

IN THE MISSOURI GAMING COMMISSION

In Re:)
IOC – Cape Girardeau, LLC) DC-19-038

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 2016,¹ with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued El Dorado Resorts, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. El Dorado Resorts, Inc., is the parent organization or controlling entity of the IOC – Cape Girardeau LLC (the “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 *Isle Casino Cape Girardeau* (the “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 June 4, 2018, MGC received a patron complaint regarding a letter she received from the Casino, dated May 10, 2018, and containing an Internal Revenue Form (IRS) 1099 MISC (“Form 1099 MISC”). The patron complained about the length of time it took the Casino to send her the tax notice for the 2017 tax year.
7. In April 2018, the Casino received a call from another patron stating that he had not received a Form 1099 MISC for the 2017 tax year.
8. The Casino’s internal investigation discovered that 42 other patrons had not received their Form 1099 MISC for the 2017 tax year.

¹ All statutory references are to RSMo 2016, unless otherwise specified.

² GIR 20180619006

9. A review of tax years 2015 and 2016 revealed the following:
 - a. The Casino issued 12 patrons incorrect 1099 MISC forms, and
 - b. The Casino failed to issue 1099 MISC forms to six patrons.

LAW

10. 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.

11. 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[.]

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

- (1) A holder of a Class B license shall comply with all federal regulations and requirements for the withholding of taxes from winnings and the filing of currency transaction reports.
- (2) It is the policy of the commission to require that all riverboats and gaming conducted on riverboats be operated in a manner suitable to protect the public health, safety, morals, good order, and general welfare of Missouri. Responsibility for the employment and maintenance of suitable methods of operation rests with the holder of a operator's license and willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for disciplinary action, up to and including license revocation.

13. 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.

* * *

- (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.

14. Internal Revenue Service regulation 26 CFR 1.60411 states, in pertinent part, as follows:

(a) General rule—

(1) Information returns required—

- (i) Payments required to be reported. Except as otherwise provided in §§1.6041-3 and 1.6041-4, every person engaged in a trade or business shall make an information return for each calendar year with respect to payments it makes during the calendar year in the course of its trade or business to another person of fixed or determinable income described in paragraph (a)(1)(i) (A) or (B) of this section. For purposes of the regulations under this section, the person described in this paragraph (a)(1)(i) is a payor.

(A) Salaries, wages, commissions, fees, and other forms of compensation for services rendered aggregating \$600 or more.

(B) Interest (including original issue discount), rents, royalties, annuities, pensions, and other gains, profits, and income aggregating \$600 or more.

* * *

(d) Payments specifically included—

* * *

- (3) Prizes and awards. Amounts paid as prizes and awards that are required to be included in gross income under section 74 and §1.74-1 when paid in the

course of a trade or business are required to be reported in returns of information under this section.

VIOLATIONS

- 15. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to issue patrons Form 1099 MISC for the tax years 2015 through 2017 and failing to promptly notify the MGC, thereby violating 11 CSR 45-5.053, 11 CSR 45-10.030(1) and (7), and 26 CFR 1.6041-1.
- 16. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 313.812.14 (1) and (2), RSMo.

PENALTY PROPOSED

- 17. 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.
- 18. THEREFORE, it is proposed that the Commission fine IOC – Cape Girardeau LLC, the amount of \$5,000 for the violations set forth herein.

Brian Jamison
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 28th day of March, 2019, to:

Lyle Randolph
IOC-Cape Girardeau LLC
777 N. Main
Cape Girardeau, MO 63701

Brian Jamison
Chairman
Missouri Gaming Commission