

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-15-270  
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" or "MGC") is a state commission created under Chapter 313, RSMo 2000,<sup>1</sup> 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 (the "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 *Argosy Riverside Casino* (the "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 FACTS<sup>2</sup>

6. The Casino began running its Play 'N Win Promotion on or about July 18, 2014.
7. On July 20, 2014, the Casino's Marketing Database Manager, Geoffrey Duncan ("Duncan") noticed that not all awards were given to patrons in accordance with the promotion's published rules. He opened a case with Aristocrat Technologies, Inc. ("ATI") to report the issue.
8. On August 3, 2014, Duncan discovered 29 players had not received their awards from the Play 'N Win promotion running that day due to an unknown system error. Duncan corrected the accounts' awards and opened another case with ATI to investigate the issue.
9. On August 17, 2014, another error occurred with the Play 'N Win promotion. Duncan found 271 patrons had not received their correct promotional awards due to either an unknown

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<sup>1</sup> All statutory references are to RSMo 2000, unless otherwise specified.

<sup>2</sup> 20150122004

system error or a configuration error. Again, Duncan notified ATI of the error on or about August 18, 2014.

10. The Play 'N Win promotion continued to run with similar issues until March 1, 2015.
11. Between July 2014 and March 2015, 513 adjustments totaling \$7,600 were made to patron accounts to reflect the correct promotional awards.
12. On December 15, 2014, an MGC Electronic Gaming Device (EGD) Specialist noted a situation where the Casino's "Play 'N Win" promotional campaign did not run according to the published rules, in that due to system error and configuration mistakes, several accounts did not receive the appropriate awards automatically even though patrons had met the criteria for the promotion.
13. On March 19, 2015, ATI submitted an EGD Incident Report to the MGC relating to the issues and problems experienced by the Casino during its Play 'N Win promotion.
14. At no time was the MGC notified of the issue with the promotional campaign by Duncan or anyone else from the Casino or the Company.
15. During the investigation, the Casino's Internal Control Standards ("ICS") failed to state or designate an employee responsible for maintaining compliance with 11 CSR 45-5.181, dealing with promotional activities.
16. The Casino's ICS were not revised until March 13, 2015, to include the necessary information and designation.

### LAW

17. 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 in an amount determined by the Commission.
18. 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[.]
19. Title 11 CSR 45-5.053(3)(M) prohibits the holder of a Class A or B license from “Failing to report to the commission known or suspected violations of commission rules and applicable law.”
20. Title 11 CSR 45-5.181 states, in pertinent part, as follows:
- (2) Class B licensees may provide promotional activities such as promotional giveaways, promotional coupons, promotional games, player reward programs or similar activities for patrons without the prior approval of the commission, provided the promotional activity is not structured or conducted in a manner that reflects negatively on the licensee, the commission, or the integrity of gaming in Missouri and complies with the following:

\* \* \*

- (D) All prizes offered in the promotional activity shall be awarded according to the Class B licensee’s rules governing the event.

\* \* \*

- (F) The Class B licensee shall designate in its internal control system an employee position acceptable to the commission that shall be responsible for ensuring adherence to the rules set forth in this section.

**VIOLATIONS**

21. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to run its promotion in accordance with its published rules and to promptly notify the MGC of the problems with its promotion and resulted in the promotion being conducted in a manner that reflected negatively on the licensee, thereby violating 11 CSR 45-5.053 and 11 CSR 45-5.181.
22. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 313.812.14 (1) and (2), RSMo.

**PENALTY PROPOSED**

23. 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.

24. 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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Brian Jamison  
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 August, 2015, to:

Aaron Rosenthal  
Argosy Riverside Casino  
777 NW Argosy Pkwy.  
Riverside, MO 64150

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Brian Jamison  
Chairman  
Missouri Gaming Commission