

**RULE 3**  
**SERVICE INDUSTRY LICENSE & SERVICE INDUSTRY EMPLOYEE LICENSE**

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### 3.01 Definitions

The following words and terms, when used in these Rules, shall have the following meanings unless the context clearly indicates otherwise:

1. “Commission” means the Arkansas Racing Commission or its successor having jurisdiction over Casino Gaming in this state. The Arkansas Racing Commission is responsible for all Licensing, adjudication of fines, Certification of Casino games, Appeals/Rulings and approval of all Casino Gaming plans.
- 2 “Distributor” means any person that sells, leases, or offers, or otherwise provides, distributes, or services any Casino Gaming or associated equipment for use or play of Casino Gaming in a Casino Licensee’s facility. A Manufacturer may be a distributor.
3. “Casino Gaming Section” means the Office of Field Audit within the Revenue Division of the Commission. The Casino Gaming Section is assigned responsibility for auditing and review of internal controls and the day-to-day operations of Casino Gaming. This would include full administrative regulatory jurisdiction and exercise of the duties, powers and responsibilities over Casino Gaming as authorized by Amendment 100.
4. “Casino Licensee” means any person holding a license to conduct Casino Gaming pursuant to Amendment 100.
5. “Gaming Floor” means the designated area where Casino Gaming activities occur.
6. “Gaming Operator” means a Casino Licensee that is conducting the operation of Casino Gaming.
7. “Identification Credential” means a valid driver license, passport or other document generally accepted in business as a form of identification and which contains, at a minimum, the person’s signature. A personal reference does not constitute an Identification Credential.
8. “Incompatible function” means a function for accounting control purposes that places any person, employed by or department established by the Casino Licensee, in a position to both perpetrate and conceal errors or irregularities in the normal course of their duties. Anyone recording Transactions and having access to assets ordinarily is in a position to perpetrate errors or irregularities. Persons may have Incompatible Functions if such persons are members of departments which have supervisors not independent of each other.
9. “Intermediary company” means a corporation, firm, association, partnership, trust or any other form of business organization other than a natural person which is a holding company with respect to a corporation which holds or applied for a Gaming License; and is a subsidiary with respect to any holding company.

10. "Manufacturer" means any person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs, or otherwise makes modifications to any Casino Gaming or associated equipment for Casino Gaming purposes. A Manufacturer may be a Distributor, as approved by the Commission.

11. "Surveillance System" means any facility, not controlled by the Commission employees, that has been approved by the Commission to receive transmissions from the surveillance department's security system including, without limitation, system monitoring rooms, surveillance department offices, system repair areas, and system emergency facilities.

12. "Transaction" a Transaction includes deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or redemption of gaming instruments or any other payment, transfer, or delivery to a Casino Licensee, by whatever means affected.

13. "Wager" a sum of money or thing of value bet on Casino Gaming.

### **3.02 Restriction of Doing Business**

- (a) No entity shall manufacture, sell or lease, distribute, repair or provide Casino Gaming maintenance services of Casino Gaming equipment to a Casino Licensee for its Casino Gaming operations in the State of Arkansas unless it holds a current Service Industry License issued by the Commission in accordance with these Rules.
- (b) No entity shall provide management or operational services to a Casino Licensee for its Casino Gaming operations in the State of Arkansas unless it holds a current Service Industry License issued by the Commission in accordance with these Rules.
- (c) Service Industry Licenses issued pursuant to Regulations for Franchise Holders Operating Electronic Games of Skill shall also be valid Service Industry Licenses for Casino Gaming and shall be subject to the requirements of these Rules. Such Service Industry Licenses shall expire and be subject to renewal three years from the date of issuance of such license for Electronic Games of Skill.

### **3.03 Determining the Need for a Service Industry License**

- (a) Any entity which satisfies one or more of the following criteria shall, unless it is otherwise set forth in these Rules, obtain a Service Industry License to carry out business with a Casino Licensee in the State of Arkansas.
  - i. The entity manufactures, sells or leases, supplies or distributes devices, machines, equipment, accessories, objects or articles which:
    - (1) Are designed specifically for use in Casino Gaming operations of the Casino Licensee;
    - (2) Are needed to carry out the activities of an authorized game;
    - (3) Have the capacity to affect the result of the play of an authorized game; or
    - (4) Have the capacity to affect the calculation, storage, collection or control of the gross revenues.
  - ii. The entity provides maintenance services or repairs gaming equipment for Casino Gaming of the Casino Licensee;
  - iii. The entity provides management or operational services to a Casino Licensee for its Casino Gaming operations.

- iv. All other suppliers of materials, maintenance, supplies, management, or operational services. This would include security systems, gaming devices and money handling/storage devices; or
- v. The entity is conducting more than \$150,000 in business with one Casino Licensee.

### **3.04 General Parameters of Granting a Service Industry License**

- (a) An applicant for a Service Industry License shall submit to the Commission the information, documentation and guarantees necessary to establish through clear and convincing evidence:
  - i. The stability, integrity and economic responsibility of the applicant;
  - ii. The good character (if an individual), honesty and integrity of the applicant;
  - iii. That the owners, administrative and supervisory personnel, principal employees and sales representatives of the applicant comply with the parameters provided in Section 13.10 Qualifying as a Person Related to a Service Industry of these Rules;
  - iv. The integrity of the investors, mortgage creditors, guarantors and holders of bonds, notes and other evidences of debt which are in any way related to the entity; and
  - v. The integrity of all the officers, directors and trustees of applicant.

### **3.05 Initial Application for a Service Industry License**

- (a) The initial application for a Service Industry License shall consist of an original and a copy of the following documents:
  - i. Arkansas Racing Commission Business Entity Disclosure Form for Service Industry Licensee, to be completed by the applicant and by each company, individual or entity holding an interest in applicant;
  - ii. Arkansas Racing Commission Personal History Disclosure and Supplemental form of Persons Related with Service Industries, to be completed by each natural person who must be qualified for a license by the Commission in accordance with Section 13.10 of these Rules; and
  - iii. The fees to be paid to the Commission, as provided in Section 13.7 of these Rules.
  - iv. The Commission shall not evaluate an initial Service Industry License application unless same is accompanied by all the information required in these Rules, including all the documents requested in paragraph (a) above; provided that any incomplete application filed with the Commission shall be deemed to be as if same had not been filed.
- (b) Burden of proof - It shall be the responsibility of the Service Industry applicant and its principals to provide information and or documentation and to demonstrate their qualifications by clear and convincing evidence relative to the character, honesty and integrity of its directors, officers, stockholders and principal employees, to the Commission.
- (c) No person may sell or otherwise supply Casino Gaming related equipment or services to a Casino Licensee for the conduct of Casino Gaming as authorized in this chapter unless the person has demonstrated to the satisfaction of the Commission that the person has the capability and qualifications necessary to reasonably furnish the equipment and perform the services to be provided by the supplier.

### **3.06 Duration of Service Industry License**

- (a) Every Service Industry License shall be issued by the Commission for a period of 3 years.

- (b) Notwithstanding the provisions of paragraph (a) above, the Commission may, as it may deem necessary:
  - i. issue any Service Industry License for a shorter period;
  - ii. at any time, void the Service Industry License for reasonable cause.

### **3.07 Service Industry License Renewal Application**

- (a) Every Service Industry License renewal application shall be filed no later than ninety (90) days prior to the expiration date of said license.
- (b) The Service Industry License renewal application shall include: 1. A duly completed original and a photocopy of:
  - i. An Arkansas Racing Commission Business Entity Disclosure form Service Industry Application, which shall contain all the information that has changed from the date of the application for the initial Service Industry License or of the last renewal, to be completed by the applicant and by each holding company of applicant;
  - ii. An Arkansas Racing Commission Personal History Disclosure and Supplemental form of Persons Related with Service Industry Licensees to be completed by each natural person who must be licensed in accordance with Section 13.9 of these Rules, and who has not been licensed by the Commission; and Arkansas Racing Commission Personal History Disclosure form and Supplemental Personal History Disclosure form of Persons Related with Service Industry Licensee-Renewal to be completed by any natural person required to be licensed in accordance with these Rules and who has already been licensed by the Commission.

### **3.08 Service Industry License Fees**

- (a) The fees to be paid for the initial or renewal application for a Service Industry License shall be determined by the Commission and published on the Commission website. This does not include the actual cost of the investigation(s), which is to be billed to and paid by the applicant to the Commission.
- (b) The fees to be paid for the initial application shall cover administrative costs related to the processing of the application.
- (c) The renewal application fee in the amount determined by the Commission shall be made payable to the Commission and submitted with the Service Industry License Renewal Form.
- (d) The license will not be approved until the fees, including the investigative costs, have been paid by the applicant.

### **3.09 Service Industry Disqualification Criteria**

- (a) The Commission may deny a Service Industry License to any applicant which, in the opinion of the Commission:
  - i. Has not proved through clear and convincing evidence that the applicant and any of the persons required to be licensed in accordance with these Rules are in fact duly qualified;
  - ii. Has violated any of the provisions of these Rules;
  - iii. The applicant has failed to provide information or documentation requested in writing by the Commission in a timely manner, which shall not exceed (30) business days from the date of request by the Commission without reasonable justification and an extension granted by the Commission;

- iii. The Commission shall deny a Service Industry License to any applicant who does not satisfy the standards for entity licensing in this document.

### **3.10 Qualification Requirements - Service Industry License**

- (a) The Commission shall not issue a Service Industry License to any entity unless the applicant has established the individual qualifications of each one of the following entities or persons if applicable:
  - i. The entity;
  - ii. The holding company(s) of the entity;
  - iii. Every owner of the entity who has, directly or indirectly, any interest in or is the owner of more than five percent (5%) of the entity;
  - iv. Every owner of a holding company of the entity which the Commission deems necessary to promote the purposes of these Rules;
  - v. Any director of the entity, except such director who, in the opinion of the Commission, is not significantly involved in or related with the administration of the entity;
  - vi. Every officer of the entity who is significantly involved in or who has authority over the manner in which the business dealing with the activities of Casino Licensee and any officer who the Commission considers necessary to protect the good character, honesty and integrity of the entity;
  - vii. Any officer of the holding company of the entity who the Commission considers necessary to protect the good character, honesty and integrity of the entity;
  - viii. Any employee who supervises the regional or local office which employs the sales representatives who shall solicit business from or negotiate directly with a Casino Licensee;
  - ix. Any employee who shall function as a sales representative or who shall be regularly dedicated to soliciting business from any Casino Licensee in the State of Arkansas;
  - x. Any other person connected to an entity who the Commission considers should be licensed.
  - xi. This part does not apply to an institutional investor (as defined by the Federal Securities and Exchange Act of 1934, as amended) that acquires or will acquire 10% or less of the equity securities of an applicant or licensee that is a publicly traded corporation if those holdings were purchased for investment purposes only and the institutional investor files with the Commission a certified statement that it has no intention of influencing or affecting directly or indirectly, the affairs of the licensee; the investor will be permitted to vote on matters put to the vote of the outstanding security holders.
- (b) In order to establish the individual qualifications, the persons specified in subparagraphs (a)(i) and (a)(ii) of this section shall complete an Arkansas Racing Commission Business Entity Disclosure.
- (c) In order to establish the individual qualifications, the persons specified in subparagraphs (a)(iii) through (a)(x) of this section shall complete an Arkansas Racing Commission Personal History Disclosure form of Persons Related with Service Industry Licensee.

### **3.11 Qualifying as a Person Related with a Service Industry License**

- (a) Any natural person who is required to be licensed, because of his/her relationship with a Service Industry License applicant, shall provide to the Commission the information, documentation and assurances necessary to establish through clear and convincing evidence:
  - i. His/her relationship with the entity;

- ii. That he/she is 21 years of age (this only applies to those employees who service gaming machines or work on the Gaming Floor who have access to the machines or games);
- iii. That he/she is of good character and reputation, in addition to being honest and having integrity; and
- iv. That he/she has not been convicted including “nolo contendere” and “withheld adjudication” by any state or federal court in the Country for:
  - (1) Committing, intending to commit or conspiring to commit a crime of moral turpitude, illegal appropriation of funds or robbery, or any violation of a law related to games of chance or skill, or a crime which is contrary to the declared policy of the Arkansas Racing Commission with respect to the gaming industry; or
  - (2) Committing, intending to commit or conspiring to commit a crime which is a felony in the State of Arkansas or a misdemeanor in another jurisdiction which would be a felony if committed in the State of Arkansas.
- (b) Not satisfying with any one of the requirements established in paragraph (a) above shall be sufficient reason for the Commission to deny a Service Industry License.
- (c) The Commission shall deny any person required to qualify in conjunction with a Service Industry License that does not satisfy the standards set forth within these Rules.

### **3.12 Investigations; Supplementary Approval of Change**

- (a) The Commission or its representatives may, at its discretion, conduct any investigation with respect to an applicant or any person related with an applicant who it deems pertinent, either at the time of the initial application or at any subsequent time.
- (b) It shall be the continuous duty of any applicant or holder of a Service Industry License to fully cooperate with the Commission or its representatives during any investigation and provide any supplementary information that the Commission or its representatives requests.
- (c) It shall be the duty of any applicant or holder of a Service Industry License to notify the Commission within 10 business days of any proposed changes in the ownership of the applicant or licensee. If the applicant or holder of a Service Industry License is publicly traded company, it does not have to report changes in ownership unless the change represents five percent (5%) or more of the total shares issued and outstanding or ten percent (10%) or more of the total shares issued and outstanding if the change is the result of an institutional investor. In such cases, the licensee shall provide the Commission with copies of the most recent notice filed with the Securities and Exchange Commission. All proposed new owners shall submit to the Commission or its representatives an initial Service Industry License application, which must be approved by the Commission. Any failure to comply with this Rule shall be grounds for revocation of an existing license or denial of an application for a license.

### **3.13 Suspension, Denial of Renewal or Revocation of a Service Industry License**

- (a) Any of the following reasons shall be considered sufficient cause for the suspension, denial of renewal or revocation of a Service Industry License:
  - i. Violation of any provision of these Rules;
  - ii. Conduct which would disqualify the applicant or any other person required to be licensed by the Commission;
  - iii. Failure to comply with any applicable law, state or federal or regulation, or county or municipal ordinance;
  - iv. The material misstatement made in the application for the Service Industry License.

- (b) Notwithstanding the provisions of subparagraph (a) above, any other cause that the Commission deems reasonable shall be considered sufficient cause for the suspension, denial of renewal or revocation of a Service Industry License.

### **3.14 Commercial Transaction in the Absence of a Service Industry License**

- (a) The Commission, at its discretion, may permit any Service Industry License applicant to carry out a commercial Transaction with a Casino Licensee before said Service Industry entity has obtained the Service Industry License required as long as:
  - i. The applicant has filed with the Commission a completed application for a Service Industry License;
  - ii. At least thirty (30) days has passed since the filing of said completed application with the Commission; and
  - iii. The Casino Licensee submits to the Commission a petition for special authorization to carry out a commercial Transaction in the absence of a Service Industry License which contains:
    - (1) Sufficient reasons to convince the Commission to grant the special authorization to the applicant; and
    - (2) A description of the commercial Transaction that it desires to carry out.
- (b) The Commission shall evaluate said petition for special authorization to carry out a commercial Transaction in the absence of a Service Industry License and shall notify the Casino Licensee of its decision in writing within a reasonable period.

### **3.15 Exemption to Service Industry License**

- (a) The Commission may exempt an entity from the requirement of obtaining a Service Industry License if the Commission determines that said entity is not operating its business in a regular and continuous manner as defined in (d) below.
- (b) Any entity which is interested in obtaining an exemption from the requirement of obtaining a Service Industry License in accordance with this section shall apply in writing to the Commission for said exemption.
- (c) The exemption application shall contain the following information:
  - i. Name, address and detailed description of the service offered by the entity;
  - ii. Name of the owners, directors, officers and managerial employees of the entity;
  - iii. The Casino Licensee to whom they will provide services and a description of the service to be provided, including the quantity and cost of the services;
  - iv. Number and frequency of the Transactions;
  - v. Dollar amount of the Transactions; and
  - vi. Sufficient reasons to convince the Commission as to why granting the entity a license is not necessary to protect the public interest or advance the Commission's policies relating to gaming.
- (d) The Commission may determine that an entity is not operating its business in a regular and continuous manner if the applicant demonstrates, to the satisfaction of the Commission, that the goods or services provided by the entity are in minimal or insignificant amounts, and that granting the same a Service Industry License is not necessary to protect the public interest or advance the policies established by the Commission relating to gaming.
- (e) In order to determine if an entity operates or will operate in a regular or continuous manner, the Commission may take the following factors into consideration, among others:
  - i. Number of Transactions;
  - ii. Frequency of the Transactions;



- iii. Dollar amount of Transactions;
  - iv. Nature of the equipment or services rendered or business carried out;
  - v. Maximum period of time necessary to provide the equipment, carry out the services or complete in its entirety the business subject of the Transaction; and
  - vi. The public interest and the policy established by the Commission relating to casino gaming.
- (f) Any entity which has been exempt by the Commission from the requirement of obtaining a Service Industry License in accordance with this section shall notify the Commission before carrying out any commercial contract or business transaction, with a Casino Licensee.

### **3.16 Records Requirements for Service Industry Licensee**

- (a) Any Service Industry entity authorized by the Commission shall maintain in a place secure against robbery, loss or destruction, the records corresponding to the business operations, which shall be available to, and be produced for the Commission in case the Commission requests them. Said records shall include:
- i. Any correspondence with the Commission and other governmental agencies at a local, state and federal level;
  - ii. Any correspondence related to the business with a Casino Licensee, whether proposed or existing;
  - iii. Copies of any publicity and promotional materials;
  - iv. The personnel files for every employee of the authorized Service Industry entity, including those for the sales representatives;
  - v. The financial records for all the Transactions related to the business with a Casino Licensee, whether proposed or existing;
- (b) The records listed in Subparagraph (a) above shall at least be kept for a period of five (5) years.

### **3.17 Business Entity Disclosure for Service Applicant Forms**

- (a) Arkansas Racing Commission Business Entity Disclosure form shall be completed in the format provided by the Commission.

### **3.18 Personal History Disclosure Form**

- (a) The Commission may require an Arkansas Racing Commission Personal History Disclosure form from all those natural persons required under Section 13.9, to fill out the same.

### **3.19 Obligation for Payment of Fees; No Refund of Fees Paid**

- (a) Any obligation for payment of fees arising from these Rules shall be paid in full to the Commission, even when the entity withdraws its application for a Service Industry License or the license is denied.
- (b) No amounts paid for Service Industry License fees shall be refundable.
- (c) Any failure to pay fees when due shall result in a late fee penalty established by the Commission, denial or revocation of a license.

### **3.20 Responsibility of the Casino Licensee**

- (a) Any Casino Licensee that will be receiving a service shall be responsible for confirming that the entity with which it will carry out the business holds a Service Industry License or

has obtained a special authorization in accordance with these Rules, or an exemption in accordance with these Rules.

- (b) Any violation of subparagraph (a) above shall be sufficient cause for sanctions by the Commission.

### **3.21 Transitory Provisions**

- (a) Any entity which manufactures, sells or leases, distributes or repairs or provides maintenance services or any other service to a Casino Licensee with respect to Casino Gaming shall comply with the provisions of these Rules beginning on the effective date the same.

### **3.22 Vendor's List**

- (a) The Commission or its representatives shall also maintain a Prohibited Vendor List, which shall include all vendors who are prohibited from conducting business with a Casino Licensee. The Commission shall provide this list to the Casino Licensees.
- (b) Engaging in business with a vendor on the Prohibited Vendor List by the Casino Licensee may result in monetary fines not to exceed \$5,000.

### **3.23 Temporary Service Industry Licensing**

- (a) If an applicant for a manufacturer, distributor or entity providing services to a Casino Licensee holds a similar license in another jurisdiction in the United States, the applicant may submit a written request with its application for the Commission to grant a temporary Service Industry license. The Commission may use the temporary licensing process if:
  - i. The Commission determines, after investigation, that the licensing standards in a jurisdiction in which the applicant is licensed are similarly comprehensive, thorough and provide equal, if not greater, safeguards as provided in Amendment 100 or these Rules and that granting the request is in the public interest;
  - ii. A completed application has been filed by the applicant;
  - iii. The applicant has provided current, updated information to the Commission associated with the similar license in the other jurisdiction related to its financial viability and suitability.
  - iv. The applicant has no administrative or enforcement actions pending in another jurisdiction or the applicant has adequately disclosed and explained the action to the satisfaction of the Commission;
  - v. There are no pending or ongoing investigations of possible material violations by the applicant in another jurisdiction or the applicant has adequately disclosed and explained the investigation to the satisfaction of the Commission;
  - vi. This section shall not be construed to waive fees associated with obtaining a license through the application process in this State.

### **3.24 Independent Casino Gaming Testing Laboratory License**

- (a) Testing Lab License
  - i. All Casino Gaming and associated equipment must be tested by a laboratory licensed by the Commission to ensure that the games and equipment comply with Arkansas law and the Rules of the Commission. No Casino Licensee shall operate or allow wagering on any Casino Gaming equipment that has not been tested by a licensed laboratory, and the Commission must approve the test results from the licensed laboratory prior to the Casino Licensee allowing wagering on the Casino Gaming equipment.

- ii. EGS Testing Laboratory Licenses issued pursuant to Regulations for Franchise Holders Operating Electronic Games of Skill shall also be valid Casino Gaming Testing Licenses for Casino Gaming and shall be subject to the requirements of these Rules. Such Casino Gaming Testing Laboratory Licenses shall expire and be subject to renewal three years from the date of issuance of such license for Electronic Games of Skill.
- (b) Independent Status of Laboratory
- To qualify for a Casino Gaming Testing Laboratory license, the applicant must:
- i. Be independent from any manufacturer, distributor, or operator of any game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto, regardless of whether or not such person or entity is licensed, registered, or otherwise does business in Arkansas;
- (c) To be considered independent from a manufacturer, distributor, or operator under subsection (a) above, the independent testing laboratory, including its employees, management, directors, owners, compliance committee members and gaming regulatory advisors, with the exception of the independent testing laboratory's external accountants and attorneys:
- i. Must not have a financial or other interest, direct or otherwise, in a manufacturer, distributor, or operator of any game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto, regardless of whether or not the person or entity is licensed, registered, or otherwise does business in Arkansas;
- (d) General Parameters of Granting a Casino Gaming Testing Laboratory License
- i. An applicant for a Casino Gaming Testing Laboratory License shall submit to the Commission the information, documentation and guarantees necessary to establish, through clear and convincing evidence, the following:
    - (1) The stability, integrity and economic responsibility of the applicant;
    - (2) The good character (if an individual), honesty and integrity of the applicant;
    - (3) That the owners, administrative and supervisory personnel, principal employees and sales representatives of the applicant comply with the parameters provided in these Rules Qualifying as a Person Related to an Casino Gaming Testing Laboratory;
    - (4) The integrity of all the officers, directors and trustees of applicant.
  - ii. Be accredited in accordance with ISO/IEC 17025 by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement, unless the independent testing laboratory is only seeking registration for the inspection and certification of games and game variations;
  - iii. Demonstrate it is technically competent in testing the category of game, device, or system in which it is seeking registration, and that the applicant has a minimum of five years of experience in testing gaming devices;
  - iv. Demonstrate it is technically competent to test compliance with the applicable Arkansas statutes, regulations, standards and policies.
  - v. Detailed description of the testing facilities;
  - vi. Detailed description of available testing staff and staff qualifications, including education, training, experience and skill levels;
  - vii. Detailed description of available testing equipment;

- viii. Copies of documented policies, systems, programs, procedures and instructions to assure the quality of test results;
  - ix. Copies of all test scripts to be used for testing against the applicable Arkansas statutes, regulations, standards, and policies.
- (e) Initial Application for a Casino Gaming Testing Laboratory License
  - i. The initial application for a Casino Gaming Testing Laboratory License shall consist of an original and a copy of the following documents:
    - (1) Arkansas Racing Commission Business Entity Disclosure Form for Casino Gaming Testing Laboratory Licensee, to be completed by the applicant and by each company, individual or entity holding an interest in applicant;
    - (2) Arkansas Racing Commission Personal History Disclosure and Supplemental form of Persons Related with Casino Gaming Testing Laboratories, to be completed by each natural person who must be qualified for a license by the Commission in accordance with these Rules; and
    - (3) The fees to be paid to the Commission, as provided in these Rules.
  - ii. The Commission shall not evaluate an initial Casino Gaming Testing Laboratory License application unless same is accompanied by all the information required in these Rules, including all the documents requested in paragraph (a) above; provided that any incomplete application filed with the Commission shall be deemed to be as if same had not been filed.
  - iii. Burden of proof - It shall be the responsibility of the Casino Gaming Testing Laboratory applicant and its principals to provide information and or documentation and to demonstrate their qualifications by clear and convincing evidence relative to the character, honesty and integrity of its directors, officers, stockholders and principal employees, to the Commission.
  - iv. No person may test Casino Gaming equipment for a manufacturer to be used by a Casino Licensee for the conduct of wagering thereon as authorized in this chapter unless the person has demonstrated to the satisfaction of the Commission that the person has the capability and qualifications necessary to competently test the equipment to ensure compliance with Arkansas law.
- (f) Duration of Casino Gaming Testing Laboratory License
  - i. Every Casino Gaming Testing Laboratory License shall be issued by the Commission for a period of 3 years.
  - ii. Notwithstanding the provisions of paragraph (a) above, the Commission may, as it may deem necessary:
    - (1) issue an Casino Gaming Testing Laboratory License for a shorter period;
    - (2) at any time, void the Casino Gaming Testing Laboratory License for reasonable cause.
- (g) Casino Gaming Testing Laboratory License Renewal Application
  - i. Every Casino Gaming Testing Laboratory License renewal application shall be filed no later than ninety (90) days prior to the expiration date of said license.
  - ii. The Casino Gaming Testing Laboratory License renewal application shall include:
    - (1) A duly completed original and a photocopy of:
      - (A) An Arkansas Racing Commission Business Entity Disclosure form Casino Gaming Testing Laboratory Application, which shall contain all the information that has changed from the date of the application for the initial Casino Gaming Testing Laboratory License or of the last renewal, to be completed by the applicant and by each holding company of applicant;
      - (B) An Arkansas Racing Commission Personal History Disclosure and Supplemental form of Persons Related with Casino Gaming Testing Laboratory Licensees to be completed by each natural person who must be licensed in accordance with these Rules, and who has not been

licensed by the Commission; and Arkansas Racing Commission Personal History Disclosure form and Supplemental Personal History Disclosure form of Persons Related with Casino Gaming Testing Laboratory Licensee-Renewal to be completed by any natural person required to be licensed in accordance with these Rules and who has already been licensed by the Commission.

(h) Casino Gaming Testing Laboratory License Fees

i. The fees to be paid for the initial or renewal application for a Casino Gaming Testing Laboratory License shall be determined by the Commission; provided that the application fee shall not be more than \$1,000 a year. This does not include the actual cost of the investigation(s), which is to be billed to and paid by the applicant to the Commission.

ii. The fees to be paid for the initial application shall cover administrative costs related to the processing of the application.

iii. The renewal application fee shall not be more than \$1,000, payable to the Commission and submitted with the Casino Gaming Testing Laboratory License Renewal Form.

iv. The license will not be approved until the fees, including the investigative costs, have been paid by the applicant.

(i) Casino Gaming Testing Laboratory Disqualification Criteria

i. The Commission may deny a Casino Gaming Testing Laboratory License to any applicant which, in the opinion of the Commission:

(1) Has not proved through clear and convincing evidence that the applicant and any of the persons required to be licensed in accordance with these Rules are in fact duly qualified;

(2) Has violated any of the provisions of these Rules;

(3) The applicant has failed to provide information or documentation requested in writing by the Commission in a timely manner, which shall not exceed (30) business days from the date of request by the Commission without reasonable justification and an extension granted by the Commission;

(4) The Commission shall deny a Casino Gaming Testing Laboratory License to any applicant who does not satisfy the standards for entity licensing in these Rules.

(j) Qualification Requirements - Casino Gaming Testing Laboratory License

i. The Commission shall not issue an Casino Gaming Testing Laboratory License to any entity unless the applicant has established the individual qualifications of each one of the following entities or persons if applicable:

(1) The entity;

(2) The holding company(s) of the entity;

(3) Every owner of the entity who has, directly or indirectly, any interest in or is the owner of more than five percent (5%) of the entity;

(4) Every owner of a holding company of the entity which the Commission deems necessary to promote the purposes of these Rules;

(5) Any director of the entity, except such director who, in the opinion of the Commission, is not significantly involved in or related with the administration of the entity;

(6) Every officer of the entity who is significantly involved in or who has authority over the manner in which the business dealing with the activities of Casino Licensee and any officer who the Commission considers necessary to protect the good character, honesty and integrity of the entity;

(7) Any officer of the holding company of the entity who the Commission considers necessary to protect the good character, honesty and integrity of the entity;

- (8) Any employee who supervises the regional or local office which employs the sales representatives who shall solicit business from or negotiate directly with a Casino Gaming manufacturer;
- (9) Any employee who shall function as a sales representative or who shall be regularly dedicated to soliciting business from any Casino Gaming manufacturer in the State of Arkansas;
- (10) Any other person connected to an entity who the Commission considers should be licensed.
- (11) This part does not apply to an institutional investor (as defined by the Federal Securities and Exchange Act of 1934, as amended) that acquires or will acquire 10% or less of the equity securities of an applicant or licensee that is a publicly traded corporation if those holdings were purchased for investment purposes only and the institutional investor files with the Commission a certified statement that it has no intention of influencing or affecting directly or indirectly, the affairs of the licensee; the investor will be permitted to vote on matters put to the vote of the outstanding security holders.
- ii. In order to establish the individual qualifications, the persons specified in subparagraphs (a)(i) and (a)(ii) of this section shall complete an Arkansas Racing Commission Business Entity Disclosure.
- iii. In order to establish the individual qualifications, the persons specified in subparagraphs (a)(iii) through (a)(x) of this section shall complete an Arkansas Racing Commission Personal History Disclosure form of Persons Related with Casino Gaming Testing Laboratory Licensee.
- (k) Qualifying as a Person Related with an Casino Gaming Testing Laboratory License
- i. Any natural person who is required to be licensed, because of his/her relationship with an Casino Gaming Testing Laboratory License applicant, shall provide to the Commission the information, documentation and assurances necessary to establish through clear and convincing evidence:
- (1) His/her relationship with the entity;
- (2) That he/she is 21 years of age (this only applies to those employees who service gaming machines or work on the Gaming Floor who have access to the machines);
- (3) That he/she is of good character and reputation, in addition to being honest and having integrity; and
- (4) That he/she has not been convicted including “nolo contendere” and “withheld adjudication” by any state or federal court in the Country for:
- (A) Committing, intending to commit or conspiring to commit a crime of moral turpitude, illegal appropriation of funds or robbery, or any violation of a law related to games of chance or skill, or a crime which is contrary to the declared policy of the Arkansas Racing Commission with respect to the gaming industry; or
- (B) Committing, intending to commit or conspiring to commit a crime which is a felony in the State of Arkansas or a misdemeanor in another jurisdiction which would be a felony if committed in the State of Arkansas.
- ii. Not satisfying any one of the requirements established in paragraph (a) above shall be sufficient reason for the Commission to deny a Casino Gaming Testing Laboratory License.
- iii. The Commission shall deny any person required to qualify in conjunction with a Casino Gaming Testing Laboratory License that does not satisfy the standards set forth within these Rules.

- (l) Investigations; Supplementary Approval of Change
  - i. The Commission or its representatives may, at its discretion, conduct any investigation with respect to an applicant or any person related with an applicant who it deems pertinent, either at the time of the initial application or at any subsequent time.
  - ii. It shall be the continuous duty of any applicant or holder of a Casino Gaming Testing Laboratory License to fully cooperate with the Commission or its representatives during any investigation and provide any supplementary information that the Commission or its representatives requests.
  - iii. It shall be the duty of any applicant or holder of a Casino Gaming Testing Laboratory License to notify the Commission within 10 business days of any proposed changes in the ownership of the applicant or licensee. If the applicant or holder of an Casino Gaming Testing Laboratory License is publicly traded company, it does not have to report changes in ownership unless the change represents five percent (5%) or more of the total shares issued and outstanding or ten percent (10%) or more of the total shares issued and outstanding if the change is the result of an institutional investor. In such cases, the licensee shall provide the Commission with copies of the most recent notice filed with the Securities and Exchange Commission. All proposed new owners shall submit to the Commission or its representatives an initial Casino Gaming Testing Laboratory License application, which must be approved by the Commission. Any failure to comply with this Rule shall be grounds for revocation of an existing license or denial of an application for a license.
- (m) Suspension, Denial of Renewal or Revocation of a Casino Gaming Testing Laboratory License
  - i. Any of the following reasons shall be considered sufficient cause for the suspension, denial of renewal or revocation of a Casino Gaming Testing Laboratory License:
    - (1) Violation of any provision of these Rules;
    - (2) Conduct which would disqualify the applicant or any other person required to be licensed by the Commission;
    - (3) Failure to comply with any applicable law, state or federal or regulation, or county or municipal ordinance;
    - (4) A material misstatement made in the application for the Casino Gaming Testing Laboratory License.
  - ii. Notwithstanding the provisions of subparagraph (a) above, any other cause that the Commission deems reasonable shall be considered sufficient cause for the suspension, denial of renewal or revocation of a Casino Gaming Testing Laboratory License.
- (n) Business Entity Disclosure for Casino Gaming Testing Laboratory Applicant Forms
  - i. Arkansas Racing Commission Business Entity Disclosure form shall be completed in the format provided by the Commission.
- (o) Personal History Disclosure form
  - i. The Commission may require an Arkansas Racing Commission Personal History Disclosure form from all those natural persons required under Section 13.9, to fill out the same.
- (p) Obligation for Payment of Fees; No Refund of Fees Paid
  - i. Any obligation for payment of fees arising from these Rules shall be paid in full to the Commission, even when the entity withdraws its application for a Casino Gaming Testing Laboratory License or the license is denied.
  - ii. No amounts paid for Casino Gaming Testing Laboratory License fees shall be refundable.
  - iii. Any failure to pay fees when due shall result in a late fee penalty established by the Commission, denial or revocation of a license.

(q) Subcontractors

A licensed Casino Gaming Testing Laboratory shall not perform any testing services for a Casino Licensee by using subcontractors and independent contractors. All testing must be performed by employees of the licensed testing labs, unless specifically approved by the Commission.

(r) Testing Laboratory Fees

The manufacturer shall be solely responsible for the payment of any fees imposed by the independent testing laboratory for its services. The fees to be charged shall be determined solely between the manufacturer and the independent testing laboratory.

(s) Additional Requirements for Independent Testing Laboratories

- i. All documents, data, reports, and correspondence prepared, furnished, or completed by the independent testing laboratory for or on behalf of the Commission shall be retained until its disposal is approved in writing by the Commission.
- ii. The independent testing laboratory shall provide the Commission with step-by-step verification procedures for each tool, device, or mechanism used to assign the unique identification codes or signatures.
- iii. The independent testing laboratory shall provide to the Commission, at no charge, in quantities determined by the Commission, any verification tool, device, or mechanism that is required for Commission agents to verify the code or signature of any approved critical program storage media. The independent testing laboratory may charge the supplier for expenses associated with such verification tools.
- iv. The independent testing laboratory shall develop and maintain a database, acceptable to the Commission, of all gaming equipment certified by the independent testing laboratory for the state of Arkansas.
- v. The database and report(s) must be current as of the end of the previous business day, and in a Commission-approved format.
- vi. The independent testing laboratory shall provide, free of charge to the Commission, technical and regulatory compliance support. The independent testing laboratory shall provide responses and follow-up as directed by the Commission. In instances where the independent testing laboratory providing the support is also conducting the testing for the device, the time allocated for support will be considered part of the testing process and the independent testing laboratory may bill the manufacturer for the cost of the technical support. In instances where the independent testing laboratory providing the support is not conducting the testing for the device, the Commission may require the manufacturer of the device to reimburse the independent testing laboratory at the rate the independent testing laboratory charges manufacturers for such support.
- vii. The independent testing laboratory shall provide, free of charge to the Commission, additional consulting services for Commission personnel on an as-needed basis. Such additional services at a minimum shall include, but not be limited to:
  - (1) Providing training to Commission employees on gaming equipment testing, new technology, and auditing procedures.

### 3.25 Employee Licenses

#### 1. Key Employee and General Employee Licenses

- (a) Except in cases of emergency and/or unavoidable temporary incidental entry, no person may work or provide services to the Casino Gaming Operations of a Casino Licensee in the State of Arkansas unless the person has a current Key Employee License or a General Employee License issued by the Commission, as provided in these Rules. The Key or General



Employee License requirements apply to persons who have direct access to the Casino Gaming equipment, games, surveillance or computer systems.

(b) Employees who perform duties in the racing industry of a Casino Licensee must have a Racing License. In the event the employee is assigned to work in both the Racing and Casino Gaming areas, the employee must obtain both a General Employee License and a Racing License.

(c) Key Employee and General Employee Licenses are issued for three-year periods.

(d) Qualifications for a Key Employee or General Employee license must meet the same qualifications as stated in Section 13.10 Qualifying as a Person Related with a Service Industry License.

(e) Key Employee Licenses or a General Employee Licenses issued pursuant to Regulations for Franchise Holders Operating Electronic Games of Skill shall also be valid Key Employee Licenses or General Employee Licenses for Casino Gaming and shall be subject to the requirements of these Rules. Such Key Employee Licenses or General Employee Licenses shall expire and be subject to renewal three years from the date of issuance of such license for Electronic Games of Skill.

### **3.26 Initial Application for an Employee License**

(a) Every initial application for an Employee License shall include:

i. A duly completed original and a photocopy of the Arkansas Racing Commission Personal History Disclosure form in accordance with Section 13.17 of these Rules;

ii. The documents to identify applicant, as provided in these Rules;

iii. A photo identification card shall be submitted by the applicant to the Commission with the filing of the license application, which will be stapled to the Arkansas Racing Commission Personal History Disclosure form in addition to submission of fingerprinting of the applicant by Commission staff or their designees, which will be submitted for state and federal regulatory inquiry purposes for criminal and financial background checks.

iv. The fees to be paid as provided in these Rules including late fees for late filings.

(b) Each initial application shall be filed at or mailed to the Commission at the address of the Commission as provided on the application itself.

### **3.27 Persons or Entities Who Must Obtain a Key Employee License**

Except as otherwise approved by the Commission, any person or entity who carries out or will carry out, or has or will have any of the functions mentioned in Section 14.4 shall obtain a Key Employee License; or who carries out functions specified in Section 14.5 shall obtain a General Employee License before commencing work with a Casino Licensee. The lists contained in these Rules are not all-inclusive but illustrative.

### **3.28 Key Employee Job Functions**

Any person or entity who is going to be employed by the Casino Licensee in a position which includes any of the following responsibilities or powers, independently of the title, shall obtain a Key Employee License:

(a) Where they have authority to develop or administer policy or long-range plans or to make discretionary decisions related to the operation of the Casino Licensee they shall be considered a Key Employee Licensee and shall include, but not be limited to any person or entity who:

i. Functions as an officer of the Casino Licensee;

ii. Functions as a facility manager for a Casino Licensee or director;

iii. Functions as Casino Gaming gaming department manager;

- iv. Functions as director of surveillance;
- v. Functions as director of security;
- vi. Functions as controller;
- vii. Functions as an audit department executive;
- viii. Functions as the manager of the MIS (“Management Information Systems”) Department or of any information system of a similar nature;
- ix. Manages a marketing department;
- x. Functions as assistant manager;
- xi. Manages the Casino Gaming gaming administrative operations;
- xii. Functions as a general manager;
- xiii. Functions as Chief Financial Officer of the Casino Licensee; and
- xiv. Any other person who has the ability to direct, control or manage the operations or who has discretionary authority over the Casino Licensee’s decision-making. Notwithstanding the above, individuals working exclusively for pari-mutuel operations in horse or greyhound racing at a Casino Licensee’s facility would not be covered by these Rules.

### **3.29 General Employee Job Functions**

Any natural person who is going to be employed by the Casino Licensee in a position which includes any of the following responsibilities related to the operations of the Casino Licensee, or whose responsibilities predominantly involve the maintenance or the operation of Casino Gaming activities or equipment and assets associated with the same, or who is required to work regularly in restricted Casino Gaming areas shall obtain a General Employee License. Said persons shall include, but not be limited to, any person who:

- (a) Conducts surveillance investigations and operations in a Casino Gaming gaming area;
- (b) Repairs and maintains Casino Gaming gaming equipment, including, but not limited to, Casino Gaming and bill acceptors;
- (c) Assists in the operation of Casino Gaming and bill acceptors, including, but not limited to, persons who participate in the payment of jackpots, or who supervise said persons;
- (d) Processes currency, and patrons’ checks or Cash Equivalents in the Casino Gaming gaming area;
- (e) Repairs or maintains the Surveillance System equipment as an employee of the surveillance department of the Casino Licensee;
- (f) Provides physical security in a Casino Gaming gaming area;
- (g) Controls or maintains the Casino Gaming inventory, including replacement parts, equipment and tools used to maintain of the same;
- (h) Has responsibilities associated with the installation, maintenance or operation of computer hardware for the Casino Licensee’s computer system; and
- (i) Does not perform the job functions of a Key Employee as outlined within these Rules.

### **3.30 Scope and Applicability of Employee Licensing of Natural Persons**

(a) In determining whether a natural person who provides services to a Casino Licensees is an employee of the Casino Licensee for purposes of these Rules, it shall be presumed that such person is an employee if the services provided by that person are characterized by any of the following factors, these being indicative that an employment relationship exists:

- i. The natural person will, for a period of time unrelated to any specific project or for an indefinite period of time, directly supervise one or more employees of the Casino Licensee;

- ii. The Casino Licensee will withhold local and federal taxes or make regular deductions for social security, or other deductions required by law from the payments made to the natural person;
- iii. The natural person will be given the opportunity to participate in any benefit plan offered by the Casino Licensee to its employees, including, but not limited to, health insurance plans, life insurance plans or pension plans; or
- iv. The natural person has an employee license application pending with the Commission or will submit such an application during the time the services are being rendered to the Casino Licensee, and the cost of the license has been or will be paid for or reimbursed by the Casino Licensee.

(b) The Commission may, after considering the factors in paragraph (a) of this section and any other applicable information, require that the natural person obtain an employee license before providing or continuing to provide any service to Casino Licensee even if an agreement to the contrary exists between the Casino Licensee and the natural person.

### **3.31 General Criteria for Granting of a Key Employee License**

(a) Each applicant for an Employee License shall provide the Commission with the necessary information, documentation and guarantees which establish through clear and convincing evidence that the applicant:

- i. Is older than 21 years of age;
- ii. Is a citizen of the United States of America or is authorized in accordance with the applicable federal laws or regulations to work in the United States of America.
- iii. Possesses good character and reputation, in addition to being honest and having integrity; and
- iv. Has no physical or mental condition that prohibits the applicant from performing the essential functions of his job for which there is no reasonable accommodation.

(b) Failure to comply with one of the criteria established in paragraph (a) above may be sufficient cause for the Commission to deny an application for an Employee License.

### **3.32 Personal Information Required for a Key Employee License**

(a) Every applicant for a Key Employee License who will work in a managerial or supervision position for a Casino Licensee of the type described in these Rules shall submit:

- i. Any affiliation of applicant with a Casino Licensee or with companies controlling the Casino Licensee and the position he/her occupies with the same or his interest in said entity;
- ii. Any affiliation of applicant with a Service Industry entity or with companies controlling the Service Industry entity and the position that he/her occupies with or his interest in said entity.

### **3.33 Processing of the Initial Application for a Key Employee License**

(a) The Commission shall determine if the initial application complies with all the requirements provided in these Rules and if any deficiency is found, it shall notify the applicant of the deficiency(ies) within 20 days following the filing of the initial application with the Commission. The Commission shall not evaluate an incomplete initial application.

(b) Once the Commission has determined that the initial application filed is complete, the Commission shall:

- i. Accept the application and initiate the procedure for considering the same;
- ii. Notify in writing the applicant or his/her representative, if any, that the application has been accepted for consideration. Said notice shall also include:

- (1) The date of said acceptance;
  - (2) The file number of the application; and
  - (3) A caution to the applicant that the fact that the application has been accepted for consideration does not mean that the applicant has complied with the requirements of the Rules to issue the license;
- iii. Analyze and evaluate the information offered in the application and any other information necessary to determine if the requested license should be granted;
  - iv. Make a decision with respect to the requested license; and
  - v. Notify the applicant of its decision. If the decision consists of a denial of the license, the Commission shall inform the applicant the reason or reasons for the denial and of his/her right to request a reconsideration of the decision of the Commission following the adjudicative procedures provided in these Rules. For purposes of these Rules, a denial of a license application shall be considered a final order of the Commission, after the adjudication process.
- (c) The Commission, at any time, may request from an applicant for an Employee License any other information it may deem necessary in order to make a decision with respect to the application.

### **3.34 Duration of the Employee License**

- (a) Every Employee License shall be issued by the Commission for a period of 3 years.
- (b) Notwithstanding the provisions of paragraph (a) above, the Commission may, as it deems necessary:
- i. issue any license for a shorter period of time;
  - ii. at any time, void an Employee License for reasonable cause.

### **3.35 Date of Filing for Renewal of a Key or General Employee License**

Any holder of an Employee License shall renew his license by filing with the Commission an application for renewal of his Employee License. The completed renewal application shall be filed with the Commission no later than 60 days prior to expiration of the license.

### **3.36 Application for Renewal of a Key or General Employee License** (a) The application for renewal of an Employee License shall include:

- i. A duly completed original and a photocopy of the Arkansas Racing Commission Personal History Disclosure form which shall contain all the information which has changed since the date of the initial Employee License application or of the last renewal.
  - ii. The documents which identify the applicant, as provided in these Rules;
  - iii. A photograph of the applicant furnished by the applicant or casino gaming license holder shall be stapled to the Arkansas Racing Commission Personal History Disclosure form; and the submission of fingerprints of the applicant, which shall be taken by the Commission and submitted to state and federal authorities for relevant checks.
  - iv. The fees to be paid as provided in these Rules.
- (b) Any renewal application shall be filed with or mailed to the Commission to the address of the Commission, as provided on the application.
- (c) Any person who fails to submit a completed renewal application in accordance with this section or in accordance with the provisions of paragraph (a) of these Rules shall be considered as not having filed a renewal application with the Commission and the license shall be cancelled on the expiration date.
- (d) Any person whose current employee license is cancelled in accordance with this section may, before the date of expiration of the current license, or at any time after the expiration, apply for an Employee License; provided that the application, for all purposes of

these Rules, shall be considered an initial Employee License application and shall comply with these Rules.

### **3.37 Processing of the Application for Renewal of Key or General Employee License**

(a) The Commission shall determine if the renewal application filed complies with all the requirements provided in these Rules and if any deficiency is found, it shall notify the applicant of the deficiency(ies) within 20 days following the filing of the renewal application with the Commission; provided that the Commission may, at its discretion and depending on the magnitude of the deficiency(ies), grant an opportunity for the applicant to cure any deficiency within the period and under the conditions determined by the Commission at said time. Any application where a deficiency has been cured in accordance with the above shall be deemed to have been filed within the period required by these Rules.

(b) Upon receipt of an application for renewal of an Employee License duly completed and filed within the period required by these Rules, the Commission or its representatives shall carry out the investigation it deems necessary.

(c) The Commission shall make a decision with respect to each completed license renewal application which has been submitted.

(d) The Commission shall notify the applicant of the decision made. If the decision consists of a denial of the renewal of the license, the Commission shall inform the applicant the reason or reasons for the denial and of his right to request a reconsideration of the decision of the Commission following the adjudicative procedures provided in these Rules. For purposes of these Rules, a denial of a license application shall be considered a final order of the Commission, after the adjudication process.

### **3.38 Responsibility for Establishing Qualifications and to Disclose and Cooperate**

(a) Each applicant shall be responsible for providing the information, documentation and assurances required for establishing through clear and convincing evidence that his/her qualifications meet the requirements of these Rules.

(b) It shall be the continuing responsibility of every applicant or holder of an Employee License to provide all the information, documentation and assurances that may be required by the Commission pertaining to the qualifications, and to cooperate with the Commission. Any refusal or failure of an applicant to comply with a formal request for information, evidence or testimony from the Commission shall be sufficient cause for a denial or revocation of the license.

### **3.39 Identification of the Applicant**

Every applicant for an Employee License shall establish his/her identity with reasonable certainty by providing the necessary Identification Credentials.

### **3.40 Fees Payable**

The fees payable for the initial or renewal application for Employee Licenses shall be determined by the Commission. Applications for an initial license and every third year after initial license will be required to pay to the Commission a fee to cover the costs related to obtaining background investigations and reports.

### **3.41 Employees Working Without an Employee License**

No employee with an expired license shall work in a position or shall exercise functions for which such license is required, with the understanding that if such employee is found working without a current

and valid license, the employee, as well as the Casino Licensee or person or entity employing the employee shall be subject to sanctions as established by the Commission.

### **3.42 Payment of Fees, Regulatory Sanctions; No Refunds of Payments**

- (a) No application shall be accepted for filing or processed by the Commission except upon full payment of all required fees, civil penalties or regulatory sanctions. Any portion of a fee which is incurred or determined after the filing of the application or any civil penalty imposed by the Commission shall be payable upon demand to the Commission.
- (b) Any payment of monetary obligation arising from these Rules shall be paid in full even when the person withdraws his Employee License application.
- (c) No amounts required to be paid to the Commission for licensure; civil penalties or regulatory sanctions shall be refunded.
- (d) Any fees, civil penalties or regulatory sanctions not paid by the due date shall be subject to penalty in an amount to be determined by the Commission.

### **3.43 Miscellaneous Administrative Charges**

- (a) Any lost Key Employee License shall be replaced by the Commission at a cost to be determined by the Commission.
- (b) Any change to the Employee License requested by the employee which was not caused by an omission or negligence of the Commission shall carry a charge to be determined by the Commission.

### **3.44 Change of Position or Place of Work**

- (a) Any natural person who carries out any of the functions described in Section 14.5, General Employee Job Functions of these Rules or one which is similar in nature to said functions and for any reasons the person's functions change to any of the functions which are described in Section 14.3 of these Rules or one that is similar in nature to these shall file a new application with the Commission in accordance with the provisions of these Rules, Application for Renewal of Key Employee License of these Rules within the 20 days following the change of the person's position.
- (b) A license setting forth more than one position may be issued to any licensed employee by the Commission upon application by the licensed employee or the Casino Licensee. Said request would be reviewed by the Commission to ensure that their dual license status would not be deemed an Incompatible Function. The review will be conducted in a timely manner and the Commission's decision shall be provided to the applicant in writing.

### **3.45 Carrying of Licenses and Credentials**

- (a) All employee licenses must be worn and displayed in a visible and conspicuous manner at all times when on the premises of the casino license holder.
- (b) No Casino Licensee shall permit a person to work in its licensed premises without said person carrying his/her Employee License as provided in paragraph (a) above.

### **3.46 Authority of Commission - Licensing**

- (a) Nothing provided in this document shall be interpreted as limiting authority and powers of the Commission to at any time:
  - i. Investigate the qualifications of any holder of an Employee License; and
  - ii. The Commission may suspend, revoke or refuse to issue a license to any person who:

- (1) Failed to disclose or misstated information or otherwise attempted to mislead the Commission with respect to any material fact contained in the application for license as a gaming employee;
- (2) Violated Commission Rules, or has been suspended or had a license revoked by another gaming jurisdiction;
- (3) Has been convicted of a felony in the last ten years. Persons with felony convictions that are more than ten years ago may be licensed at the discretion of the Commission.
- (4) Has been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or as being of notorious and unsavory reputation;
- (5) Is on probation, parole or remains in the constructive custody of any federal, state or municipal law enforcement authority;
- (6) Had license as a gaming employee revoked or committed any act which is a ground for the revocation of license as a gaming employee or would have been a ground for revoking license as a gaming employee if the applicant had then been registered as a gaming employee;
- (7) Has been employed in the last two years by the accounting firm that has conducted the annual independent audit on behalf of a Casino Licensee or the Casino Gaming Section; or
- (8) Has been employed by the Casino Gaming Section within the last two years.

### **3.47 Transitory Provisions**

- (a) Any person who on the effective date of these Rules who in accordance with the provisions of these Rules would need an Employee License, shall file an initial application within the thirty (30) days following the effective date of these Rules.
- (b) All persons to whom these Rules would apply shall comply with all the provisions of these Rules from the effective date of these Rules.

### **3.48 Sanctions**

- (a) The Commission may initiate regulatory enforcement actions against any person licensed under these Rules.
- (b) Any person who willfully fails to report, pay or truthfully account for and pay any license application fee, investigative fee or any other fees imposed by these Rules, or willfully attempts in any manner to evade or defeat any such fee, or payment thereof shall be subject to suspension or revocation of their license and shall be liable for the imposition of a penalty, as determined by the Arkansas Racing Commission.
- (c) Any person who, without obtaining the requisite license as provided for by these Rules works or is employed in a position whose duties would require licensing under the provision of these Rules shall be liable for the imposition of sanctions and subject to a fine of not more than \$1,000, suspension or revocation of license or both.
- (d) In addition to any monetary sanction, the Commission shall, after appropriate hearing and factual determinations, have the authority to impose the following sanctions upon any person licensed pursuant to these Rules:
  - i. Revoke the license of any person convicted of any criminal offense for which disqualification as set forth in Section 14.0 would result.
  - ii. Suspend the license of any person pending a hearing and determination in any case in which license revocation could result.
  - iii. Suspend or revoke the license for violation of any provisions of these Rules relating to Casino Licensees.

- iv. Assess sanctions as may be necessary to punish misconduct and to deter future violations, which such penalties may not exceed \$5,000 in the case of any individual licensee and in the case of the Casino Licensee, the penalty may not exceed \$10,000 for each violation.
  - v. Issue warning letters, letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee so sanctioned.
- (e) In considering appropriate sanctions in a particular case the Commission shall consider:
- i. The risk to the public and to the integrity of Casino Licensees created by the conduct of the person facing sanctions;
  - ii. The seriousness of the conduct and whether the conduct was purposeful and with knowledge that it was in contravention of these Rules;
  - iii. Any justification or excuse for such conduct;
  - iv. The prior history of the licensee with respect to compliance with these Rules;
  - v. The corrective action taken by the licensee to prevent future misconduct of a like nature from occurring; and
  - vi. In the case of a civil penalty, the amount of the penalty in relation to the severity of the misconduct. The Commission may impose any schedule or terms of payment of such penalty, as it may deem appropriate.
  - vii. It shall be no defense to any regulatory enforcement or disciplinary action before the Commission that the applicant or licensee inadvertently, unintentionally, or unknowingly violated a provision of these Rules. Such factors shall only go to the degree of the civil penalty to be imposed by the Commission.
- (f) A violation of any provision of these Rules, which is an offense of a continuing nature, shall be deemed to be a separate offense on each day during which it occurs. Nothing herein shall be deemed to preclude the Commission from enforcing multiple violations within the same day of those provisions of the Rules which establish offenses consisting of separate and distinct acts.

**END RULE 3**