

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-16-149
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 2000,¹ 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 FACTS²

6. The MGC completed a compliance audit for the period of June 1, 2013 through February 28, 2015, and issued MGC Audit Reports 15-04 and 15-05 to the Casino on April 30, 2015.
7. A follow-up audit was conducted beginning on November 19, 2015, to determine if the Casino corrected the April 30, 2015 audit findings.
8. The follow-up audit found the following two significant findings that had not been corrected:
 - a. A review of paperwork for cards used during the month of October 2015 found that Casino personnel failed to inspect at least 10% of non-handheld decks of cards on five occasions, an increase from one instance noted in the original audit report; and

¹ All statutory references are to RSMo 2000, unless otherwise specified.

² 20160106006

- b. Count team members failed to clear their hands during the bill validator counts in 44 of 254 total instances, resulting in a 17.3% error rate, an increase from the original audit, which found an error rate of 13%.

LAW

- 9. 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.

- 10. 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[.]

- 11. Title 11 CSR 45-5.184 states, in pertinent part, as follows:

(16) When the envelopes or containers of used cards and reserve cards with broken seals are returned to the security department, they shall be inspected within forty-eight (48) hours by a member of the security department who has been trained in proper card inspection procedures. The cards will be inspected for tampering, marks, alterations, missing or additional cards, or anything that might indicate unfair play.

* * *

(B) In other table games, if less than three hundred (300) decks are used in the gaming day, at least ten percent (10%) of those decks will be selected at random to be inspected. If three hundred (300) or more decks are used that

gaming day, at least five percent (5%) of those decks but no fewer than thirty (30) decks will be selected at random to be inspected.

12. Title 11 CSR 45-9.060 states, in pertinent part, as follows:

(3) Violations of the minimum internal control standards [(“MICS”)] by a Class A licensee or an agent or employee of a 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, and 11 CSR 45-1 et seq.

13. The MICS, Chapter, D, § 11.15, states as follows:

Cards being removed from play shall be inspected as required in 11 CSR 45-5.184. Card inspection by Security shall be conducted in a designated Card and Dice Inspection Room with access controlled by Security. Surveillance shall be notified immediately prior to the inspection.

14. The MICS, Chapter, G, § 7.10, states, in pertinent part, as follows:

All contents removed from each drop device shall remain on or above the count table or other work surface in plain view of surveillance until transferred to transport carts. If contents are accidentally dropped on the floor, a count team member shall clear his/her hands before picking up the contents and after returning the contents to the table. Count team members may not remove their hands from or return them to a position on or above the count table or other work surface, where funds are exposed, unless the backs and palms of their hands are first held out and exposed to other members of the count team and the surveillance cameras.

VIOLATIONS

15. The acts or omissions of employees or agents of the Casino, as described above, constitute a failure of Casino employees to properly inspect cards and failure to clear their hands during bill validator counts, thereby violating 11 CSR 45-5.184, MICS, Chapter D, § 11.15 and Chapter G, § 7.10.

16. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 313.812.14 (1) and (2), RSMo, and 11 CSR 45-9.060(3).

PENALTY PROPOSED

17. 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.

18. THEREFORE, it is proposed that the Commission fine Missouri Gaming Company, the amount of \$5,000 for the violations set forth herein.

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

Herbert M. Kohn
Chairman
Missouri Gaming Commission