

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright**

In the Matter of)	
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)	
)	
Pinnacle Entertainment, Inc.,)	
a corporation; and,)	
)	Docket No. 9355
)	
)	
Ameristar Casinos, Inc.,)	
a corporation.)	
)	
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**DECISION AND ORDER
[Public Record Version]**

The Federal Trade Commission (“Commission”), having heretofore issued its administrative Complaint charging Respondents Pinnacle Entertainment, Inc. (“Pinnacle”) and

- F. “Ameristar Louisiana Assets” means all of Respondents’ legal and equitable rights, title, and interests in all tangible and intangible property of any kind used for or relating to the ownership, construction of, and operations of the Ameristar Louisiana Casino, and the marketing, sale, and provision of Gaming Services and Amenity Services at the Ameristar Louisiana Casino, including (but not limited to) the following:
1. All of the Facility Assets used by, necessary for, or relating to, the Ameristar Louisiana Casino;
 2. All of Ameristar’s rights, title

- I. “Ameristar Louisiana Divestiture Agreement” means all licenses, contracts, and agreements of any kind between either or both Respondents and the Ameristar Louisiana Acquirer (including, as applicable, agreements negotiated by a Divestiture Trustee appointed under this Order) that effectuate the divestiture of the Ameristar Louisiana Assets required by this Order, and that receives the prior approval of the Commission, including, but not limited to, any Transition Services Agreement.
- J. “Ameristar Louisiana Employees” means the Ameristar Louisiana Key Employees and the Ameristar Louisiana Knowledgeable Employees.
- K. “Ameristar Louisiana Key Employees” means the Persons listed on Confidential Exhibit C to this Order.
- L. “Ameristar Louisiana Knowledgeable Employees” means all Knowledgeable Employees employed or under contract at the Ameristar Louisiana Casino at any time between May 1, 2013, and the Divestiture Date for the Ameristar Louisiana Casino.
- M. “Ameristar Missouri Acquirer” means any Person that receives the prior approval of the Commission to acquire the Ameristar Missouri Assets.
- N. “Ameristar Missouri Assets” means all of Respondents’ legal and equitable rights, title, and interests in all tangible and intangible property of any kind used for or relating to the ownership of and operations of the Ameristar Missouri Casino, and the marketing, sale, and provision of Gaming Services and Amenity Services at the Ameristar Missouri Casino, including (but not limited to) the following:
 - 1. All of the Facility Assets used by, necessary for, or relating to, the Ameristar Missouri Casino; and
 - 2. All of the Books and Records used by, necessary for, or relating to, the Ameristar Missouri Casino.
 - 3. All of the Contracts used by, necessary for, or relating to, the Ameristar Missouri Casino;
 - 4. All Intellectual Property used by, necessary for, or relating to, the Ameristar Missouri Casino; and
 - 5. The Casino Customer Database used by, necessary for, or relating to, the Ameristar Missouri Casino.

Provided, however, the Ameristar Missouri Assets shall not include the following:

- 1. Intellectual Property used by Respondents’ casinos or hotels other than the Ameristar Missouri Casino, including the Ameristar brands listed in Exhibit A;
- 2. The Facility Assets identified in Exhibit D;
- 3. The Ameristar Corporate Contracts; and
- 4. Any Retained Database Records.

- O. “Ameristar Missouri Casino” means the Ameristar St. Charles casino, Ameristar Resort Hotel and Spa St. Charles, restaurant, alcoholic beverage services, retail space, and other businesses and operations doing business in St. Charles, Missouri, on the real property described on Exhibit D to this Order.
- P. “Ameristar Missouri Divestiture Agreement” means all licenses, contracts, and agreements of any kind between either or both Respondents and the Ameristar Missouri Acquirer (including, as applicable, agreements negotiated by a Divestiture Trustee appointed under this Order) that effectuate the divestiture of the Ameristar Missouri Assets required by this Order, and that receive the prior approval of the Commission, including, but not limited to, any Transition Services Agreement.
- Q. “Ameristar Missouri Employees” means the Ameristar Missouri Key Employees and the Ameristar Missouri Knowledgeable Employees.
- R. “Ameristar Missouri Key Employees” means the Persons listed on Confidential Exhibit E to this Order.
- S. “Ameristar Missouri Knowledgeable Employees” means all Knowledgeable Employees employed or under contract at the Ameristar Missouri Casino at any time between May 1, 2013, and the Divestiture Date for the Ameristar Missouri Casino.
- T. “Ameristar Resort Hotel and Spa St. Charles” means the hotel and all Facility Assets relating to the hotel doing business as the Ameristar Casino Resort Hotel and Spa St. Charles in St. Louis, Missouri.
- U. “Books and Records” means any original, copies, drafts, and final versions of all books, records, files, customer files, customer lists, customer purchasing histories, vendor files, vendor lists, advertising and marketing materials, sales materials, technical information, architectural drawings and blueprints of any kind, databases, finan-1(hH)-10(in)2(f)5((f)5(ii)-2(s)-1(t),)

- BB. “Direct Costs” means cost not to exceed the cost of labor, material, travel, and other expenditures to the extent the costs are directly incurred to provide Transitional Services. “Direct Cost” to a Commission-approved Acquirer for its use of any of Respondents’ employees’ labor shall not exceed the then-current average wage rate for such employee, including benefits.
- CC. “Divested Assets” means any one or more of the Ameristar Missouri Assets, L’Auberge Assets, Lumiere Assets, and Ameristar Louisiana Assets.
- DD. “Divested Casinos” means any one or more of the Ameristar Louisiana Casino, Ameristar Missouri Casino, L’Auberge Casino, and Lumiere Casino.
- EE. “Divestiture Agreement” means any one or more of the Ameristar Louisiana Divestiture Agreement, Ameristar Missouri Divestiture Agreement, L’Auberge Divestiture Agreement, and Lumiere Divestiture Agreement.
- FF. “Divestiture Date” means, with respect to each of the divestitures required by this Order, the date upon which the divestiture closes.
- GG. “Employee Information” means, for each Casino Employee, a profile prepared by Respondents summarizing the employment history of each employee. To the extent permitted by applicable law and with the consent of the employee, Employee Information shall also include the employee’s personnel file.
- HH. “Facility Assets” means, with respect to each of the Divested Assets:
1. All real property interests, including right, title, and interests in and to owned or leased real property, together with all easements, rights of way, buildings, parking lots, improvements, and appurtenances;
 2. All applicable federal, state, and local regulatory agency registrations, permits, and applications, and all documents related thereto, related to or necessary for the operations of Casino Services, and the operation of any lawful business, at each of the Divested Assets to the extent held by Respondents and with respect to which

Provided, however, the L’Auberge Assets shall not include the following:

1. Intellectual Property used by Respondents’ casinos or hotels other than the L’Auberge Casino, including the brands identified in Exhibit A;
 2. The Pinnacle Corporate Contracts; and
 3. Any Retained Database Records.
- XX. “L’Auberge Casino” means the L’Auberge Resort Lake Charles casino, the Lake Charles Hotel Resort, restaurant, alcoholic beverage services, retail space, and other businesses and operations doing business at Lake Charles, Louisiana, on the real property described on Exhibit H to this Order.
- YY. “L’Auberge Divestiture Agreement” means all licenses, contracts, and agreements of any kind between either or both Respondents and the L’Auberge Acquirer (including, as applicable, agreements negotiated by a Divestiture Trustee appointed under this Order) that effectuate the divestiture of the L’Auberge Assets as may be required by this Order, and approved by the Commission, including, but not limited to, any Transition Services Agreement.
- ZZ. “L’Auberge Employees” means the L’Auberge Key Employees and the L’Auberge Knowledgeable Employees.
- AAA. “L’Auberge Key Employees” means the Persons listed on Confidential Exhibit I to this Order.
- BBB. “L’Auberge Knowledgeable Employees” means all Knowledgeable Employees employed or under contract at the L’Auberge Casino at any time between May 1, 2013, and the Divestiture Date for the L’Auberge Casino.
- CCC. “Louisiana Assets” means the Ameristar Louisiana Assets and the L’Auberge Assets.
- DDD. “Louisiana Gaming Control Board” (“LGCB”) means the Louisiana Gaming Control Board, Louisiana Department of Public Safety - Office of State Police – Gaming Enforcement Section, Louisiana Attorney General’s Office - Gaming Division, Louisiana Riverboat Gaming Commission, or any other judicial or regulatory authority responsible for granting approval(s), qualification(s), license(s), or permit(s) for any aspect of gaming in the state of Louisiana.
- EEE. “Lumiere Acquirer” means any Person that receives the prior approval of the Commission to acquire the Lumiere Assets.
- FFF. “Lumiere Assets” means all of Respondents’ legal and equitable rights, title, and interests

1. All of the Facility Assets used by, necessary for, or relating to, the Lumiere Casino;
2. All of the Books and Records used by, necessary for, or relating to, the Lumiere Casino;
3. All of the Contracts used by, necessary for, or relating to, the Lumiere Casino;
4. All Intellectual Property used by, necessary for, or relating to, the Lumiere Casino; and,
5. The Casino Customer Database used by, necessary for, or relating to, the Lumiere Casino.

Provided, however, the Lumiere Assets shall not include the following:

1. Intellectual Property used by Respondents' casinos other than the Lumiere Casino, including without limitation the brands set forth in Exhibit A;
2. The Pinnacle Corporate Contracts; and
3. Any Retained Database Records.

GGG. "Lumiere Casino" means the Lumiere Place casino, the HoteLumiere, the Four Seasons Hotel, restaurant, alcoholic beverage services, retail space, and other businesses and operations under construction or doing business in St. Louis, Missouri, on the real property described on Exhibit F to this Order.

HHH. "Lumiere Divestiture Agreement" means all licenses, contracts, and agreements of any kind between either or both Respondents and the Lumiere Acquirer (including, as applicable, agreements negotiated by a Divestiture Trustee appointed under this Order) that effectuate the divestiture of the Lumiere Assets required by this Order, and approved by the Commission, including, but not limited to, any Transition Services Agreement.

III. "Lumiere Employees" means the Lumiere Key Employees and the Lumiere Knowledgeable Employees.

JJJ. "Lumiere Key Employees" means the Persons listed on Confidential Exhibit J to this Order.

KKK. "Lumiere Knowledgeable Employees" means all Knowledgeable Employees employed or under contract at the Lumiere Casino at any time between May 1, 2013, and the Divestiture Date for the Lumiere Casino.

LLL. "Material Confidential Information" means any material non-public information relating to the Divested Assets either prior to or after the Divestiture Date, including, but not limited to, all customer lists, Casino Customer Database Records, customer loss data, customer spending data, price lists, marketing methods, patents, technologies, processes, or other trade secrets, relating to the Divested Assets and:

1. Obtained by Respondents prior to the Divestiture Date; or,
2. Obtained by Respondent after the Divestiture Date, in the course of performing Respondents' obligations un

fully comply with both terms, the Order Term shall determine Respondents' obligations under this Order. Any modification of the Ameristar Louisiana Divestiture Agreement or L'Auberge Divestiture Agreement between the date the Commission approves the Ameristar Louisiana Divestiture Agreement or L'Auberge Divestiture Agreement and the Divestiture Date, without the prior approval of the Commission, or any failure by Respondents to meet any material condition precedent to closing (whether waived or not), shall constitute a failure to comply with this Order. Notwithstanding any paragraph, section, or other provision of the Ameristar Louisiana Divestiture Agreement or L'Auberge Divestiture Agreement, any modification of the Ameristar Louisiana Divestiture Agreement or L'Auberge Divestiture Agreement, without the approval of the Commission, shall constitute a failure to comply with this Order, except as otherwise provided in Rule 2.41(f)(5) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(5).

- G. The purpose of the divestiture of the Ameristar Louisiana Assets (or the L'Auberge Assets if a Divestiture Trustee divests the L'Auberge Assets to a L'Auberge Acquirer) to an Acquirer is to create an independent, viable, and effective competitor in the relevant market in which Ameristar was engaged at the time of the announcement of the

5. The sole remaining Condition to Closing for the Divestiture Agreement (determined as if the closing were to occur six (6) months from the earlier of the Order Date and the Acquisition Date) is the failure to obtain one or more approvals, licenses, permits, rulings, or decisions by the MGC, then

Respondents shall have until eight (8) months from the earlier of the Order Date and the Acquisition Date to divest the Lumiere Assets to an Acquirer in a manner that receives the prior approval of the Commission.

- B. At the option of the Lumiere Acquirer, and subject to the prior approval of the Commission, Respondents shall enter into a Transition Services Agreement relating to the Lumiere Assets. Furthermore, any Transition Services Agreement shall provide for the continuation of any goods and services provided to the Respondents (if capable of being provided by Respondents) under any excluded contract listed in any exhibit to this Order prior to the Divestiture Date if the Acquirer, despite commercially reasonable efforts, has been unable to contract with another Person for those same goods and services upon commercially reasonable terms. The term of any Transition Services Agreement shall extend for up to one year from the Divestiture Date of the related divested assets. However, each Transition Services Agreement shall include a provision that permits an Acquirer, at its option, to extend the term of each agreement for an additional six (6) months.

- C. Prior to the Divestiture Date:

1. Respondents shall secure at their sole expense consents from all Persons that relate to or are necessary to divest to the Lumiere Acquirer and for the Lumiere Acquirer to operate upon the same terms as the Lumiere Acquirer currently operates upon.

1. The Knowledgeable Employee's employment has been terminated by the Acquirer;
2. Respondents advertise for employees in newspapers, trade publications, or other media not targeted specifically at any one or more of the employees of the Acquirer; or,
3. Respondents hire a Knowledgeable Employee who has applied for employment with Respondents, provided that such application was not solicited or induced in violation of this Order.

V.

IT IS FURTHER ORDERED that:

- A. After the Divestiture Date, Respondents shall not:
1. Provide, disclose, or otherwise make available any Material Confidential Information to any Person except as required or permitted by this Order; or
 2. Use any Material Confidential Information for any reason or purpose other than as required or permitted by this Order.

Provided, however, that nothing in this Paragraph V shall prevent Respondents from using any tangible or intangible property (including Retained Database Records) that Respondents retain the right to use pursuant to this Order, provided further that to the extent that the use of such property involves disclosure of Material Confidential Information to another Person, Respondents shall require such Person to maintain the confidentiality of such Material-2(d--9(a)6(d)2(o)-8(lope) 9(a)61(u)2(c) i(nt)-62(R)-3(e)4hs)5(ia)6(6(n) extent tso33(a)t6(g(o a)4(not)-2(he)4(r)3(2()318(y)22(13nt)-2(a)4(i)-th dr)-ntt phe

such officers to acknowledge in writing or electronically their receipt and understanding of these written or electronic instructions. Respondents shall maintain custody of these written or electronic instructions and acknowledgments for inspection upon request by the Commission.

- D. Notwithstanding Paragraph V.A. of this Order and subject to the Hold Separate Order, Respondent may use Material Confidential Information:
1. For the purpose of performing Respondents' obligations under this Order, the Hold Separate Order, or the Divestiture Agreements;
 2. To ensure compliance with legal and regulatory requirements including, but not limited to:
 - a. Retaining a copy of any Casino Customer Database Records for the sole purpose of complying with any applicable law, regulations, and other legal obligations (including, but not limited to, fulfilling Respondents' obligations to loyalty club members to provide earned benefits and rewards); and,
 - b. Requirements of the rules and regulations of the Securities and Exchange Commission and of any stock exchange or other Self Regulatory Organization, the performance of necessary audits and the maintenance of effective internal controls and procedures for required disclosures of financial information;
 3. To provide accounting, information technology, and credit-underwriting services;
 4. To provide legal services associated with actual or potential litigation and transactions;
 5. To monitor and ensure compliance with financial, tax reporting, governmental environmental, health, and safety requirements; or
 6. As otherwise provided by this Order.

VI.

IT IS FURTHER ORDERED that:

- A. If Respondents have not fully complied with the obligations of Paragraphs II. or III. of this Order, whether or not all Government Agency consents have been obtained, the Commission may appoint one or more Divestiture Trustees to divest one or more of the Divested Assets, enter Transition Services Agreements, and perform Respondents' other obligations in a manner that satisfies the requirements of this Order. If Respondents have not fully complied with the obligations imposed by Paragraph II. of this Order, the Divestiture Trustee shall divest, at the option of the Divestiture Trustee, either the Ameristar Louisiana Assets or the L'Auberge Assets to an Acquirer that receives the prior approval of the Commission and in a manner that receives the prior approval of the

Order, which shall be subject to the prior approval of the Commission. If, however, at the end of the one (1) year period, the Divestiture Trustee has submitted a plan to satisfy the obligations of Paragraphs II. or III. of this

VII.

IT IS FURTHER ORDERED that:

- A. Within thirty (30) days after the date this Order is issued, and every thirty (30) days thereafter until the Divestiture Dates of each of the divestitures required by Paragraphs II. and III. of this Order, Respondents shall submit to the Commission (and a complete copy to the Hold Separate Monitor) a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order. For the period covered by this report, the report shall include, but not be limited to, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II. and III. of this Order, including a description of all substantive contacts or negotiations for the divestitures and the identity and contact information of all parties contacted. Respondents shall include in the reports copies of all material written communications to and from such parties, all internal memoranda, a copy of the written instructions and acknowledgments concerning Material Confidential Information required by Paragraph V of this Order, and all reports and recommendations concerning completing the obligations.
- B. On the first anniversary of the Order Date, and thereafter on each subsequent anniversary until Respondents have satisfied in full all of their obligations under all of the Divestiture Agreements (including any Transition Services Agreements), Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order. For the period covered by each such report, Respondents shall state the name and contact information for each Person that maintains or claims (regardless of whether Respondents agree or disagree with such Person, and regardless whether a judicial or arbitration action has been threatened or commenced) that one or more Respondents have failed to comply fully with the Order (including any Divestiture Agreement made a part thereof), briefly describe the Person's claim, and provide copies of any written communications between Respondents and the Person concerning the claim.

VIII.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to:

- A. any proposed dissolution of Respondents;
- B. any proposed acquisition, merger, or consolidation of Respondents; or
- C. any other change in the Respondents, including, but not limited to, assignment and the

creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order.

IX.

IT IS FURTHER ORDERED that for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondents made to either Respondent's principal United States offices, registered office of its United States subsidiary, or its headquarters address, Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of Respondents and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of Respondents related to compliance with this Order, which copying services shall be provided by Respondents at the request of the authorized representative(s) of the Commission and at the expense of the Respondents; and
- B. To interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

X.

IT IS FURTHER ORDERED that this Order shall terminate ten (10) years after the Order Date.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED:

CONFIDENTIAL EXHIBITS A – K

[Redacted From the Public Record Version, but Incorporated By Reference]