

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 16-029

ERIN M. KRICK
May 25, 2016

WHEREAS, Erin M. Krick ("Krick"), requested a hearing to contest the proposed disciplinary action initiated against her on October 6, 2015, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-15-308; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Krick'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 adopts the Hearing Officer's recommendation and vacates and sets aside the one (1) calendar day suspension of Krick's occupational license in the above-referenced case in the matter of DC-15-308; 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: Erin M. Krick)
)
) Case No. 15-308
License Number: 300872)

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 October 28, 2015 making a request for a hearing by Erin Krick (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated October 6, 2015. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on March 15, 2016 where the Petitioner and the Commission's attorney, Ms. Carolyn Kerr, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On November 19, 2014 and all times relevant hereto, Petitioner was employed by Casino One Corporation ("Company") as a Cage Supervisor aboard the *Lumiere Place Casino and Hotels* ("Casino").
2. Beginning on December 22, 2014, Suzie Tompkins ("Tompkins") of the Missouri Gaming Commission conducted audits of Casino jackpots which had been removed from safekeeping between April 1, 2014 and March 31, 2015.
3. At all times relevant herein, Tompkins was employed by the Commission as an Auditor.
4. Tompkins's audit revealed the following:
 - a) On December 3, 1997, Regina E. placed herself on the state's voluntary exclusion list. She was from that point forward considered a Disassociated Person ("DAP") and banned from entering onto the gaming floor of Missouri's casinos. On April 29, 2014, at the request of Regina E., she was removed from the DAP list.
 - b) In December 16, 2008, Regina E. was on the gaming floor at the Casino and won a jackpot in the amount of \$4,000.00 and a \$7.50 TITO, for a total of \$4,007.50. The sum was placed into safekeeping that day under the name of "Michelle B." along with Regina E.'s photo. Michelle B. is the sister of Regina E. On December 17, 2008, Regina E. was arrested for trespassing as a DAP while trying to have Michelle B. claim the jackpot.

- c) The jackpot was never voided, even after determining that Regina E. was on the DAP list and was ineligible to claim it. Instead, Cage Supervisor Patricia Hines and Cage Cashier Barbara Tabers revised the safekeeping slip by putting in Regina E.'s correct name and correct contact information. The deposit remained in safekeeping.
 - d) On November 7, 2014, the Casino sent Regina E. a Missouri Unclaimed Property Due Diligence Notification letter informing her that it held funds in the amount of \$4,007.50 under her name in its safekeeping, and told her the process to redeem the unclaimed property.
 - e) On November 11, 2014, Regina E. provided the necessary documentation to claim the unclaimed property in safekeeping, and Licensee prepared a Request for Check invoice so that a check in the amount of \$4,007.50 could be issued to Regina E. The Casino issued the check on November 19, 2014.
5. Petitioner testified that the \$4,007.50 in safekeeping had been there for over five years, and was now unclaimed property under Missouri law. Petitioner testified that she followed the due diligence procedures for unclaimed property by notifying the purported owner of the jackpot by mail at her last known address of the property and the process needed to claim it. Regina E. followed the instructions and presented the necessary documentation to claim the unclaimed property, and Petitioner requested that the Casino issue Regina E. the check. Petitioner further testified that she did not accept the property into safekeeping on December 16, 2008, nor did she revise the safekeeping deposit slip on December 17, 2008.

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. Under 11 CSR 45-9.060(3), violations of the Commission's Minimum Internal Control Standards ("MICS") by a Class A licensee or an agent or employee of the 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. (2012) and 11 CSR 45-1 *et. seq.*; as amended from time to time.
7. The Commission's MICS, Chapter H, § 10.09 states, "Prior to conducting a safekeeping withdrawal . . .the cashier shall . . .verify the patron is not a DAP or an Excluded Person."
8. Section 447.500 *et. seq.* RSMo. (2015) governs the disposition of unclaimed property in Missouri.
9. "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, the Casino had taken the original jackpot into safekeeping

in 2008 without knowing that the patron was a DAP at the time. After discovering that Regina E. was a DAP when she tried to have her sister claim the safekeeping on December 17, 2008, the Casino should have voided the deposit.

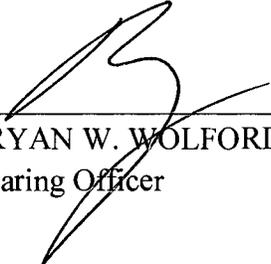
Regina E.'s unclaimed jackpot of \$4,007.50 had sat in the Casino's safekeeping for over five years such that it became unclaimed property under Missouri law. As such, the Casino is required by Section 447.539 RSMo. (2015) to attempt to locate the owner of the property by sending a due diligence letter to the owner's last known address identifying the unclaimed property and stating the procedure for claiming the property. The Licensee complied with the law in this instance, and the safekeeping was returned to Regina E., who was no longer a DAP after April 29, 2014. Further, Licensee did not have any role in the initial safekeeping deposit, nor did she perform any act or omission that resulted in the revision of the safekeeping deposit slip on December 17, 2008.

The return of the unclaimed jackpot to Regina E. was not the payment of safekeeping pursuant to MICS Chapter H §10.09. The jackpot became unclaimed property on December 17, 2013, and was governed by Chapter 447 RSMo. Petitioner's actions were not in violation of Missouri law. Petitioner has met her 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 not violated Missouri law and is therefore not subject to discipline. The decision of the Commission dated October 6, 2015 to impose a one (1) calendar day suspension against Petitioner is hereby vacated and set aside

DATED: April 28, 2016



BRYAN W. WOLFORD
Hearing Officer