

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC 22-002
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" or "ACKC").
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. While reviewing the ACKC's December 2020 remote access logs in January 2021, MGC Electronic Game Device (EGD) staff discovered that system access was granted to the game's system manufacturer, Aristocrat Technologies, Inc. (ATI), three times to investigate an issue with the "Play 'N Win" promotion.
7. On January 15, 2021, MGC EGD Specialist II, Dawn Leehy emailed the casino's IT Operation Supervisor Josh Whitaker to determine the reason for ATI's access on December 2, 9, and 14, 2020, with regards to the "Play 'N Win" Promotion. Whitaker's response, received on January 18, 2021, provided details of an issue discovered with the "Play 'N Win" promotion where patrons failed to receive their full award based on their earned points in accordance with the rules of the promotion.
8. On January 20, 2021, Leehy became aware of an issue discovered in the "Play 'N Win" Promotion held on November 19 and 26, 2020. The casino reported 29 patrons did not

¹ GIR 20210209002

receive the correct prize upon conclusion of the promotion. Fifteen were under awarded, and 14 were over awarded prizes.

9. Leehy's investigation revealed that neither the Officer in Charge at ACKC nor the MGC Compliance Auditor Supervisor were aware of any report being made from the Casino for the "Play 'N Win" Promotion for those November 2020 promotion dates.
10. In July 2021, the Casino stated in a letter to the MGC that it had experienced problems with the promotion in both October and November 2020. This was the first time the MGC was made aware of problems with the promotion being run in October.
11. ACKC did not previously report the October promotions issue to the MGC during the investigation of the November promotions issues.
12. This new information, along with conflicting statements between the Casino's response and previously provided information during the initial investigation, prompted further investigation into the "Play 'N Win" promotions issue.
 - a. When asked during the investigation in May 2021 whether other similar promotions had been run prior to November, the Casino denied "utilizing the earning function for a promotion through speed media" previously.
 - b. When asked for additional detail regarding the October 2020 "Play 'N Win" promotions issue, the MGC received information that the Casino had, in fact, ran such promotions in October 2020 and had experienced similar issues negatively affecting patrons.
 - c. The Casino told the MGC investigator in mid-July 2021 that it knew of problems with its October promotion, but ran the promotion again in November anyway without making any changes to the promotion's build.
 - d. The Casino management admitted it decided "to move forward because the risk was minimal and [they] could audit and adjust if necessary," leaving patrons participating in future promotions with an unknown risk of losing reward points that the Casino could have avoided had it investigated the situation further, communicated with corporate resources and ATI to better understand the nuances of the technology, and notified the MGC.
13. Although the Casino claimed patrons had been notified about both the October and November 2020 promotions in its proposed fine response letter, the MGC's follow-up investigation in mid-July 2021 revealed the casino had no record of such patron notifications.
14. The Casino used the same promotional rules for its October promotion that it had in November, and patrons were under awarded, just as they had been in November.
15. The Casino admitted during the follow-up investigation in July 2021 that the MGC was not notified of the October 2020 promotion problems because it received no patron complaints,

the guests that were under awarded received promotional dollars added to their accounts, and those who were over awarded kept their rewards.

16. The Casino failed to inform the MGC of issues it experienced with its promotions.

LAW

17. 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.

18. 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.

19. 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[.]

20. Title 11 CSR 45-10.030 states, in pertinent part, as follows:

(1) Licensees shall promptly report to the commission any facts which the licensee has reasonable grounds to believe indicate a violation of law (other than minor traffic violations), minimum internal control standard requirements or commission rule committed by licensees, their employees or others, including, without limitation, the performance of licensed activities different from those permitted under their license.

* * *

(7) All occupational licensees shall have a working knowledge of Chapter 313.800, RSMo et seq., Code of State Regulations, Title 11 Division 45, and the internal controls of the Class A or B licensees for whom they are currently employed by as they pertain to the responsibilities and limitations of their job.

VIOLATIONS

21. The actions or omissions of employees or agents of the Company as described above constitute a failure by the Company to award prizes according to its promotional rules and applicable laws and regulations, and failed to report facts which it had reasonable grounds to believe indicated a violation of law or commission rule, thereby violating 11 CSR 45-5.181 and 11 CSR 45-10.030.
22. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 314.812.14 (1) and (2), RSMo.

PENALTY PROPOSED

23. 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.

24. THEREFORE, it is proposed that the Commission fine Ameristar Casino Kansas City, LLC, the amount of \$7,500 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, General Manager
Ameristar Casino Kansas City
3200 N Ameristar Drive
Kansas City, MO 64120



Mike Leara
Chairman
Missouri Gaming Commission