

**ORDER 2007-42
IN RE SETTLEMENT AGREEMENT**

**CASINO AZTAR
07-AZ-02**

After having reviewed the attached Settlement Agreement, the Indiana Gaming Commission hereby:

APPROVES

the proposed terms of the Settlement Agreement.


IT IS SO ORDERED THIS THE 7th DAY OF JUNE, 2007.

THE INDIANA GAMING COMMISSION:



William W. Barrett, Chair

ATTEST:



Donald R. Vowels, Secretary

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE THE MATTER OF:)	
)	SETTLEMENT
CASINO AZTAR)	07-AZ-02
)	

SETTLEMENT AGREEMENT

The Indiana Gaming Commission (“Commission”) by and through its Executive Director Ernest E. Yelton and Casino Aztar (“Aztar”) (collectively, the “Parties”) desire to settle this matter prior to the initiation of a disciplinary proceeding pursuant to 68 IAC 13-1-18(a). The Parties stipulate and agree that the following facts are true:

FINDINGS OF FACT

COUNT I

1. 68 IAC 11-7-1(b)(2) states that “sensitive keys” means keys that either management or the commission considers sensitive to the riverboat licensee’s operation and therefore require strict control over custody and issuance.
2. On January 14, 2007 Commission agents reported an incident involving a sensitive key violation. In this incident a Dealer left the property with the day shift table games toke drop key. The key was off property for three hours.

COUNT II

3. 68 IAC 11-7-1(b)(2) states that “sensitive keys” means keys that either management or the commission considers sensitive to the riverboat licensee’s operation and therefore require strict control over custody and issuance.
4. On February 10, 2007 a Commission Agent was notified by a Security Shift Supervisor of a missing sensitive key. A cashier key for the level 1 cage was missing although the sensitive key log showed that it had been returned and back signed for. A Cage Cashier had taken the key home after her shift on February 9, 2007. The key was returned by the cashier on February 11, 2007. A Cage Shift Manager admitted to making a mistake when she signed the key back in without making sure it had been returned.

COUNT III

5. In Aztar's internal controls under Article 11 Rule 7 on page 44 it states that the key issued by (signature and IGC#) will be included on the Key Control Log.
6. On March 21, 2007 a Commission Agent was checking the sensitive key log in cage three and observed that two keys were signed out the previous day but the issued by boxes did not have signatures.

COUNT IV

7. 68 IAC 11-3-6(c)(2) states the drop box shall be opened by the appropriate soft count team member and the entire contents of the drop box shall be emptied onto the soft count table.
8. On January 14, 2007 a Commission Agent overheard a call on the radio from security. The Security Officer informed security dispatch that money was found in a "dead" bill validator (BV) box. When the Commission Agent arrived on Level 1 he examined the box and saw a twenty (20) dollar bill sticking out of the box.

COUNT V

9. 68 IAC 11-3-6(c)(12) states once all drop boxes have been counted, the soft count team shall complete the master gaming report or the bill validator report.
10. 68 IAC 11-3-6(c)(22) states in accordance with 68 IAC 15-7-3, the revenue auditor or the equivalent shall trace the total of the bill-in meter readings as recorded by the bill acceptor flash report to the actual count performed by the soft count team to determine variances. The riverboat licensee shall require the investigation of all variances. The results of the investigation shall be recorded and reported to the head of the accounting department and the commission audit staff.
11. On January 24, 2007 while two Commission Agents were observing the BV drop, one of them noticed that a Count Room Attendant was walking away from the BV cart carrying a BV box. The box was handed to the Count Room Lead and both Count Room employees walked back to the BV cart. The Commission Agent approached the two employees to determine if there was a problem with the BV box. A Lead Security Officer informed the Commission Agent that the BV box had a label attached to it which meant that there was money in the box. The machine where this BV box had come from was last dropped on January 21, 2007, thus the box should have been pulled from the cart and counted that day. The Count Room Supervisor stated that she contact the Accounting Department on January 21, 2007 to notify them of the number of boxes and amount of currency pulled from the cart. The Count Room Supervisor received notification from the Accounting Department that

everything checked out okay, indicating that all the boxes had been counted and there were no variances. The amount in the BV was \$804.00.

COUNT VI

12. 68 IAC 11-3-6(c)(2) states the drop box shall be opened by the appropriate soft count team member and the entire contents of the drop box shall be emptied onto the soft count table.
13. On January 31, 2007 a Commission Agent was reviewing a Security Incident Report which referenced a ten (10) dollar bill being found inside a "dead" BV box. The money was discovered when the BV box was placed inside the machine and the bezel (area where money is placed) did not light up. It was determined that the box was placed in the machine correctly so the problem was inside the box.

COUNT VII

14. 68 IAC 11-3-1(a)(3) requires the currency collection team to collect the BV boxes and replace them with empty boxes.
15. On February 12, 2007 a Count Room Attendant failed to replace a full BV box with an empty BV box.

COUNT VIII

16. 68 IAC 11-2-5(5) requires a hard count team member to announce "loose tokens" if all of the tokens are not in the drop bucket so the security office will be aware that the hard count team member will be retrieving the tokens.
17. From January 4 through January 11, 2007 a sweep was conducted of all the bases of the slot machines that had been converted to coinless machines for coins that were not removed during the conversion. This sweep was ordered after a Commission Agent had found coins in the bases of several machines that were coinless. The total amount of coins found during the sweep was \$729.30.

COUNT IX

18. 68 IAC 11-3-3(c)(11) requires the keys to the soft count room to be maintained by the security department and that access to the room be gained only by or through a security officer.

19. On January 18, and April 1, 2007 the soft count room door was left unsecured. The keys to the soft count room are considered sensitive and the door to the room is to remain locked at all times.

COUNT X

20. 68 IAC 11-2-5(3) requires security to sign for the sensitive key needed to unlock the drop bucket compartments prior to the drop.
21. On March 13, 2007 a drop door was discovered open. The last time the door had been accessed was on March 7, 2007. A key is needed as the drop bucket compartments are to be locked at all times.

COUNT XI

22. 68 IAC 2-6-40 requires each progressive controller linking two or more progressive electronic gaming devices must be housed in a double keyed compartment in a location approved by the executive director.
23. In an incident report submitted by a Commission Agent, on January 2, 2007 a Lead Slot Tech called about a progressive controller that needed to be worked on. The controller is housed in a double locked compartment and the Commission Agents are in possession of one of the keys. Two Commission Agents responded and when they arrived at the machine the progressive controller was already opened. The lock on the compartment was defective and could be accessed by unscrewing the lock. Before the Commission Agents left the area the compartment lid/lock was re-drilled and a new lock installed. An investigation was conducted on all progressive locks and four out of five were defective. All of the defective locks were fixed in the presence of the Commission Agent.

COUNT XII

24. IC 4-33-13-1(b) states the licensed owner shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers were made.
25. 68 IAC 15-1-2(4) states the purpose of the accounting records and procedures is to ensure the transactions are recorded accurately to permit the proper recording of the adjusted gross receipts, admission fees and all applicable taxes.

26. 68 IAC 15-1-5 allows the riverboat licensee to amend the policies and procedures in the event of an emergency but only if they inform the commission and the commission concurs that an emergency exists.
27. 68 IAC 15-7-3(a)(1) requires on a daily basis that the revenue auditor traces the total of the "bills-in" meter readings as recorded by the bill acceptor flash report or equivalent to the actual count performed by the soft count team to verify agreement.
28. On March 28, 2007 the Commission audit staff submitted a report regarding the RG-1 filed for March 11, 2007. In the report it states that the wagering tax was not calculated correctly due to the wrong data being reported. In an e-mailed sent on April 12, 2007 from the Aztar Casino Accounting Manager to the IGC Audit Director, the Casino Accounting Manager informed the IGC Audit Director that there was a problem with one of the counting machines interfacing with the main computer. She also stated the correct taxes were paid because they were paid based on the actual soft count drop. The IGC Audit Director asked the Internal Audit staff at Aztar to review the RG-1 for March 11th and on April 18, 2007 was advised by an Internal Auditor that there was a \$27,933 understatement. Thus, the taxes were not correct for March 11th and the Aztar Casino Accounting Manager told the IGC Audit Director that an adjustment was made on March 13th to correct the understatement. While the Casino Accounting Manager felt that the correct taxes were paid on March 11 because they were paid based on the actual count, she failed to consider that the estimated meters would affect the taxes. The Casino Accounting Manager should have informed the Commission that there was a computer problem on May 11 and that she would be reviewing it to see if any adjustments would be made. Also on March 13th before she made the adjustment she was required to call the Commission Audit staff. This has been a requirement for over a year due to the number of in and out adjustments previously made.

COUNT XIII

29. 68 IAC 15-6-5(b) requires the admissions tax to be computed utilizing the patron count that results in the highest count from one (1) of the following methods of counting patrons: turnstile or equivalent, manual count, ticket stub count or one approved by the executive director.
30. On January 18, 2007 a Security Shift Supervisor informed a Commission Agent that an IT System Analyst was at the turnstiles checking the Gate Watch program because there was a variance in patrons between the hand clicker patron count and the Gate Watch patron count. The IT System Analyst notified the MIS Operations Manager of the problem. The MIS Operations Manager arrived at the turnstiles and directed the Security Officer to "take the clicker and catch it up to the monitor and if anyone says anything tell them I told you to do it."

COUNT XIV

31. 68 IAC 14-3-5(a) requires all playing cards not being utilized at a live gaming device to be kept in locked compartments.
32. On February 9, 2007 a Commission Agent spoke with a Receiving Clerk regarding the acceptance of playing cards that had been delivered the previous day. The Receiving Clerk stated that she had signed for the playing cards when they were delivered by FedEx. She knew that the shipment was cards because they had been delivered to her in the past. She said that she notified security of the delivery. She also stated that the address needs to be changed for the cards to be delivered to the correct place. The playing cards were delivered at 13:00 hours; surveillance was notified by security dispatch of the package at 14:14 hours at which time coverage of the package began. Commission Agents were notified at 16:15 hours of the package.

TERMS AND CONDITIONS

Commission staff alleges that the acts or omissions of Aztar by and through its agents as described herein constitute a breach of the Riverboat Gambling Act, Title 68 of the Indiana Administrative Code or Aztar's approved internal control procedures. The Commission and Aztar hereby agree to a monetary settlement of the alleged violations described herein in lieu of the Commission pursuing formal disciplinary action against Aztar. This agreement is being entered into to avoid the potential expense and inconvenience of disciplinary action.

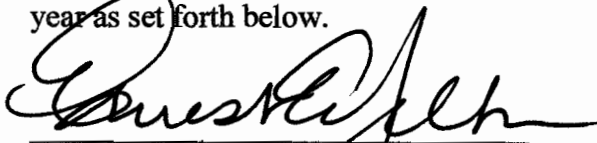
The aggregate settlement amount of the above alleged violations is \$139,500 (\$5,000 for Count I; \$10,000 for Count II; \$15,000 for Count III; \$5,000 for Count IV; \$5,000 for Count V; \$5,000 for Count VI; \$5,000 for Count VII; \$5,000 for Count VIII; \$12,000 for Count IX; \$2,500 for Count X; \$25,000 for Count XI; \$25,000 for Count XII; \$10,000 for Count XIII; \$10,000 for Count XIV). However, due to the efforts of Aztar to renew their commitment of compliance by personnel changes and a comprehensive action plan the Commission agrees to a reduction of the aggregate settlement amount to \$125,100. Aztar shall pay to the commission \$125,100 in consideration for the Commission foregoing disciplinary action based on the facts specifically described in each count of this agreement.

This agreement extends only to those violations and findings of fact specifically alleged herein. If the Commission subsequently discovers facts that give rise to additional or separate violations, which are not described herein, the Commission may pursue disciplinary action for such violations even if the subsequent violations are similar or related to an incident described herein. Upon execution and approval of this Settlement Agreement, Commission staff shall submit this Agreement to the Commission for review and final action. Upon approval of the Settlement Agreement by the Commission, Aztar agrees to promptly remit payment in the amount of \$125,100 and shall waive all rights to further administrative or judicial review.

This Settlement Agreement constitutes the entire agreement between the parties. No prior or subsequent understandings, agreements, or representations, oral or written, not specified or referenced within this document will be valid provisions of this Settlement Agreement. This Settlement Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all Parties.


This Settlement Agreement shall be binding upon the Commission and Aztar.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the date and year as set forth below.



Ernest E. Yelton, Executive Director
Indiana Gaming Commission

June 7, 2007
Date



Maureen Keehan, General Manager
Casino Aztar

6/5/07
Date