



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DIAMOND JO CASINO **RULING NUMBER: DU0224** **DATE: August 23, 2013**

RACING AND GAMING COMMISSION
BRIAN J. OHORILKO, ADMINISTRATOR

To: Todd Moyer
Address: 6411 Torrey Pines
Asbury, IA 52002

License Number: 9931730
Date of Birth: 07/20/1966
Position: General Manager

RULING:

Present and providing testimony was Todd Moyer, General Manager Diamond Jo; Marty Maiers, Director of Marketing Diamond Jo; Scott Riedl, Entertainment Manager Diamond Jo; Heather Schuster, Wedding and Special Event Coordinator Diamond Jo; Francis Domitrovich, Director of Security Diamond Jo; Nicole Duccini, Director of Human Resources Diamond Jo; Curt Beason, legal counsel for Todd Moyer; Scott Franke, Iowa Racing and Gaming Commission Representative

Based on the administrative file as well as the testimony received in the hearing, the Board finds Todd Moyer engaged in conduct that is undesirable, detrimental to, and reflects negatively on the integrity or best interests of gaming while on duty as a General Manager at Diamond Jo Casino in Dubuque, Iowa. Specifically, on May 11, 2013, Diamond Jo Casino was holding a musical event in the Mississippi Moon Bar located at the facility. At the beginning of the show, Mr. Moyer discovered a seating problem in the suites involving VIP patrons and his neighbor who was having a birthday party. Mr. Moyer became upset over the incident and approached two employees from behind, the Director of Marketing and the Entertainment Manager. Mr. Moyer shoved the Director of Marketing and used profane language in an elevated voice in the presence of the public. Mr. Moyer and the two employees proceeded up to the suites to resolve the seating issue. Mr. Moyer met the Wedding and Special Events Coordinator, who was responsible for the party and seating, by the suites and used profane language in an elevated voice toward her in the presence of the public. The employees worked together and resolved Mr. Moyer's concerns without further incident.

Mr. Moyer testified to the Board that he didn't recall touching the Director of Marketing as he approached him from behind. He also indicated he did not recall using profane language that evening. However, the Director of Marketing stated the contact from Mr. Moyer was "hard enough that my right shoulder did jerk forward while standing in place." In addition, a witness next to the employee stated the Director of Marketing "lunged forward" and he could also see "Todd Moyer's arm being pulled back". Furthermore, four witnesses provided written statements/testimony that Mr. Moyer used profane language in an elevated voice in the presence of the public. Two off duty employees who were patrons at the musical event also provided statements that Mr. Moyer was causing a commotion, appeared to be angry and was yelling in the presence of the public.

The Board takes into consideration that Mr. Moyer was employed as the General Manager for Diamond Jo Casino and the Commission holds licensees of a higher position to a higher standard. The Board notes Diamond Jo's Human Resource Department had received prior complaints regarding Mr. Moyer's intimidating management style which included using profane language. The Board further notes Mr. Moyer appeared to have a detailed recollection of the events of the evening; however he did not recall using profanity or making physical contact with the Director of Marketing. In addition, the witness statements and testimony provided by the employees who were present during the incident were consistent and refuted Mr. Moyer's statements. Therefore, the Board finds Mr. Moyer's testimony was not forthright.

The Board finds Mr. Moyer made unnecessary physical contact with an employee, engaged in intimidating behavior, used profane language in front of the public and was not forthright with his testimony before the Board. This conduct is undesirable, detrimental to and reflects negatively on the integrity and best interest of racing and gaming. The Board cannot condone any licensee making unnecessary physical contact and using profanities while in the presence of the public. Therefore, the Board suspends Mr. Moyer's occupational license for a period of 30 days, to run concurrent with his termination.

RULE REFERENCES: 491 IAC 6.5(3) "i" & "j"; 491 IAC 6.5(1) "k"

ALL ADMINISTRATIVE PENALTIES MUST BE PAID WITHIN 10 CALENDAR DAYS. IF THE PENALTY IS NOT PAID, THEN THE LICENSE WILL BE SUSPENDED. AN APPEAL MUST BE FILED WITHIN 72 HOURS.

GAMING BOARD

Jesse Goldstein

Cory Ostermeyer

*Jeff Rethmeier

*Indicates chairperson