

**STATE OF INDIANA
INDIANA GAMING COMMISSION**

IN RE THE MATTER OF:)
) **SETTLEMENT**
CASINO AZTAR) **07-AZ-01**
)

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 – THREE SENSITIVE KEY ISSUES

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. 68 IAC 11-7-2(e) states unless otherwise provided, whenever two (2) sensitive keys are required to access a controlled area, the keys shall be issued to different occupational licensees and each key shall be signed out independently.
3. 68 IAC 11-7-3(a)(3) requires the riverboat licensee to maintain a sensitive key log on a form approved by the commission. The sensitive key log shall include the key name.
4. 68 IAC 11-7-4(b) requires when a sensitive key is determined to be lost, missing or taken from the premises, the riverboat licensee shall perform an immediate investigation.
5. Aztar’s internal controls under Article 11 Rule 7 on page 44 states that the key issued by (signature and IGC#) will be included on the Key Control Log.
6. On May 25, 2006 a Security Officer was assigned to escort a System Analyst into the soft count room to retrieve serial numbers from the equipment. The Security Officer signed out the soft count room key on her own and escorted the System Analyst to the hallway outside of the soft count room. The Security Officer then signed out the other soft count key from the Main Banker. The Security Officer attempted to open the soft count room but discovered she had signed out the wrong key from the security office. She left the System Analyst unescorted in the hallway while she returned to the security office to sign out the right key. The same Security Officer also witnessed the ingress and egress of the System Analyst on her own. While the Security Officer was in the soft count room

another Security Officer “back-signed” the keys out for the above mentioned Security Officer.

7. An incident occurring on June 16, 2006 involved a sensitive key missing from the level one cage. In the investigation conducted by an IGC agent, a Cage Cashier took the key for her cage window drawer (1-2 -a) but when signing for the key wrote 1-3 instead of 1-2-a. The Cage Shift Manager signed the issued by line, verifying the key written. When the Cage Cashier finished her shift, she returned the key to a Cage Supervisor. On June 18, 2006 at approximately 12:30pm the key was discovered missing by another Cage Supervisor. She notified the Cage Shift Manager working that shift; however neither the Cage Supervisor nor the Cage Shift Manager contacted IGC or conducted an investigation into where the missing key was. They also did not inform any of the other cage employees that the key was missing. On June 19, 2006 at approximately 9:00pm a Cage Shift Supervisor was attempting to audit the cage 1-2 window and noticed the missing key. She contacted a Cage Shift Manager who conducted an investigation and also contacted a Security Officer. The Security Office contacted the IGC. The key has not been found and the lock was changed on the drawer.
8. On August 21, 2006 Commission agents went to the security office to perform a routine inspection of the sensitive key log. During the inspection key #7 was issued to a Security Officer but there was no issuing signature or name. Key #7 is a dual access key allowing access to the main bank, soft count room, hard count room, uniform room and the elevator on the main bank side.

COUNT II – FAILURE TO INFORM

9. Pursuant to 68 IAC 2-3-9.2(c)(4) requires riverboat licensees to advise the commission agent, on a form prescribed or approved by the commission when an occupational licensee transfers to another position with the riverboat licensee.
10. 68 IAC 2-3-9.2(d) states the form must be submitted to the commission agent within fifteen (15) days of the occurrence of the change or action.
11. 68 IAC 2-3-9.2 (e) requires riverboat licensees to collect the identification badge issued by the commission to an occupational licensee when the occupational licensee’s employment is terminated for any reason. All identification badges collected by the riverboat licensee must be turned over to a commission agent within seven (7) days.
12. On May 31, 2006 an IGC Agent noticed that a Receiving Clerk had not had his level three gaming badge renewed. The badge would expire on June 1, 2006. When HR was questioned about this they said that the Receiving Clerk went to a non-gaming position in valet. He changed positions on October 12, 2005. The termination paperwork for the Receiving Clerk was filled out and given to the commission agent on May 31, 2006. The gaming badge was not returned with the termination form.

COUNT III - ADMISSIONS

13. 68 IAC 15-6-5(b) states the submission tax shall be computed utilizing the patron count that results in the highest count from one (1) of the following methods of counting patrons:
 - 1) A turnstile or the equivalent.
 - 2) A manual count.
 - 3) A ticket stub count.
 - 4) Any other method of counting patrons that has been approved by the executive director as accurately tracking patron ingress and egress to ensure the accurate payment of the admission tax in accordance with the Act and this title.
14. On April 24, 2006 a Security Supervisor advised the IGC of a discrepancy of patrons in the primary and secondary turnstiles while he was reviewing the numbers in the Gatewatch system. The IT department was called to fix the problem but was unable to do so. The IT employee advised the podium Security Officers to begin hand counting patrons using a clicker.
15. On April 25, 2006 a discrepancy was noted by a Security Officer upon reading the Gatewatch numbers for 4-24-06. At approximately 2:00pm and 2:30pm the same day the numbers did not match. The manual clicker was checked and did not match either turnstile. On April 26, 2006 the primary turnstile count was significantly over the other counts.
16. On May 1, 2006 a Commission agent called Warren Miller, IT Director to discuss the ongoing problem. Mr. Miller returned the call on May 2nd and said that the IT department had contacted the manufacturer, Alvarado and they advised that the voltage be checked.
17. During a Commission Program Audit May 9 and 10, 2006 the turnstiles and admissions tax was reviewed. It was noted in the audit report dated June 23, 2006 that the casino was experiencing problems with the Gatewatch system. From August 8, 2005 through June 9, 2006 the casino had experienced numerous turnstile issues from being shut down for eight days, to variances between the primary and secondary turnstiles and problems with the clickers. At the time of the program audit it was discovered that while the casino was using clickers they were not recording the clicker amounts on the form used to calculate the admissions count for the RG-1. At the end of the day the casino was throwing away the paper that had the written clicker numbers on it. The casino demonstrated a lack of confidence in the turnstiles by requiring the use of the clickers yet they did not use the information from the clickers to determine the accurate count for the RG-1. Since the Program Audit there have been three incident reports submitted by Gaming Agents. All three reports indicate large variances between the clicker and turnstile numbers. The variances have been explained by the casino as human error.

COUNT IV – FOUR MINOR ISSUES

18. Pursuant to 4-33-9-12, “a person who is less than twenty-one (21) years of age may not be present in the area of a riverboat where gambling is being conducted.” Pursuant to 68 IAC 1-11-1(c), “[a] person under twenty-one (21) years of age shall not be present on a riverboat.”
19. On July 4, 2006 a female was stopped by security for an ID check. The female stated that she did not have her ID but returned a few minutes later with her ID. The ID showed that the female was 18 years old. The female was not allowed to enter the casino, but stated that she had been in the casino the day before. Upon the review of surveillance tape the female was allowed to enter the casino on July 3, 2006.
20. On October 4, 2006 a minor was allowed to board the casino. While security checked her identification, they failed to notice that the picture on the ID did not match the minor presenting it.
21. On October 6, 2006 two minors were allowed to board. Neither of these minors was asked for identification by security at the turnstiles.

COUNT V – UNSECURED CHIPS

22. 68 IAC 11-4-2(b) requires when a live gaming device is closed, the inventory of chips and tokens at the table be covered and locked by a transparent cover.
23. The cover of a closed poker table was unlocked and the cut card and button were removed by a Poker Room Supervisor on gaming day June 1, 2006. The cover was left unlocked from 12:30pm until it was discovered by security at 5:00am the same gaming day. The chips were counted and compared to the inventory sheet. There were no chips missing.

COUNT VI – FOUR UNLOCKED SENSITIVE DOOR ISSUES

24. 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. A key is needed as the drop bucket compartments are to be locked at all times.
25. 68 IAC 15-10-3 requires the riverboat casinos to submit policies and procedures for obtaining the sensitive key needed to unlock the any of the cage doors. A key is needed

to access the cages because the doors are to remain locked at all times. The main bank is considered a cage.

26. 68 IAC 11-2-3(c)(10) requires the keys to the hard count room to be maintained by the security department and that access to the room be gained only by or through a security officer. The keys to the hard count room are considered sensitive and the door to the room is to remain locked at all times.
27. On June 8, 2006 a security officer noticed that a drop door on a slot machine had been left unlocked after the drop was done. On July 6, 2006 at 9:10pm a Slot Operations Manager contacted security in reference to an open drop door. The lock had been engaged but not properly closed. The door had been left open since 5:22am after being dropped.
28. On June 16, 2006 a Security Supervisor training a Security Officer was checking that the main bank was secured when he noticed that the door was ajar. The door became ajar when a cart was pushed up against it, but was not ajar enough to set off the alarm.
29. On July 10, 2006 a Security Officer went to her assigned duty in the main bank hallway. She began checking all of the logs and locks, finding both bolts on the hard count room door unlocked. A review of surveillance video indicated that the door had not been locked after the hard count team had left for the day.

COUNT VII – PLAYING CARD ISSUE

30. According to Aztar's internal controls at least once each gaming day, when a pit closes or at such other times that may be necessary, the Dual Rate Floor Supervisor or above will, in the presence of the dealer, run all cards from that table through the Deck Checker to assure that all cards are present or the Dealer will sort the decks of cards by suit and the Floorperson will verify that all cards are there.
31. On June 14, 2006 a patron noticed the two of hearts from a red backed deck was stuck in the shuffle master behind a Spanish 21 game. The Games Shift Manager immediately contacted IGC and surveillance. He then counted down the cards on the live game in view of the patrons and the deck was complete. The shuffle master was not currently in use nor had it been used earlier that same day since it was out-of-service. A surveillance tape review revealed that the shuffle master was being used the prior day to verify a red backed deck when the error light came on indicating a malfunction. The Floor Supervisor checked the shuffle master and was unable to locate the missing card or find the reason for the malfunction. She took the machine out of service and bagged the cards to be counted down later by the Pit Manager utilizing the deck checker. The Pit Manager failed to count the cards down using the deck checker. The two of hearts remained in the machine until the patron noticed it.

COUNT VIII – MISSING BILL VALIDATOR BOX

32. 68 IAC 15-7-3(a)(1) requires the revenue auditor or the equivalent to daily trace 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.
33. 68 IAC 15-7-3(b) states that the riverboat licensee shall require that all variances or discrepancies from subsection (a) shall be investigated, recorded and reported to the head of the accounting department and the commission staff.
34. In an incident report submitted by a Gaming Agent, a Security Supervisor/Investigator informed the Agent that he was conducting an ongoing investigation regarding a variance from a bill validator box.
35. The box was dropped during an emergency drop on March 3, 2006. The Security Supervisor/Investigator was not informed of the variance until July 28, 2006. Once he was informed he searched the entire property and could not find the box.
36. The Security Supervisor/Investigator stated that surveillance recorded the emergency drop being done as part of their policy and as far as those who were working at the time can remember the drop occurred without incident. Since the incident was not brought up in a timely matter the surveillance footage could not be viewed.
37. The contents of the box according to the meter reading were \$1555.00 in currency and \$384.00 in tickets. The contents of the box have never been recovered and were reported on the RG-1 as revenue only after the IGC audit staff told the accounting department to report it.

COUNT IX – LATE FILING OF TAX FORMS

38. 68 IAC 15-5-2(d) requires the riverboat licensee to file a Form RG-1 and remit the tax imposed by IC 4-33-13 to the department before the close of the business day following the day the wagers are made. In addition, a copy of the Form RG-1 shall be filed with the commission.
39. 68 IAC 15-5-9 requires that the RG-2 be prepared in accordance with this rule and any instructions that accompany the form. The original form shall be submitted to the commission office in Indianapolis, Indiana by the fifteenth day of each month. Since January 2006, at the request of the riverboat licensees, the RG-2 has been submitted by the fifth day of each month.
40. On July 13, 2006 a RG-1 was filed with only one signature and on December 5, 2006 a RG-2 was filed with only one signature. Both of these forms are required to have two signatures on them before they are considered filed by the Commission. The above filed forms are considered late since only one signature was on them.

COUNT X – ROULETTE ISSUE

41. 68 IAC 10-3-3(b) states that while the ball is still rotating around the wheel in the track the dealer shall announce “No more bets” to the patrons at the table. The dealer shall not accept any bets after the dealer announces “No more bets”,
42. On numerous occasions from September 2006 through November 2006, IGC agents have brought to the attention of table game employees, including Floor Supervisors and Pit Managers, that the dealers were not calling “No More Bets” at the proper time on the Roulette tables thus allowing patrons to past post their bets.
43. When the agents discussed this with Jeffery Travis, Director of Table Games, in early December he stated that he was aware of the problem. He also stated that he had mentioned this to the Table Games employees but could not remember if he had sent out a memo or mentioned it verbally. When told the dealers were still not following proper procedures, Mr. Travis advised that he would send out a memo. A copy of the memo was given to the IGC agents.

TERMS AND CONDITIONS

Commission staff contends that the acts of Aztar as outlined herein constitute a breach of IC 4-33, 68 IAC and Aztar’s approved internal control procedures. Under these circumstances, the Commission and Aztar have determined that in lieu of the Commission pursuing formal disciplinary action against Aztar, Aztar shall pay a total fine of \$160,500: \$22,000 for Count I; \$1,500 for Count II; \$60,000 for Count III; \$16,500 for Count IV; \$5,000 for Count V; \$19,000 for Count VI; \$5,000 for Count VII; \$19,000 for Count VIII; \$5,000 for Count IX; and \$7,500 for Count X.

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 \$160,500 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

James Brown, General Manager
Casino Aztar

Date

Date