

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-16-174
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 11, 2015, River City Casino notified the MGC of a bank of Electronic Gaming Devices ("EGDs") that had their linked progressives jump by large unexplained amounts on November 5, 2015.
6. The MGC notified Bally of the issue on November 12, 2015, and requested a forensic investigation to determine the cause of the malfunction or anomaly.
7. Bally determined that the EGDs in question were configured incorrectly with a "0" serial number.
8. On December 9, 2014, Bally was notified of an issue with progressive amounts jumping at the Golden Nugget Casino in Lake Charles, Louisiana, similar to what occurred at River City Casino in November 2015 in that the EGDs at issue in Louisiana had "0" serial numbers entered into their configurations.

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

² 20160129007

9. Bally failed to report the malfunction at the Louisiana casino to the MGC after it had been apprised of the malfunction in December 2014.
10. On November 25, 2015, Bally submitted a replacement version of the software for the River City EGDs for MGC approval designed to correct the malfunction.
11. The November 25, 2015 submission contained modifications to the software which were not fully disclosed to the MGC.

LAW

12. 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.
13. 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[.]

14. Under 11 CSR 45-5.210(2),

Any electronic gaming device manufacturer holding a supplier license under the provisions of 11 CSR 45-4 et seq. shall notify the commission of any malfunction or anomaly affecting the integrity or operation of devices or systems provided under the scope of such license regardless of the gaming jurisdiction in which the malfunction or anomaly occurred or was discovered. The notification shall occur within forty-eight (48) hours of the supplier licensee being apprised of the malfunction or anomaly and shall be in a format approved by the commission.

15. Title 11 CSR 45-5.225(4) states, in pertinent part, as follows:

(4) The supplier, Class A, or Class B licensee submitting a request for approval of gaming equipment or a slot accounting system shall do so through the commission's electronic portal.

(A) All information in the request shall be complete and accurate. Should such request be determined inaccurate, the commission shall be notified immediately. The request shall include the following:

* * *

2. A complete list of hardware and software modifications requested for approval[.]

VIOLATIONS

16. The actions or omissions of employees or agents of the Company as described above constitute the failure promptly notify the MGC of the malfunction or anomaly affecting the integrity or operation of the system or software provided to the Casino and failing to detail the modifications to software to be installed, which constitute violations of 11 CSR 45-5.210(2) and 11 CSR 45-5.225(4)(A)2.

17. The Company is therefore subject to discipline for such violations under §§ 313.805(6) and 313.812.14 (1) and (2), RSMo.

PENALTY PROPOSED

18. 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.

19. THEREFORE, it is proposed that the Commission fine Bally Technologies, Inc., 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 September, 2016, to:

Derik Mooberry
President
Bally Technologies
6650 South El Camino Road
Las Vegas, NV 89118

Herbert M. Kohn
Chairman
Missouri Gaming Commission