

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-22-044  
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, with jurisdiction over gaming activities, including riverboat gambling activities, in the state of Missouri.
2. The Commission issued a Class A gaming license to Affinity Interactive to develop and operate Class B gaming licensees in the State of Missouri.
3. Affinity Interactive is the parent organization or controlling entity of HGI - Mark Twain, LLC (the “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 (the “Casino”).
5. As the holder of a Class B license, the Company is subject to the provisions of Sections 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

### STATEMENT OF FACTS<sup>1</sup>

6. On July 20, 2021, Corporal Zachary Harrison (“Cpl. Harrison”) of the Missouri State Highway Patrol (“MSHP”), acting as an agent of the Commission, was reviewing table games errors reported by the Casino’s pit personnel.

a. Per his review and upon further investigation, Cpl. Harrison discovered that from January 1, 2021 through July 31, 2021, Table Games Dealer Cheryl Snodgrass (“Snodgrass”) had 502 reported errors and 131 surveillance observation reports, and Table Game Dealer Ronda Treaster (“Treaster”) had 316 reported errors, 82 surveillance observation reports and had been issued 19 Compliance Directives (“CDs”). The errors by Snodgrass and Treaster were committed in violation of Chapters C and D of the Casino’s Internal Control System (“ICS”).

b. In the recent past, Snodgrass and Treaster had both been given multiple warnings about committing errors while dealing and improperly correcting them. Additionally, in both of their Annual Evaluations for January 1, 2020 through March 31, 2021, their supervisors

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<sup>1</sup> GIR 20210720001 and 20211026007.

had noted their excessive errors and recommended additional training in order to address the issue.

c. Between July 2021 and November 2021, several discussions between Commission agents and Table Games personnel occurred regarding the number of errors committed by dealers and the numerous CDs issued (105 CDs from January 1 to July 31, 2021) to table games employees. Despite the Casino decreasing the amount of time table games were open from January through July 31, 2021, pit personnel reported approximately 2,397 dealer errors, with 28.1% of the errors being caught by patrons.

d. On November 27, 2021, Cpl. Harrison sent an email to the Casino inquiring about what steps had been taken in regard to reducing errors committed by dealers and if those steps had been applied to Snodgrass and Treaster.

e. On December 3, 2021, the Casino responded to Cpl. Harrison's email with written statements from Shift Managers Rhoda Clark and Scott Gottman, who both believed that Snodgrass and Treaster's errors were primarily due to personal reasons rather than a lack of training.

f. Despite knowing of Snodgrass and Treaster's excessive errors, there is nothing to indicate that, at any time as stated herein, the Casino provided Snodgrass or Treaster with any training or additional supervision in order to improve the quality of their dealing and reduce their number of committed errors.

7. On October 9, 2021, at approximately 8:25 p.m., Trooper Craig Garbulski ("Tpr. Garbulski") of the MSHP, acting as an agent of the Commission, was requested at Casino electronic gaming device ("EGD") FB03, when a patron complained about being paid out the incorrect amount of credits. An observation of the EGD's physical reels revealed that a winning combination that should have paid 300 credits was displayed to the patron whereas 15 credits had been paid out.

a. Due to inexperience and lack of knowledge of that type of EGD, Richard Melby ("Melby"), the Slot Technician initially called to EGD FB03, requested and required assistance from Slot Supervisor Michele Waters and Security Supervisor Jeremy Brumbaugh, who had previously been a Slot Technician, in order to read the EGD's Probability Accounting Report/Paytable Sheets and determine that the combination on the reels did not match what the EGD paid out.

b. At no point during this incident was Casino Surveillance contacted.

c. Upon further investigation by Melby, it was determined that on October 3, 2021, the center reel from EGD FA09 had been removed and improperly installed into EGD FB03 and no payable/reel test was performed before EGD FB03 was put back into service. Due to the reel being improperly installed, the EGD produced an incorrect display for the aforementioned patron on October 9, 2021. Approximately 24 patrons played EGD FB03 before the incorrectly installed center reel was discovered on October 9, 2021.

d. On October 10, 2021, Cpl. Harrison, due to Casino Surveillance not being called during the incident and due to Melby's inexperience and lack of knowledge regarding EGD FB03, initiated an investigation regarding Slot personnel's knowledge and training and their ability to perform their duties.

e. In the course of his investigation, Cpl. Harrison interviewed Slot Technicians Melby, Zacharias Jackson ("Jackson"), and Tyler Smith ("Smith"), who all stated that while the Casino provided some training on limited issues, most learning and training was done on the job through trial and error. Additionally, a review of Melby, Jackson, and Xavier Richardson's Slot Technician Training Checklist binders (Smith did not have such a binder) indicated that the majority of the skills training listed on the checklist had not been completed by them.

f. On October 26, 2021, at approximately 4:00 p.m., Cpl. Harrison interviewed Director of Casino Operations Michael Couch ("Couch") regarding the training of Slot Technicians. Couch provided Cpl. Harrison with a few emails indicating that some Casino Slot Technicians had attended a few trainings, but stated that "slot tech training is a long-term process and mostly on-the-job."

g. Additionally, on September 1, 2021, the Commission issued CDs to Jackson and Couch due to a revoked version of SPC being installed in an EGD.

h. Furthermore, on October 27, 2021, Jared Looser ("Looser"), an EGD Specialist II with the Commission, visited the Casino in order to assist with performing payable changes on 34 EGDs. During his visit, Looser observed that the Slot Technicians lacked the sufficient knowledge and training to effectively and efficiently perform the payable changes on the EGDs. Additionally, Looser observed the technicians asking lots of questions regarding the performance of their duties and engaging in on-the-job training.

i. Lastly, between October 30, 2021 and November 29, 2021, the Commission notified the Casino multiple times regarding discovered problems with the Casino's EGDs.

## LAW

8. Section 313.805, RSMo, states, in pertinent part, as follows:

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by sections 313.800 to 313.850. The commission shall have the following powers and shall promulgate rules and regulations to implement sections 313.800 to 313.850:

\* \* \*

(5) To investigate alleged violations of sections 313.800 to 313.850 or the commission rules, orders, or final decisions;

(6) To assess any appropriate administrative penalty against a licensee, including, but not limited to, suspension, revocation, and penalties of an amount as determined by the commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorized or authorized, conducted during the previous twelve months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced as provided in sections 513.600 to 513.645;

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(19) To take any other action as may be reasonable or appropriate to enforce sections 313.800 to 313.850 and the commission rules.

9. Section 313.812, RSMo, states, in pertinent part, as follows:

14. 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 such person or such person's 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;

\* \* \*

(9) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by sections 313.800 to 313.850.

10. 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.

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

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

\* \* \*

(6) Class A, Class B, and supplier licensees shall ensure that all agents and occupational licensees employed by said licensees shall have a working knowledge of Missouri Gaming Statutes, Chapter 313.800, RSMo et seq., Code of State Regulations, Title 11 Division 45, the commission's published minimum internal control standards and the licensee's system of internal controls as they pertain to the responsibilities and limitations of their job.

(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.

12. 11 CSR 45-5.053 states, in pertinent part, as follows:

(2) It is the policy of the commission to require that all riverboats and gaming conducted on riverboats be operated in a manner suitable to protect the public health, safety, morals, good order, and general welfare of Missouri. Responsibility for the employment and maintenance of suitable methods of operation rests with the holder of an operator's license and willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for disciplinary action, up to and including license revocation.

13. The Commission's MICS, Chapter E, states, in pertinent part, as follows:

1.10 Class B Licensees shall ensure all EGDs offered for patron play shall contain hardware and software currently approved for use in the state; and upon notification of any revocation of approval shall replace the revoked hardware or software within the time frame set forth by the MGC.

\* \* \*

1.15 Prior to performing any troubleshooting, maintenance, setup, testing, or RAM clear the Class B Licensee shall ensure the Slot Technician has received proper training on that platform for that specific task. Training documentation shall be maintained for all employees.

\* \* \*

3.01 If a patron disputes the operation of an EGD relative to a malfunction, slot personnel shall contact Surveillance to begin camera coverage of the EGD display ensuring screen content is legible. Once coverage is obtained, slot personnel will attempt to resolve the issue. If the issue is not resolved to the satisfaction of the patron, slot personnel will contact an MGC agent. If the operation of an EGD is questioned by the MGC agent and the issue cannot be resolved by slot personnel to the satisfaction of the agent, the questioned device shall be placed out of service until examined by an MGC EGD Specialist. A random access memory (RAM) clear will not be performed unless the problem is determined, and a RAM clear is required and approved by the MGC agent.

3.02 If a patron dispute involves any display on an EGD, surveillance shall be notified to photograph the patron and the front of the EGD in question, including all displays. If video surveillance coverage exists of any disputed EGD play, payout, or other disputed activity, the coverage shall be maintained by surveillance until the dispute is resolved.

\* \* \*

4.05 The individual licensee who places an EGD into service for patron play is responsible for ensuring the EGD has met all regulatory requirements (reel strip test, Software/CPU seal, passed Phase II testing, etc.).

14. The Casino's ICS, Chapter E, states, in pertinent part, as follows:

1.10 The Mark Twain Casino shall ensure all EGDs offered for patron play shall contain hardware and software currently approved for use in the state; and upon notification of any revocation of approval shall replace the revoked hardware or software within the time frame set forth by the MGC.

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1.15 Prior to performing any troubleshooting, maintenance, setup, testing, or RAM clear, the Mark Twain Casino shall ensure the Slot Technician or Slot Technician Supervisor has received proper training on that platform for that specific task. Training documentation shall be maintained in the slot department for all employees.

\* \* \*

3.01 If a patron disputes the operation of an EGD relative to a malfunction, slot personnel shall contact Surveillance to begin camera coverage of the EGD display ensuring screen content is legible. Once coverage is obtained, slot personnel will attempt to resolve the issue. If the issue is not resolved to the satisfaction of the patron, slot personnel will contact an MGC agent. If the operation of an EGD is questioned by the MGC agent and the issue cannot be resolved by slot personnel to the satisfaction of the agent, the questioned device shall be placed out of service until examined by an MGC EGD Specialist. A random access memory (RAM) clear will not be performed unless the problem is determined, and a RAM clear is required and approved by the MGC agent.

3.02 If a patron dispute involves any display on an EGD, surveillance shall be notified to photograph the patron and the front of the EGD in question, including all displays. If video surveillance coverage exists of any disputed EGD play, payout, or other disputed activity, the coverage shall be maintained by surveillance until the dispute is resolved.

\* \* \*

4.05 The Slot Technician or Slot Technician Supervisor who places an EGD into service for patron play is responsible for ensuring the EGD has met all regulatory requirements (reel strip test, Software/CPU seal, passed Phase II testing, etc.).

## **VIOLATIONS**

15. The Company's actions in continuing to permit Casino Table Game Dealers Snodgrass and Treaster to make excessive amounts of dealing errors without providing them training or additional supervision in order to improve the quality of their dealing and reduce the number of committed errors is injurious to the public health, safety, morals, good order and general welfare of the people of the state of Missouri and discredits the Missouri gaming industry and the State of Missouri, in that the Company's acts violate 11 CSR 45-10.030(4),(6), and (7), and the Casino's ICS, Chapters C and D.

16. The Company's actions in employing slot personnel without the necessary knowledge to properly perform their job duties and failing to provide them with the training to do so is injurious to the public health, safety, morals, good order and general welfare of the people of the state of Missouri and discredits the Missouri gaming industry and the State of Missouri, in that the Company's acts violate 11 CSR 45-10.030(4), (6), and (7), and the Casino's ICS and the Commission's MICS, Chapter E, Sections 1.10, 1.15, 3.01, 3.02, and 4.05.

17. Furthermore, the aforementioned actions by the Company also demonstrate that the Company tolerated unsuitable methods of operation in violation of 11 CSR 45-5.053(2).

18. The Company is therefore subject to discipline for such violations pursuant to Sections 313.805 and 313.812.14 (1) and (2), and (9) RSMo, 11 CSR 45-9.060(3) and (4), and 11 CSR 45-5.053.

**PENALTY PROPOSED**

19. Under Section 313.805, RSMo, the Commission has the power to assess any appropriate administrative penalty against the Company as the holder of a Class B license.

20. THEREFORE, it is proposed that the Commission fine HGI – Mark Twain, LLC the amount of \$25,000 for the violations set forth herein.

  
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Mike Leara  
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 30<sup>th</sup> day of June, 2022, to:

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

  
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Mike Leara  
Chairman  
Missouri Gaming Commission