

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-16-146
Bally Technologies)

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. Bally Technologies (the "Company") is a supplier of gaming machines, progressive systems, and casino management systems.
3. The Commission issued a Supplier license to the Company to provide gaming machines, progressive systems, and casino management systems, or other items directed by the Commission to a Class A or Class B licensee or to the Commission.
4. As the holder of a Supplier 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

5. On November 6, 2015, MGC staff was notified of a piece of Bally Technologies Jurisdictional software found on a newly installed Electronic Gaming Device (EGD) at Argosy Riverside Casino ("Argosy") that was not certified or approved for use in the state of Missouri.
6. The software, installed at location 08-06-07, asset 65360 at Argosy, did not match the expected software to be installed, as it was not the approved AVJURUSMORB1-01 version needed.
7. The aforementioned software installed at Argosy contained detailed features not allowed in Missouri, including mystery progressives, progressive end of life, and double up features.

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

² 20151124005

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 of an amount determined by the Commission.

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. Under 11 CSR 45-5.237(2), “critical program storage media shall be approved for use in the state prior to shipment and shall be shipped separately from electronic gaming devices unless otherwise approved in writing by the commission.”

11. 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.

12. The MICS, Chapter E, § 1.07 states as follows:

All aspects of an EGD and any associated device/system, including all hardware and software, shall be subject to:

(A) testing by the Commission and/or an independent testing laboratory designated by the Commission;

(B) review and approval by the Commission;

- (C) testing shall, as applicable, include examination for adherence to the applicable MGC licensed independent testing laboratory technical standards, pursuant to 11 CSR 45-4.230 et seq. as approved by the MGC; and
- (D) The testing, review and approval process shall be required prior to the implementation of the device/system by a Class B Licensee and following implementation, prior to any changes thereto, or at any other time the Commission deems appropriate, the costs for which shall be borne by the Class B Licensee.

VIOLATIONS

- 13. The actions or omissions of employees or agents of the Company as described above constitute the shipping of software not approved for use in Missouri to the Casino, which is a violation of 11 CSR 45-5.237(2) and MICS, Chapter E, § 1.07.
- 14. The Company is therefore subject to discipline for such violations under §§ 313.805(6) and 313.812.14 (1) and (2), RSMo, and 11 CSR 45-9.060(3).

PENALTY PROPOSED

- 15. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against the Company, as the holder of a Supplier license.
- 16. THEREFORE, it is proposed that the Commission fine Bally Technologies the amount of \$5,000 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 _____, 2016, to:

Michelle Rodriguez
Sr. Manager Product Compliance
Bally Technologies
6601 S. Bermuda Rd.
Las Vegas, NV 89119

Herbert M. Kohn
Chairman
Missouri Gaming Commission