

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-20-045  
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. On January 8, 2020, a Casino Slot Technician informed MGC staff that an Electronic Gaming Device (EGD) at location 21-04-05 (asset 64450, MGC tag 70363) failed to lock up in a hand pay when a jackpot of \$1,600 was awarded.
7. A Casino Slot Technician discovered the option for the jackpot lock-up limit on that EGD was set to \$1,999.99 instead of \$1,199.99.
8. Review of the system transaction logs revealed that the last time the EGD locked up in a hand pay for a jackpot less than \$2,000 was March 1, 2017, when the EGD reported a \$1,200 hand pay jackpot.

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

<sup>2</sup> 20200122004

9. The EGD locked up in a hand pay 13 times between March 1, 2017 and January 8, 2020, all for amounts greater than \$1,999.99, indicating the jackpot lockup limit must have been changed sometime after March 1, 2017.
10. While the jackpot lockup limit was incorrect, any wins between \$1,200 and \$1,999.99 would not have caused the EGD to lock up in a hand pay. Therefore, the federally required W-2G would not have been completed, nor would the 4% state tax been withheld as required by statute.

### LAW

11. 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.
12. 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.

13. Section 313.826 RSMo, requires

Each excursion gambling boat licensed by the commission [to] withhold for state income tax purposes from electronic gaming device jackpots or table game jackpots of twelve hundred dollars or more an amount equal to four percent of the prize. Withholdings made pursuant to this section shall be subject to the withholding tax provisions pursuant to sections 143.191 to 143.261, including section 143.261.

14. Title 11 CSR 45-5.053(1) requires a Class B licensee to “comply with all federal regulations and requirements for the withholding of taxes from winnings and the filing of currency transaction reports.”

15. 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 or Class B licensee or an agent or employee of a Class A or Class B licensee are deemed to be unsuitable conduct for which the Class A or Class B 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. as amended from time to time. Any agent or employee of a Class A or Class B licensee that is involved in a violation of the minimum internal control standards may be subject to fine, discipline, or license revocation.

(4) Violations of the Class B licensee’s internal control system [(“ICS”)] by the Class A or Class B licensee or an agent or employee of the Class A or Class B licensee shall be *prima facie* evidence of unsuitable conduct for which the Class A or Class B 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. from time to time.

16. Both the Commission’s MICS and the Casino’s ICS, Chapter E, § 2.02 require “A jackpot of \$1,200 or more [to] cause the EGD to lock up, resulting in a hand paid jackpot. A jackpot of \$1,200 or more requires completion of a W-2G.”

17. The Commission’s MICS Chapter E, § 2.04 sets forth the “following requirements for all single event jackpots and credit meter payouts:”

Jackpot Amount	Payer	*Witness/Verifier	W-2G required	MGC notification required	MGC Security Seal Verification	Surveillance notification required	Security escort required
Less than \$1,200	Slot Attendant or higher	Slot Employee or Security Employee	no	no	no	no	no
\$1,200 – \$4,999.99	Slot Attendant or higher	Slot Employee or Security Employee	yes	no	no	yes	no
\$5,000 – \$14,999.99	Slot Attendant or higher	Slot Floor Supervisor or Supervisor thereof	yes	no	no	yes	yes
\$15,000– \$49,999.99	Slot Floor Supervisor or Supervisor thereof	Employee of Supervisory or higher status independent of the Slot Department	yes	yes, must approve clearing the reel position	yes	yes	yes

\$50,000 or more	Slot Floor Supervisor or Supervisor thereof	Employee of Supervisory or higher status independent of the Slot Department	yes	yes, must approve clearing the reel position	yes, and MGC CPSM verification	yes	yes
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18. The Commission’s MICS, Chapter E, § 12.12 states as follows:

Jackpots requiring completion of a W-2G and jackpots used to pay top-tier progressives shall cause the EGD to lockup and, after reset, result in a hand-paid jackpot in accordance with procedures approved by the MGC and set forth in the licensee’s internal controls.

19. The Casino’s ICS, Chapter E, § 12.12 states, “Jackpots requiring completion of a W-2G and jackpots used to pay top-tier progressives shall cause the EGD to lockup and, after reset; result in a hand-paid jackpot, per section 2.”

**VIOLATIONS**

20. The actions or omissions of employees or agents of the Company as described above constitute a failure by the Casino to ensure that its EGDs were correctly configured, in violation of the Commission’s MICS and the Casino’s ICS, Chapter E, §§ 2.02, 2.04 & 12.12.

21. 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**

22. 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.

23. THEREFORE, it is proposed that the Commission fine Ameristar Casino Kansas City, LLC, the amount of \$2,500 for the violations set forth herein.

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Mike Leara  
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 September, 2020, to:

Keith W. Henson  
Ameristar Casino Kansas City  
3200 N Ameristar Drive  
Kansas City, MO 64120

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Mike Leara  
Chairman  
Missouri Gaming Commission