

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-15-003  
Ameristar Casino Kansas City, Inc. )

## PRELIMINARY ORDER FOR DISCIPLINARY ACTION

Comes now the Missouri Gaming Commission acting in its official capacity pursuant to 11 CSR 45-13.050, and states as follows:

1. The Missouri Gaming Commission (the "Commission") or ("MGC") is a state commission created under Chapter 313, RSMo 2000,<sup>1</sup> with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Pinnacle Entertainment, Inc., a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Pinnacle Entertainment Inc. is the parent organization or controlling entity of Ameristar Casino Kansas City, Inc. (the "Company").
4. The Commission issued a Class B riverboat gambling license to the Company to conduct games on and operate the excursion gambling boat known as the *Ameristar Casino Kansas City* (the "Casino").
5. As the holder of a Class B license, the Company is subject to the provisions of §§ 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

## STATEMENT OF FACTS<sup>2</sup>

6. The Casino is a 24-hour casino with gaming days ending at 6:00 a.m. Wednesday through Monday and closes on Tuesdays at 5:00 a.m.
7. Casino Security failed to conduct the manual counts at the end of the gaming day on April 4 and April 7, 2014, as required.

## LAW

8. Under § 313.805(6), RSMo, the Commission may assess any appropriate administrative penalty against a licensee, including but not limited to, suspension, revocation or penalties of an amount determined by the Commission.

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<sup>1</sup> All statutory references are to RSMo 2000, unless otherwise specified

<sup>2</sup> 20140410002

9. Section 313.812.14, RSMo, states, in pertinent part, as follows:

A holder of any license shall be subject to imposition of penalties, suspension or revocation of such license, or if the person is an applicant for licensure, the denial of the application, for any act or failure to act by himself or his agents or employees, that is injurious to the public health, safety, morals, good order and general welfare of the people of the state of Missouri, or that would discredit or tend to discredit the Missouri gaming industry or the state of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action. The commission shall take appropriate action against any licensee who violates the law or the rules and regulations of the commission. Without limiting other provisions of this subsection, the following acts or omissions may be grounds for such discipline.

- (1) Failing to comply with or make provision for compliance with sections 313.800 to 313.850, the rules and regulations of the commission or any federal, state or local law or regulations;
- (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming.

10. Title 11 CSR 45-8.040(1), “each licensee shall maintain complete, accurate, legible and permanent records of all transactions pertaining to its revenues and expenses, assets, liabilities and equity.”

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

- (3) Violations of the minimum internal control standards [“(MICS”)] by a Class A licensee or an agent or employee of a Class A licensee are deemed to be unsuitable conduct for which the Class A licensee and/or its agent or employee is subject to administrative penalty pursuant to Section 313.805(6), RSMo, and 11 CSR 45-1 et seq.
- (4) Violations of the Class A licensee’s internal control system by the Class A licensee or an agent or employee of the Class A licensee shall be *prima facie* evidence of unsuitable conduct for which the Class A licensee and/or its agents or employees may be subject to discipline pursuant to Section 313.805(6), RSMo, and 11 CSR 45-1 et seq.”

12. MICS, Chapter J, § 1.02 states, in pertinent part, as follows:

Licensees who operate 24-hour gaming shall:

\* \* \*

- (B) Close each Wednesday morning at the end of Tuesday's gaming day for at least one hour and shall remain closed until the casino is cleared of patrons and turnstile and progressive meter readings are recorded.
- (C) Complete a manual count of patrons remaining on the casino floor at the end of each Sunday, Monday, Wednesday, and Thursday gaming days. The internal control system shall include the procedures for conducting manual counts. The higher of the turnstile or manual counts shall be used to calculate admission fees due.

13. The Casino's ICS, Chapter J, § 1.02 states, in pertinent part, as follows:

ACKC, operating 24-hour gaming shall:

\* \* \*

- (B) Close each Wednesday morning at the end of Tuesday's gaming day for at least one hour and shall remain closed until the casino is cleared of patrons and turnstile and progressive meter readings are recorded.
- (C) Complete a manual count of patrons remaining on the casino floor at the end of each Sunday, Monday, Wednesday, and Thursday gaming days , and will be taken at 6:00 a.m. ACKC will use either Casino Operations or Security for this task. Four team members, starting from the middle of both floors of the casino, will start from the middle and work to the end of the casino recording a count of remaining patrons and then repeat the process moving from the end of the floor working to the middle and recording that count. The count will be recorded on a Manual Guest Floor Count Form (R-100.403).

The higher of the two manual counts will be compared to the turnstile count and the higher of those two counts will be used to calculate the onboard number at the end of the gaming day. The starting stay-over number will then be adjusted to the highest manual count for the start of the next gaming day

### VIOLATIONS

- 14. The actions or omissions of employees or agents of the Company as described above constitute a failure by the Casino to conduct manual counts as required, thereby violating 11 CSR 45-8.040(1), the Commission's MICS, Chapter J, § 1.02, and the Casino's ICS, Chapter J, § 1.02.
- 15. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 314.812.14 (1) and (2), RSMo, and 11 CSR 45-9.060(3) and (4).

**PENALTY PROPOSED**

16. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against the Company, as the holder of a Class B license.
17. THEREFORE, it is proposed that the Commission fine Ameristar Casino Kansas City, Inc., the amount of \$5,000 for the violations set forth herein.

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Leland M. Shurin  
Chairman  
Missouri Gaming Commission

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he caused a true and correct copy of the foregoing to be mailed, postage prepaid, this \_\_\_\_ day of January, 2015, to:

Rodney Centers  
Ameristar Casino Kansas City  
P.O. Box 33480  
Kansas City, MO 64120-3480

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Leland M. Shurin  
Chairman  
Missouri Gaming Commission