

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC -14-401  
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 2000,<sup>1</sup> with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. The Commission issued Affinity Gaming, LLC, a Class A gaming license to develop and operate Class B gaming licenses in the State of Missouri.
3. Affinity Gaming, LLC, 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 §§ 313.800 to 313.850, RSMo, and the regulations promulgated thereunder by the Commission.

## STATEMENT OF FACTS<sup>2</sup>

6. On November 29, 2013, Security Officer Roger Brown, stationed at the Casino Turnstiles, allowed three intoxicated patrons access to the Gaming Floor.
7. Another Security Officer, Lead Security Officer Laura Tippett, allowed those same patrons to remain on the Gaming Floor and to place wagers, although they were visibly intoxicated.

## LAW

8. 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.

---

<sup>1</sup> All statutory references are to RSMo 2000, unless otherwise specified.

<sup>2</sup> 20131129006

9. 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[.]

10. 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 agents or employees may be subject to discipline 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 [(“ICS”)] 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.

11. Title 11 CSR 45-5.053(3) states in pertinent part as follows:

The holder of a Class A license is expressly prohibited from the following activities:

\* \* \*

- (B) Permitting persons who are visibly intoxicated to participate in gaming activity[.]

12. The MICS and the Casino’s ICS, Chapter, N § 4.02, both forbid “persons who are visibly intoxicated” from being” permitted access to or allowed to remain on the casino floor.”

13. The MICS and the Casino's ICS, Chapter N § 4.03, both forbid "persons who are visibly intoxicated" from being "allowed to place a wager."

**VIOLATIONS**

14. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to forbid visibly intoxicated patrons access to the Casino floor and to place wagers, thereby violating 11 CSR 45-5.053(3), MICS, Chapter N §§ 4.02 and 4.03, and the Casino's ICS, Chapter N §§ 4.02 and 4.03.

15. 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**

16. 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.

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

\_\_\_\_\_  
Darryl T. Jones  
Vice-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 \_\_\_\_\_, 2014, to:

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

\_\_\_\_\_  
Darryl T. Jones  
Vice-Chairman  
Missouri Gaming Commission