

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-13-631  
Ameristar Casino Kansas City, 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") is a state commission created under Chapter 313, RSMo 2000, with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Ameristar Casinos, Inc. a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Ameristar Casinos, Inc. is the parent organization or controlling entity of Ameristar Casino Kansas City, Inc.
4. The Commission issued a Class B riverboat gambling license to Ameristar Casino Kansas City, Inc. ("Company"), to conduct games on and operate the excursion gambling boat known as Ameristar Casino Kansas City ("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 2000, and the regulations promulgated thereunder by the Commission.

### STATEMENT OF FACTS<sup>1</sup>

6. On November 2, 2012, Corporal William Oliver of the Missouri State Highway Patrol assigned to the Missouri Gaming Division arrested a black male subject for a Person Under 21 Making a Wager While on an Excursion Gambling Boat.
7. Corporal Oliver interviewed the underage male patron. The underage patron stated that he was eighteen (18) years old and born on December 10, 1993. The underage male patron stated he was at the casino with his mother and was at the casino the night before.

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<sup>1</sup> 20121106002

8. Review of the surveillance coverage showed that on November 1, 2012 at 8:45 p.m., Security Officer Whitton allowed an underage male patron (18) on the casino floor without asking for identification.
9. From 8:45 p.m. to 11:47 p.m. the underage male patron walked around and sat at slot machines but did not play and walked up to kiosks.
10. At 11:47 p.m., the underage male patron sat down at slot machine 1EO4-08 and played.
11. From 11:48 p.m. until 12:04 a.m., the underage male patron walked around until he exited through the Main Boarding.
12. The total time the underage patron was on the casino floor on November 1, 2012 was three hours and nineteen minutes.
13. Further investigation and a review of surveillance coverage showed that on November 2, 2012 at 2:08 p.m. the underage male patron accessed the casino floor without being properly identified, while Security Officer Grooms dealt with two subjects at the podium.
14. From 2:08 p.m. to 2:18 p.m., the underage male patron walked around and sat at a slot machine, but did not play.
15. At 2:18 p.m., the underage male patron's mother placed her drink order at the King Bar, to Bartender Erick Markham. While Markham took her order, the underage male patron stood to the right of his mother's chair. Markham gave the underage male patron's mother the drink and took her money. Markham walked toward the cash register and the underage male patron's mother gave him the drink. The underage male patron walked away and started drinking it. The drink was a vodka mixed drink.
16. From 2:21 p.m. to 2:40 p.m., the underage male patron walked around and sat a slot machine, but did not play.
17. At 2:40 p.m., the underage male patron sat down at slot machine 1F10-08 and placed a card in the machine. The underage male patron placed a twenty dollar bill in the machine and played.
18. At 2:53 p.m., the underage male patron placed a three dollar Ticket In Ticket Out (TITO) in the machine, played and left the slot machine without any credits.
19. At 3:08 p.m., the underage male patron sat next to his mother at slot machine 1G08-02, but did not play
20. At 3:25 p.m., Beverage Server Melissa Robinson brought a mixed rum beverage to the underage male patron's mother. She laid the drink down and continued to play.

Robinson handed the underage male patron a pack of cigarettes and left the area. The underage male patron remained at slot machine 1G08-02 and played.

21. From 3:44 p.m., the underage male patron walked around the casino and played at seven (7) additional slot machines until his exit through Main Boarding at 4:54 p.m.
22. The total time of the underage male patron on the casino floor November 2, 2012 was two hours and twenty-seven minutes.

### LAW

23. Section 313.805(6), RSMo, states the Commission may assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount 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.
24. Section 313.812.14, RSMo, states a holder of any license is subject to imposition of penalties, suspension or revocation of such license 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.
25. Section 313.812.14(1), RSMo, states that a licensee may be disciplined for failing to comply with or make provisions 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.
26. Section 313.812.14(2), RSMo, states that a licensee may be disciplined for failing to comply with any rule, order or ruling of the Commission or its agents pertaining to gaming.
27. Section 313.817.4, RSMo, states, "A person under twenty-one years of age shall not wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted; provided that employees of the licensed operator of the excursion gambling boat who have attained eighteen years of age shall be permitted in the area in which gambling is being conducted when performing employment-related duties, except that no one under twenty-one years of age may be employed as a dealer or accept a wager on a excursion gambling boat."
28. 11 CSR 45-5.053(6)(B), states that wagers may only be made, "By persons twenty-one (21) years of age or older."
29. 11 CSR 45-12.090 (3), states, "Sale to Minors and Other Persons. An excursion liquor licensee shall not, through actions of his/her own or of an employee, sell, vend, give

away its or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, to any person intoxicated or appearing to be in the state of intoxication, or to a habitual drunkard. A licensee shall not permit any person under the age of twenty-one years, any intoxicated person, or any habitual drunkard to consume intoxicating liquor on the licensed premises."

30. Under 11 CSR 45-9.060(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., as amended from time to time. Any agent or employee of a Class A licensee that is involved in a violation of the minimum internal control standards may be subject to fine, discipline or license revocation.
31. Under 11 CSR 45-9.060(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 313.806(6), RSMo, and 11 CSR 45-1 et seq., as amended from time to time.
32. 11 CSR 45-4.020(10), states that rules adopted prior to May 30, 2008 which previously referred to a Class A licensee shall refer to both a Class A licensee and a Class B licensee unless specifically identified otherwise.
33. According to the Commission's MICS, Chapter N, § 4.01, Persons under 21 years of age shall not be permitted access to the casino floor or be allowed to place a wager.
34. According to the Commission's MICS, Chapter N, § 4.04, the enforcement of admission and gambling restrictions for persons under 21 years of age shall include, at a minimum, checking their government-issued photo identification.
35. According to the Company's ICS, Chapter N, § 4.01, Persons under 21 years of age shall not be permitted access to the casino floor or allowed to place a wager.
36. According to the Company's ICS, Chapter N, § 4.04, The enforcement of admission and gambling restrictions for persons under 21 years of age shall include, at a minimum, checking their government-issued photo identification.

### **VIOLATIONS**

37. The actions or omissions of employees or agents of the Company in allowing an underage patron to enter the casino gaming floor, consume alcohol and gamble, violates Section 313.817.4, RSMo; 11 CSR 45-5.053(6)(B) and 11 CSR 45-12.090 (3). the Commission's MICS, Chapter N § 4.01 & 4.04; the Company's ICS, Chapter N, § 4.01 & 4.04. The Company is subject to discipline for such violations under 11 CSR 45-9.060(3) & (4), and sections 313.805(6), 313.812.14, and 313.812.14(1) & (2), RSMo.

38. Under Section 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.

**PENALTY PROPOSED**

THEREFORE, it is proposed that the Commission fine Ameristar Casino Kansas City, Inc. the amount of \$5,000 for the violations set forth herein.

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Dr. Barrett Hatches  
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 \_\_\_\_\_, 2013 to:

Mr. Sean Barnard, General Manager  
Ameristar Casino Kansas City  
P.O. Box 33480  
Kansas City, MO 64120

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Dr. Barrett Hatches  
Chairman  
Missouri Gaming Commission