

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-18-069
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, 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 FACTS²

6. The MGC completed a compliance audit for the period of July 1, 2015 through January 31, 2017 and issued MGC Audit Reports 17-07 and 17-08 to the Casino on May 17, 2017.
7. A follow-up audit was conducted in September 2017, by MGC auditors to determine if the audit findings from Audit Reports 17-07 and 17-08 had been corrected.
8. The follow-up audit found that the following six significant findings had not been implemented:
 - a. Audit Report 17-08, finding B-6, found that poker card replacement decks were not reconciled to the Replacement Deck Log at least weekly, nor was the Log signed by the Poker Manager or the Table Games Assistant Manager and Security Officer. In fact, the

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

² 20180116010

poker card replacement decks were destroyed instead of ever being reconciled to the Replacement Deck Log.

- i. This finding, also cited in the previous audit report (#15-15) and the follow-up to that audit, resulted in a Compliance Directive being issued to the Director of Security.
 - ii. This repeat finding, along with three other repeat findings noted in Audit Report 17-08, were included in GR #20170509006, which resulted in the Casino being fined \$5,000.
 - iii. The Management Response to Audit Report 17-08, finding B-6 indicated that Casino personnel had been issued a “read and sign” document on April 21, 2017, outlining property expectations for card and dice control. Security Department staff were also retrained as of May 9, 2017.
 - iv. The auditors followed up on finding B-6 on September 14, 2017, and found that poker card replacement decks were still not being reconciled to the Replacement Deck Logs on at least a weekly basis. Again, the Casino destroyed the poker card replacement decks instead of ever reconciling them to the Replacement Deck Logs.
- b. Audit Report 17-08, finding E-1, revealed that two Security Incident Reports were not included on the Security Incident Logs provided to the MGC boat agents.
- i. This finding was previously noted in MGC Audit Report #15-15 and the follow-up to that report, which resulted in a Compliance Directive being issued to the Director of Security.
 - ii. The Management Response stated that the Casino’s Director of Compliance submitted a new electronic security incident log, which was approved as of February 27, 2017, to “create full accuracy on all logs provided to the MGC boat agents.”
 - iii. However, when following up on finding E-1 on September 11, 2017, auditors found that one Security Incident Report was not included on Security Incident Logs provided to MGC boat agents between August 20, 2017 and August 27, 2017.
- c. Audit Report 17-07, finding B-7, noted that between August 8, 2016 and August 15, 2016, two of four cage variances over \$20 were not included on the Variance Tracking Spreadsheet. One of those variances was in the amount of \$100 and the other was in the amount of \$190.
- i. The Management Response stated that the variance had been “tracked in the system,” but that the print out provided to the MGC during the audit “did not

show that cell.” In addition, the Casino indicated that Cage personnel had been retrained “on or before April 28, 2017.”

- ii. When following up on finding B-7 on October 2, 2017, auditors found two of five cage variances over \$20, one in amount of \$45.15, and another in the amount of \$1,200, that occurred between September 17, 2017, and September 30, 2017, were not included on the Variance Tracking Spreadsheet. The electronic version was reviewed to ensure the auditors had access to all the information recorded on the spreadsheet.
- d. Audit Report 17-07, finding B-8, revealed that seven of the 13 cage variances over \$20 reviewed from August 8, 2016, through August 31, 2016, did not include the result of the investigation into the reason for the variance, other than to indicate “E.O.S.,” or End of Shift, which is not a reason for a variance. This resulted in a 53.8% error rate.
- i. The Management Response stated that a resolution to the issue would be “implemented via training of Cage staff on or before May 1, 2017.”
 - ii. When following up on finding B-8 on October 2, 2017, the auditors found that none of the five cage variances over \$20 reviewed which occurred between September 17, 2017 and September 30, 2017, included the result of the investigation into the variance.
- e. Audit Report 17-07, finding B-11, noted that a review of the Casino’s Currency Cassette Logs from July 10 and 11, 2016, and the corresponding NRT Reconciliation Sheets revealed one instance where the reconciliation of the redemption kiosk was performed by the same person who initially prepared the currency in the same cassettes being reconciled
- i. The Management Response stated that Casino bank personnel were issued a “Read and Sign Memo” reminding them of the proper procedure for the reconciliation of redemption kiosks.
 - ii. When following up on finding B-11 on October 4, 2017, auditors noted three instances from September 1 and September 2, 2017, where the reconciliation of the redemption kiosk was performed by the same person who initially prepared the currency in those kiosk cassettes being reconciled.
- f. Audit Report 17-07, finding C-2, revealed that two of 40 current employees, specifically, the Security Manager and a Lead Players Club Representative, did not have a dated signature card maintained by Revenue Audit on September 20, 2016.
- i. The Management Response stated that as of April 28, 2017, those two individuals were notified and provided signature cards for the Revenue Audit department.
 - ii. When following up on finding C-2 on October 3, 2017, auditors found that one of the 16 current employees reviewed from various departments did not have a dated

signature card maintained by Revenue Audit. That employee was the same Lead Players Club Representative who was noted in the original finding.

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 regulation;
- (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming[.]

11. 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 or Class B licensee or an agent or employee of a Class A or Class B licensee are deemed to be unsuitable conduct for which the Class A or Class B 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., as amended from time-to-time. Any agent or employee of a Class A or Class B licensee that is involved in a violation of the minimum internal control standards may be subject to fine, discipline, or license revocation.
- (4) Violations of the Class B licensee’s internal control system [(“ICS”)] by the Class A or Class B licensee or an agent or employee of the Class A or Class B licensee shall be *prima facie* evidence of unsuitable conduct for which the Class A or Class B 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., as amended from time-to-time.

12. The MICS, Chapter F, § 8.14, states, in pertinent part, as follows:

Security personnel shall keep a record of all cards removed from the replacement decks. The record shall include time, date, color, value, suit, reason for replacement, and the name of the individual who replaced the card(s). The replacement deck(s) shall be reconciled to the record at least weekly. Once a replacement deck has been depleted to the point it is no longer useful, the remaining cards in the replacement deck shall be destroyed or canceled.

13. The Casino's ICS, Chapter F, § 8.14, states, more specifically, as follows:

Security personnel shall keep a record (Replacement Deck Log, Form R-13) of all cards removed from the replacement decks. The record shall include time, date, color, value, suit, reason for replacement, and the name of the Security Officer who replaced the card(s). The replacement deck(s) shall be reconciled to the record at least weekly and signed by the Poker Manager or Table Games Assistant Shift Manager and Security Officer on the Replacement Deck Log (Form R-13). Once a replacement deck has been depleted to the point it is no longer useful, the remaining cards in the replacement deck shall be destroyed or canceled.

14. The MICS, Chapter H, § 3.11, states as follows:

Overages and shortages per employee shall be documented on a Cage/Bank Variance Slip, which shall be signed by the responsible Cashier and the Cashier Supervisor at the end of the Cashier's shift. In addition:

- (A) All variances in excess of \$20 shall be investigated and the result of the investigation shall be documented;
- (B) If there is a variance of \$500 or more the MGC Agent on Duty shall be informed before the Cashier leaves the cashiering location;
- (C) Variances in excess of \$20 shall be tracked by employee for at least the last 30 days. This report shall be updated daily;
- (D) The Internal Control System shall identify which job position is assigned the responsibility for tracking the variances; and
- (E) Repeated shortages by an employee totaling \$500 or more over any seven-day period shall be reported to MGC.

15. The Casino's ICS, Chapter H, § 3.11 states, more specifically, as follows:

Overages and shortages per employee shall be documented on a Cage/Bank Variance Slip (Form T), which shall be signed by the responsible Cage Cashier and the supervisor at the end of the cashier's shift. In addition:

- (A) All variances in excess of \$20 shall be investigated and the result of the investigation shall be documented;
- (B) If there is a variance of \$500 or more the MGC agent on duty shall be informed before the cashier leaves the cashiering location;
- (C) Variances in excess of \$20 shall be tracked by employee for at least the last 30 days. This report shall be updated daily;
- (D) The Cage Shift Manager shall be responsible for tracking the variances; and
- (E) Repeated shortages by an employee totaling \$500 or more over any seven-day period shall be reported to MGC.

16. Both the MICS and the Casino's ICS, Chapter H, § 7.13, state, in pertinent part, as follows:

The individual who reconciles the redemption kiosk or investigates any kiosk variance shall not be one of the individuals who initially prepared the currency in any of the cassettes used in the redemption kiosk since the last reconciliation. The individual who reconciles the redemption kiosk or investigates the variance shall compare the seal numbers recorded on the count and reconciliation documentation to the Currency Cassette Log to verify that he/she did not prepare any of the cassettes used in the redemption kiosk since the last reconciliation.

17. The MICS, Chapter I, § 4.01, state as follows:

Dated Signature Cards shall be maintained by the Accounting department for each employee who is required to sign gaming and purchasing documents. Signature Cards may be maintained in an electronic format as long as all required information for each employee is maintained in one computer file.

18. The Casino's ICS, Chapter I, § 4.01, state more specifically, as follows

Dated Signature Cards (Form BB) shall be maintained by the Revenue Audit Department for each employee who is required to sign gaming and purchasing documents. Signature cards may be maintained in an electronic format as long as all required information for each employee is maintained in one computer file.

19. Both the MICS and the Casino's ICS, Chapter N, § 2.02, state, in pertinent part, as follows:

The MGC boat agent on duty shall be provided, on a daily basis, a copy of the Security Incident Log ... of all Security Incident Reports ... generated during the gaming day.

VIOLATIONS

- 20. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to correct six audit findings, thereby violating the Commission’s MICS and the Casino’s ICS, Chapter F, § 8.14, Chapter H, §§ 3.11 and 7.13, I, § 4.01, and Chapter N, § 2.02.
- 21. 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) and (4).

PENALTY PROPOSED

- 22. 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.
- 23. THEREFORE, it is proposed that the Commission fine Tropicana St. Louis, LLC the amount of \$15,000 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 30th day of August, 2018, to:

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

Herbert M. Kohn
Chairman
Missouri Gaming Commission