupational License, the Commission reserves the right to re-assert the facts set forth above as grounds for the denial of such a License.

18. Bargman acknowledges and understands that this Settlement Agreement is an administrative action and that this administrative action should be disclosed on future

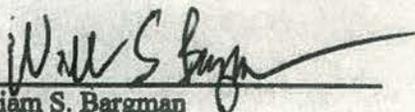
applications and renewal applications, if required, and that it is his responsibility to comply with the reporting requirements of each state in which he is or may be licensed.

19. Each signatory to this Settlement Agreement certifies by signing that he or she is fully authorized, in his or her own capacity, or by the named party he or she represents, to accept the terms and provisions of this Settlement Agreement in their entirety, and agrees, in his or her personal or representational capacity, to be bound by the terms of this Settlement Agreement

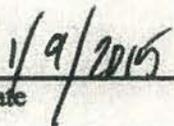
20. The terms set forth in this Settlement Agreement are an appropriate disposition of this matter and entry of this Settlement Agreement is in the public interest.

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that William S. Bargman has the right to a hearing, but that William S. Bargman has waived the hearing and consented to the issuance of this Settlement Agreement and hereby submit this Settlement Agreement to the Commission for its approval.



William S. Bargman
14550 Elliott Ct.
Smithville, MO 64089



Date

FINAL ORDER

NOW, THEREFORE, pursuant to the authority granted by Sections 313.805 and 313.812 RSMo and 11 CSR 45-13.065 the above Settlement Agreement becomes a FINAL ORDER of the Commission.

THEREFORE, the Commission suspends William S. Bargman's Level II Occupational License for the violations set forth in the Settlement Agreement for a period of six (6) months, effective January 1, 2015, subject to ratification and approval by the Commission and subject to the terms and conditions agreed to by the parties and as set forth in the Settlement Agreement.

Lelan M. Shurin
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 _____, 2015, to:

James R. Hobbs
Wyrsh, Hobbs, Mirackian, P.C.
1000 Walnut, Suite 1600
Kansas City, MO 64106-2140

Lelan M. Shurin
Chairman
Missouri Gaming Commission