

# IN THE MISSOURI GAMING COMMISSION

In Re: )  
 ) DC-18-089  
BMM North America, 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)<sup>1</sup> with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. BMM North America, Inc. (the "Company" or "BMM") is a supplier of testing laboratory services.
3. The Commission issued a Supplier license to the Company to provide testing services on gaming-related equipment, components, peripherals, or systems.
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 FACTS**<sup>2</sup>

5. Since November 2017, the MGC has experienced a total of six incidents involving the electronic repository and database maintained by BMM. Certified software maintained in the repository and information within the database are required to be accurate and up-to-date as of the end of the previous business day.
6. On January 5, 2018, the MGC issued a Compliance Directive to BMM addressing prior incidents which occurred on November 30, 2017, December 14, 2017 and January 4, 2018.
7. On January 7, 2018, BMM responded in writing indicating that corrective action had been taken to resolve further problems.
8. On January 12, 2018, MGC was involved in a field incident where certified products in the BMM's electronic repository and database were not accurate and up-to-date in a manner consistent with the requirements.

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<sup>1</sup> All statutory references are to RSMO (2016), unless otherwise specified.

<sup>2</sup> GIR 20180319005

9. On January 30, 2018, BMM issued a certification for software without updating the database by the end of the business day as required. After notification from MGC on February 5, 2018, BMM updated the database.
10. On March 20, 2018 MGC was involved in a field incident where BMM's electronic repository and database were not accurate and updated in a manner consistent with the requirements.

### LAW

10. 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.
11. 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[.]

12. Title 11 CSR 45-4.230 states, in pertinent part, as follows:

(4) An independent testing laboratory (ITL) applying for or currently holding a supplier license is subject to compliance with all other requirements of this rule in addition to the following criteria:

\* \* \*

(I) All reports, documentation, and material developed or acquired by the ITL while conducting work for or on behalf of the commission shall become the joint property of the commission and the ITL. Upon expiration or revocation of its license, certified copies of all documents, data, reports, and accomplishments prepared, furnished, or completed by the ITL for or on behalf of the commission shall be delivered to the commission within forty-five (45) calendar days and shall remain the joint property of the commission and the ITL. In addition, the ITL shall provide access to any equipment or materials used while conducting work for or on behalf of the commission for a period of one hundred twenty (120) days after the expiration or revocation of its license.

\* \* \*

3. The ITL shall maintain an electronic repository of approved and revoked software for all gaming equipment submitted for testing for the Missouri jurisdiction. Such electronic repository shall utilize tools which support hash-based message authentication code using Secure Hash Algorithm 1 (HMAC-SHA1) seeding and SHA1 hashing.....

\* \* \*

(L) The ITL shall develop and maintain a database, acceptable to the commission, of all gaming equipment certified by the ITL for the state of Missouri.

1. The ITL shall maintain a quality assurance mechanism to ensure uniform data and data entry processes.

2. The database and report(s) must be current as of the end of the previous business day, and in a commission approved format[.]

### **VIOLATIONS**

13. The actions or omissions of employees or agents of the Company as described above constitute the failure of the Company to properly update the database in a timeframe as required by 11 CSR 45-4.230(4)(I) and (L).

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

### **PENALTY PROPOSED**

15. Under § 313.805(6), RSMo, the Commission has the power to assess any appropriate administrative penalty against the BMM North America, Inc., as the holder of a Supplier license.

16. THEREFORE, it is proposed that the Commission fine BMM North America, Inc., the amount of \$2,500 for the violations set forth herein.

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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 1<sup>st</sup> day of November, 2018, to:

Travis Foley  
BMM North America, Inc.  
815 Pilot Road, Suite G  
Las Vegas, NV 89119

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Herbert M. Kohn  
Chairman  
Missouri Gaming Commission