

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-19-047  
Ameristar Casino Kansas City, LLC )

## PRELIMINARY ORDER FOR DISCIPLINARY ACTION

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

1. The Missouri Gaming Commission (the “Commission” or “MGC”) is a state commission created under Chapter 313, RSMo 2016,<sup>1</sup> with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Boyd Gaming Corporation a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Boyd Gaming Corporation is the parent organization or controlling entity of Ameristar Casino Kansas City, LLC (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 MGC completed a compliance audit for the period of January 1, 2017, through August 31, 2018, and issued MGC Audit Report 18-26 to the Casino on December 13, 2018.
7. During that audit, the following exception was noted which had been previously noted in MGC Audit Report 17-05, issued to the Casino on March 17, 2017, for the period of July 2, 2015, through December 31, 2016:
  - a. Entries to promotions were not awarded to patrons as required by the promotional rules.
    - i. The previous audit report, Report 17-05, found that one promotion did not award the prizes or entries based on play as stated in the rules of the Live, Life, Luxe promotion due to entries not being uploaded in the system correctly;

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<sup>1</sup> All statutory references are to RSMo 2016, unless otherwise specified.

<sup>2</sup> 20181003006

- ii. A follow-up to audit Report 17-05, conducted on September 14, 2017, reviewed a similar promotion and found that all patrons sampled received the correct number of entries, in accordance with the rules of the promotion; and
- iii. The current audit, Report 18-26 found that in four (4) promotions held by the Casino from January through December 2017, additional entries based on tier points earned were not awarded according to the rules of the promotion for 29 out of 80 patrons sampled, resulting in an error rate of 36.2%. The Casino later reported that of the 117,368 patrons who participated in the four (4) promotions, 13,330 patrons did not receive the corrected number of promotional entries, which is an error rate of 11.4%.

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 in an amount determined by the Commission.
- 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 45-5.181 states, in pertinent part, as follows:

- (1) For the purposes of this rule, the following words are defined as:

\* \* \*

- (D) Promotional game—a drawing, event, contest or game in which patrons of a Class B licensee may, without giving consideration, participate or compete for the chance to win a prize or prizes of different values[.]

\* \* \*

- (2) Class B licensees may provide promotional activities such as promotional giveaways, promotional coupons, promotional games, player reward programs, or similar activities for patrons without the prior approval of the commission, provided the promotional activity is not structured or conducted in a manner that reflects negatively on the licensee, the commission, or the integrity of gaming in Missouri and complies with the following:

\* \* \*

- (D) All prizes offered in the promotional activity shall be awarded according to the Class B licensee's rules governing the event[.]

### **VIOLATIONS**

11. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to correct one significant audit finding relating to its handling of promotions, thereby violating 11 CSR 45-5.181(2)(D).
12. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 313.812.14 (1) and (2), RSMo.

### **PENALTY PROPOSED**

13. 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.
14. THEREFORE, it is proposed that the Commission fine Ameristar Casino Kansas City, LLC, the amount of \$5,000 for the violations set forth herein.

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Brian Jamison  
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 25<sup>th</sup> of April, 2019, to:

Keith Henson, General Manager  
Ameristar Casino Kansas City  
3200 N. Ameristar Dr.  
Kansas City, MO 64120

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Brian Jamison  
Chairman  
Missouri Gaming Commission