

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-19-091  
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 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 FACTS<sup>2</sup>

6. On September 23, 2018, the MGC received a patron complaint questioning whether the Casino’s Trop Advantage reward points were being calculated correctly;
7. The patron complained that the correct number of reward points were not being added to his Trop Advantage account during his play on electronic gaming devices (EGDs);
8. MGC’s investigation found the Casino failed to award the correct Trop Advantage points to multiple patrons’ accounts, due to an updated parameter setting. The parameter setting was changed following an update to the slot accounting system software on May 22, 2018, impacting 1,430 patrons;
9. Of those 1,430 impacted accounts, 34 patrons would have gained an additional tier point status had the Casino calculated their Trop Advantage reward points correctly; and

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

<sup>2</sup> GIR #20181214001

10. The errors affected promotions and patrons' Trop cash accounts and tier status from May 22, 2018, through September 24, 2018.

LAW

11. 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

12. 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[.]

13. Title 11 CSR 45-5.181 states, in pertinent part, as follows:

- (1) For the purposes of this rule, the following words are defined as:

\* \* \*

- (B) Patron—any person present on the premises of a Class B licensee that is not employed by such Class B licensee or the commission and is not on the premises as a vendor of the Class B licensee;

\* \* \*

- (E) Player reward program—a promotional activity that provides redeemable player reward points to patrons as a result of wagering regardless of game outcome and based on predetermined formulas.

- (2) Class B licensees may provide promotional activities such as promotional giveaways, promotional coupons, promotional games, player reward programs or similar activities for patrons without the prior approval of the commission, provided the promotional activity is not structured or conducted in a manner that reflects negatively on the licensee, the commission, or the integrity of gaming in Missouri and complies with the following:

\* \* \*

- (B) The promotional activity shall comply with all applicable laws and regulations...;
- (C) The Class B licensee shall create dated, written rules governing the promotional activity, which rules shall be immediately available to the public and the commission upon request. The licensee shall maintain the rules of the event and all amendments thereto, including criteria for entry and winning, prizes awarded, and prize winners, for a minimum of two (2) years from the last day of the event;
- (D) All prizes offered in the promotional activity shall be awarded according to the Class B licensee’s rules governing the event[.]

14. 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 time, discipline, or license revocation.

- (4) Violations of the Class A or Class B licensee's internal control system [{"ICS"}] by the Class A 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. from time to time.

15. Both the MICS and the Casino's ICS, Chapter I, § 13.01 state as follows:

Player rewards are points earned by patrons which increment with play and are based on predetermined formulas. These points may be redeemed for downloadable credits, cash, goods, or services. These player reward programs are considered promotions and must meet the requirements of 11 CSR 45-5.181.

### **VIOLATIONS**

16. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to conduct its player rewards program in accordance with rules governing its promotion and caused the promotion to be conducted in a manner that reflected negatively on the licensee, thereby violating 11 CSR 45-5.181, the Commission's MICS and the Casino's ICS, Chapter I, § 13.01.
17. 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, and 11 CSR 45-9.060(3) and (4).

### **PENALTY PROPOSED**

18. 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.
19. THEREFORE, it is proposed that the Commission fine Tropicana St. Louis, LLC, the amount of \$2,500 for the violations set forth herein.

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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 26<sup>th</sup> day of September, 2019, to:

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

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Mike Leara  
Chairman  
Missouri Gaming Commission