

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC 23-040
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” or “MGC”) 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 is the parent organization or controlling entity of PNK (River City), LLC.
4. The Commission issued a Class B riverboat gambling license to PNK (River City), LLC 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, PNK (River City), LLC is subject to the provisions of Sections 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS¹

6. Commission auditors completed a compliance audit at the Casino for the period of March 1, 2020, through October 31, 2022, and issued MGC Audit Reports #23-03 and #23-04 to the Casino on February 27, 2023.
7. During the course of the audit, three significant exceptions were noted. One exception involved bill validator (BV) counts (Commission Audit Report #23-04), and two other exceptions were significant because they involved repeat findings (Commission Audit Reports #23-03 and #23-04).
8. The repeat findings involved processing funds (cash, chips, credits, or tickets) from an unclaimed property box, and daily audit of manual adjustments to player reward credits. The details of these repeat audit exceptions, as set forth in Audit Reports #23-03 and #23-04, and prior Audit Reports #20-14 and #20-15 are as follows:

¹ GR 20230118001 & 20230109003

- a. **The Commission Audit Report #23-03 revealed that unclaimed cash, chips, credits, or tickets were being removed and/or processed from the Casino's clear locked unclaimed property box (aka "found TITO box") without the presence of another Cage employee, as required.**
- i) **A review of surveillance footage from August 22 and 23, 2022, revealed that a Cage Assistant Shift Manager opened the found TITO box in the presence of a Cage Cashier. However, the Cage Assistant Shift Manager redeemed the tickets from the found TITO box at the employee window by herself.**
 - ii) **On August 25, 2022, a review of surveillance footage revealed that a Cage Shift Manager opened the found TITO box in the presence of a Main Cashier. However, the Cage Shift Manager redeemed the tickets from the found TITO box at the employee window by herself.**
 - iii) **This same exception regarding removal of unclaimed cash, chips, credits, or tickets from the found TITO box has been previously addressed with the Casino in Audit Report #20-14.**
 - iv) **In the previous Audit Report #20-14, for the period of February 1, 2018, through February 28, 2020, surveillance footage showed that on September 26, 2019, the Cage Shift Manager opened the found TITO box and handed the tickets from within to the Main Bank Cashier to process. The Cage Shift Manager did not observe the Main Bank Cashier process the tickets and there were no other Cage employees present.**
 - v) **In response to this previous Audit Report #20-14, Casino management stated they would retrain staff and discuss the Audit Report finding at August 2020 staff meetings.**
 - vi) **During a follow-up to the prior Audit Report #20-14, surveillance footage was reviewed for February 9, 2021. Again, the same exception was viewed. The Cage Assistant Shift Manager opened the found TITO box and removed the contents, and then processed the contents without the presence of another Cage employee. MGC issued a Compliance Directive to the Casino Cage and Credit Manager on May 11, 2021, setting forth the rule for processing contents of the found TITO box. On June 13 and 14, 2021, Casino compliance with the directive was verified by MGC staff.**
 - vii) **Casino management's response to the current Audit Report #23-03 stated that the Casino Cage and Credit Manager would be compiling a read and sign document for employees detailing the correct way to process unclaimed property.**

- b. The Commission Audit Report #23-04 revealed that Revenue Audit did not conduct a daily audit of manual adjustments to player reward credits using a report from the system showing the adjustments, as required.
 - i) On September 28, 2022, it was revealed that Revenue Audit did not conduct a daily audit of manual adjustments to player reward credits. This exception is set forth in Commission Audit Report #23-04.
 - ii) This same exception regarding daily audit of manual adjustments to player reward credits has been previously addressed with the Casino in Audit Report #20-15.
 - iii) The previous audit, Audit Report #20-15, for the period of February 1, 2018, through February 28, 2020, found that a daily report of manual adjustments to player reward credits and promotional giveaway credits to an individual patron's account could not be run through the Casino's Penn Gen program. Therefore, Revenue Audit was not able to conduct the required daily audit of credit adjustments made by Casino employees.
 - iv) In response to the previous Audit Report #20-15, Casino management stated that the Revenue Audit Manager and Regulatory Compliance Manger worked with corporate IT to develop the necessary reports and those reports were implemented on July 16, 2020, and August 12, 2020.
 - v) A follow-up to Audit Report #20-15 was conducted in March 2021. This revealed that in February 2021, the Casino's MyCash Adjustments Report was printed and reviewed on a daily basis by Revenue Audit.
 - vi) Casino Management's response to the repeat findings of the current Audit Report #23-04, stated a new report showing all MyCash adjustments would be implemented by February 28, 2023.
- 9. The BV count exception, as set forth in Commission Audit Report #23-04, revealed that required BV count processes were not being followed, resulting in inaccurate count information. The details of this exception are as follows:
 - a. A review of the paperwork from the BV counts performed for the gaming days of August 26, 2022, and August 30, 2022, revealed that an accurate count of the contents of each drop device was not recorded on a count sheet or into a computer system prior to commingling the funds with funds from other devices, as required. Moreover, there were discrepancies in the BV counts.
 - i) On August 26, 2022, the total from the BV count was changed from \$1,638,101.00 to \$1,638,001.00, which was \$100.00 less than the total counted by the MPS machine. On August 30, 2022, the total was changed from \$1,324,763.00 to \$1,323,282.00, which was \$1,139.00 less than the

total counted by the MPS machine. A review of BV count paperwork from the BV counts on these gaming days revealed that totals on the BV Summary Report were changed. An interview with the Count Room Manager on September 20, 2022, revealed that the changes were made due to currency being found in the MPS machine at the end of the count, which was either misfed into the machine or rejected. The count team members were unable to determine from which drop device the funds originated.

- ii) In response to this BV count exception set forth in Audit Report #23-04, Casino Management stated that a report from their Compliance Manager had listed numerous issues with the equipment in use, including misfeeds, jams, and times the machines stopped and needed to be cleaned. The response also indicated that the property had purchased a new MPS machine, which had been installed on January 9, 2023. Management further stated that the vendor who installed new MPS machine, had also performed \$17,000.00 worth of maintenance to existing machines.

LAW

- 10. 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.

- 11. 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.

* * *

(2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming[.]

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

(2) Failure to comply with the provisions of this chapter is an unsuitable method of operation.

(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.

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

7.11 The count of the contents from each drop device or collection bag shall be recorded on the count sheet or into a computer system prior to commingling the funds with funds from other devices.

7.13 When all assets have been counted, a count team member shall prepare one Master Gaming Report or a BV summary report(s) in the count room listing the correct count for each asset and the correct grand total.

14. The Commission's MICS, Chapter H, states, in pertinent part, as follows:

14.07 If the owner of found cash, chips, unclaimed credits, or tickets is identified and the item is valued at \$10 or more, the funds shall be placed in safekeeping for return to the owner. If the value is less than \$10, the funds shall be processed as unclaimed property or placed in safekeeping. If the owner is not

identified, the funds shall be processed as unclaimed property, regardless of the amount. The Class B Licensee may choose to have one or more clear locked boxes for depositing any of these items with a value less than ten dollars for which the owner cannot be found. These items shall be processed by the end of the gaming day in the presence of the Cage Supervisor and one other cage employee. The deposit shall be documented on a form specified in the internal controls and the form shall be signed by both the Cage Supervisor and the cage employee. The boxes shall be permanently located at or near the employee window or Main Bank and have dedicated surveillance coverage. The key shall be a sensitive key only accessible to the Cage Supervisor.

15. The Commission's MICS, Chapter U, states, in pertinent part, as follows:

4.05 Any manual adjustments of player reward credits (e.g. player reward points) to an individual patron's account shall only be performed by occupational licensees as designated in the Internal Control System. Only these authorized job positions shall have system access to perform this function. These adjustments shall be documented, including the patron's name, patron's account number, the amount of the adjustment, the explanation for the adjustment, and the name of the individual performing the adjustment. A daily report shall be generated from the system listing all of the adjustments, including the required information. The Accounting department shall conduct a weekly audit of these adjustments to verify that all of the required information is present and to detect any adjustments that exceed a monetary threshold, as set forth and approved in the Internal Control System. Additionally, should more than six adjustments occur to an individual patron's account within a gaming week, an investigation shall be conducted by the end of the following gaming week to ascertain the legitimacy of the transactions. The results of the investigation shall be documented.

VIOLATIONS

16. The acts or omissions of employees or agents of the Casino, as described above, involve three significant audit findings in which the Casino repeatedly failed to follow proper procedures. The audit findings were significant because they involved the count and repeat findings. These failures are 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 Casino's actions violate the Commission's MICS, Chapter G, Sections 7.11 and 7.13, Chapter H, Section 14.07, and Chapter U, Section 4.05.
17. PNK (River City), LLC is therefore subject to discipline for such violations pursuant to Sections 313.805 and 313.812.14(2), RSMo, and 11 CSR 45-9.060(2) and (3).

PENALTY PROPOSED

- 18. Under Section 313.805, RSMo, the Commission has the power to assess any appropriate administrative penalty against PNK (River City), LLC as the holder of a Class B license.
- 19. THEREFORE, it is proposed that the Commission fine PNK (River City), LLC the amount of ten thousand dollars (\$10,000.00) for the violations set forth herein.

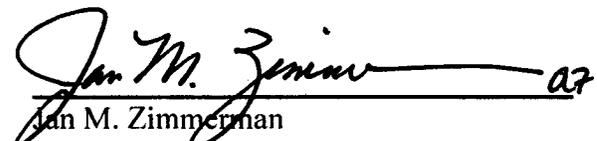


Jan M. Zimmerman
Chair
Missouri Gaming Commission

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a true and correct copy of the foregoing to be mailed, postage prepaid, this 31st day of August, 2023, to:

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



Jan M. Zimmerman
Chair
Missouri Gaming Commission