

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-16-095  
The 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. On July 9, 2015, the MGC received a formal complaint from a Casino patron alleging that the number of entries she was awarded into the Casino's Hollywood Poker Open Showdown (HPO) promotion was inconsistent based upon the points she earned during play and the information contained within the promotion's rules.
7. A review of the Casino's HPO promotions found that a portion of the entries earned by patrons were not awarded due to how the promotion was set up and scheduled.
8. Entry criteria were set so that one entry was awarded for every 50 points earned on an Electronic Gaming Device ("EGD") and one entry was awarded for every 30 minutes of rated table play.

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

<sup>2</sup> 20150813001

9. EGD ratings began when a customer inserted their payer's card at an EGD and ended when their player's card was removed.
10. However, the promotion was set up so that entries would be awarded only at various time intervals (i.e., 4:59:59 p.m., 5:59:59 p.m.), such that if a player put their card in at 4:45 p.m., for example, and played until 5:15 p.m., the points earned by that player in the first time interval ending at 4:59 p.m. were not posted to the Casino's promotional system, and only the points earned from 5:00 p.m. until the player removed the card at 5:15 p.m. were recorded.
11. A total of 24,392 patrons participated in the HPO promotion, and, of those, 4,078 patrons experienced a variance in a portion of their entries.
12. Subsequent inquiries found that the Casino's HPO promotion and 41 other promotions conducted by the Casino over the last five years failed to award all entries earned by patrons.
13. Those 41 promotions shorted 134,783 patrons 369,206 entries they had earned and were entitled to as outlined in the respective promotional rules.

### LAW

14. 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.
15. 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[.]

16. Title 11 CSR 45-5.181 states, in pertinent part, as follows:

(1) For the purposes of this rule, the following words are defined as:

\* \* \*

(B) Patron—any person present on the premises of a Class B licensee that is not employed by such Class B licensee or the commission and is not on the premises as a vendor of the Class B licensee;

\* \* \*

(D) Promotional game—a drawing, event, contest or game in which patrons of a Class B licensee may, without giving consideration, participate or compete for the chance to win a prize or prizes of different values; and

(E) Player reward program—a promotional activity that provides redeemable player reward points to patrons as a result of wagering regardless of game outcome and based on predetermined formulas.

(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:

\* \* \*

(B) The promotional activity shall comply with all applicable laws and regulations....;

\* \* \*

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

### **VIOLATIONS**

17. The actions or omissions of employees or agents of the Company as described above caused the promotion to be conducted in a manner that reflects negatively on the licensee and constituted the failure of the Casino to conduct its promotions according to the licensee's rules governing the event, thereby violating 11 CSR 45-5.181(2).

18. 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**

19. 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.
20. THEREFORE, it is proposed that the Commission fine Missouri Gaming Company, the amount of \$30,000 for the violations set forth herein.

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Herbert M. Kohn  
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 \_\_\_\_\_, 2016, to:

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

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Herbert M. Kohn  
Chairman  
Missouri Gaming Commission