

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-16-029
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 2000,¹ 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 FACTS²

6. July 17, 2015, Marketing Manager Samantha Fitzgerald ("Fitzgerald") notified the MGC that promotional coupons being offered to patrons were not being processed as "redeemed" in the Casino's Micro Gaming Technologies (MGT) system, even though patrons had previously redeemed them.
7. The coupons having redemption issues were awarded to patrons through four different promotions (hereafter referred to as the "Kiosk Promotion"), specifically, the "Birthday Promotion," the "Birthday Kiosk Promotion," and two "Birthday Voucher" promotions.
8. The aforementioned Kiosk Promotions were scheduled to be conducted using the MGT Promotion Kiosks between June and December 2015, depending on the promotion.

¹ All statutory references are to RSMo 2000, unless otherwise specified.

² 20150720005

9. Patrons having birthdays during the current month the Kiosk Promotion was operating would be able to swipe their Player's Card at the MGT Kiosk and receive one of a list of possible prizes, including food and gift store vouchers and cash.
10. Many of the vouchers received from the Kiosks during the aforementioned Kiosk Promotions were able to be redeemed more than once, in that the MGT system was showing the coupons as "unredeemed."
11. Although the coupons were only supposed to be redeemable at the location printed on the coupons, many were able to be redeemed at multiple locations, regardless of what the coupons stated on their faces.
12. Only when the coupons were redeemed at the cage, were they determined to be "redeemed" by the MGT system, in that when cage cashiers redeemed the coupons, they did so physically through the Kiosk Management Program (KMAN), which communicates that redemption information to the MGT system.
13. Although the Casino's Modular Integrated Cash Register Operating System (MICROS) indicated the coupons were "redeemed," the Casino's MGT system showed the coupons as "unredeemed," thereby allowing them to be used multiple times at multiple locations within the Casino.
14. A problem with the interface between MICROS and the MGT system caused the coupon redemption problems because the retail outlets did not use the KMAN program to redeem coupons, but instead used an interface between MICROS and MGT.
15. There were no redemption or interface problems between the KMAN and MGT systems.
16. Assistant General Manager / Controller Jason Crook asked Management Information Systems (MIS) Manager Todd Prewitt ("Prewitt") on or about June 15, 2015, to give the Marketing Department access to the MGT program to conduct reports to check the status of the coupons.
17. Beginning on or about July 8, 2015, Prewitt "mapped" shortcuts on the other auditors' computers so that they could conduct the reports to audit the Kiosk Promotion;
18. Neither Prewitt nor anyone else from the Casino's MIS department provided any training or instruction to the Casino's Marketing department on how to use the shortcuts or how to use the MGT program to audit the Kiosk Promotion.
19. The Accounting Department began auditing the MGT redemption reports on or about July 16, 2015.
20. On July 16, 2015, Casino personnel became aware of the fact that the MICROS system showed the Kiosk Promotion coupons as "redeemed" even though the MICROS reports were balancing and the MGT system showed them "unredeemed."

21. The MGC agent on duty was not notified of the redemption problems the Casino was having with the aforementioned Kiosk Promotion coupons until the day after the Casino discovered the problem.
22. The casino did not have an accurate tracking and redemption system in place Kiosk Promotion coupons.
23. The Casino had been having numerous issues with the MGT Kiosks while testing prior to the promotion's live introduction on June 1, 2015, but decided to go live with the Kiosks anyway.
24. From June 1, 2015 to August 6, 2015, there were a total of 4,137 coupons issued utilizing the MGT Kiosks, for a monetary amount of \$33,366.33.

LAW

25. 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.
26. 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[.]
27. Title 11 CSR 45-5.181 states, in pertinent part, as follows:

- (1) For the purposes of this rule, the following words are defined as:

* * *

- (A) Promotional giveaway—a promotional gift or item given by a licensee to any person meeting the licensee’s promotional criteria, where the person provides no consideration and there is no chance or skill involved in the awarding of the promotional gift or item, and all persons meeting the criteria receive the same promotional gift or item;
 - (B) Patron—any person present on the premises of a Class B licensee that is not employed by such Class B licensee or the commission and is not on the premises as a vendor of the Class B licensee;
 - (C) Promotional coupon—any instrument offering any person something of value and issued by a Class B licensee to entice the person to come to the Class B licensee’s premises or for use in or related to licensed gambling games at a licensee’s gaming establishment[.]
- (2) 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:

* * *

- (B) The promotional activity shall comply with all applicable laws and regulations....;

* * *

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

* * *

- (7) Class B licensees offering promotional coupons shall track the issuance and redemption of each promotional coupon. Documentation of the promotional coupon tracking shall be maintained on file for two (2) years and made readily available to the commission upon request. The inventory of un-issued promotional coupons must be maintained in a reasonable manner that prevents theft or fraud.
- (8) Promotional coupons shall be cancelled at the time they are redeemed in a manner that will prevent multiple redemptions of the same coupon.

28. 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 [(“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.

29. 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.

30. The MICS Chapter H, § 17.01 defines a promotional coupon as “any instrument offering any person something of value and issued by a Class B Licensee to entice the person to come to the Class B Licensee’s premises or for use in or related to licensed gambling games at a licensee’s gaming establishment.”

31. The Casino’s ICS, Chapter H, § 17.01 defines a promotional coupon, requires the Casino to comply with 11 CSR 45-5.181, and states, in pertinent part, as follows:

- E. Mark Twain Casino shall track the issuance and redemption of each promotional coupon. Documentation of the promotional coupon tracking shall be maintained on file for one (1) year and made readily available to the commission upon request.

* * *

- F. Promotional coupons shall be cancelled as indicated in paragraphs 17.07 and 17.08 below at the time they are redeemed in a manner that will prevent multiple redemptions of the same coupon.

32. Both the MICS and the Casino's ICS, Chapter H. §17.08 state that "Coupons that can be electronically cancelled shall immediately, upon redemption, be moved from an unpaid or unredeemed status to a paid or redeemed status."

VIOLATIONS

33. The acts or omissions of employees or agents of the Company, as described above, constitute a failure of the Company to properly conduct, monitor, and audit its promotions and to promptly report facts which it has reasonable grounds to believe indicate violations of law, thereby violating 11 CSR 45-5.181(2), (7), and (8), 11 CSR 45-10.030(1), (4), and (7), MICS, Chapter H, §§ 17.01 and 17.08, and the Casino's ICS, Chapter H, §§ 17.01 and 17.08.

34. 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

35. 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.

36. THEREFORE, it is proposed that the Commission fine HGI – Mark Twain, LLC, the amount of \$10,000 for the violations set forth herein.

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 February, 2016, to:

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

Herbert M. Kohn
Chairman
Missouri Gaming Commission