

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC 23-007  
PNK (River City), 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”) is a State commission created under Chapter 313, RSMo, with jurisdiction over gaming activities, including riverboat gambling activities, in the state of Missouri.
2. The Commission issued a Class A gaming license to PENN Entertainment, Inc. to develop and operate Class B gaming licensees in the state of Missouri.
3. PENN Entertainment, Inc. is the parent organization or controlling entity of PNK (River City), 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 River City Casino (the “Casino”).
5. As the holder of a Class B license, the Company is subject to the provisions of Sections 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

### STATEMENT OF FACTS<sup>1</sup>

6. On April 15, 2022, Sergeant Philip Hoffman (“Sgt. Hoffman”) of the Missouri State Highway Patrol (“MSHP”), acting as an agent of the Commission, began a review of the Casino Surveillance Department’s midnight shift personnel due to Commission agents noticing a diminished quality of work being performed. The review was for the period of March 16, 2022 to April 22, 2022.
7. Sgt. Hoffman’s investigation and review of surveillance footage revealed the following:
  - a. On March 16, 2022, at approximately 1:00 a.m., Casino Surveillance Shift Manager Roberto Perez (“Perez”) contacted Sgt. Hoffman regarding a Casino patron suspected of cheating, specifically placing a wager after the outcome of the game was known. Perez informed Sgt. Hoffman that he had reviewed the play at the table and determined that the patron had in fact cheated by placing an illegal wager and received payment for the illegal wager. Suspecting that the patron had cheated more than just the

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<sup>1</sup> GIR 20220505003

aforementioned instance, Sgt. Hoffman reviewed additional surveillance footage and confirmed that the patron had cheated in another instance. At the request of Sgt. Hoffman, rather than on his own initiative, Perez reviewed the surveillance footage of the patron's play and determined that the patron had attempted to cheat in four (4) instances.

b. On April 11, 2022, a vehicle burglary occurred in the Casino's north parking lot. Surveillance footage showed a white van backing into a parking spot near a truck and the van's driver making several trips back and forth between the van and the truck while carrying stolen items from the truck. In total, the burglary took over 20 minutes. After learning of the burglary, Sgt. Hoffman reviewed footage of the surveillance room during the time of the incident and observed that Casino Lead Surveillance Agent Tyler Winfree ("Winfree") was regularly interacting with his personal cellphone and utilizing one of the surveillance monitors to play a videogame, that Casino Surveillance Agent Delani Hughes ("Hughes") was using her personal cellphone to watch a movie, and that Casino Surveillance Agent Quentin Gates ("Gates") was using his personal cellphone to watch several short videos. Furthermore, Hughes and Gates' inappropriate behavior was conducted in front of Winfree, their supervisor, indicating that such was permitted and accepted by him.

c. On April 12, 2022, Sgt. Hoffman was contacted by Casino Security Officer Cassandra Randolph concerning an individual breaking into and stealing a patron's Ford truck. In hopes of apprehending the individual and returning the stolen vehicle, Sgt. Hoffman desired to quickly provide information to the St. Louis County Police Department regarding the perpetrator's actions and identity. In order to ascertain the desired information, a review of surveillance footage had to be performed and was conducted by Casino Surveillance Agent Daniel Zingrich ("Zingrich"). Zingrich's review took over an hour, and when completed, contained very little information concerning the perpetrator and his actions. When Sgt. Hoffman contacted the Surveillance Department for an update on the review, he was informed by Winfree that Zingrich was absent from the surveillance room. Additionally, while inquiring into the status of the review, Sgt. Hoffman simultaneously monitored the surveillance room from the Commission's Office at the Casino and observed Winfree regularly interacting with his personal cellphone and utilizing one of the surveillance monitors to play a videogame. Furthermore, Winfree conducted the aforementioned inappropriate behavior in front of Perez, his supervisor, showing that such was permitted and accepted by Perez.

d. On April 15, 2022, at approximately 3:37 a.m., a Casino hotel front desk employee reported to Casino security that an individual, later determined to be on the Involuntary Exclusion List, had stolen items from behind the Casino hotel's front desks. Sgt. Hoffman reviewed footage of the surveillance room during the time of the theft and observed Perez interacting with his personal cellphone to play a game and observed Gates conversing with Perez with his back to the surveillance monitors. Additionally, on April 21, 2022, Sgt. Hoffman searched for the synergy report that should have been generated by Gates concerning the aforementioned theft of items, but discovered that no synergy report had ever been produced.

e. On April 17, 2022, Sgt. Hoffman observed the Surveillance Department from approximately 12:00 a.m. to 3:00 a.m. During this time, Sgt. Hoffman observed Zingrich using his personal cellphone to play videogames and utilizing a surveillance monitor to watch YouTube videos, observed Hughes spending an excessive amount of time using her personal cellphone to watch videos, view photos, and text, and observed Gates spending an excessive amount of time using his personal cellphone to watch videos and text, and regularly spinning around in his chair so that he was facing away from the surveillance monitors. Also, Gates and Hughes appeared to spend most of the time conversing with one another, and at approximately 2:31 a.m., engage in intimate physical contact, that included kissing and back rubbing. Sgt. Hoffman also observed Winfree using his personal cellphone, utilizing a surveillance monitor to play a videogame, and permitting the aforementioned inappropriate behavior by Gates, Hughes and Zingrich. Additionally, at approximately 2:26 a.m., when Perez entered the Surveillance Room to begin his shift, three of the four aforementioned surveillance personnel were either engaging with their personal cellphones or utilizing a surveillance monitor to play a videogame. Upon Perez's arrival, no one altered their behavior due to his presence, again indicating that such inappropriate behavior was permitted and accepted by him. Furthermore, when Perez sat down at the surveillance monitors, he used his personal cellphone to play a game.

f. On April 20, 2022, Sgt. Hoffman observed the surveillance room from approximately 12:00 a.m. to 3:00 a.m. During this time, Sgt. Hoffman observed Hughes using her personal cellphone an excessive amount of time to text, play videogames, and use social media to view videos, photos, and posts, rather than actively watching the surveillance monitors. Furthermore, Hughes' inappropriate behavior was conducted in front of Perez and Winfree, again showing that such was permitted and accepted by both.

g. On April 21 and 22, 2022, Sgt. Hoffman observed the surveillance room from approximately 11:00 p.m. to 3:00 a.m. Similarly to the aforementioned observation periods, Hughes and Gates excessively used their personal cellphones, regularly conversed with each other, and engaged in intimate physical contact with one another. The aforementioned inappropriate behavior was conducted in front of Perez, their supervisor, again indicating that such was permitted and accepted by him.

## LAW

8. 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:

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(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...;

\* \* \*

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

9. Section 313.812, RSMo, states, in pertinent part, as follows:

14. 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 such person or such person's 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;

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(9) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850.

10. 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.

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

(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 an 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.

12. 11 CSR 45-10.030 states, in pertinent part, as follows:

(6) Class A, Class B, and supplier licensees shall ensure that all agents and occupational licensees employed by said licensees shall have a working knowledge of Missouri Gaming Statutes, Chapter 313.800, RSMo et seq., Code of State Regulations, Title 11 Division 45, the commission's published minimum internal control standards and the licensee's system of internal controls as they pertain to the responsibilities and limitations of their job.

13. 11 CSR 45-7.020 states as follows:

The purposes of a casino surveillance system are to assist the licensee and the state in safeguarding the licensee's assets, in deterring, detecting, and prosecuting criminal acts, and in maintaining public confidence and trust that licensed gaming is conducted honestly and free of criminal elements and activity.

14. 11 CSR 45-7.050 states, in pertinent part, as follows:

(1) Each riverboat shall have rooms available for the exclusive use of commission agents to monitor and record riverboat gaming operations. Each such room shall be identified as the commission surveillance room. Each riverboat shall also have at least one (1) room for riverboat employees to use for monitoring and recording riverboat gaming operations. Each such room shall be identified as the casino surveillance room. The commission shall designate where the commission surveillance room(s) will be located.

(A) All equipment that is utilized to monitor or record must remain solely accessible to the casino surveillance room personnel and be exclusively for riverboat surveillance, except when this equipment is being repaired or replaced.

15. The Commission's MICS, Chapter M, Section 4.04, in pertinent part, states, "[t]he surveillance personnel shall be on duty in the surveillance room actively monitoring gaming activities and casino operations."

16. The Casino's ICS, Chapter M, Section 4.04, in pertinent part, states, "[a]t least three Surveillance personnel per excursion gambling boat shall be on duty in the surveillance room actively monitoring gaming activities when gaming, drops, or counts are being conducted."

### **VIOLATIONS**

17. The Company's actions in permitting its Surveillance Department's midnight shift personnel to not actively monitor the Casino's gaming activities and operation while on duty and to regularly engage in inappropriate behavior, such as excessively using their personal cellphones to text, play video games, watch videos and use social media, utilizing surveillance monitors to play video games, engaging in intimate physical contact, such as kissing, and excessively engaging in conversation, is injurious to the public health, safety, morals, good order and general welfare of the people of the state of Missouri and discredits the Missouri gaming industry and the State of Missouri, in that the Company's acts violate 11 CSR 45-10.030, 11 CSR 45-7.020, and 11 CSR 45-7.050, and the Commission's MICS and the Casino's ICS, Chapter M, Section 4.04.

18. Furthermore, the aforementioned actions by the Company also demonstrate that the Company tolerated unsuitable methods of operation in violation of 11 CSR 45-5.053(2).

19. The Company is therefore subject to discipline for such violations pursuant to Sections 313.805 and 313.812.14 (1), (2), and (9), RSMo, 11 CSR 45-9.060(3) and (4), and 11 CSR 45-5.053(2).

### **PENALTY PROPOSED**

20. Under Section 313.805, RSMo, the Commission has the power to assess any appropriate administrative penalty against the Company as the holder of a Class B license.

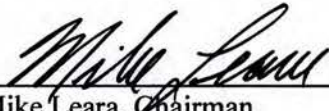
21. THEREFORE, it is proposed that the Commission fine PNK (River City), LLC the amount of \$15,000 for the violations set forth herein.

  
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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 22<sup>nd</sup> day of February, 2023, to:

Steve Peate  
River City Casino  
777 River City Casino Blvd.  
St. Louis, MO 63125

  
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Mike Leara, Chairman  
Missouri Gaming Commission