AMERISTAR CASINOS INC
Form PREM14A
February 01, 2013

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

(RULE 14a-101)

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934

Filed by the Registrant ý

Filed by a Party other than the Registrant o

Check the appropriate box:

ý Preliminary Proxy Statement.

o **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2)).**

o Definitive Proxy Statement.

o Definitive Additional Materials.

o Soliciting Material Pursuant to §240.14a-12.

Ameristar Casinos, Inc.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

o No fee required.

ý Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

Common stock par value $0.01 per share of Ameristar Casinos, Inc.

(2) Aggregate number of securities to which transaction applies:

32,940,272 shares of common stock
5,848,529 options to purchase common stock with exercise prices of less than $26.50
1,373,541 restricted stock units

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11(b)(1) (set forth the amount on which the filing fee is calculated and state how it was determined):

The proposed maximum aggregate value of the transaction for purposes of calculating the filing fee is $959,223,806.84. The maximum aggregate value of the transaction was calculated based upon the sum of (A) 32,940,272 shares of common stock multiplied by $26.50 (the per share merger consideration), (B) 5,848,529 shares of common stock underlying outstanding "in-the-money" options of the Company multiplied by the excess of $26.50 over the per share exercise price of each such option; and (C) 1,373,541 restricted stock units multiplied by $26.50. The filing fee was determined by multiplying the maximum aggregate value of the transaction by .0001364.

(4) Proposed maximum aggregate value of transaction:

$959,223,806.84

(5) Total fee paid:

$130,838.13

o Fee paid previously with preliminary materials.

o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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PRELIMINARY PROXY STATEMENT SUBJECT TO COMPLETION, DATED FEBRUARY 1, 2013

To the Stockholders of Ameristar Casinos, Inc.:

You are cordially invited to attend a special meeting of stockholders (the "Special Meeting") of Ameristar Casinos, Inc., a Nevada corporation (the "Company," "Ameristar," "we," "us" or "our") to be held at [a.m./p.m.], local time, on , 2013, at .

On December 20, 2012, we entered into an Agreement and Plan of Merger with Pinnacle Entertainment, Inc., a Delaware corporation ("Parent"), PNK Holdings, Inc., a Delaware corporation and wholly-owned subsidiary of Parent ("HoldCo"), PNK Development 32, Inc., a Nevada corporation and wholly-owned subsidiary of HoldCo ("Merger Sub"), as amended pursuant to a First Amendment to Agreement and Plan of Merger dated as of February 1, 2013 (as so amended, the "Merger Agreement"), providing for the merger of Merger Sub with and into the Company (the "Planned Merger") or, at the election of Parent under certain circumstances, the merger of HoldCo with and into the Company (the "Alternative Merger," and both the Planned Merger and Alternative Merger hereinafter referred to as the "Merger"), with the Company as the surviving corporation of the Merger. If Parent elects to pursue the Alternative Merger, immediately following the completion of the Alternative Merger, the Company will be merged with and into Parent. At the Special Meeting, we will ask you to approve the Merger Agreement and approve certain other matters as set forth in the stockholder notice and accompanying proxy statement.

If the Merger is completed, each share of Company common stock, subject to any perfection of dissenters' rights, if applicable, will be converted into the right to receive $26.50 in cash, without interest and subject to deduction for any required withholding tax. We refer to this amount as the "Merger Consideration." Regardless of whether the Merger is carried out as a Planned Merger or an Alternative Merger, under no circumstances will the Merger Consideration change.

After careful consideration, our board of directors unanimously determined that the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Merger, are advisable, fair to and in the best interests of the Company and its stockholders, and recommended that our stockholders approve the Merger Agreement at the Special Meeting.

Our board of directors unanimously recommends that you vote "FOR" the proposal to approve the Merger Agreement, "FOR" the proposal to approve, by a non-binding advisory vote, the compensation that may become payable to the Company's named executive officers in connection with the completion of the Merger and "FOR" the proposal to adjourn the Special Meeting, if necessary, to solicit additional proxies if there are not sufficient votes to adopt the Merger Agreement.

Your vote is very important, regardless of the number of shares you own. The Merger cannot be completed unless the holders of at least a majority of the outstanding shares of Company common stock on the record date vote to approve the Merger Agreement. If your shares of Company common stock are held in an account at a broker, dealer, commercial bank, trust company or other nominee, you should instruct your broker, dealer, commercial bank, trust company or other nominee how to vote in accordance with the voting instruction form furnished by your broker, dealer, commercial bank, trust company or other nominee. The failure to vote or the failure to instruct your broker on how to vote will have the same effect as a vote against the proposal to approve the Merger Agreement.

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More information about the Merger is contained in the accompanying proxy statement and a copy of the Merger Agreement is attached as *Annex A*. We encourage you to read the accompanying proxy statement in its entirety because it explains the proposed Merger, the documents related to the Merger and other related matters. You may also obtain more information about the Company from documents we have filed with the Securities and Exchange Commission.

Thank you for your cooperation and continued support.

Sincerely,

Luther P. Cochrane
Chairman of the Board

Gordon R. Kanofsky
Chief Executive Officer

Neither the U.S. Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the Merger or the Merger Agreement, passed upon the merits or fairness of the Merger, or passed upon the adequacy or accuracy of the disclosure in the proxy statement. Any representation to the contrary is a criminal offense.

The accompanying proxy statement is dated , 2013 and is first being mailed to stockholders on or about , 2013.

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AMERISTAR CASINOS, INC.

3773 Howard Hughes Parkway, Suite 490S
Las Vegas, Nevada 89169

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS TO BE HELD ON , 2013

TO THE STOCKHOLDERS OF AMERISTAR CASINOS, INC.:

NOTICE IS HEREBY GIVEN that a special meeting of stockholders (the "Special Meeting") of Ameristar Casinos, Inc. (the "Company," "Ameristar," "we," "us" or "our") will be held at [a.m./p.m.], local time, on , 2013, at , for the following purposes:

1. **Approval of the Merger Agreement.** To consider and approve the Agreement and Plan of Merger among the Company, Pinnacle Entertainment, Inc., a Delaware corporation ("Parent"), PNK Holdings, Inc., a Delaware corporation and wholly-owned subsidiary of Parent ("HoldCo"), and PNK Development 32, Inc., a Nevada corporation and a wholly-owned subsidiary of HoldCo ("Merger Sub"), as amended pursuant to a First Amendment to the Agreement and Plan of Merger dated as of February 1, 2013 (as so amended, the "Merger Agreement"), pursuant to which either (i) Merger Sub will be merged with and into the Company (the "Planned Merger") with the Company surviving as a wholly-owned, indirect subsidiary of Parent or (ii) at the election of Parent under certain circumstances, HoldCo will be merged with and into the Company (the "Alternative Merger," and both the Planned Merger and Alternative Merger are hereinafter referred to as the "Merger"), and in which, immediately thereafter, the Company will be merged with and into Parent.

2. **Advisory Vote Regarding Merger-Related Compensation.** To consider and vote on a non-binding, advisory proposal to approve the compensation that may become payable to the Company's named executive officers in connection with the completion of the Merger; and

3. **Adjournment or Postponement of the Special Meeting.** To approve the adjournment of the Special Meeting, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the Special Meeting to approve the Merger Agreement.

After careful consideration, our board of directors unanimously determined that the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Merger, are advisable, fair to and in the best interests of the Company and its stockholders and recommended that our stockholders approve the Merger Agreement at the Special Meeting. **Our board of directors unanimously recommends that you vote "FOR" the proposal to approve the Merger Agreement, "FOR" the proposal to approve, by a non-binding, advisory vote, the compensation that may become payable to the Company's named executive officers in connection with the completion of the Merger and "FOR" the proposal to adjourn the Special Meeting, if necessary, to solicit additional proxies if there are not sufficient votes to adopt the Merger Agreement.**

Only holders of record of our common stock at the close of business on , 2013, the record date for the Special Meeting, may vote at the Special Meeting.

The approval of the Merger Agreement requires the affirmative vote of the holders of a majority of the outstanding shares of Company common stock. The approvals of the non-binding, advisory compensation proposal and the proposal to adjourn the Special Meeting require the affirmative vote of the

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holders of a majority of the outstanding shares of Company common stock present and entitled to vote at the Special Meeting as of the record date.

If the Company has less than 2,000 stockholders (including record and beneficial stockholders) as of the record date, then stockholders who do not vote in favor of the approval of the Merger Agreement will have the right to dissent from the consummation of the Merger and obtain payment of the fair value of their shares if the Merger is completed if they meet certain conditions and comply with certain procedures under the Nevada Revised Statutes, the applicable provisions of which are attached to this proxy statement as *Annex D*. At this time, the Company anticipates that it will have more than 2,000 stockholders as of the record date, and therefore, dissenters' rights will not be applicable to the Merger.

Your vote is very important. Even if you do not expect to attend the meeting in person, it is important that your shares be represented. Please use the enclosed proxy card to vote on the matters to be considered at the Special Meeting by signing and dating the proxy card and mailing it promptly in the enclosed envelope, which requires no postage if mailed in the United States. Returning a signed proxy card will not prevent you from attending the meeting and voting in person if you wish to do so.

You may vote by completing and mailing the enclosed proxy card, or by telephone or the Internet, or in person by ballot at the Special Meeting, in each case by following the directions contained in the accompanying proxy statement. If your shares are held in "street name," which means shares held of record by a broker, bank or other nominee, you should check the voting form used by that firm to determine whether you will be able to submit your proxy by telephone or over the Internet, or in person at the Special Meeting, provided you have obtained a proxy issued in your name from such record holder. Whether or not you expect to attend the Special Meeting, submitting a proxy by mailing the enclosed proxy card as promptly as possible will ensure that your shares are represented at the Special Meeting. Even if you have voted by proxy, you may still vote in person if you attend the Special Meeting by following the directions contained in the accompanying proxy statement. Please review the instructions in this proxy statement and the enclosed proxy card or the information forwarded by your bank, broker or other holder of record regarding each of these options. If you do not vote in person, submit the proxy or instruct your broker on how to vote at the Special Meeting, the effect will be the same as a vote against the proposal to approve the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Merger.

For more information about the Merger and the other transactions contemplated by the Merger Agreement, please review the accompanying proxy statement and the Merger Agreement attached to it as *Annex A*.

By Order of the Board of Directors

Luther P. Cochrane
Chairman of the Board

Gordon R. Kanofsky
Chief Executive Officer

Las Vegas, Nevada
, 2013

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AMERISTAR CASINOS, INC.

PROXY STATEMENT

SUMMARY

The following summary highlights selected information in this proxy statement and may not contain all the information that may be important to you. Accordingly, we encourage you to read carefully this entire proxy statement, its annexes, and the documents referred to and incorporated by reference in this proxy statement. Each item in this summary includes a page reference directing you to a more complete description of that topic. You may obtain the information incorporated by reference in this proxy statement without charge by following the instructions in the section titled "Where You Can Find More Information" beginning on page 85.

Parties Involved in the Merger

Ameristar Casinos, Inc. (the "Company," "Ameristar," "we," "us" or "our") is an innovative casino gaming company with eight casino hotel properties that primarily serve guests from Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska and Nevada. The Company has been a public company since 1993, and its stock is traded on the Nasdaq Global Select Market. The Company generates more than $1.1 billion in net revenues annually. Our principal executive office is located at 3773 Howard Hughes Parkway, Suite 490 South, Las Vegas, Nevada 89169, and the telephone number of our principal executive office is (702) 567-7000.

Pinnacle Entertainment, Inc. ("Parent" or "Pinnacle") owns and operates seven casinos, located in Louisiana, Missouri, and Indiana, and a racetrack in Ohio. In addition, Pinnacle is redeveloping River Downs in Cincinnati, Ohio into a gaming entertainment facility and holds a 26% ownership stake in Asian Coast Development (Canada) Ltd. (ACDL), an international development and real estate company currently developing Vietnam's first large-scale integrated resort on the Ho Tram Strip. In January of this year, Pinnacle acquired a 75.5% ownership stake in the holder of the Class 1 racing license for Retama Park racetrack near San Antonio, Texas, and entered into a management agreement for the racetrack. Pinnacle's principal executive office is located at 8918 Spanish Ridge Avenue, Las Vegas, Nevada 89148, and the telephone number of Pinnacle's principal executive office is (702) 541-7777.

PNK Holdings, Inc. ("HoldCo") was formed for the sole purpose of entering into the Merger Agreement and consummating the transactions contemplated by the Merger Agreement. HoldCo is a wholly-owned subsidiary of Parent. If the Alternative Merger is completed, HoldCo would be merged into the Company and cease to exist.

PNK Development 32, Inc. ("Merger Sub") was formed for the sole purpose of entering into the Merger Agreement and consummating the transactions contemplated by the Merger Agreement. Merger Sub is currently a wholly-owned subsidiary of HoldCo and an indirect wholly-owned subsidiary of Parent. If the Planned Merger is completed, Merger Sub would be merged into the Company and cease to exist.

Overview of the Transaction

The Company, Parent, HoldCo and Merger Sub entered into an Agreement and Plan of Merger dated as of December 20, 2012, as amended pursuant to a First Amendment to the Agreement and Plan of Merger dated as of February 1, 2013 (as so amended, the "Merger Agreement"), providing for the merger of Merger Sub with and into the Company (the "Planned Merger") or, at the election of Parent under certain circumstances, the merger of HoldCo with and into the Company (the "Alternative Merger," and both the Planned Merger and Alternative Merger are hereinafter referred to as the "Merger"). If Parent elects to pursue the Alternative Merger, immediately after the completion of the Alternative Merger, the

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Company will be merged with and into Parent (the "Post-Effective Merger"). The following will occur in connection with the Merger:

- each share of Company common stock issued and outstanding immediately prior to the Closing will convert automatically into the right to receive $26.50 per share in cash (the "Merger Consideration"), without interest and subject to deduction for any required withholding tax, other than (i) treasury shares, (ii) shares held directly or indirectly by Parent, HoldCo, Merger Sub or any wholly-owned subsidiary of the Company, and (iii) if applicable, shares owned by stockholders who have properly perfected dissenters' rights under the Nevada Revised Statutes ("NRS").

- as of the effective time of the Merger, each share will automatically be cancelled and shall cease to exist, and shall thereafter only represent the right to receive the Merger Consideration in respect of such share (other than (i) treasury shares, (ii) shares held directly or indirectly by Parent, HoldCo, Merger Sub or any wholly-owned subsidiary of the Company, and (iii) if applicable, shares owned by stockholders who have properly perfected dissenters' rights under the NRS).

Following and as a result of the Merger:

- Company stockholders will no longer have any interest in, and will no longer be stockholders of, the Company;

- shares of Company common stock will no longer be listed on The Nasdaq Global Select Market ("Nasdaq"), and price quotations with respect to shares of Company common stock in the public market will no longer be available; and

- the registration of shares of Company common stock under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), will be terminated.

See "*Special Factors Overview of the Transaction*" beginning on page 21 for additional information.

The Special Meeting

The Special Meeting will be held on , 2013 at . At the Special Meeting, you will be asked to, among other things, approve the Merger Agreement. Please see the sections of this proxy statement captioned "*Questions and Answers About the Special Meeting and the Merger*" and "*The Special Meeting*" beginning on pages 9 and 16, respectively, for additional information on the Special Meeting, including how to vote your shares of Company common stock.

Stockholders Entitled to Vote

You may vote at the Special Meeting if you owned any shares of Company common stock at the close of business on , 2013, the record date for the Special Meeting. On that date, there were shares of Company common stock outstanding and entitled to vote at the Special Meeting. You may cast one vote for each share of Company common stock that you owned on that date. See "*The Special Meeting Voting Procedures*" beginning on page 18 for additional information.

Vote Required to Approve the Merger Agreement

Approval of the Merger Agreement requires the affirmative vote of the holders of a majority of the outstanding shares of Company common stock entitled to vote at the Special Meeting. See "*The Special Meeting Vote Required*" beginning on page 17 for additional information.

Merger Consideration

If the Merger is completed, each share of Company common stock, other than treasury shares, shares held by Parent, the Company or their respective wholly-owned subsidiaries, or as provided below, will be

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converted into the right to receive the Merger Consideration in cash, without interest and subject to deduction for any required withholding tax.

Treatment of Company Stock Options and Restricted Stock Units

Each option to acquire shares, whether vested or unvested, that is outstanding at the effective time of the Merger will be cancelled in exchange for an amount in cash (without interest, and subject to deduction for any required withholding tax) equal to the product of (i) the excess, if any, of the Merger Consideration over the per share exercise price of such option and (ii) the number of shares subject to such option.

Each restricted stock unit, whether vested or unvested, that is outstanding at the effective time of the Merger will be cancelled in exchange for an amount in cash (without interest, and subject to deduction for any required withholding tax) equal to the product of (i) the Merger Consideration and (ii) the number of shares subject to such restricted stock unit.

Recommendation of the Board of Directors

The Company's board of directors (the "Board") unanimously determined that the Merger and the other transactions contemplated by the Merger Agreement are fair to and in the best interests of the Company's stockholders and unanimously approved the Merger Agreement and the transactions contemplated thereby.

The Board unanimously recommends that you vote:

"**FOR**" the proposal to approve the Merger Agreement;

"**FOR**" the non-binding, advisory proposal to approve the compensation that may become payable to the Company's named executive officers in connection with the completion of the Merger; and

"**FOR**" the proposal to approve the adjournment of the Special Meeting, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the Special Meeting to approve the Merger Agreement.

For a discussion of the material factors considered by the Board in determining to recommend the approval of the Merger Agreement and in determining that the Merger is fair to the Company and its stockholders, see "*Special Factors Recommendation of Our Board of Directors; Reasons for Recommending the Approval of the Merger Agreement*" beginning on page 31 for additional information.

Opinion of Lazard Frères & Co. LLC

The Board received an opinion on December 20, 2012, from Lazard Frères & Co. LLC ("Lazard"), to the effect that, as of that date and based upon and subject to various assumptions, procedures, factors, qualifications and limitations set forth in the written opinion, the Merger Consideration to be paid to the holders of shares of Company common stock (other than shares owned by the Company as treasury stock or held directly or indirectly by Parent, HoldCo, Merger Sub or any other wholly-owned subsidiary of Parent or as to which dissenters' rights have been perfected in accordance with applicable law) in the Merger is fair, from a financial point of view, to such holders of Company common stock. See "*Special Factors Opinion of Lazard Frères & Co. LLC*" beginning on page 34. A copy of Lazard's opinion is attached as *Annex B* to this proxy statement.

Opinion of Centerview Partners LLC

The Board received an opinion on December 20, 2012, from Centerview Partners LLC ("Centerview"), to the effect that, as of that date and based upon and subject to various assumptions, procedures, factors, qualifications and limitations set forth in the written opinion, the Merger Consideration to be paid to the holders of shares of Company common stock (other than shares owned by

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the Company as treasury stock or held directly or indirectly by Parent, HoldCo, Merger Sub or any other wholly-owned subsidiary of Parent or as to which dissenters' rights have been perfected in accordance with applicable law) in the Merger is fair, from a financial point of view, to such holders of Company common stock. See "*Special Factors Opinion of Centerview Partners LLC*" beginning on page 40. A copy of Centerview's opinion is attached as *Annex C* to this proxy statement.

Financing of the Merger

In connection with entering into the Merger Agreement, Parent entered into a debt financing commitment letter with JPMorgan Chase Bank, N.A. ("JPMCB"), J.P. Morgan Securities LLC, and Goldman Sachs Lending Partners LLC ("Goldman Finance") pursuant to which, among other things, each of JPMCB and Goldman Finance (and each additional commitment party who has executed a joinder to the debt financing commitment letter) has agreed to provide debt financing commitments that will fund the Merger Consideration, pay transaction fees and expenses, provide working capital and funds for general corporate purposes after the Merger, and, to the extent necessary, refinance the existing indebtedness of the Company and Parent.

There is no financing condition to the Merger and if the Merger Agreement is terminated due to Parent's inability to obtain adequate financing, Parent will be obligated under certain circumstances to pay the Company a reverse termination fee of $85,000,000. See "*Special Factors Financing of the Merger*" beginning on page 49.

Interests of the Company's Directors and Executive Officers in the Merger

In considering the recommendation of the Board, you should be aware that certain of our executive officers and directors have interests in the Merger that may be different from, or in addition to, your interests as a stockholder. These interests include, among others:

- the cancellation of vested and unvested in-the-money stock options for cash payable at the effective time of the Merger;
- the conversion of vested and unvested restricted stock units into the right to receive cash payable at the effective time of the Merger; and
- severance payments and benefits pursuant to the Company's Severance Plan (as defined below) or other contractual arrangements.

See "*Special Factors Interests of the Company's Directors and Executive Officers in the Merger*" beginning on page 51 for additional information.

Conditions to the Merger

The respective obligations of each of the Company, Parent, HoldCo and Merger Sub to consummate the Merger are subject to the satisfaction or waiver of certain conditions, including the receipt of all required gaming approvals. For a more detailed description of these conditions, see "*The Merger Agreement Conditions to the Merger*" beginning on page 71.

Regulatory Approvals

The Merger cannot be completed until the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") has expired or been terminated, and the parties have obtained the requisite gaming approvals from the Indiana Gaming Commission, the Iowa Racing and Gaming Commission, the Mississippi Gaming Commission, the Missouri Gaming Commission, the Louisiana Gaming Control Board and the Nevada Gaming Commission. Approval from the Colorado

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Limited Gaming Control Commission is also required, but such approval is not required to be obtained prior to the closing of the Merger.

Under the Merger Agreement, Parent must take all action that is necessary, proper or advisable under all antitrust laws and applicable gaming laws to consummate the Merger, including using its reasonable best efforts to obtain as promptly as practicable the expiration of all waiting periods and obtain all approvals and consents required to consummate the Merger. This obligation requires Parent to take, or consent to the Company taking, any or all of the following actions: (i) placing particular assets or an operating property in trust upon the closing pending obtaining control upon subsequent gaming approval, (ii) agreeing to sell, divest, or otherwise convey particular assets or an operating property of Parent and its subsidiaries, and (iii) agreeing to sell, divest, or otherwise convey particular assets or an operating property of the Company and its subsidiaries, contemporaneously with or subsequent to the effective time of the Merger. However, Parent shall not be required to divest or place in trust, or permit the Company to divest or place in trust, more than two operating properties (and under no circumstances more than one operating property in any one state).

If the Merger Agreement is terminated under certain circumstances for failure to obtain gaming regulatory approvals, Parent must pay to the Company a reverse termination fee of $85,000,000.

See "*Special Factors Regulatory Approvals*" beginning on page 55 for additional information.

No Solicitation; Acquisition Proposals; Board Recommendation

As of the date of the Merger Agreement until the effective time of the Merger, or, if earlier, the termination of the Merger Agreement, the Company, its subsidiaries and its representatives may not, directly or indirectly:

- initiate, solicit, facilitate or knowingly encourage any inquiry or the making or completion of any acquisition proposal;
- engage or participate in any negotiations or discussions, or provide any non-public information relating to the Company or its subsidiaries in connection with an acquisition proposal;
- approve, endorse or recommend any acquisition proposal; or
- approve, endorse or recommend, or execute or enter into any agreement or agreement in principle relating to an acquisition proposal.

Notwithstanding the foregoing, at any time prior to the time the Company's stockholders approve the Merger Agreement, in response to an unsolicited bona fide written acquisition proposal, subject to certain limitations, the Company may:

- furnish information with respect to the Company and its subsidiaries to the person making such acquisition proposal pursuant to a customary confidentiality agreement; and
- participate in discussions or negotiations with such person with respect to such acquisition proposal.

From the date of the Merger Agreement until the effective time of the Merger, or, if earlier, the termination of the Merger Agreement, the Board may not:

- withdraw, modify or amend its recommendation of the Merger Agreement;
- fail to oppose or recommend the rejection of a third party offer;

approve or recommend another acquisition proposal; or

allow the Company or any subsidiary to execute or enter into any agreement that is related to or is intended to or would reasonably be expected to lead to an acquisition proposal.

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Notwithstanding the foregoing, at any time prior to the time the Company's stockholders approve the Merger Agreement, in response to an unsolicited bona fide written acquisition proposal, subject to certain limitations and notification requirements, the Board may take any of the above actions if the Board determines in good faith, after consultation with its financial advisors and outside legal counsel, that failure to do so would reasonably be expected to breach its fiduciary duties and that such acquisition proposal constitutes a superior proposal.

See "*The Merger Agreement Acquisition Proposals*" beginning on page 67 for a more complete discussion of non-solicitation, acquisition proposals and Board recommendation.

Termination of the Merger Agreement

The Company and Parent may, by mutual written consent, terminate the Merger Agreement and abandon the Merger at any time prior to the effective time of the Merger, whether before or after the approval of the Merger Agreement by the Company's stockholders. The Merger Agreement may also be terminated and the Merger abandoned at any time prior to the effective time of the Merger as follows:

by either Parent or the Company, if:

- the Merger has not been consummated by September 21, 2013 (the "Termination Date"), which date may be extended under certain circumstances;
- either party receives notice from any applicable gaming authority that the required gaming approvals will not be granted;
- the Merger is permanently enjoined;
- the required stockholder approval shall not have been obtained at the Special Meeting; or
- the closing conditions have been satisfied but there has been a failure by Parent to obtain the requisite financing;

by the Company if:

- Parent, HoldCo or Merger Sub shall have breached or failed to perform any of its representations, warranties, covenants or agreements contained in the Merger Agreement, which breach or failure to perform would give rise to the failure of a condition to the Company's obligation to effect the Merger;
- prior to the approval of the Merger Agreement by the Company's stockholders, in order to concurrently enter into an agreement with respect to an acquisition proposal that constitutes a superior proposal and the Company pays the termination fee described under "*The Merger Agreement Termination Fees and Reimbursement of Expenses"* below; or
- the closing conditions have been satisfied and Parent fails to fund the Merger Consideration at closing;

by Parent, if:

- the Company shall have breached or failed to perform any of its representations, warranties, covenants or agreements set forth in the Merger Agreement, which breach or failure to perform would give rise to the failure of a condition to Parent, HoldCo's or Merger Sub's obligation to effect the Merger;

if a Triggering Event (as defined below in "*The Merger Agreement Termination*" on page 72) has occurred at any time prior to the approval of the Company's stockholders.

See "*The Merger Agreement Termination*" beginning on page 72.

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Termination Fees and Reimbursement of Expenses

Upon termination of the Merger Agreement under certain circumstances, the Company will be required to pay Parent a termination fee of $38,000,000. If the Merger Agreement is terminated because the required stockholder approval is not obtained at the Special Meeting, the Company will be obligated to reimburse Parent for 50% of Parent's transaction expenses, up to a maximum reimbursement obligation of $12,500,000. Under no circumstances will the Company be required to pay both the $38,000,000 termination fee and the reimbursement of Parent's transaction expenses as described above.

If the Merger Agreement is terminated because Parent is unable to obtain the requisite financing for the Merger or Parent fails to obtain the necessary gaming regulatory approvals, Parent will be required under certain circumstances to pay the Company a reverse termination fee of $85,000,000.

See "*The Merger Agreement Termination Fees and Reimbursement of Expenses*" beginning on page 74 for a description of such termination fees and additional requirements.

Dissenters' Rights

Under Nevada law, if the Company has less than 2,000 record and beneficial stockholders as of the record date, then stockholders who do not wish to accept the consideration payable for their shares of common stock pursuant to the Merger may dissent from the Merger and obtain fair value for their shares under Section 92A.300 - 92A.500 of the NRS. "Fair value" means the value of the shares immediately prior to the merger, excluding any appreciation or depreciation in anticipation of the merger unless exclusion would be inequitable. This right to appraisal is subject to a number of restrictions and technical requirements. Generally, in order to properly assert appraisal, among other things:

- you must not vote in favor of the proposal to approve the Merger Agreement and the Merger;
- you must deliver a written notice of your intent to demand payment to us in compliance with the NRS before the vote on the proposal to approve the Merger Agreement and the Merger occurs at the Special Meeting; and
- upon receiving a dissenters' notice from us, you must demand payment, certify that you are the beneficial owner and that you acquired beneficial ownership of the shares prior to the date of the first announcement to the news media or stockholders of the terms of the Merger, and deposit your shares in accordance with the terms of notice.

Merely voting against, or failing to vote in favor of, the Merger Agreement will not preserve your right to appraisal under Nevada law. Also, because a submitted proxy not marked "against" or "abstain" will be voted "FOR" the proposal to approve the Merger Agreement and the Merger, the submission of a proxy not marked "against" or "abstain" will result in the waiver of dissenters' rights. If you hold shares in the name of a broker, bank or other nominee, you must instruct your nominee to take the steps necessary to enable you to demand payment for your shares. If you or your nominee fails to follow all of the steps required by Sections 92A.420 and 92A.440 of the NRS, you will lose your right of dissent. See "*Dissenters' Rights*" on page 81 for a description of the procedures that you must follow in order to exercise your dissenters' rights.

At this time, the Company anticipates that it will have more than 2,000 stockholders as of the record date and, therefore, dissenters' rights will not be applicable to the Merger.

Certain Material U.S. Federal Income Tax Consequences of the Merger

The exchange of shares of Company common stock for cash pursuant to the Merger will be a taxable transaction for U.S. federal income tax purposes. In general, a U.S. holder who receives cash for shares of Company common stock pursuant to the Merger will recognize gain or loss, if any, equal to the difference between the amount of cash received and the holder's adjusted tax basis in the shares of Company

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common stock. You should read "*Special Factors Certain Material U.S. Federal Income Tax Consequences of the Merger*" beginning on page 56 for more information regarding the U.S. federal income tax consequences of the Merger to stockholders. Because individual circumstances may differ, we urge stockholders to consult their own tax advisors concerning the effects of the Merger on their U.S. federal, state and local and/or non-U.S. taxes.

Litigation Relating to the Merger

On December 24, 2012, December 28, 2012, January 10, 2013, January 15, 2013, and January 29, 2013, putative class action complaints captioned *Joseph Grob v. Ameristar Casinos, Inc., et al.*, Case No. A-12-674101-B, *Dennis Palkon v. Ameristar Casinos, Inc., et al.*, Case No. A-12-674288-B, *West Palm Beach Firefighters' Pension Fund v. Ameristar Casinos, Inc., et al*., Case No. A-13-674760-C, *Frank J. Serano v. Ameristar Casinos, Inc., et al*., Case No. A-13-6750230-C, and *Helene Hutt v. Ameristar Casinos, Inc., et al.,* Case No. A-13-675831-C, respectively, were filed in the District Court, Clark County, Nevada on behalf of an alleged class of the Company's stockholders. The complaints name as defendants the Company, all members of the Board, Parent, HoldCo and Merger Sub. Each of the complaints alleges that the members of the Board breached their fiduciary duties to the Company's stockholders in connection with the Merger and that the Company, Parent, HoldCo and Merger Sub aided and abetted the directors' alleged breaches of their fiduciary duties. Plaintiffs claim that the Merger is proposed at an unfair price, and involves an inadequate and unfair sales process, self-dealing, and unreasonable deal-protection devices. The complaints seek injunctive relief, including to enjoin or rescind the Merger, and an award of unspecified attorneys' and other fees and costs, in addition to other relief. Pursuant to stipulation, on January 16, 2013, the court ordered the *Grob* and *Palkon* actions consolidated, established a leadership structure among plaintiffs' counsel, and provided for consolidation with any pending or subsequently-filed actions arising out of the same facts. The consolidated case will proceed under the caption *In re Ameristar Casinos, Inc. Shareholder Litigation*, Case No. A-12-674101-B.

The defendants have not yet responded to the complaints. We believe that