

## IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-25-049  
HGI – Mark Twain, LLC )  
d/b/a Mark Twain Casino )

### 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.
4. The Commission issued a Class B riverboat gambling license to HGI – Mark Twain, LLC, 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, HGI – Mark Twain, LLC, d/b/a Mark Twain Casino, 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. MGC staff conducted a compliance audit at the Casino for the period of October 1, 2021, through October 31, 2024.
7. A review of the Pick Our Pockets promotion from August 2023 revealed that the rules stated, “Club members can earn one additional entry for every total 100 base points earned each day.” However, a review of the Draw Earned Entries with Play Report and an email interview with Darcy Buckwalter, Director of Marketing, on July 19, 2024, revealed the evaluation threshold was set up incorrectly. The Draw Earned Entries with Play Report showed patrons instead earned 100 entries for every one (1) base point earned.

a. A review of the Draw Earned Entries with Play Report revealed that there was a maximum amount of 100,000 entries that could be earned. There was no rule in the

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<sup>1</sup> GR 20240808001

promotion that stated there was a maximum number of entries. A sample of 20 patrons was reviewed to ensure entries were earned as stated in the promotion's rules. The review of the sample revealed that 14,902,500 earned tickets were not included for the 20 patrons for slot play. Also, it was noted that patrons could earn 22x entries every Sunday, Monday, and Tuesday during the promotional period per the promotion's rules, and those entries were in the bucket of Tickets Earned Bonus. For those patrons that were capped at 100,000 earned entries, the 22x entries were based on the 100,000 capped entries and not the actual earned entries. Therefore, 143,919,300 tickets earned bonus were not included for the 20 patrons. According to the rules of the promotion, the 20 patrons reviewed should have received 2,871 earned tickets and 19,169 bonus tickets. However, the 20 patrons actually received 5,606,900 earned tickets and 32,810,400 bonus tickets during the entire promotion.

8. A review of the Pick Our Pockets and Cauldron of Cash Draw Earned Entries with Play Reports revealed that table games points were not included in the calculation of earned entries. Consequently, these points were not utilized in the calculation of 22x bonus entries received on Sundays, Mondays, and Tuesdays per the promotional rules. It was noted that table games points were not included in the earned tickets calculation or tickets earned bonus calculation for 67 patrons during the Pick Our Pockets promotion in August 2023 and for 75 patrons during the Cauldron of Cash promotion in October 2023. The rule in both promotions stated, "Club members can earn one additional entry for every total 100 base points earned..." and did not specify that points earned through table play were not included. An email interview with Darcy Buckwalter, Director of Marketing, revealed that the rules should have specified slot points. A review of a sample of ten (10) patrons who should have earned table games entries from the Pick Our Pockets promotion in August 2023 revealed that 1,526,500 earned entries were not included and 10,598,700 bonus entries were not included. A review of a sample of ten (10) patrons from the Cauldron of Cash promotion in October 2023 revealed that 237 earned entries were not included and 899 bonus entries were not included.

- a. A review of the Draw Drum Details Report from the Cauldron of Cash promotion revealed that patrons received additional entries on October 28, 2023; however, the rules for the Cauldron of Cash promotion specify patrons can only earn additional entries from October 1 through 27, 2023. A review of the Draw Drum Details Report includes the column "Tickets Session Earned," which noted how many entries the patron earned on the day of the drawing, October 28, 2023. An email interview with Darcy Buckwalter, Director of Marketing, on August 6, 2024, revealed that she had set the promotion to earn additional entries through October 28, 2023. A sample of 20 patrons was reviewed to ensure patrons earned entries as stated in the rules. The review revealed that 894 entries were additionally earned by the 20 patrons on October 28, 2023.

9. A review of the \$6K Cash & John Deere Lawnmower Giveaway rules from April 2024 and the Draw Earned Entries with Play Report revealed that patrons earned additional entries on Tuesdays; however, this was not stated in the promotion's rules. A review of the \$6K Cash & John Deere Lawnmower Giveaway rules revealed that "Club members

can receive 22 times the entries on every Sunday and Monday in April 2024 by swiping at the kiosk.” The promotional rules also state, “Club members can receive tier bonus points every Tuesday in April by swiping at the kiosk...”. However, the promotion was set up to allow patrons to earn additional entries on Tuesdays in April, not tier bonus points as stated in the rules. An email interview with Darcy Buckwalter, Director of Marketing, on August 6, 2024, revealed that the rules should have said tier bonus entries, not points. It was noted that 296 patrons earned additional entries on Tuesdays in April.

10. As a result of not following their own promotional rules, the Casino altered the odds of being drawn as a winner, and in many cases deprived patrons of their appropriately earned entries to win prizes.

### LAW

11. 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;

\* \* \*

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

12. 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 or the state of Missouri, or that would discredit or tend to

discredit the Missouri gaming industry of 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[.]

13. 11 CSR 45-5.181 states, in pertinent part, as follows:

(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:

(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;

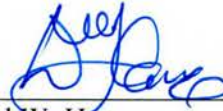
#### **VIOLATIONS**

14. The acts or omissions of employees or agents of the Casino, as described above, constitute a failure of the Casino to follow its own rules for a promotional giveaway, thereby violating 11 CSR 45-5.181(2)(A) and (D).
15. HGI – Mark Twain, LLC, d/b/a Mark Twain Casino, is therefore subject to discipline for such violations pursuant to Sections 313.805 and 313.812.14(1) and (2), RSMo.



### **PENALTY PROPOSED**

16. Under Section 313.805, RSMo, the Commission has the power to assess any appropriate administrative penalty against HGI – Mark Twain, LLC, as the holder of a Class B license.
17. THEREFORE, it is proposed that the Commission fine HGI – Mark Twain, LLC, d/b/a Mark Twain Casino, the amount of ten thousand dollars (\$10,000.00) for the violations set forth herein.

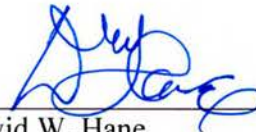


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David W. Hane  
Vice Chairman  
Missouri Gaming Commission

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he caused a true and correct copy of the foregoing to be mailed, postage prepaid, this 29<sup>th</sup> day of May, 2025, to:

Mr. Ryan Lounsbury  
General Manager  
Mark Twain Casino  
104 Pierce Street  
LaGrange, MO 63448



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David W. Hane  
Vice Chairman  
Missouri Gaming Commission