

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK**

IN THE MATTER OF:

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Number 2015-02

Trump Taj Mahal Associates, LLC, d/b/a)

Trump Taj Mahal Casino Resort)

Atlantic City, New Jersey)

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

The Financial Crimes Enforcement Network (“FinCEN”) has determined that grounds exist to assess a civil money penalty against Trump Taj Mahal Associates, LLC d/b/a Trump Taj Mahal Casino Resort (“Trump Taj Mahal” or “the Company”),¹ pursuant to the Bank Secrecy Act (“BSA”) and regulations issued pursuant to that Act.²

Trump Taj Mahal admits to the facts set forth below and that its conduct violated the BSA. Trump Taj Mahal consents to the assessment of a civil money penalty and enters the CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY (“CONSENT”) with FinCEN.

¹ The Company, along with Trump Entertainment Resorts, Inc., Trump Entertainment Resorts Holdings, L.P., Trump Plaza Associates, LLC, Trump Marina Associates, LLC, Trump Entertainment Resorts Development Company, LLC, TER Development Co., LLC, and TERH LP Inc. (collectively referred to as “the Debtors”), filed for bankruptcy protection on September 9, 2014 in the United States Bankruptcy Court in the District of Delaware (Bankr. Ct. Dist. Del. Case No. 11-12103 (KG) (the “Bankruptcy Case”)).

² The Bank Secrecy Act is codified at 12 U.S.C. §§ 1829b, 1951-1959 and 31 U.S.C. §§ 5311-5314, 5316-5332. Regulations implementing the Bank Secrecy Act appear at 31 C.F.R. Chapter X.

The CONSENT is incorporated into this ASSESSMENT OF CIVIL MONEY PENALTY (“ASSESSMENT”) by reference.

FinCEN has authority to investigate casinos for compliance with and violation of the BSA pursuant to 31 C.F.R. § 1010.810, which grants FinCEN “[o]verall authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority under this chapter.”

Trump Taj Mahal is a hotel and casino, located on the Boardwalk of Atlantic City, New Jersey. The casino has over 160,000 square feet of gaming space consisting of over 2,600 slot machines, 204 table and poker games, one keno lounge and a simulcast book. The hotel operates 18 restaurants, several bars, lounges, a pool, spa and 2,248 hotel rooms.

Trump Taj Mahal was a “financial institution” and a “casino” within the meaning of the BSA and its implementing regulations during the time relevant to this action. 31 U.S.C. § 5312(a)(2); 31 C.F.R. § 1010.100(t). The Internal Revenue Service, through the Small Business/Self-Employed Division (“IRS SB/SE”), examines casinos for compliance with the BSA under authority delegated by FinCEN. Since 2003, IRS SB/SE has conducted four examinations of Trump Taj Mahal that identified repeated significant violations of the BSA. In addition, in 1998, FinCEN assessed a \$477,000 penalty against Trump Taj Mahal for BSA violations.

The Company has filed for Chapter 11 bankruptcy protection three times since 2004. It emerged from its first bankruptcy in May 2005 and reentered bankruptcy in February 2009. It emerged from that bankruptcy in July 2010. When the company emerged from bankruptcy in 2010, following the 2010 examination by IRS SB/SE and the transactions that were within the scope of that examination, a new management team took over and a new board of directors was appointed at

the company's parent level. In September 2014, however, it once again entered bankruptcy. As of the signing of the Consent, the Company remains in Chapter 11.

On March 4, 2015, the Bankruptcy Court approved the Debtors' Motion, pursuant to Bankruptcy Rule 9019, to approve its settlement with FinCEN, as set forth in the CONSENT.

II. DETERMINATIONS

Trump Taj Mahal willfully violated the BSA's program, reporting, and recordkeeping requirements from 2010 through 2012.³ Importantly, many of these violations were previously cited by IRS SB/SE in previous examinations of Trump Taj Mahal since 2003. As described below, Trump Taj Mahal (a) failed to implement and maintain an effective anti-money laundering program; (b) failed to report suspicious activity related to several financial transactions at the casino; (c) failed to properly file Currency Transaction Reports; and (d) failed to keep appropriate records as required by the BSA and its implementing regulations.

A. Violations of the Requirement to Establish and Implement an Effective Anti-Money Laundering Program

The BSA and its implementing regulations require casinos to develop and implement a written anti-money laundering ("AML") program reasonably designed to assure and monitor compliance with the BSA. 31 U.S.C. §§ 5318(a)(2), 5318(h); 31 C.F.R. § 1021.210(b)(1). Trump Taj Mahal was required to implement an AML program that, at a minimum, provided for: (a) a system of internal controls to assure ongoing compliance; (b) independent testing of the casino's

³ In civil enforcement of the Bank Secrecy Act under 31 U.S.C. § 5321(a)(1), to establish that a financial institution or individual acted willfully, the government need only show that the financial institution or individual acted with either reckless disregard or willful blindness. The government need not show that the entity or individual had knowledge that the conduct violated the Bank Secrecy Act, or that the entity or individual otherwise acted with an improper motive or bad purpose. The Company admits to "willfulness" only as the term is used in civil enforcement of the Bank Secrecy Act under 31 U.S.C. § 5321(a)(1).

AML compliance program by casino personnel or parties external to the casino; (c) training of personnel; (d) the designation of an individual or individuals responsible for assuring day-to-day compliance; (e) procedures for using all available information to determine and verify name, address, social security or taxpayer identification number, and other identifying information for a person, to the extent determining and verifying the information is otherwise required under the BSA; (f) procedures for using all available information to determine the occurrence of any transactions or patterns of transactions required to be reported as suspicious; (g) procedures for using all available information to determine whether any records must be made and maintained pursuant to the BSA; and (h) for casinos with automated data processing systems, use of such systems to aid in assuring compliance. 31 C.F.R. § 1021.210(b)(2).

As described in more detail below, Trump Taj Mahal failed to implement an adequate system of internal controls to ensure ongoing compliance with the BSA. Trump Taj Mahal failed to timely, accurately, and completely file Currency Transaction Reports (CTRs). In addition, Trump Taj Mahal failed to implement policies, procedures, and internal controls to comply with recordkeeping obligations under the BSA. Trump Taj Mahal’s AML program also lacked adequate policies, procedures and internal controls to monitor transactions for suspicious activity and file suspicious activity reports (SARs).

B. Violations of Suspicious Activity Reporting Requirements

The BSA and its implementing regulations require a casino to report a transaction that the casino “knows, suspects, or has reason to suspect” is suspicious, if the transaction is conducted or attempted by, at, or through the casino, and the transaction involves or aggregates to at least \$5,000 in funds or other assets. 31 C.F.R. § 1021.320(a)(2). A transaction is “suspicious” if the transaction:

(a) involves funds derived from illegal activity; (b) is intended or conducted in order to hide or

disguise funds or assets derived from illegal activity, or to disguise the ownership, nature, source, location, or control of funds or assets derived from illegal activity; (c) is designed, whether through structuring or other means, to evade any requirement in the BSA or its implementing regulations; (d) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or (e) involves use of the casino to facilitate criminal activity. 31 C.F.R. § 1021.320(a)(2)(i)-(iv).

Within the scope period of the 2010 and 2012 IRS SB/SE examinations, Trump failed to file approximately 100 SARs. During the three-month examination scope for the 2010 BSA exam, Trump Taj Mahal filed 32 SARs, but failed to file 41 others, which represents a 56% failure rate. Similarly, during the three-month exam scope for the 2012 BSA exam, Trump Taj Mahal filed 69 SARs, but failed to file 55 others, which represents a failure rate of 44%. The suspicious activity included patrons engaged in minimal gaming activity, avoiding the CTR filing requirement by structuring marker payments and chip redemptions to avoid reporting, and apparent laundering of funds through the issuance and redemption of slot ticket in/ticket-out tickets.⁴

Furthermore, Trump Taj Mahal lacked policies and procedures to use all available data to aid in the monitoring of slot ticket issuance and redemption transactions, rated play at table games,⁵ and

⁴ Modern slot machines use ticket-in, ticket-out (“TITO”) technology. TITO slot machines print out a slip of paper with a bar code indicating the amount of money represented. The ticket can, in turn, be redeemed for cash at an automated kiosk or inserted for play into other TITO machines.

⁵ Player rating records generally refer to the records a casino maintains on a patron’s gaming activity for marketing purposes. These records can also be used in detect and evaluate suspicious activity.

slot player transactions for patrons who may have engaged in minimal gaming or other suspicious activity.

The Casino also did not have policies and procedures in place to monitor cage marker⁶ and front money⁷ transactions for suspicious activity. These policies and procedures are important to BSA compliance because they are essential to determining if a patron is gaming in a manner that may be considered suspicious.

Trump Taj Mahal also did not have policies and procedures in place to monitor data from slot machines for reporting requirements. The failure to implement policies and procedures to use this data resulted in the Casino being cited for SAR reporting violations in 2010 and the subsequent 2012 examination. Specifically, the Casino did not monitor bills-in (cash) slot machine play to identify suspicious activity. Failure to incorporate these elements into the suspicious activity monitoring program led to multiple failures to identify suspicious activity and file SARs. Trump Taj Mahal was aware of its deficient suspicious activity monitoring and reporting as early as 2007; however, despite being on notice of these deficiencies, failed to take adequate action to comply with this requirement.

⁶ A cage marker is a short term credit line provided to the patron for gaming by the casino. A patron will typically complete a casino credit application to request a marker or credit extension. Once a casino completes a marker, it becomes a negotiable instrument which resembles a depository institution's counter check. Although marker play is commonly referred to as "casino credit," a casino does not offer loans in the traditional sense that a depository institution offers loans. If a customer wins, a casino expects a marker to be paid off at that time and it will return the paid marker to a customer. A customer can pay the marker off with currency, cash equivalents, a personal check, or funds transfer to a casino's depository institution. A customer can also mail in a check to a casino to pay a marker off. However, if a customer does not redeem a marker by the preceding methods, he authorizes a casino to complete the credit instrument and to debit his/her checking account at a depository institution.

⁷ "Front money" is money deposited with the casino in advance by a patron.

C. Violations of Currency Transaction Reporting Requirements

The BSA and its implementing regulations require casinos to report transactions that involve either “cash in” or “cash out” of more than \$10,000 during a single gaming day. 31 C.F.R. § 1021.311. A casino must aggregate transactions in currency -- treat the transactions as a single transaction -- if the casino has knowledge that the transactions are conducted by, or on behalf of, the same person. 31 C.F.R. § 1021.313. A casino must report transactions in currency through the filing of currency transaction reports. Trump Taj Mahal repeatedly violated the requirement to properly file CTRs. During the three-month scope period of the 2010 BSA examination, Trump Taj Mahal had failures to verify, record, and report required information for 134 reportable transactions. Of the 134 violations, 89 violations related to transactions from nineteen different patrons that involved discrepancies between the customer’s name and Social Security Number. Even after Trump Taj Mahal was notified by the IRS of these discrepancies, it failed to verify the identifying information provided by casino patrons.

Trump Taj Mahal’s CTR filing deficiencies continued in 2012. During a one-month period, Trump Taj Mahal failed to file 30 CTRs totaling \$500,000, stemming from the Casino’s failure to adequately monitor and report when a patron inserts more than \$10,000 into a slot machine in a given day. The failure to adequately monitor cash inserted into slot machines also caused Trump Taj Mahal to incorrectly file 10 additional CTRs. Furthermore, the Casino failed to properly file 22 CTRs as a result of failing to record social security numbers for post-transaction aggregations of cash buy-ins by patrons at gaming tables.

D. Violations of Recordkeeping Requirements

The BSA imposes special recordkeeping requirements on casinos. Casinos are required to maintain a separate record containing a list of each transaction between the Casino and its customers

involving certain monetary instruments having a face value of \$3,000 or more. The list must contain the time, date, and amount of the transaction; the name and permanent address of the customer; the type of instrument; the name of the drawee or issuer of the instrument; all reference numbers and the name or casino license number of the casino employee who conducted the transaction. Applicable transactions must be placed on the list in the chronological order in which they occur. 31 C.F.R. § 1021.410(b)(9).

The 2012 BSA examination revealed that over 100 marker deposits and checks received for marker payments of \$3,000 were not maintained on the casino's negotiable instrument log, and the casino failed to log all markers which were deposited into its bank account during the entire period of the 2012 exam. Notably, this was also a repeat violation, as the 2010 examination revealed 26 violations of this same requirement, in addition to other recordkeeping requirement failures related to Trump Taj Mahal's negotiable instrument log.

III. CIVIL MONEY PENALTY

FinCEN has determined that Trump Taj Mahal willfully violated the program, reporting, and recordkeeping requirements of the Bank Secrecy Act and its implementing regulations, as described in the CONSENT, and that grounds exist to assess a civil money penalty for these violations. 31 U.S.C. § 5321 and 31 C.F.R. § 1010.820.

FinCEN has determined that the penalty in this matter will be \$10,000,000.

IV. UNDERTAKING

By execution of the CONSENT, Trump Taj Mahal agrees to the following
UNDERTAKING: The Company shall secure and retain an independent, external qualified party or entity (the "Third-Party Reviewer"), not subject to any conflict of interest, and subject to FinCEN's reasonable determination of non-objection, to examine the Company's Bank Secrecy Act

compliance program and evaluate whether the program is reasonably designed to ensure and monitor compliance with the requirements of the BSA and the FinCEN rules applicable to casinos. Three reviews will occur: the first will commence within six months of the entry of the order of the Bankruptcy Court approving the CONSENT; the second will occur in 2017; and the third will occur in 2019. The first review will have a review scope of September 9, 2014 through the commencement date of the first review, with no less than six months' worth of transactional analysis. The second and third reviews will each cover the previous two years, with no less than six months' worth of transactional analysis. The Third-Party Reviewer will prepare a written report for the audit committee and the board of directors setting forth its findings, and will transmit the report and all draft reports to FinCEN and IRS SB/SE simultaneous with any transmission to Trump Taj Mahal or its agents. To the extent that the report demonstrates any material deficiencies in the Company's programs and procedures, the Company shall address and rectify the deficiencies as soon as is reasonably practical.

V. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, Trump Taj Mahal consents to the assessment of a civil penalty in the sum of \$10,000,000 and to the undertaking set forth in Part IV above, and admits that it violated the BSA's program, reporting, and recordkeeping requirements. The civil money penalty will be allowed as a general unsecured claim in the Company's Bankruptcy Case subject to the rights of the United States to assert its setoff and recoupment rights. The Company reserves all rights and defenses in connection with any all assertions of such setoff or recoupment rights.

Trump Taj Mahal recognizes and states that it enters into the CONSENT freely and voluntarily and that no offers, promises, or inducements of any nature whatsoever have been made

by FinCEN or any employee, agent, or representative of FinCEN to induce Trump Taj Mahal to enter into the CONSENT, except for those specified in the CONSENT.

Trump Taj Mahal understands and agrees that the CONSENT embodies the entire agreement between Trump Taj Mahal and FinCEN relating to this enforcement matter only, as described in Section II above. Trump Taj Mahal further understands and agrees that there are no express or implied promises, representations, or agreements between Trump Taj Mahal and FinCEN other than those expressly set forth or referred to in this document and that nothing in the CONSENT or in this ASSESSMENT is binding on any other agency of government, whether Federal, State or local.

The CONSENT was made effective upon approval of the Bankruptcy Court by its order of March 4, 2015. Nothing in the CONSENT or this ASSESSMENT shall preclude any proceedings brought by FinCEN to enforce the terms of the CONSENT or this ASSESSMENT. To the extent that FinCEN finds it necessary to enforce the terms of the CONSENT or this ASSESSMENT, the Company agrees that such proceeding(s) may be withdrawn to the District Court for adjudication pursuant to 28 U.S.C. § 157(d).

VI. RELEASE

Execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, settles all claims that FinCEN may have against Trump Taj Mahal for the conduct described in Section II of the CONSENT. Execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, does not release any claim that FinCEN may have for conduct by Trump Taj Mahal other than the conduct described in Section II of this ASSESSMENT, or any claim that FinCEN may have against any director, officer, owner, employee, or agent of Trump Taj Mahal, or any party other than Trump Taj Mahal. Upon request, Trump Taj Mahal shall truthfully disclose to FinCEN all factual information not protected by a valid claim of

attorney-client privilege or work product doctrine with respect to the conduct of its current or former directors, officers, employees, agents, or others.

BY:

/S/

March 6, 2015

Jennifer Shasky Calvery
Director
FINANCIAL CRIMES ENFORCEMENT NETWORK
U.S. Department of the Treasury

Date: