

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
  ) DC-24-073  
Bally's Kansas City 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 Bally's Corporation to develop and operate Class B gaming licensees in the State of Missouri.
3. Bally's Corporation is the parent organization or controlling entity of Bally's Kansas City Casino.
4. The Commission issued a Class B riverboat gambling license to Bally's Kansas City Casino to conduct games on and operate the excursion gambling boat known as Bally's Kansas City Casino (the "Casino").
5. As the holder of a Class B license, Bally's Kansas City 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. The disciplinary action arises from MGC's review of violations concerning the Casino's slot department staff placing electronic gaming devices ("EGDs") in service for patron play prior to the required testing, verification, and sealing of the devices, as well as failure to adequately train the slot department employees and keep proper training records. Specifically:
  - a. On January 18, 2023, Slot Technician Deja Crockett placed one (1) EGD in service for patron play prior to MGC software verification, sealing, and successful Phase II testing.

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<sup>1</sup> GR 20231215002

- b. On January 20, 2023, Slot Technician Vanessa Hatchett placed three (3) EGDs in service for patron play prior to MGC software verification, sealing, and successful Phase II testing.
- c. Due to the January 2023 violations, Slot Manager Erica Carpenter was issued a compliance directive to ensure casino slot department employees were properly trained on the rules for placing EGDs in service for patron play.
- d. On January 20, 2023, Slot Manager Carpenter distributed a memo to all slot department personnel outlining the MGC regulatory requirements for placing EGDs in service for patron play. MGC was advised that this memo was added to the Slot Technicians Standards and Procedures Manual.
- e. On May 1, 2023, Slot Technician Augustus Carter placed two (2) EGDs in service for patron play prior to MGC verification, sealing, and successful Phase II testing.
- f. On August 25, 2023, a patron filed a complaint with MGC regarding one (1) of the EGDs on the Casino floor. The complaint related to an EGD malfunction during a \$1,212.00 jackpot. The Casino's slot department staff did not contact surveillance to begin coverage of the EGD display before trying to resolve the issue and the EGD did not remain out of service until examined by an EGD Specialist.
- g. On August 30, 2023, Slot Manager Carpenter distributed a memo to slot employees, at the request of MGC, in which the Casino outlined the Commission's requirements set forth in the MICS, Chapter E §§ 3.01 and 3.02 for patron disputes. Section 3.01 provides in relevant part that "the questioned device shall be placed out of service until examined by an MGC EGD Specialist."
- h. On September 11, 2023, the Casino adopted Variance No. 102259-23 within their ICS, Chapter E, Section 4.03, to no longer require MGC Phase II testing of EGDs which were relocated on the gaming floor. This variance allows the Casino's slot technicians to perform testing to ensure the EGD's communication with the casino slot accounting system has been reestablished prior to placing the relocated EGD in service. The requirements of this variance are detailed in the Casino's ICS, Chapter E, § 4.11(D).
- i. On October 17, 2023, Slot Technician Anthony Lewis placed one (1) relocated EGD in service for patron play prior to the required testing.
- j. On October 26, 2023, Slot Technician William Hedges placed two (2) relocated EGDs in service for patron play prior to required testing.
- k. Following the October incidents, MGC EGD Coordinator Florea discussed with Slot Manager Erica Carpenter that MGC was concerned and stressed the

importance of ensuring communication testing was completed for relocated EGDs prior to the EGDs being placed back in service for patron play.

- l. On November 20, 2023, and November 23, 2023, Slot Technician Taniqua Nelson placed two (2) EGDs in service before successful MGC phase II testing.
  - m. On December 15, 2023, MGC EGD Specialist Bob Padget issued a Notice of Investigation (“NOI”) to the Casino and Slot Manager Erica Carpenter for repeated violations and failure to ensure proper training of slot employees.
  - n. On January 10, 2024, in response to the NOI, Casino management advised MGC that additional action had been taken for employee training and understanding. Based on this response, MGC EGD Specialist Padget requested the existing training records for the Casino’s slot department employees per Commission’s MICS Chapter A § 1.06. In response, the Casino had no records to provide.
7. As a result of the slot department’s lack of training processes, twelve (12) EGDs were placed in service prior to the required testing, verification or sealing as required. Additionally, the Casino did not maintain adequate training records.

#### LAW

8. 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.

9. 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 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 regulation;

(2) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to gaming[.]

10. 11 CSR 45-5.053(2) states, in pertinent part, as follows:

(2) It is the policy of the commission to require that all excursion gambling boats and gaming conducted on excursion gambling boats be operated in a manner suitable to protect the public health, safety, morals, good order, and general welfare of Missouri. Responsibility for the employment and maintenance of suitable methods of operation rests with the holder of an operator's license and willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for disciplinary action, up to and including license revocation[.]

11. 11 CSR 45-5.210(1)(J) states in relevant part as follows:

(1) Electronic gaming devices shall:

\* \* \*

(J) Have its locked area(s) within the electronic gaming device and the critical program storage media housed therein sealed with commission security seals. The security seals must be affixed by an authorized commission agent and must include the date, signature, or initials and identification number of the agent. These seals may only be broken or removed by an authorized commission agent.

12. 11 CSR 45-10.030(6) and (7) state, in pertinent part, as follows:

(6) Class A, Class B, and supplier licensees shall ensure that all agents and occupational licensees employed by said licensees shall have a working knowledge of Missouri Gaming Statutes, Chapter 313.800, RSMo et seq., *Code of State Regulations*, Title 11 Division 45, the commission's published minimum internal control standards and the licensee's system of internal controls as they pertain to the responsibilities and limitations of their job[.]

(7) All occupational licensees shall have a working knowledge of Missouri Gaming Statutes, Chapter 313.800, RSMo et seq., *Code of State Regulations*, Title 11 Division 45, and the internal controls of the Class A or B licensees for whom they are currently employed by as they pertain to the responsibilities and limitations of their job.

13. The Commission's MICS, Chapter A § 1.06 states as follows:

Class B Licensees shall provide all employees with training regarding the Missouri Riverboat Gambling Act, Missouri Gaming Commission Rules and Regulations, Missouri Gaming Commission Minimum Internal Control Standards, the Class B Licensee's Internal Control System and procedures in a brief outline or general description. Each employer shall ensure that employees, prior to performing the functions and duties of their jobs, are adequately trained as to the applicable statutes, regulations and internal controls that apply to their specific job functions. The Class B Licensee shall maintain a record of all mandatory training. A current copy of the Class B Licensee's entire Internal Control System shall be readily accessible to all employees.

14. The Commission's MICS, Chapter E, state as follows:

§ 1.09 Any critical program storage media (CPSM) and/or component which is deemed to be essential to an EGD's integrity as outlined in the MGC EGD Verification Manual, shall be locked by an authorized licensee and then sealed by an MGC agent prior to being put into service. Only an MGC agent may break security seals. Once the security seal has been broken, slot personnel shall immediately scrape any existing fragments of the security seals, so that upon being resealed, only a single seal is in place. (11 CSR 45-5.210(1)(J)).

§ 3.01 If a patron disputes the operation of an EGD relative to a malfunction, slot personnel shall contact Surveillance to begin camera coverage of the EGD display ensuring screen content is legible. Once coverage is obtained, slot personnel will attempt to resolve the issue. If the issue is not resolved to the satisfaction of the patron, slot personnel will contact an MGC agent. If the operation of an EGD is questioned by the MGC agent and the issue cannot be resolved by slot personnel to the satisfaction of the agent, the questioned device shall be placed out of service until examined by an MGC EGD Specialist. A random access memory (RAM) clear will not be performed unless the problem is determined, and a RAM clear is required and approved by the MGC agent.

§ 4.03 EGDs, redemption kiosks, and related systems shall be Phase II tested following a new installation, change or conversion of the CPSM, or relocation of the device prior to placing the device into service. The following procedures shall be adhered to:

- (A) A Slot Technician Supervisor or IT employee shall assign a uniquely identifiable test card to each licensed Slot Technician performing Phase II testing. The Slot Technician shall only utilize his or her assigned test card. The slot department shall maintain a list of the Slot Technicians and test card numbers that have been assigned to each.
- (B) Funds required for Phase II testing will be issued by the Main Bank or cage on a Cage Paid-Out form specifying the funds are being used for EGD testing.
- (C) An MGC EGD Phase II test form shall be used during testing.
- (D) The Slot Technician performing the Phase II test shall make an entry in the MEAL book stating the device has been Phase II tested.
- (E) When Phase II testing multiple devices the previous ticket out shall be inserted into the next device to be tested. This will ensure only one active ticket upon the completion of testing.
- (F) Upon completion of Phase II testing, the Slot Technician shall ensure the final testing ticket(s) are marked and cancelled as follows:
  - (1) Write "VOID" with a permanent marker; and
  - (2) Disable the final Phase II ticket bar code by completely filling in the space between two or more consecutive vertical lines of the bar code with a permanent marker.
- (G) After a cancellation is completed, the ticket shall be placed into an EGD bill acceptor to ensure the ticket cannot be accepted.
- (H) A detailed system report shall be generated that reflects the outlined fields on the MGC EGD Phase II Test Sheet.
- (I) The documentation shall be submitted to an MGC agent for review.
- (J) When the documentation has been returned from the MGC agent, the Slot Technician shall take the ticket to the cage or Main Bank. The Cashier shall manually redeem the ticket and create a Cage Paid-In for the funds indicating the funds are returned test funds. The original Paid-Out forms, the resulting Paid-In form and the redeemed ticket shall be forwarded to Accounting for an independent reconciliation. The Slot Technician shall submit the coin test report and the MGC EGD Phase II Test Sheet directly to Accounting without being forwarded through the cage or Main Bank.
- (K) The Casino Accounting Department shall reconcile the amount of funds paid out of the cage, the amount of funds returned, and the funds added/removed during Phase II testing to the amount of the final test ticket to ensure all funds are accounted for. Reconciliation shall be completed daily for all Phase II testing performed. In addition, the Accounting Department shall verify the final test ticket created from testing was redeemed at the cage or Main Bank as indicated by the cage or Main Bank paperwork. Any discrepancies shall be reported to the MGC agent on duty.

- (L) The Casino Accounting Department will maintain all Phase II testing documentation.

§ 4.04 Any EGD that has not passed Phase II testing shall not be placed into service for patron play.

§ 4.05 The individual licensee who places an EGD into service for patron play is responsible for ensuring the EGD has met all regulatory requirements (reel strip test, Software/CPU seal, passed Phase II testing, etc.).

15. The Casino's ICS, Chapter E, states as follows:

§ 4.03

EGDs, redemption kiosks, and related systems shall be Phase II tested following a new installation, change or conversion of the CPSM, or relocation of the device prior to placing the device into service. The following procedures shall be adhered to:

(A) A Slot Technical Supervisor or IT employee shall assign a uniquely identifiable test card to each licensed Slot Technician performing Phase II testing. The Slot Technician shall only utilize his or her assigned test card. The slot department shall maintain a list of the Slot Technicians and test card numbers that have been assigned to each.

(B) Funds required for Phase II testing will be issued by the Senior Cage Cashier working the Main Bank on a Cage Paid-Out form specifying the funds are being used for EGD testing.

(C) An MGC EGD Phase II test form shall be used during testing.

(D) The Slot Technician performing the Phase II test shall make an entry in the MEAL book stating the device has been Phase II tested.

(E) When Phase II testing multiple devices the previous ticket out shall be inserted into the next device to be tested. This will ensure only one active ticket upon the completion of testing.

(F) Upon completion of Phase II testing, the Slot Technician shall ensure the final testing ticket(s) are marked and cancelled as follows:

(1) Write "VOID" with a permanent marker; and

(2) Disable the final Phase II ticket bar code by completely filling in the space between two or more consecutive vertical lines of the bar code with a permanent marker.

(G) After a cancellation is completed, the ticket shall be placed into an EGD bill acceptor to ensure the ticket cannot be accepted.

(H) A detailed system report shall be generated that reflects the outlined fields on the MGC EGD Phase II Test Sheet.

(I) The documentation shall be submitted to an MGC agent for review.

(J) When the documentation has been returned from the MGC agent, the Slot Technician shall take the ticket to the Senior Cage Cashier working the Main Bank. The Senior Cage Cashier shall manually redeem the ticket and create a Cage Paid-In for the funds indicating the funds are returned test funds. The original Paid-Out forms, the resulting Paid-In form and the redeemed ticket shall be recorded on the Main Bank

reconciliation and forwarded to Accounting for an independent reconciliation. The Slot Technician shall submit the coin test report and the MGC EGD Phase II Test Sheet directly to Accounting without being forwarded through the cage or Main Bank.

(K) The Casino Accounting Department shall reconcile the amount of funds paid out of the cage, the amount of funds returned, and the funds added/removed during Phase II testing to the amount of the final test ticket to ensure all funds are accounted for. Reconciliation shall be completed daily for all Phase II testing performed. In addition, the Accounting Department shall verify the final test ticket created from testing was redeemed at the Main Bank as indicated by the Main Bank paperwork. Any discrepancies shall be reported to the MGC agent on duty.

(L) The Casino Accounting Department will maintain all Phase II testing documentation.

Summary of Variance: To not require Phase II testing for the relocation of EGDs on the gaming floor.

Conditions/Restrictions: Relocated EGDs shall only include EGDs that are being moved from one location to another on the gaming floor and have previously been verified, sealed and passed Phase II testing. Prior to placing relocated EGDs in service, Bally's Kansas City will ensure communication has been reestablished with the slot accounting system. The internal controls for MICS, Chapter E § 4.11(D) shall be updated to include the process for ensuring communication has been reestablished. The process shall include documentation, which shall be retained and provided to the MGC upon completion. (Variance #102259-23, 6/13/2023)

#### 4.11(D) Relocation

An EGD will be moved on the casino floor only after notification to MGC and Surveillance.

A final drop will be conducted on all machines that are scheduled to move to another location on the casino floor. The BV Cash Box will be removed according to normal drop procedures, or Early Drop as approved by MGC.

All final meters will be read, recorded, and retained and in the MEAL Book by the Slot Tech department. MGC is notified with the required five-day notification before the relocation.

The IT Manager or Slot Tech Supervisor or supervisor thereof will be responsible for entering the machine location information in SDS.

Surveillance will be notified. The Slot Technician will verify the MGC security seal is intact on the CPU prior to a relocated EGD being placed in service.

Relocated EGDs shall only include EGDs that are being moved from one location to another on the gaming floor and have previously been verified, sealed and passed Phase II testing. Prior to placing relocated EGDs in service, Bally's Kansas City will ensure communication has been reestablished with the slot accounting system by conducting a



phase II modified test. The modified test includes inserting the slot technician's assigned test card, a ticket, a bill, and then cashing out. A 10 coin test report will be run in SDS that will be retained and provided to the MGC upon completion.

### **VIOLATIONS**

1. The acts or omissions of employees or agents of the Casino, as described above, involve violations of MICS, Chapter E §§ 1.09, 3.01, 4.03, 4.04, and 4.05, and the Casino's ICS, Chapter E §§ 4.03 and 4.11(D), which demonstrate a failure to adequately train slot department employees and a failure to document the training received by the slot department staff. The Casino's ongoing failure to properly train its slot department employees violates 11 CSR 45-10.030, and the Commission's MICS, Chapter A § 1.06.
2. Bally's Kansas City Casino is therefore subject to discipline for such violations pursuant to Sections 313.805 and 313.812.14(2), RSMo, and 11 CSR 45-9.060(3) and (4).

### **PENALTY PROPOSED**

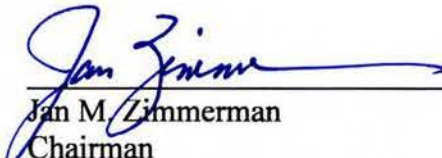
3. Under Section 313.805, RSMo, the Commission has the power to assess any appropriate administrative penalty against Bally's Kansas City Casino as the holder of a Class B license.
4. THEREFORE, it is proposed that the Commission fine Bally's Kansas City Casino the amount of fifteen thousand (\$15,000) for the violations set forth herein.

  
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Jan M. Zimmerman  
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 August, 2024, to:

Mr. Troy Davis  
General Manager  
Bally's Kansas City Casino  
1800 East Front Street  
Kansas City, MO 64120

  
\_\_\_\_\_  
Jan M. Zimmerman  
Chairman  
Missouri Gaming Commission