

IN THE CIRCUIT COURT OF DUNKLIN COUNTY, MISSOURI

STATE OF MISSOURI, ex rel.)
ANDREW T. BAILEY, in his official)
capacity as Missouri Attorney General,)
)
Plaintiff,)
)
vs.)
)
T.J. ENTERTAINMENT,)
)
TRACI ROGERS,)
d/b/a T.J. ENTERTAINMENT,)
)
and)
)
CHARLES LONG,)
)
Defendants.)

Cause No.

Division No.

PETITION FOR PERMANENT INJUNCTION, RESTITUTION,
CIVIL PENALTIES, AND OTHER RELIEF

T.J. Entertainment is an illegal gaming house that has continually subjected the public to numerous harms. In recent months, this illegal casino, which is surrounded by businesses, has been the site of two separate armed robberies, several weapons crimes and an assault. At least some of these crimes were committed by armed offenders with histories of criminal activity. In all instances, the armed criminals fled the scene of their crimes placing the public at additional risk of harm. T.J. Entertainment’s sole function is to provide devices and a location for unlawful gambling activity. As such, Defendants not only own and operate a public nuisance, but are doing so in violation of the Missouri Merchandising Practices Act.

1. Attorney General Andrew T. Bailey brings this action to abate a public nuisance and to enforce the Missouri Merchandising Practices Act.

Parties

2. Andrew T. Bailey is the Attorney General of the State of Missouri and brings this action in his official capacity.

3. Defendant T.J. Entertainment, L.L.C. (“T.J. Entertainment”) is a Missouri Limited Liability Company that transacts business in Dunklin County, Missouri with its principal place of business located at 1061 Jones Street, Kennett, Missouri 63857 (“Premises”).

4. Defendant Traci Rogers (“Rogers”) is the owner and operator of T.J. Entertainment and resides at 906 West North Street, Kennett, Missouri 63857.

5. Defendant Charles Long (“Long”) is the owner of the building located on the Premises and resides at 311 Seely, Kennett, Missouri 63857.

6. Any acts, practices, methods, uses, solicitations, or conduct of the Defendants alleged in this Petition include the acts, practices, methods, uses, solicitations or conduct of Defendants’ employees, agents, or other representatives acting under Defendants’ direction, control, or authority.

Jurisdiction and Venue

7. This Court has subject matter and personal jurisdiction over this action under Art. V, § 14 Mo. Const. and § 478.070, RSMo.

8. Venue is proper in this court because this petition alleges a tort – public nuisance – and the injuries to the public occurred in Dunklin County, Missouri.

9. This Court has authority over this action pursuant to § 407.100, RSMo, which allows the Attorney General to seek injunctive relief, restitution, penalties, and other relief in circuit court against persons who violate § 407.020, RSMo.

Legal Authority

10. Section 572.090, RSMo, declares any room, building or other structure regularly used for any unlawful gambling activity prohibited by Chapter 572 a public nuisance, and allows the Attorney General to prosecute a suit against the owner to enjoin the nuisance.

11. The Attorney general has authority to bring actions to enjoin and remedy public nuisances.

Allegations Common to All Counts

12. T.J. Entertainment was organized by Traci Rogers on February 13, 2023. Exhibit 1.

13. Its Articles of Organization state the purpose of the business is to “provide a space for adults to gather and play games.” Exhibit 1.

14. T.J. Entertainment does not have a business license for the establishment located on the Premises.

15. Upon information and belief, the only games available for play at T.J. Entertainment are electronic gambling machines, including 16 slot machines and four fishing games.

16. Fishing games are arcade-type games around which players can be seated; and each machine seats numerous players.

17. The tabletop of the machine is the video screen, which displays fish of different sizes swimming across the screen at various speeds.

18. Players insert money into the machine and utilize a joystick to either shoot or catch fish as they swim across the screen.

19. Each fish that is killed or caught earns the player credits, which are then redeemed for coins used to continue playing or tickets that are later redeemed for cash.

20. Each seat, either at a fishing game table or a slot machine, is numbered.

21. The Premises also offers a progressive jackpot each evening.

22. Posted within the Premises are signs that read, "Bring in a positive new day every day with Progressive winning drawing every night for 20\$ [sic] and if the machine seat number called [is] empty it will progress to the following day by 20\$ [sic] randomly drawn between 11p and 1 am every night."

23. Upon winning credits at either a slot machine or fishing game table, a player can redeem them for cash within the Premises.

24. To gain entry into the building, one must ring a doorbell and be granted permission to enter.

25. There is a conspicuous sign on the front door that reads, "Welcome to T.J.'s Entertainment. Please look into the camera and press buzzer to be admitted." Exhibit 2.

26. The sign further states face masks, firearms, illegal drugs, K2, and alcohol are prohibited; that identification may be required; and the establishment is 420 friendly. Exhibit 2.

27. The front door also includes notice that one must be 18 years of age to enter. Exhibit 2.

28. Upon information and belief, Long resides less than four miles from the Premises.

29. Upon information and belief, Long knows or has reason to believe the Premises is being used regularly for unlawful gambling.

COUNT I – PUBLIC NUISANCE
AGAINST CHARLES LONG

30. Plaintiff hereby restates and incorporates by reference the allegations set forth in Paragraphs 1-29 above.

31. A gambling device is defined as, “any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person with a machine.”

§ 572.010(5), RSMo.

32. “[A] person engages in gambling when he or she stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he or she will receive something of value in the event of a certain outcome.” § 572.010(4), RSMo.

33. “[A]ny contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that the skill of the contestants may also be a factor” constitutes a contest of chance. § 572.010(3), RSMo.

34. Slot machines and fishing games are gambling devices.

35. Patrons of T.J. Entertainment engage in gambling each time they play the slot machines or the fishing games.

36. Any unlawful gambling scheme in which the participants are given an opportunity, in exchange for consideration, to win something of value, which is determined by chance is a lottery. § 572.010(7), RSMo.

37. T.J. Entertainment’s progressive jackpot constitutes a lottery.

38. Each patron who participates in the progressive jackpot is engaging in gambling.

39. T.J. Entertainment utilizes the Premises for unlawful gambling.

40. As such, the Premises, constitutes a public nuisance under § 572.090, RSMo.

41. As owner of the Premises, Long knows or has reason to believe the Premises is being used regularly for unlawful gambling activity.

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in favor of Plaintiff declaring T.J. Entertainment a public nuisance and awarding the State an injunction prohibiting the Premises from being occupied or used for one year or amount of time, not to exceed one year, as the Court deems appropriate.

COUNT II – PUBLIC NUISANCE
AGAINST ALL DEFENDANTS

42. Plaintiff hereby restates and incorporates by reference the allegations set forth in Paragraphs 1-29 above.

43. “A public nuisance is an unreasonable interference with a right common to the general public.” *City of St. Louis v. Varahi, Inc.*, 39 S.W.3d 531, 536 (Mo. App. E.D. 2001) quoting *State ex rel. Dresser Industries, Inc. v. Ruddy*, 592 S.W.2d 789, 792 (Mo. banc 1980).

44. Among the general categories of public rights recognized by Missouri courts are public safety and public peace. *Id.* at 536.

45. When determining whether or not something constitutes a public nuisance, “[C]onsideration should be given to places where the public have the legal right to go or congregate, or where they are likely to come within the sphere of its influence.” *Id.* at 535.

46. The Premises is surrounded by places to which the public has a legal right to go.

47. The Premises is adjoined on the south by Family Counseling Center, Inc. Exhibit

48. The Bootheel Fraternal Order of the Eagles is located directly across the street to the east. Exhibit 3.

49. On November 1, 2023, at approximately 12:37 a.m., police were dispatched to the Premises for a report of a disturbance involving gunshots being fired. Exhibit 4.

50. Upon information and belief, the gunshots occurred in the parking lot of the Premises. Exhibit 4.

51. Responding officers located 1 live .9 mm round of ammunition and 2 spent shell casings on the ground in the parking lot. Exhibit 4.

52. Officers also observed what appeared to be bullet holes in a car windshield and 2 bullet fragments near the vehicle. Exhibit 4.

53. All suspects involved fled the scene prior to the police's arrival.

54. For his involvement in the crimes, Dontay Jenkins ("Jenkins") is currently charged with the class B felony of assault in the first degree, the unclassified felony of armed criminal action, the class B felony of unlawful use of a weapon, and the class C felony of unlawful possession of a firearm by a dangerous felon. Exhibit 5.

55. At the time of the offense, Jenkins had previously pleaded guilty or been convicted of at least two felony offenses that occurred on separate occasions and was on supervised probation for two separate offenses of robbery. Exhibit 6.

56. On January 12, 2024, police were dispatched to the Premises for a report of an armed robbery. Exhibit 7.

57. The suspects fled the scene of the Premises prior to law enforcement's arrival. Exhibit 7.

58. Quamayne Rose (“Rose”) was identified as one of the suspects and is currently charged with the class A felony of robbery in the first degree. Exhibit 8.

59. At the time of the offense, Rose had previously pleaded guilty or been convicted of at least two felony offenses that occurred on separate occasions and was on supervised probation for the offense of unlawful possession of a firearm. Exhibit 9.

60. On January 21, 2024, police were dispatched to the Premises for a report of an armed robbery.

61. Officers observed video surveillance, which showed three suspects enter the establishment, at least two of which were armed with guns.

62. The suspects fled the Premises prior to law enforcement’s arrival.

63. Rogers, T.J. Entertainment, and Long operate a public nuisance in that they interfere with common community rights of public safety and public peace.

64. Those who reside near the Premises, those who patronize the adjacent establishments, and those who travel on the public highways surrounding the Premises are confronted with dangers and suffer from a lack of public peace as a result of the Premises’s illegal operations, including violent crimes committed on the Premises and the risk of harm due to fleeing criminal suspects.

65. These dangers arise from Rogers’s, T.J. Entertainment’s, and Long’s unreasonable use of the Premises which has caused and continues to cause injury to the public.

WHEREFORE, Plaintiff prays this Court enter judgment in favor of Plaintiff enjoining Defendants from gambling, offering gambling services, or possessing gambling devices including, but not limited to, slot machines and fishing games at the Premises.

COUNT III - UNFAIR PRACTICE
AGAINST ALL DEFENDANTS

66. Plaintiff hereby restates and incorporates by reference the allegations set forth in Paragraphs 1-29 above.

67. Defendants violated § 407.020, RSMo, by engaging in the method, use or practice of providing for a fee a location to engage in gambling and gambling services for a fee, a practice which offends the public policy of Missouri as set forth in § 572.090, RSMo, and which presents a risk of injury to consumers.

68. Defendant violated § 407.020, RSMo, by engaging in the method, use or practice of providing for a fee gambling services, and in the course thereof, themselves gambling, in violation of § 572.020, RSMo, a statute intended to protect the public, and which presents a risk of harm to consumers.

WHEREFORE, Plaintiff prays this Court enter judgment:

- A. Finding that the Defendants violated the provisions of § 407.020.
- B. Issuing a Permanent Injunction pursuant to §§ 407.100.1 and 407.100.2 prohibiting and enjoining the Defendants and their agents, servants, employees, representatives and other individuals acting at its direction or on its behalf from offering gambling services or providing a location for gambling to occur in the State of Missouri.
- C. Requiring the Defendants to pay the State of Missouri a civil penalty of \$1,000 per violation of Chapter 407 that the Court finds to have occurred per § 407.100.6.
- D. Requiring the Defendants to pay all court, investigative, and prosecution costs of this case per § 407.130.
- E. Granting any further relief that this Court deems proper in the premise.

Respectfully submitted,

ANDREW T. BAILEY
MISSOURI ATTORNEY GENERAL

/s/ Kelly L. King

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