

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC 22-074
Ameristar Casino St. Charles, 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”) 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 a Class A gaming license to Boyd Gaming Corporation to develop and operate Class B gaming licensees in the State of Missouri.
3. Boyd Gaming Corporation is the parent organization or controlling entity of Ameristar Casino St. Charles, 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 Ameristar Casino St. Charles (the “Casino”).
5. As the holder of a Class B license, the Company is subject to the provisions of Sections 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS¹

6. On February 28, 2022, Sergeant Todd Barthelmass (“Sgt. Barthelmass”) of the Missouri State Highway Patrol (“MSHP”), acting as an agent of the Commission, initiated a regulatory investigation after \$6,228.00 in cash and 31 TITOs were discovered inside an Electronic Gaming Device (“EGD”).
7. Sgt. Barthelmass’ investigation and review of surveillance footage revealed the following:
 - a. On February 27, 2022, at approximately 1:02 p.m., Casino Slot Technician Stevie Bowen (“Bowen”), accompanied by Casino Security Shift Supervisor Michael Suedkamp, entered EGD AA07 to work on its Bill Validator (“BV”). While working on the EGD, Bowen removed the contents of the BV can, the aforementioned \$6,228.00 in cash and 31 TITOs, and placed it inside the EGD’s Main Door. After finishing his work, Bowen closed

¹ GIR 20220310010

the EGD's Main Door without placing the removed cash and TITOs back into the BV can, improperly leaving the cash and TITOs inside the EGD's main door.

b. Later that day, at approximately 3:22 p.m., Casino Slot Service Supervisor Joni Majhor, accompanied by Casino Slot Supervisor Nicholas Deming, entered and closed EGD AA07 without addressing the cash and TITOs inside the EGD's Main Door.

c. Then, at approximately 6:09 p.m., Casino Slot Service Specialist Amanda Collins also entered and closed EGD AA07 without addressing the cash and TITOs inside the EGD's Main Door.

d. The next day, February 28, 2022, at approximately 5:33 a.m., Casino Count Team Members Kiara Hawkins and Jeffrey Bowen entered and closed EGD AA07 in order to replace the EGD's BV can, but failed to address the cash and TITOs inside the EGD's Main Door.

e. Later that day, at approximately 8:04 a.m., Bowen again entered and closed EGD AA07 without addressing the cash and TITO's inside the EGD's Main Door.

f. Finally, at approximately 9:07 a.m., Casino Slot Service Specialist Neva Hall entered EGD AA07, noticed the cash and TITOs inside the EGD's Main Door, and contacted Casino Slot Supervisors Megan Dungan and Frederick Harris to address the issue.

LAW

8. Section 313.805, RSMo, states, in pertinent part, as follows:

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

* * *

(5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;

(6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645;

* * *

(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules.

9. Section 313.812, RSMo, states, in pertinent part, as follows:

14. 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 regulation;

(2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming;

* * *

(9) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850.

10. 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., as amended from time-to-time.

11. 11 CSR 45-10.030(4) states, “[I]censees shall take reasonable actions to safeguard from loss all tokens, tickets, chips, checks, funds, and other gaming assets.”

12. The Commission’s MICS, Chapter G, states, in pertinent part, as follows:

5.03 EGD BV drops shall be conducted by count team members who are independent of the Slot Department. At least two count team members and one security officer shall be present in order to conduct the EGD BV drop. When additional employees are used, a maximum 3:1 count employee to security officer ratio shall be maintained. Slot technicians shall only enter the drop area in order to assist with the opening or securing of drop compartments. Slot technicians shall not be considered a part of the drop team.

* * *

5.13 Access to drop devices that contain funds shall be restricted to authorized members of the drop team, except for those removed during emergency drops. For those removed during emergency drops, access shall be restricted to those authorized members of the emergency drop team.

13. The Casino’s ICS, Chapter G, states, in pertinent part, as follows:

5.03 EGD BV drops shall be conducted by count team members who are independent of the Slot Department. At least two count team members and one security officer shall be present in order to conduct the EGD BV drop. When additional employees are used, a maximum 3:1 count employee to security officer ratio shall be maintained. Slot technicians shall only enter the drop area in order to assist with the opening or securing of drop compartments. Slot technicians shall not be considered a part of the drop team.

* * *

5.13 Access to drop devices that contain funds shall be restricted to authorized members of the drop team, except for those removed during emergency drops. For those removed during emergency drops, access shall be restricted to those authorized members of the emergency drop team.

VIOLATIONS

14. The action of the Company in permitting non-members of the drop team to access EGD AA07’s BV can in non-emergency drop situations and its employees permitting \$6,228.00 in cash and 31 TITOs to be improperly placed inside EGD AA07’s Main Door and to remain there for approximately 20 hours, even while Casino personnel accessed the EGD multiple times during that period, is injurious to the public health, safety, morals, good order and general welfare of the

people of the state of Missouri and discredits the Missouri gaming industry and the State of Missouri, in that the Company's acts violate 11 CSR 45-10.030(4) and the Commission's MICS and the Casino's ICS, Chapter G, Section 5.13.

15. The Company is therefore subject to discipline for such violations pursuant to Sections 313.805 and 313.812.14(1), (2), and (9), RSMo, and 11 CSR 45-9.060(3) and (4).

PENALTY PROPOSED

16. Under Section 313.805, RSMo, the Commission has the power to assess any appropriate administrative penalty against the Company as the holder of a Class B license.

17. THEREFORE, it is proposed that the Commission fine Ameristar Casino St. Charles, LLC the amount of \$5,000 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 27th day of October, 2022, to:

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



Mike Leara
Chairman
Missouri Gaming Commission