

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-16-173
Ameristar Casino St. Charles, 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 2000,¹ 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 St. Charles, 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 St. Charles* (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 FACTS²

6. The MGC completed a compliance audit for the period of January 1, 2013 through November 30, 2014 and issued MGC Audit Reports 15-07 and 15-08 to the Casino on May 21, 2015.
7. A follow-up was conducted beginning on November 11, 2015, by MGC auditors to determine if the audit findings from those audit reports had been corrected.
8. The follow-up audit found that the following five significant findings had not been implemented:
 - a. Audit Report 15-07 finding B-11, revealed that two of 27 investigations into kiosk variances over \$20 for the month of July 2014 were not documented on the Over \$20 Kiosk Variance File, resulting in a 7.4 % error rate;

¹ All statutory references are to RSMo 2000, unless otherwise specified.

² 20160322002

- i. The Management Response indicated that the finding would be corrected and such kiosk variance investigations would be reviewed to prevent the error.
 - ii. The auditors followed up on finding B-11 on November 24, 2015, and found that for the month of October 2015, three of 29 investigations into kiosk variances over \$20 were not documented, resulting in a 10.3% error rate.
- b. Audit Report 15-07, finding C-6, revealed that 11 employees who had the ability to issue player cards also had the ability to add points in the player tracking system.
 - i. The Management Response indicated that all 11 employees' ability to issue player cards and add points in the player tracking system had been removed.
 - ii. The auditors followed up on finding C-6 and found that three individuals still had access to the "Add Wizard" function in Super-Playmate, allowing them to issue player cards, and to the "CompEarningAdjust" function in HALO, allowing them to also add points to player accounts.
- c. Audit Report 15-08, finding B-1, noted that poker dealers failed to clear their hands when going to their body and when exiting the game on two of ten instances observed in October 2014, resulting in an error ratio of 20%.
 - i. The Management Response stated that the requirement to clear hands was reiterated to dealers and team members completed "read and sign" memos regarding the requirements.
 - ii. When following up on finding B-1 on November 17, 2015, auditors found that in three of eight instances observed, poker dealers did not clear their hands when going to their body or when exiting the game, a 37.5% error rate.
- d. Audit Report 15-08, finding D-1 stated that the Director of Player Development had access to activate wagering and promotional accounts, although only ticketing employees were so authorized.
 - i. The Management Response indicated that the Director of Player Development "IT rights were removed as of April 23, 2015."
 - ii. On November 16, 2015, the auditors found Susan Dye, Director of Player Development at that time, had access to the "Add Wizard" function in the Player Menu of Super-PlayMate, which allowed her to activate wagering and promotional accounts.
- e. Audit Report 15-08, finding G-1, noted that one Incident Report was not included on the Incident Summary Reports provided to the MGC boat agents between September 4, 2014 and September 10, 2014.

- i. The Management Response indicated that the process for providing those reports to the MGC agents was reviewed and that “Security will ensure on a daily basis that the MGC boat agent is provided a copy” of the Security Incident Log” of all such reports.
- ii. During the follow-up, auditors found that from November 2, 2015 through November 8, 2015, five Incident Reports were not included on the Incident Summary Reports provided to the MGC boat agents.

LAW

9. 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.

10. 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[.]

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 [(“ICS”)] 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. The MICS and the Casino's ICS, Chapter F, § 13.01, requires the following:

All Poker Dealers shall clear their hands in view of all persons in the immediate area and Surveillance before and after going to their body and when entering and exiting the game. Clearing of hands means holding and placing both hands out in front of the body with the fingers of both hands spread and rotating the hands to expose both the palms and the backs of the hands to demonstrate that the hands are empty.

13. The MICS, Chapter H, § 7.04, states as follows:

All variances over \$20 shall be documented on a form specified by the Internal Control System and investigated by a Cage Supervisor or Cage Administrator. The results of the investigation shall also be documented. The investigation shall be performed by the end of the gaming day following the day of the reconciliation. Any redemption kiosk variance of \$200 or more shall be immediately reported to the MGC agent on duty.

14. The Casino's ICS, Chapter H, § 7.04, specifies that "All kiosk variances over \$20 are further investigated and documented on the Over \$20 Kiosk Variance File."

15. The MICS and the Casino's ICS, Chapter I, § 13.03 states that "Employees who issue player cards shall not be allowed to add points."

16. The MICS and the Casino's ICS, Chapter N, § 2.02, requires "The MGC boat agent on duty [to] be provided, on a daily basis, a copy of the Security Incident Log of all Security Incident Reports generated during the gaming day."

17. The MICS, Chapter U, § 2.11, states that "only ticketing employees are authorized to activate accounts."

18. The Casino's ICS, Chapter U, § 2.11, specifies that "Only MyChoice Representatives, Lead MyChoice Representative, MyChoice Supervisor, and MyChoice Manager are authorized to activate and emboss patron accounts."

VIOLATIONS

19. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to correct five significant audit findings, thereby violating MICS and the Casino's ICS, Chapters F, § 13.01, H, § 7.04, I, § 13.03, N, § 2.02 and U, § 2.11.

20. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 313.812.14 (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 St. Charles, Inc., the amount of \$20,000 for the violations set forth herein.

Herbert M. Kohn
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, 2016, to:

Howard Shaw
Ameristar Casino St. Charles
1 Ameristar Blvd.
St. Charles, MO 63301

Herbert M. Kohn
Chairman
Missouri Gaming Commission