

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-18-006  
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,<sup>1</sup> 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, Tropicana St. Louis, LLC, 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 June 30, 2017, Corporal S.V. Buchheit, assigned to the Gaming Division, arrested an individual for "Supplying liquor to a minor or intoxicated person" at the Casino after the suspect gave an alcoholic beverage to a minor.
7. Surveillance coverage of the incident showed that two people, one of whom was 16 years old, and an older relative, identified as Derrick Binion, approached a Wet Willie's Bartender, Level II Licensee Amber Rice.
8. Rice visually inspected the minor's identification and ran it through the Veridocs system. She did not wait until the result of the scan, which was that the identification was that of an underage individual, before providing the drink to the minor.

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

<sup>2</sup> 20170712010

9. After Rice realized that she served a minor an alcoholic beverage, she retrieved the drink from the minor.
10. Rice failed to notify the Commission that she served a minor an alcoholic beverage.
11. Derrick Binion then asked an adult acquaintance, identified as Damien Huddleston, to go to Wet Willie's and purchase the beverage that had previously been provided to the minor.
12. After Huddleston purchased the drink from Rice, all three individuals walked out of the Casino's Porte Cochere entrance, at which time, Huddleston handed the alcoholic beverage to the minor.
13. The minor and Derrick Binion left the Casino property with the alcoholic beverages.
14. Since Wet Willie's opened on December 22, 2015, the Casino has been the subject of a Notice of Investigation 19 times for incidents involving alcohol at the establishment, including the incident that is the subject of this action.
15. The prior incidents referred to in paragraph 14, above, involved failing to notify the MGC of a minor attempting to use a false ID to purchase alcohol, serving minors alcoholic beverages with or without verifying that the individuals were over the age of 21, allowing minors to purchase alcohol using a false ID or even their own IDs which indicated the patron was a minor, allowing patrons to purchase alcoholic beverages and give them to minors, and permitting patrons to take their beverages off the premises.

### LAW

16. 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.
17. 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[.]

18. Section § 311.310, RSMo, states, in pertinent part, as follows:

- 1. Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, ... and any person whomsoever ... who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years, ..., shall be deemed guilty of a misdemeanor....
- 2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, ..., is guilty of a class B misdemeanor....

19. Title 11 CSR 45-5.053, states, in pertinent part, as follows:

- (3) The holder of a Class A license is expressly prohibited from the following activities:

\* \* \*

- (D) Failing to comply with or make provision for compliance with all federal, state and local laws and regulations pertaining to the operation of a license, including ... violating alcoholic beverage laws or rules;

\* \* \*

- (M) Failing to report to the commission known or suspected violations of commission rules and applicable law[.]

20. 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.

\* \* \*

- (3) In the event that a licensee or employees of the licensee knows or should have known that an illegal or violent act has been committed on or about the licensed premises, they shall immediately report the occurrence to law enforcement authorities and shall cooperate with law enforcement authorities and agents of the commission during the course of any investigation into an occurrence.

\* \* \*

- (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.
21. Title 11 CSR 45-12.020 defines “licensed premises” as “any and all property owned and operated by the Class B applicant or licensee immediately neighboring its riverboat gaming operation,” and allows the licensee to sell “intoxicating liquor by the drink at retail for consumption on the licensed premises.”
  22. Title 11 CSR 45-12.090(3) states as follows:

Sale to Minors and Other Persons. An excursion liquor licensee shall not, through actions of his/her own or of an employee, sell, vend, give away its or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one (21) years, to any person intoxicated or appearing to be in the state of intoxication, or to a habitual drunkard. A licensee shall not permit any person under the age of twenty-one (21) years, any intoxicated person, or any habitual drunkard to consume intoxicating liquor on the licensed premises.

### **VIOLATIONS**

23. The actions or omissions of employees or agents of Tropicana St. Louis, LLC, as described above constitute supplying liquor to a minor, failing to notify the Commission of the violation, and allowing liquor to be removed from the premises, thereby violating § 311.310, RSMo, 11 CSR 45-5.053(3), 11 CSR 45.10.030(1), (3), and (7), 11 CSR 45-12.020, and 11 CSR 45-12.090(3).
24. Tropicana St. Louis, LLC, 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**

25. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against Tropicana St. Louis, LLC, as the holder of a Class B license.

26. THEREFORE, it is proposed that the Commission fine Tropicana St. Louis, LLC, the amount of \$5,000 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 1<sup>st</sup> day of March, 2017, to:

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

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Herbert M. Kohn  
Chairman  
Missouri Gaming Commission