

AMERISTAR CASINOS INC
Form DFAN14A
February 01, 2013

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

Date of Report (date of earliest event reported): February 1, 2013

PINNACLE ENTERTAINMENT, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware
(State of Other Jurisdiction

of Incorporation)

001-13641
(Commission

File Number)

95-3667491
(I.R.S. Employer

Identification Number)

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8918 Spanish Ridge Avenue

Las Vegas, Nevada 89148

(Address of Principal Executive Offices, Including Zip Code)

(702) 541-7777

(Registrant's Telephone Number, Including Area Code)

N/A

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☒ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

First Amendment to Agreement and Plan of Merger

On December 20, 2012, Pinnacle Entertainment, Inc. (Pinnacle), Pinnacle, PNK Holdings, Inc., a direct wholly-owned subsidiary of Pinnacle (HoldCo), PNK Development 32, Inc., an indirect wholly-owned subsidiary of Pinnacle (Merger Sub), and Ameristar Casinos, Inc. (Ameristar, and together with Pinnacle, HoldCo, Merger Sub, the Parties), entered into an agreement and plan of merger (the Merger Agreement,) pursuant to which Merger Sub would be merged with and into Ameristar, with Ameristar surviving as a wholly-owned, indirect subsidiary of Pinnacle. The Merger Agreement further provides that Pinnacle is entitled, under certain circumstances, to effect an alternative merger structure pursuant to which HoldCo would be merged with and into Ameristar with Ameristar as the surviving corporation (the Alternative Merger), and immediately thereafter, Ameristar would be merged with and into Pinnacle with Pinnacle as the surviving corporation.

On February 1, 2013, the Parties entered into the First Amendment to the Merger Agreement (the Amendment), to more specifically address the effects of the Alternative Merger. All capitalized terms used but not defined herein shall have their respective meanings in the Merger Agreement or the Amendment, as applicable. Other than the amendments to the Merger Agreement contained in the Amendment, the Merger Agreement remains unchanged.

The foregoing description of the Merger Agreement and the Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement (filed as Exhibit 2.1 to Pinnacle's Current Report on Form 8-K filed on December 21, 2012) and the Amendment, (a copy of which is filed as Exhibit 2.1 hereto), respectively, and each of the Merger Agreement and the Amendment are incorporated into this Current Report on Form 8-K by this reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

Exhibit

No.	Description
Exhibit 2.1	First Amendment to Agreement and Plan of Merger, dated as of February 1, 2013, entered into by and among, Pinnacle Entertainment, Inc., PNK Holdings, Inc., PNK Development 32, Inc., and Ameristar Casinos, Inc. # # # #

Important Information Regarding Forward-Looking Statements

Forward-Looking Statements

This Form 8-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are based on Pinnacle's and Ameristar's current expectations and are subject to uncertainty and changes in circumstances. These forward-looking statements include, among others, statements regarding the expected synergies and benefits of a potential combination of Pinnacle and Ameristar, including the expected accretive effect of the merger on Pinnacle's financial results and profile (e.g., free cash flow, earnings per share and Consolidated Adjusted EBITDA); the anticipated benefits of geographic diversity that would result from

the merger and the expected results of Ameristar's gaming properties; expectations about future business plans, prospective performance and opportunities; required regulatory approvals; and the expected timing of the completion of the transaction; and the anticipated financing of the transaction. These forward-looking statements may be identified by the use of words such as expect, anticipate, believe, estimate, potential, should or similar words intended to identify information that is not historical in nature. The inclusion of such statements should not be regarded as a representation that such plans, estimates or expectations will be achieved. There is no assurance that the potential transaction will be consummated, and there are a number of risks and uncertainties that could cause actual results to differ materially from the forward-looking statements made herein. These risks and uncertainties include (a) the timing to consummate the transaction between Pinnacle and Ameristar; (b) the ability and timing to obtain required regulatory approvals (including approval from gaming regulators) and satisfy or waive other closing conditions; (c) the ability to obtain the approval of Ameristar's stockholders; (d) the possibility that the merger does not close when expected or at all; or that the companies may be required to modify aspects of the merger to achieve regulatory approval; (e) Pinnacle's ability to realize the synergies contemplated by a potential transaction; (f) Pinnacle's ability to promptly and effectively integrate the business of Pinnacle and Ameristar; (g) the requirement to satisfy closing conditions to the merger as set forth in the merger agreement, including expiration of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976; (h) uncertainties in the global economy and credit markets and its potential impact on Pinnacle's ability to finance the transaction; (i) the outcome of any legal proceedings that may be instituted in connection with the transaction; (j) the ability to retain certain key employees of Ameristar; (k) that there may be a material adverse change of Pinnacle or Ameristar, or the respective businesses of Pinnacle or Ameristar may suffer as a result of uncertainty surrounding the transaction; (l) Pinnacle's ability to fund the transaction; and (m) the risk factors disclosed in Pinnacle's most recent Annual Report on Form 10-K/A, which Pinnacle filed with the Securities and Exchange Commission on May 16, 2012 and the risk factors disclosed in Ameristar's most recent Annual Report on Form 10-K, which Ameristar filed with the Securities and Exchange Commission on February 28, 2012 and in all reports on Forms 10-K, 10-Q and 8-K filed with the Securities and Exchange Commission by Pinnacle and Ameristar subsequent to the filing of their respective Form 10-Ks for the year ended December 31, 2011. Forward-looking statements reflect Pinnacle's and Ameristar's management's analysis as of the date of this report. Pinnacle and Ameristar do not undertake to revise these statements to reflect subsequent developments, except as required under the federal securities laws. Readers are cautioned not to place undue reliance on any of these forward-looking statements.

Additional Information and Where to Find It

In connection with the proposed merger, Ameristar plans to file a proxy statement with the SEC and mail the proxy statement to its stockholders. INVESTORS AND STOCKHOLDERS ARE URGED TO READ THE PROXY STATEMENT AND OTHER PROXY MATERIALS WHEN THEY BECOME AVAILABLE AS THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT PINNACLE, AMERISTAR, THE PROPOSED MERGER AND RELATED MATTERS. The proxy statement, as well as other filings containing information about Pinnacle and Ameristar will be available, free of charge, from the SEC's web site (www.sec.gov). Pinnacle's SEC filings in connection with the transaction also may be obtained, free of charge, from Pinnacle's web site (www.pnkinc.com) under the tab Investor Relations and then under the heading SEC Filings, or by directing a request to Pinnacle, 8918 Spanish Ridge Ave., Las Vegas, Nevada, 89148, Attention: Investor Relations or (702) 541-7777. Ameristar's SEC filings in connection with the transaction also may be obtained, free of charge, from Ameristar's web site (www.ameristar.com) under the tab About Us, Investor Relations and then under the heading Ameristar SEC Reports & Filings, or by directing a request to Ameristar, 3773 Howard Hughes Parkway, Suite 490 South, Las Vegas, Nevada, 89169, Attention: Investor Relations or (702) 567-7000.

Participants in the Merger Solicitation

Pinnacle and Ameristar and their respective directors and executive officers and other persons may be deemed to be participants in the solicitation of proxies in connection with the proposed merger. Information about Pinnacle's directors and executive officers is included in Pinnacle's Annual Report on Form 10-K/A for the year ended December 31, 2011, filed with the SEC on May 16, 2012 and the proxy statement for Pinnacle's 2012 Annual Meeting of Stockholders, filed with the SEC on April 9, 2012. Information about Ameristar's directors and executive officers is included in Ameristar's Annual Report on Form 10-K for the year ended December 31, 2011, filed with the SEC on February 28, 2012 and the proxy statement for Ameristar's 2012 Annual Meeting of Stockholders, filed with the SEC on April 30, 2012. Additional information regarding these persons and their interests in the merger will be included in the proxy statement relating to the merger when it is filed with the SEC. These documents can be obtained free of charge from the sources indicated above.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: February 1, 2013

Pinnacle Entertainment, Inc.

By: /s/ John A. Godfrey

John A. Godfrey

Executive Vice President, General Counsel

and Secretary

EXHIBIT INDEX

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