

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC 21-007
Tropicana St. Louis, LLC)

PRELIMINARY ORDER FOR DISCIPLINARY ACTION

Comes now the Missouri Gaming Commission, by and through counsel and 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 Eldorado Resorts, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Eldorado Resorts, 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, 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 January 9, 2020, MGC initiated a regulatory investigation regarding the possibility of fraud, misconduct, and dishonesty involving Title 31 tests taken by casino employees on December 30, 2019.
7. The information reviewed by MGC staff indicated that of the 65 tests completed on December 30, 2019, 47 were fraudulently completed by another person.
8. Approximately 40 of those tests were completed within a one hour time period, and the tests completed between 3:53 p.m. and 5:28 p.m. on December 30, 2019, were done in close succession to each other, with many having perfect scores.
9. Several employees who allegedly took the tests were seen dealing at tables instead of using computers or were not actually present at the casino when their tests were listed as being

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

² GIR20200219007

completed. One individual who was listed as taking the test was no longer an employee of the casino.

10. The investigation concluded that at least four Casino supervisors, were involved in or participated in and/or had knowledge of falsifying training records and tests for casino employees required to complete the Title 31 training and tests, namely Floor Supervisors Scott Dutko and Tanika Miller, Assistant Shift Manager Andrea Loewe, and Table Games Manager Anthony Gitcho;
11. Dutko admitted taking the Title 31 tests for at least 15 Casino employees on December 30, 2019, by using a list of names provided to him by Gitcho, who was seen on surveillance footage next to him in the Pit on December 30, 2019, during the timeframe the tests were being completed by Dutko.
12. Dutko also admitted this practice of completing tests for other employees and falsifying records had been done in the past.
13. Miller admitted helping Casino employees with their tests and completing tests for employees.
14. Miller stated that she heard Gitcho tell Dutko to get the tests done, and that Gitcho and Loewe were the managers who instructed her to take tests for other people.
15. When asked, Miller also indicated she was aware of training records or tests being falsified in previous years
16. Loewe made inconsistent and misleading statements to the MGC during the investigation, including stating that that she was first made aware of the Title 31 testing requirement and took her test in mid-December, although records indicated she actually took the test on November 11, 2019.

LAW

17. Section 313.805, RSMo, states, in pertinent part, as follows:

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

* * *

- (5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;
- (6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as

determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645;

* * *

(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules

18. 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[.]

19. Title 11 CSR 45-9.060 states, in pertinent part, as follows:

- (1) 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[.]
- (2) 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.

20. Under 11 CSR 45-4.260(4)(E), (F), (M), (N), (O), and (Q), the Commission may suspend or revoke an occupational license of any person if any of the following occur:

- a. The Licensee fails “to comply with or make provisions to comply with Chapter 313, RSMo, the rules of this commission, or any federal, state, or local law or regulation,” under 11 CSR 45-4.260(4)(E);
- b. The Licensee “fails to comply with any rule, order or ruling of the commission or its agents,” under 11 CSR 45-4.260(4)(F);
- c. The Licensee “is not of good moral character,” under 11 CSR 45-4.260(4)(M);
- d. The Licensee “provides the commission or its agents with false or misleading information, documents, or data or who makes false or misleading statements to the commission or its agents,” under 11 CSR 45-4.260(4)(N);
- e. The Licensee “commits an act or omission that, if committed by a Class A licensee, would be grounds for discipline or denial of an application,” under 11 CSR 45-4.260(4)(O); and/or
- f. The Licensee’s actions demonstrate “incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850, RSMo,” under 11 CSR 45-4.260(4)(Q).

21. 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.

22. Both the MICS, Chapter, A § 1.06, and the Casino’s ICS, Chapter A § 1.06 require the Casino to “maintain a record of all mandatory training.”

23. Both the MICS, Chapter, K § 1.03, and the Casino’s ICS, Chapter K § 1.03 require the Casino to “be responsible for developing a training program for casino personnel on compliance with the CTR requirements.”

VIOLATIONS

24. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to ensure that its employees followed proper testing procedures, thereby violating 11 CSR 45-4.260(4)(N) and (O), 11 CSR 45-10.030(1) and (7), MICS, Chapter, K § 1.03, and the Casino’s ICS, Chapter K § 1.03.

25. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(5), (6) and (19) and 313.812.14(1) and (2), RSMo, 11 CSR 45-4.260(4)(E), (F), (M), (N), (O), and (Q), and 11 CSR 45-9.060(3) and (4).

PENALTY PROPOSED

26. 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.

27. THEREFORE, it is proposed that the Commission fine Tropicana St. Louis, LLC, the amount of \$10,000 for the violations set forth herein.

Mike Leara
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 1st day of April, 2021, to:

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

Mike Leara
Chairman
Missouri Gaming Commission