MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 15-044

KEITH TRAN
June 24, 2015

WHEREAS, Keith Tran ("Tran"), requested a hearing to contest the proposed disciplinary action initiated against him on November 5, 2014, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-14-330; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Tran'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 Tran a revocation of his occupational license in the above-referenced case in the matter of DC-14-330; 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: Keith Tran	)	
	)	
	)	Case No. 14-330
License Number: 157387	)	

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 December 3, 2014 making a request for a hearing by Keith Tran (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated November 5, 2014. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on April 23, 2015 where the Petitioner, his attorney Mr. Douglas P. Wilson, and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On July 11, 2014, Petitioner was employed by Harrah's North Kansas City, LLC ("Company") as a Dealer aboard the *Harrah's North Kansas City* ("Casino").

2. On July 11, 2014 Corporal Jesie Phillips ("Cpl. Phillips") of the Missouri State Highway Patrol began a regulatory investigation when he was notified by surveillance that a dealer failed to follow proper procedures while dealing Blackjack.

3. On July 11, 2014, Cpl. Phillips was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.

4. Cpl. Phillips's investigation and review of surveillance video recordings revealed the following:

    a) On July 11, 2014 at approximately 9:15 a.m., Petitioner was dealing Blackjack at Table 408 to two patrons seated at spot 3 and spot 5;

    b) After dealing the first card but before dealing the second card to the patron at spot 5, Petitioner looked at the card and pointed to the +3 bonus, encouraging the patron to place a bet on the bonus. Petitioner continued to encourage the patron to place a bet on the bonus;

    c) The patron eventually placed a $5 chip on the bonus as indicated by the Petitioner;

d) Petitioner dealt the second card, revealing that the patron had won;

e) Petitioner paid out $50 to the patron, who would not have otherwise won any money on the hand;

f) The patron slipped two $5 chips to the Petitioner as an apparent gratuity.

5. At hearing, the Petitioner testified that he did not know the patron but he did encourage the patron to make the bet. Petitioner testified that he had made a big mistake.

6. Petitioner's actions in helping a patron cheat at Blackjack is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri, discredits the Missouri gaming industry and the State of Missouri, and violates Section 313.830.4 RSMo. (2012) and 11 CSR 45-10.030(1), (3), (4), and (7).

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. Section 313.830(4) RSMo. states "A person commits a class D felony and, in addition, shall be barred for life from excursion gambling boats under the jurisdiction of the commission, if the person . . . [o]ffers, promises, or gives anything of value or benefit to a person who is connected with an excursion gambling boat operator including, but not limited to, an officer or employee of a licensee or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game . . ."

7. 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..."

8. 11 CSR 45-10.030(3) states "In the event that a licensee . . . knows or should have known that an illegal or violent act has been committed . . . they shall immediately report the occurrence to law enforcement . . ."

9. 11 CSR 45-10.030(4) states "Licensee shall take reasonable actions to safeguard from loss all tokens, tickets, chips, checks, funds, and other gaming assets."

10. "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 has worked in the Missouri gaming industry for

ten years and is aware of the state laws, regulations, and internal controls relating to the gaming industry. As a Dealer, it is Petitioner's duty to know the rules of the game. Petitioner knew that no additional bets could be placed after the first card was dealt. However, Petitioner encouraged a patron to place a bonus bet after the first card was dealt, and allowed the patron to do so. This act resulted in the patron winning $50 in casino assets that he otherwise would not have won but for Petitioner's encouraging and allowing a bet in violation of the rules of the game. The actions of Petitioner destroyed the integrity of the game being played.

Petitioner's actions in helping a patron cheat at Blackjack is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri, 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 November 5, 2014 to impose a Revocation against Petitioner is affirmed as a proper and appropriate discipline.

DATED: 5-22-2015

BRYAN W. WOLFORD
Hearing Officer