

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-19-036
Bally Technologies, Inc.)

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, 2016,¹ with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. Bally Technologies, Inc. ("Bally" or "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 March 22, 2017, Bally submitted a request to the MGC for a revocation of bill validator software susceptible to counterfeit bills. The MGC approved the request for revocation on March 23, 2017.
6. All impacted software was required to be removed from the field by June 21, 2017.
7. On August 7, 2018, Bally shipped four Electronic Gaming Devices (EGDs) to Lady Luck Casino, Caruthersville. On August 9, 2018, during a regulatory inspection, MGC identified revoked software contained within EGD cabinets.

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.

¹ All statutory references are to RSMo 2016, unless otherwise specified.

² 20180929010

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.”

VIOLATIONS

- 11. The actions or omissions of employees or agents of the Company as described above constitute the shipping of revoked software to the Casino, which is a violation of 11 CSR 45-5.237(2).
- 12. The Company is therefore subject to discipline for such violations under §§ 313.805(6) and 313.812.14 (1) and (2), RSMo.

PENALTY PROPOSED

- 13. 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.
- 14. THEREFORE, it is proposed that the Commission fine Bally Technologies, Inc., the amount of \$5,000 for the violations set forth herein.

Brian Jamison
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 28th day of March, 2019, to:

Michael Fries
VP/Regulatory Affairs/Deputy CCO
Bally Technologies, Inc.
6601 S. Bermuda Rd.
Las Vegas, NV 89118

Brian Jamison
Chairman
Missouri Gaming Commission