

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-16-192
Tropicana St. Louis, LLC)

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 Tropicana Entertainment, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Tropicana Entertainment, Inc., is the parent organization or controlling entity of Tropicana St. Louis, LLC ("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 *Lumiere Place Casino & Hotels* ("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. Lumière Place advertised an increase in promotional rewards for live Poker play beginning on April 1, 2016.
7. However, the proper Trop Cash amount to be earned per hour of play was not rewarded and recorded correctly in the Advanced Casino Systems Corporation (ACSC) System
8. Director of IT Geno Palumbo ("Palumbo") informed Director of Compliance Donald Perkins ("Perkins") and Poker Manager James Gorman ("Gorman") of the April 1, 2016 rate change and asked Gorman to monitor some of the patron's accounts.

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

² GIR 20160430001

9. Gorman notified Palumbo that the rate change was not operating correctly on April 3 and again on April 4, 2016, but failed to notify any MGC agent of the discrepancy with the Casino's Trop Cash rewards promotion at any time.
10. Perkins also did not notify any of the MGC boat agents about the problem with the rewards program at any time prior to April 6, 2016.
11. A memorandum dated April 6, 2016, sent to the MGC stated that on April 1, 2016, the Casino adjusted the Trop Cash reward rate for live Poker Play from \$.50 per hour of play to \$1 per hour of play, but that the Bally's system failed to reflect the increased rate.
12. The rules of the promotion stated, in part, that "Patrons playing live poker games will be earn [sic] Trop Cash rewards per hour played," thus failing to state what the minimum criteria for earning Trop Cash was in the promotional rules.
13. A brochure provided to the public at the Trop Advantage Counter also failed to address how the Trop Cash rewards could be earned.
14. There were no written rules or brochures available to patrons in the Poker Room regarding the Trop Cash rewards promotion.
15. The discrepancy with the Casino's Trop Cash rewards promotion affected 487 patrons for a total of \$1,186.99.
16. On January 22, 2015, an MGC audit determined that the Casino's rewards structure and point values program did not contain information regarding how patrons earned Trop Cash.
17. In response to that audit finding, the Casino's Director of Marketing was to ensure that the minimum criteria for earning Trop Cash was included in the rules of the promotion and available to the public by October 31, 2015. He failed to do so.

LAW

18. 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 of an amount determined by the Commission.
19. 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[.]

20. 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;

* * *

(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:

(A) No false or misleading statements, written or oral, shall be made by a licensee or its employees or agents regarding any aspect of any promotional activity;

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

(C) The Class B licensee shall create dated, written rules governing the promotional activity, which rules shall be immediately available to the public and the commission upon request. The licensee shall maintain the rules of the event and all amendments thereto, including criteria for entry and winning, prizes awarded, and prize winners, for a minimum of two (2) years from the last day of the event[.]

21. 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.
- (4) Violations of the Class A licensee’s internal control system [(“ICS”)] by the Class A licensee or an agent or employee of the Class A licensee shall be *prima facie* evidence of unsuitable conduct for which the Class A licensee and/or its agents or employees may be subject to discipline pursuant to Section 313.805(6), RSMo, and 11 CSR 45-1 et seq.

22. Title 11 CSR 45.10.030 states, in pertinent part, as follows:

- (1) 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 rule committed by licensees, their employees or others, including, without limitation, the performance of licensed activities different from those permitted under their license.

* * *

- (7) All occupational licensees shall have a working knowledge of Chapter 313.800, RSMo et seq., *Code of State Regulations*, Title 11 Division 45, and the internal controls of the Class A or B licensees for whom they are currently employed by as they pertain to the responsibilities and limitations of their job.

23. Both the MICS and the Casino’s ICS, Chapter I, § 13.01 state as follows:

Player rewards are points earned by patrons which increment with play and are based on predetermined formulas. These points may be redeemed for downloadable credits, cash, goods, or services. These player reward programs are considered promotions and must meet the requirements of 11 CSR 45-5.181.

24. Both the MICS and the Casino’s ICS, Chapter I, § 13.02 require the “Class B Licensee [to] provide patrons with information regarding the reward structure and point value upon request.”

VIOLATIONS

25. The actions or omissions of employees or agents of the Company as described above constitute a failure of the Company to conduct its Trop Cash rewards promotion in a manner that does not reflect negatively on the licensee, the commission, or the integrity of gaming in Missouri and complies with its promotional rules and applicable laws and regulations, a

failure to have dated, written rules immediately available to the public and the commission upon request that include the criteria for entry and winning, as well as a failure to notify the MGC promptly after it learned of the improper Trop Cash amounts being awarded to patrons, thereby violating 11 CSR 45-5.181, 11 CSR 45-10.030, and the MICS and the Company's ICS, Chapter I §§ 13.01 and 13.02.

26. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 314.812.14(1) and (2), RSMo and 11 CSR 45-9.060(3) and (4).

PENALTY PROPOSED

27. 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.

28. THEREFORE, it is proposed that the Commission fine Tropicana St. Louis, LLC, 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:

Brian Marsh
General Manager
Lumière Place Casino & Hotels
999 North Second
St. Louis, MO 63102

Herbert M. Kohn
Chairman
Missouri Gaming Commission