



access had changed due to their transfers, resulting in a 25% error rate. The Casino failed to change the key access for 33 days for one of the employees who transferred from a Security Officer to a Table Games Dealer and failed to change the key access for 47 days for the other employee who transferred from a Security Officer to a Count Team Clerk.

- i. The Management Response indicated that management issued a memo reminding all department managers of the importance of timely notification of a change in job position or status resulting in a change in key access to meet the 72-hour time limit. The Casino also amended its internal control system (“ICS”) to add a job title to the list of employees authorized to make those changes in the automated key system, which will enable them to meet the 72-hour time limit.
  - ii. The auditors followed up on finding #A-5 and found that between December 1, 2015 and February 29, 2016, the only employee with key access who transferred positions during that time continued to have key access after her transfer. The Casino failed to have her key access updated in the system within 72 hours of her change in job status. The casino failed to change that employee’s key access for 33 days after her transfer from an Audit Clerk to a Count Team Clerk, when it was identified by the MGC auditors.
- b. Audit Report 15-17, finding #C-1, noted that count team members failed to clear their hands in 228 of 395 instances when removing their hands from or returning them to a position on or above the count table or other work surface where funds were exposed during a review of the table games and bill validator (BV) counts on six different dates, resulting in an error rate of 57.7%.
- i. The Management Response stated that management issued a memo to the Count Team personnel reminding them of the procedures to be followed regarding clearing of hands.
  - ii. When following up on finding #C-1, auditors reviewed surveillance of the Table Games Count on March 3, 2016, and the BV Count from March 2, 2016. They found that count team members failed to clear their hands as required on 81 of 185 instances, resulting in a 43.7% error rate.
  - iii. Additional observations by an MGC boat agent revealed count team members failed to clear their hands on six days in February 2016, during which the error rate ranged from 40.3% to 91.4% and averaged 70%.

## 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, or 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 regulations;
- (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 licensee or an agent or employee of a Class A licensee are deemed to be unsuitable conduct for which the Class A 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.
- (4) Violations of the Class A licensee’s internal control system by the Class A licensee or an agent or employee of the Class A licensee shall be *prima facie* evidence of unsuitable conduct for which the Class A 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.

12. The MICS, Chapter B, § 1.05, states, in pertinent part, as follows:

If an automated key control system is used, the ICS shall also include:

\* \* \*

- (D) position(s) authorized to enter, modify, and delete which keys/which positions are authorized for access. Changes must be made within 72 hours of an employee being suspended subject to termination by the Class B Licensee or any change in job position or status that would result in a change in key access[.]

13. The Casino's ICS, Chapter B, § 1.05, states, more specifically, as follows:

The Mark Twain Casino will use an automated key control system. The following requirements are applicable:

\* \* \*

d. The Security Shift Supervisor or Safety and Security Manager are the primary positions with the MIS Manager or MIS Assistant as the secondary positions which are authorized to enter, modify, and delete which keys/which positions are authorized for access. Changes must be made within 72 hours of an employee being suspended subject to termination by Mark Twain Casino or any change in job position or status that would result in a change in key access[.]

14. The MICS, Chapter G, § 7.10, and the Casino's ICS, Chapter G, § 7.10, state, in pertinent part, as follows:

.... Count team members may not remove their hands from or return them to a position on or above the count table or other work surface, where funds are exposed, unless the backs and palms of their hands are first held out and exposed to other members of the count team and the surveillance cameras.

### **VIOLATIONS**

15. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to correct two significant audit findings, thereby violating MICS, Chapter B, § 1.05, and Chapter G, § 7.10, and the Casino's ICS, Chapter B, § 1.05, and Chapter G, § 7.10.

16. 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**

17. 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.

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

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Herbert M. Kohn  
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 March, 2017, to:

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

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Herbert M. Kohn  
Chairman  
Missouri Gaming Commission