

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC 22-001
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, 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 FACTS¹

6. On April 24, 2021, a 20 year-old female was arrested for Trespassing First Degree. According to the Casino Security Manager, the minor and another male entered the casino through the King Boarding emergency exit.
7. After a review of surveillance coverage, it was determined that the King Boarding emergency exit door had been left open by a patron who exited through the door, and the alarm failed to sound.
8. The surveillance review also revealed that over the course of at least six minutes 10 guests entered the Casino floor through the same emergency exit and two guests exited through it.
9. The Casino stated that the admission entry and exit counts were corrected by Security; however, commission staff had no means of independently verifying this information.

¹ GIR20210504010

LAW

10. 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.

11. 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 such person or such person's 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.

12. Section 313.817.4, RSMo, states, in pertinent part, as follows:

A person under twenty-one years of age shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted;

13. Section 313.820, RSMo, states, in pertinent part, as follows:

1. An excursion boat licensee shall pay to the commission an admission fee of two dollars for each person embarking on an excursion gambling boat with a ticket of admission.... If tickets are issued which are good for more than one excursion, the admission fee shall be paid to the commission for each person using the ticket on each excursion that the ticket is used. If free passes or complimentary admission tickets are issued, the excursion boat licensee shall pay to the commission the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate; however, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat. The issuance of fee-free passes is subject to the

rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.

2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes, property taxes or any other tax or fee now or hereafter lawfully levied by any political subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision. All state taxes not connected directly to gambling games shall be collected by the department of revenue[.]

14. 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.

15. Both the MICS and the Casino’s ICS, Chapter J, § 1.15 require that “A patron leaving the gaming area must do so by passing through an exit turnstile.”

16. The MICS, Chapter J, § 1.16 states as follows:

A patron desiring to enter or re-enter the gaming floor must enter in a manner approved by the Commission that provides for an accurate and complete accounting of admissions for each gaming excursion.

17. The Casino’s ICS, Chapter J, § 1.16 states as follows:

A guest desiring to enter or re-enter the gaming floor must enter in a manner approved by the Commission that provides for an accurate and complete accounting of admissions for each gaming excursion. Guests will enter through the entrance turnstiles.


18. Both the MICS and the Casino's ICS, Chapter N, § 4.01 state, "Persons under 21 years of age shall not be permitted access to the casino floor or be allowed to place a wager."

VIOLATIONS

19. The actions or omissions of employees or agents of the Company as described above constitute a failure by the Casino to make sure the gaming floor was secured and emergency exits were alarmed to ensure that patrons enter and exit through approved turnstile locations and to prevent underage patrons from accessing the gaming floor, thereby violating § 313.817.4, RSMo, and the Commission's MICS and the Casino's ICS, Chapter J, §§ 1.15 and 1.16 and Chapter N, § 4.01.
20. 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

21. 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.
22. THEREFORE, it is proposed that the Commission fine Ameristar Casino Kansas City, LLC, the amount of \$2,500 for the violations set forth herein.



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 20th day of January, 2022, to:

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



Mike Leara
Chairman
Missouri Gaming Commission