

MISSOURI GAMING COMMISSION  
COMMISSION RESOLUTION NO. 20-001

CHIEN-CHUN KUO  
February 26, 2020

WHEREAS, Chien-Chun Kuo ("Kuo"), requested a hearing to contest the proposed disciplinary action initiated against him on March 19, 2018, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-19-026; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Kuo's request and the Hearing Officer has submitted the proposed Findings of Fact, Conclusions of Law and Final Order attached hereto (collectively the "Final Order") for approval by the Commission; and

NOW, THEREFORE, BE IT RESOLVED, that the Commission has reviewed the Final Order and hereby modifies the Final Order and suspends Kuo's occupational license for a period of three months in the above-referenced case in the matter of DC-19-026; and

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission.



- d) Petitioner admitted taking tips from patrons' discretionary comps.
5. Tpr. Lawler testified that Petitioner's duties as a Level II licensee include knowing the requirements of the Missouri gaming laws and regulations. He testified that servers at the casino may only accept tips in the form of currency or chips, not discretionary comps.
  6. At hearing, Petitioner testified that he now realizes that taking tips from the patrons' discretionary comps was wrong. He stated that at the time of the violation, he did not know the rules and did not know that he could not take tips from the comps. He claimed that he did not receive proper training in Missouri gaming rules and regulations.
  7. Petitioner offered a packet of documents into evidence, and the Hearing Officer admitted the same as Exhibit A. The portion of Exhibit A described as the training manual for the Asia restaurant contained a blank sample discretionary comp form. The comp form contained a rules paragraph halfway down the document. The first sentence, in bold type, states: "Gratuity not included." Therefore, Petitioner's own training manual expressly stated that tips could not be taken from discretionary comps.
  8. Petitioner's actions in taking tips from patrons' discretionary comps is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri and discredits the Missouri gaming industry and the State of Missouri, and violates 11 CSR 45-4.260(4)(P); 11 CSR 45-8.130(3); 11 CSR 45-10.030(1) and (7); and the Commission's Minimum Internal Control Standards ("MICS"), Chapter I, §6.05.

### **CONCLUSIONS OF LAW**

1. "The Commission shall have full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to 313.850." Section 313.805 MO. REV. STAT. 2017.
2. "A holder of any license shall be subject to the 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 of the state of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action . . . the following acts 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 regulation." Section 313.812.14 MO. REV. STAT. 2015.

3. "The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing the facts of his/her case by clear and convincing evidence . . ." Regulation 11 CSR 45-13.060(2).
4. "Clear and convincing evidence" is evidence that "instantly tilts the scales in the affirmative when weighed against the opposing evidence, leaving the fact finder with an abiding conviction that the evidence is true." *State ex. rel. Department of Social Services v. Stone*, 71 S.W.3d 643, 646 (Mo. App. 2002).
5. "The state has a legitimate concern in strictly regulating and monitoring riverboat gaming operations. As such, any doubt as to the legislative objective or intent as to the Commission's power to regulate riverboat gaming operations in the state must be resolved in favor of strict regulation." *Pen-Yan Investment, Inc. v. Boyd Kansas City, Inc.*, 952 S.W.2d 299, 307 (Mo. App. 1997).
6. 11 CSR 45-8.130(3) states: "Occupational license applicants or occupational licensees eligible to accept tips shall receive such tips only in the form of currency, chips, and tickets."
7. Under the Commission's Minimum Internal Control Standards ("MICS"), Chapter I, §6.05, "Employees shall not accept comps as tips or gifts from patrons."
8. "The commission may . . . revoke or suspend an occupational license of any person . . . who has failed to comply with or make provision for complying with Chapter 313, RSMo, the rules of this commission, or any federal, state, or local law or regulation." Regulation 11 CSR 45-4.260(4)(E).

## DISCUSSION

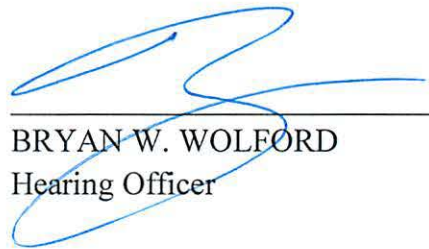
The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner is or should be aware of his obligations as a Level II licensee. Although he presented some evidence that he did not receive adequate training on Missouri gaming laws and regulations, Petitioner did introduce into evidence a packet of documents that he received through his training. One of the documents was a sample discretionary comp form that stated in conspicuous bold type that gratuities were not included. Despite the express prohibition against using patrons' comps as tips, Petitioner received \$26,580.00 in tips from patrons' discretionary comps. He admitted to his immediate supervisor that he had been taking tips from the comps for a couple of months prior to getting caught.

Petitioner's actions in taking tips from patrons' discretionary comps are injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri and discredits the Missouri gaming industry. Petitioner did not meet his high burden of proof of clear and convincing evidence in showing that no violation occurred.

**FINAL ORDER**

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner has not violated Missouri law and is not subject to discipline at the discretion of the Commission. The decision of the Commission dated March 19, 2019 to impose a **Revocation** is affirmed as a proper and appropriate discipline.

DATED: February 13, 2020

  
BRYAN W. WOLFORD  
Hearing Officer