

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-19-023
HGI – Mark Twain, LLC)

PRELIMINARY ORDER FOR DISCIPLINARY ACTION

Comes now the Missouri Gaming Commission acting in its official capacity pursuant to 11 CSR 45-13.050, and states as follows:

1. The Missouri Gaming Commission (the “Commission” or “MGC”) is a state commission created under Chapter 313, RSMo 2016,¹ with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Affinity Gaming, a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Affinity Gaming, is the parent organization or controlling entity of HGI – Mark Twain, LLC (“Company”).
4. The Commission issued a Class B riverboat gambling license to the Company to conduct games on and operate the excursion gambling boat known as *Mark Twain Casino* (“Casino”).
5. As the holder of a Class B license, HGI – Mark Twain, LLC, is subject to the provisions of §§ 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS²

6. The MGC completed a compliance audit for the period of July 1, 2015 through April 30, 2017 at Mark Twain Casino. The final audit reports (#17-20 and #17-21) were issued on September 15, 2017.
7. A follow-up audit was conducted in February 2018 by MGC auditors to determine if the audit findings from Audit Reports #17-20 and #17-21 had been corrected.
8. The follow-up audit identified the following three significant findings that had not been implemented:
 - a. Audit Report #17-20, finding C-3, revealed that two Casino Hosts had the ability to void point redemptions, although they are not supervisory personnel, as required for this access by the Commission’s Minimum Internal Controls (“MICS”), Chapter I, § 23.05.

¹ All statutory references are to RSMo 2016, unless otherwise specified.

² 20180605001

- i. The Management Response indicated “the MIS Manager removed the access to void point redemptions for those host positions in August 2017.”
 - ii. The auditors followed up on finding C-3 and found that three Casino Hosts, including the two from the original finding, had access to void point redemptions in Super Playmate under the Redeem tab, followed by Voids, followed by Void Settled Comp.
- b. Audit Report #17-21, finding B-5, noted that the Casino failed to investigate daily cashless meter variances between the deltas of the Electronic Gaming Devices (EGDs) and Slot Data Systems (SDS), and failed to reconcile the variances prior to filing the daily tax transmittal with the MGC, as required by MICS, Chapter U, § 2.18.
 - i. The Management Response stated the Accounting department implemented procedures in June 2017 to ensure variance reports were investigated and reconciled.
 - ii. When following up on finding B-5, auditors found that the Casino was investigating and reconciling cashless meter variances, and the bad meter adjustments were being made before Revenue Audit printed the original Personal Banker Transaction (PBT) variance report. If variances existed, Revenue Audit would determine which EGDs showed the variance, make an adjustment, and then create an Extended Revenue for Non-Cashable Electronic Promotions (NCEP) In report showing the amount for the EGDs with variances after adjustment along with a total that matched the Non-Cashable Personal Banker Slot Transactions Summary Report.
- c. Audit Report #17-21, finding B-6, noted that the MGC EGD Coordinator was not notified of any cashless variances during the month of November 2016, as required by MICS, Chapter U, § 2.18.
 - i. The Management Response stated that it implemented procedures in June 2017 to ensure that proper reports were run, and that variances were properly investigated and reported to the MGC.
 - ii. When following up on finding B-6, auditors found the Variance Tracking Sheet used to notify the MGC of cashless variances was missing four NCEP variances.

LAW

9. Under § 313.805(6), RSMo, the Commission may assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties in an amount determined by the Commission.

10. Section 313.812.14, RSMo, states, in pertinent part, as follows:

A holder of any license shall be subject to imposition of penalties, suspension or revocation of such license, or if the person is an applicant for licensure, the denial of the application, for any act or failure to act by himself or his agents or employees, that is injurious to the public health, safety, morals, good order and general welfare of the people of the state of Missouri, or that would discredit or tend to discredit the Missouri gaming industry or the state of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action. The commission shall take appropriate action against any licensee who violates the law or the rules and regulations of the commission. Without limiting other provisions of this subsection, the following acts or omissions may be grounds for such discipline.

- (1) Failing to comply with or make provision for compliance with sections 313.800 to 313.850, the rules and regulations of the commission or any federal, state or local law or regulation;
- (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming[.]

11. Title 11 CSR 45-9.060 states, in pertinent part, as follows:

- (3) Violations of the minimum internal control standards [(“MICS”)] by a Class A or Class B licensee or an agent or employee of a Class A or Class B licensee are deemed to be unsuitable conduct for which the Class A or Class B licensee and/or its agent or employee is subject to administrative penalty pursuant to section 313.805(6), RSMo and 11 CSR 45-1 et seq., as amended from time-to-time. Any agent or employee of a Class A or Class B licensee that is involved in a violation of the minimum internal control standards may be subject to fine, discipline, or license revocation.
- (4) Violations of the Class B licensee’s internal control system [(“ICS”)] by the Class A or Class B licensee or an agent or employee of the Class A or Class B licensee shall be *prima facie* evidence of unsuitable conduct for which the Class A or Class B licensee and/or its agents or employees may be subject to discipline pursuant to section 313.805(6), RSMo and 11 CSR 45-1 et seq., as amended from time-to-time.

12. Title 11 CSR 45-10.030 states, in pertinent part, as follows:

- (1) Licensees shall promptly report to the commission any facts which the licensee has reasonable grounds to believe indicate a violation of law (other than minor traffic violations), minimum internal control standard requirements or commission rule committed by licensees, their employees or others, including, without limitation, the performance of licensed activities different from those permitted under their license.

* * *

- (4) Licensees shall take reasonable actions to safeguard from loss all tokens, tickets, chips, checks, funds, and other gaming assets.

* * *

- (7) All occupational licensees shall have a working knowledge of Chapter 313.800, RSMo et seq., *Code of State Regulations*, Title 11 Division 45, and the internal controls of the Class A or B licensees for whom they are currently employed by as they pertain to the responsibilities and limitations of their job.
13. According to the Casino's ICS, Chapter A, General and Administrative, Casino Hosts are not listed in the Casino's Organizational Chart as a supervisory personnel. Instead, the Casino Host is supervised by the Marketing Manager.
14. Both the Commission's MICS and the Casino's ICS, Chapter I, § 13.05, state, "Only supervisors or above shall have the ability to void point redemptions in the system."
15. Both the Commission's MICS and the Casino's ICS, Chapter U, § 2.18, state as follows:

The [Casino] shall, on each gaming day, in an MGC approved format, prepare a meter comparison report for all EGDs with Cashless, Promotional, or Bonusing options enabled. The reports will compare the Cashless (i.e., WAT In, WAT Out, CEP In, CEP Out, NCEP In, and NCEP Out) and Bonusing (i.e., machine paid external bonus payout and attendant paid external bonus payout) deltas of the EGD internal soft meters with the meter deltas of the respective system. The EGD soft meter deltas may be obtained by manually recording the values at the EGD, or by polling the EGD using the respective system. Any meter variance between the deltas of the EGD and the respective system shall be reconciled prior to filing the daily tax transmittal with the MGC. Transaction detail reports or other tools shall be used to investigate the cause of the variance. If it is determined that an adjustment must be made to ensure the AGR calculations are correct, an appropriate adjustment shall be made by an Accounting employee to correct the system reports. The adjustment must be documented and maintained. The documentation shall indicate who made the adjustment and the amount of the adjustment. The original daily electronic drop reports listing any variances, the transaction detail reports used to investigate the variances, and any corresponding adjustments to correct the variances shall all be maintained as source documentation to support the daily tax remittal. The MGC EGD department shall be notified of any variance and the results of the investigation by the end of the next gaming day.

VIOLATIONS

16. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to correct three significant audit findings, thereby violating 11 CSR

45-10.030(1), (4), and (7), the Commission's MICS and the Casino's ICS, Chapter I, § 13.05 and Chapter U, § 2.18.

17. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6) and 313.812.14 (1) and (2), RSMo, and 11 CSR 45-9.060(3) and (4).

PENALTY PROPOSED

18. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against the Company as the holder of a Class B license.

19. THEREFORE, it is proposed that the Commission fine HGI – Mark Twain, LLC, the amount of \$5,000 for the violations set forth herein.

Brian Jamison
Chairman
Missouri Gaming Commission

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he caused a true and correct copy of the foregoing to be mailed, postage prepaid, this 28th day of February, 2019, to:

Luke Keller, General Manager
Mark Twain Casino
104 Pierce Street
LaGrange, MO 63448

Brian Jamison
Chairman
Missouri Gaming Commission