



10. Although only promotional points were affected by the error in the Player Tracking System, normal points were being earned but were posted to the wrong date.
11. The problem resulted due to the Player Tracking System promotional module not functioning as expected or designed.
12. Although, functionality testing was conducted on the Bally promotional system by Casino employees at 8:00 a.m. on December 18, 2014, no secondary test was performed after the promotion began at midnight. Such testing would have identified the issue.
13. As a result, the error was not discovered by Casino personnel until January 2, 2015.
14. Approximately, 324 patron's accounts, totaling approximately \$2,512 in player points were negatively impacted.

### LAW

15. Under § 313.805(6), RSMo, the Commission may assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, or penalties in an amount determined by the Commission.
16. 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 regulations;
  - (2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming[.]
17. Title 11 CSR 45.10.030 states, in pertinent part, as follows:

(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.

18. Title 11 CSR 45-5.181(2) states, in pertinent part, as follows:

Class B licensees may provide promotional activities such as promotional giveaways, promotional coupons, promotional games, player reward programs or similar activities for patrons without the prior approval of the commission, provided the promotional activity is not structured or conducted in a manner that reflects negatively on the licensee, the commission, or the integrity of gaming in Missouri and complies with the following:

(A) No false or misleading statements, written or oral, shall be made by a licensee or its employees or agents regarding any aspect of any promotional activity;

\* \* \*

(D) All prizes offered in the promotional activity shall be awarded according to the Class B licensee's rules governing the event[.]

### **VIOLATIONS**

19. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to properly conduct the promotion in accordance with the promotional rules and caused the Casino to conduct the promotion in a manner that reflects negatively on the licensee and the integrity of gaming in Missouri, thereby violating 11 CSR 45-5.181(2), and 11 CSR 45.10.030(7).

20. 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**

21. 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.

22. THEREFORE, it is proposed that the Commission fine HGI – Mark Twain, LLC, the amount of \$2,500 for the violations set forth herein.

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Leland M. Shurin  
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 \_\_\_\_ day of June, 2015, to:

Gerry Smriga  
HGI – Mark Twain, Inc., d/b/a Mark Twain Casino  
104 Peirce Street  
LaGrange, MO 63448

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Leland M. Shurin  
Chairman  
Missouri Gaming Commission