

**IN THE MISSOURI GAMING COMMISSION**

In Re: )  
 ) DC-18-099  
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 2016,<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. The MGC completed a compliance audit for the period of July 1, 2015 through January 31, 2017, and issued MGC Audit Report 17-07 to the Casino on May 17, 2017.
7. A follow-up audit was conducted in September and October 2017 by MGC auditors to determine if the audit findings from Audit Report 17-07 had been corrected.
8. The follow-up audit found the following two significant findings had not been implemented:
  - a. Audit Report 17-07, Finding B-10 noted that on two of four occasions, the temporary bank was not counted by the employee receiving the funds.
    - i. The management response to the finding stated that those employees and staff “were retrained as to proper procedure to counting funds as of April 28, 2017.”

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<sup>1</sup> All statutory references are to RSMo 2016, unless otherwise specified.

<sup>2</sup> 20180521006 and 20180625004

- ii. The follow-up audit found that on one of four occasions, the temporary bank was not counted by the employee receiving the funds.
  - iii. On January 31, 2018, MGC agents issued a Compliance Directive (CD) to the Food and Beverage Manager citing the repeat finding – that employees receiving a temporary bank were not counting those banks received.
  - iv. Auditors returned to follow up on that CD on April 3, 2018, and again found that on two of four occasions, the temporary bank was not counted by the employee receiving the funds.
  - v. On April 11, 2018, the MGC Compliance Audit Manager sent an email to the Casino’s Director of Legal and Compliance notifying him of the repeat finding not being corrected after issuance of the April 3, 2018 CD, and that another follow-up would be conducted by MGC auditors to ensure that the Casino took corrective action.
  - vi. When auditors returned to the Casino on May 16, 2018, to verify whether corrective action had been taken, they found that on three of five occasions, temporary banks were not counted by the employee receiving the funds.
- b. Audit Report 17-07, Finding F-2 noted that Revenue Audit did not have access to the Casino’s ADP Time Keeping System records for departments with dual rate employees, as required. Revenue Audit did have access to sign-in sheets for the Table Games department, but not for the Poker department. However, the Casino’s internal controls for MICS, Chapter A, § 1.02(D) identify the ADP Time Keeping System as the official record, not the sign-in sheets.
- i. The management response to the finding stated a request would be filed with the Casino’s corporate parent to grant read-only access within ADP to the Revenue Audit department.
  - ii. Through an interview with a Revenue Audit supervisor during the follow-up audit on October 3, 2017, it was discovered that the Revenue Audit department still did not have access to the ADP Time Keeping System for departments with dual rate employees. The Revenue Audit department only received daily sign-in sheets for the Table Games and Poker departments.
  - iii. The MGC Compliance Audit Manager emailed the Director of Legal and Compliance on January 22, 2018, informing him of the repeat violation.
  - iv. Because Revenue Audit was still not being granted access to the system during another follow-up in May 2018, the auditors issued a Compliance Directive to Matt Aiazzi, Director of Legal and Compliance, on June 6, 2018,

- v. On June 21, 2018, auditors returned to the Casino to follow up on that CD. Although the Casino attempted to fix the issue by revising its Internal Control System, its change to Chapter A, § 1.02, was still out of compliance.
- vi. As a result, a Notice of Investigation was issued to Mr. Aiazzi on July 2, 2018, regarding the continued non-compliance and failure to correct this 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 regulations;
- (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. Title 11 CSR 45-10.030 states, in pertinent part, 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.

13. The Commission's MICS, Chapter A, § 1.02, states, in pertinent part, as follows:

An employee performs a "dual rate" function when an employee of a lower level within the same department moves up one level to perform the duties of his/her supervisor's position. The following standards shall apply:

\* \* \*

(D) The Class B Licensee shall specify in their Internal Control System the record to be used to document the position the employee is performing that day. All documentation shall be available to Accounting (Revenue Audit) and be retained on file[.]

14. The Casino's ICS, Chapter A, § 1.02, stated, in pertinent part, as follows:

An employee performs a "dual rate" function when an employee of a lower level within the same department moves up one level to perform the duties of his/her supervisor's position. The following standards shall apply:

\* \* \*

(D) Lumière Place utilizes the ADP Time Keeping System, a feature of the ("ADP Timesaver" system) to record and document the position the employee is performing that day. All documentation shall be available to Revenue Audit and be retained on file[.]

15. The Commission's MICS, Chapter H, states as follows:

The issuance of the temporary banks shall be documented on a two-part Temporary Bank Voucher. The Main Cashier/Cage Cashier issuing the funds and the employee receiving the funds shall both count the funds and sign the voucher attesting to the accuracy of the information. One copy of the form shall remain in the issuing bank and the other copy shall stay with the temporary bank.

16. The Casino's ICS, Chapter H, § 4.02, state as follows:

The issuance of the temporary banks shall be documented on a two-part Temporary Bank Voucher (Form K). The Main Cashier/Cage Cashier issuing the funds and the employee receiving the funds shall both count the funds and sign the voucher attesting to the accuracy of the information. One copy of the form shall remain in the issuing bank and the other copy shall stay with the temporary bank.

### **VIOLATIONS**

17. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to correct an audit findings, thereby violating 11 CSR 45-10.030(7), the Commission's MICS, Chapter A, § 1.02 and Chapter H, § 4.02, and the Casino's ICS, Chapter A, § 1.02 and Chapter H, § 4.02.

18. 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**

19. 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.

20. THEREFORE, it is proposed that the Commission fine Tropicana St. Louis, LLC the amount of \$2,500 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 1<sup>st</sup> day of November, 2018, 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