

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-17-001
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 *Lumière 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. On May 9, 2016, a patron filed a complaint against the Casino regarding its "Trop Advantage \$250,000 Slot Challenge Point Chase" promotion ("the Promotional game"), and the Casino's inability to disclose the method or criteria for winning prizes.
7. The Casino held the Promotional game from May 1, 2016 to May 21, 2016.
8. Patrons who earned the most tier points during the promotional game period would be ranked and the top twenty (20) patrons awarded prizes.
9. On May 9, 2016, the patron visited the "Trop Advantage Center" to review the tier point standings, which should have been updated and posted as advertised on the Casino website. The patron questioned personnel stationed at "Trop Advantage Center" about the promotion,

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

² 20160524001

none of which had knowledge of the promotion, nor were the tier point standings available or posted.

10. The patron contacted a Casino Host. The Casino Host did not have the standings, and a supervisor who would have the standings was not available.
11. The Casino did not indicate in the Promotion's official written rules criteria for earning tier points and winning prizes and failed to provide the patron information regarding the reward structure in the table games section of the Trop Advantage Player Rewards Club Program official rules.
12. The Casino admitted that the tier point standings for the Promotional game were not publicly posted at the Trop Advantage Center as stated on the Casino website.
13. The patron was unable to determine what she would need to do to earn enough tier points per day to win a prize in the Promotional game.

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 of 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 of game in which patrons of a Class B licensee may, without giving consideration, participate of compete for the chance to win a prize or prizes of different values.

* * *

(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[.]

17. 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.

18. Title 11 CSR 45.10.030(7) states as follows:

- (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.

19. 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.

20. 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

21. The actions or omissions of employees or agents of the Company as described above constitute failure of the Casino to conduct its 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, and 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 and failure to provide the patron information regarding the reward structure upon request, thereby violating 11 CSR 45-5.181, and 11 CSR 45-10.030, and the MICS and the Company's ICS, Chapter I §§ 13.01 and 13.02.
22. 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

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 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 _____, 2017, to:

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

Herbert M. Kohn
Chairman
Missouri Gaming Commission