

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC 14-252
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 2000, with jurisdiction over gaming activities, including riverboat gambling activities, in the State of Missouri.
2. Bally Technologies, Inc. ("the Company") is a supplier of electronic gambling device ("EGD") equipment.
3. The Commission issued a Supplier license to the Company to supply EGD equipment or supplies directed by the Commission to a Class B licensee.
4. As the holder of a Supplier license, the Company is subject to the provisions of §§ 313.800 to 313.850, RSMo 2000, and the regulations promulgated thereunder by the Commission.

STATEMENT OF FACTS¹

5. On January 2, 2013, the Company shipped one piece of incorrectly labeled, revoked software to St. Jo Frontier Casino.
6. On January 14, 2013, while installing 12 software conversion kits, a Slot Technician Supervisor discovered one piece of revoked software. The software was labeled as personality program "Salsa Heat" (301728A), but the EGD attendant menu displayed revoked personality program "Double Joker" (300782A).

LAW

7. Under § 313.805(6), RSMo 2000, 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.
8. Section 313.812.14, RSMo, states, in pertinent part, as follows:

¹ 20130208008

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[.]

9. Under 11 CSR 45-9.060(3),

[V]iolations 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., as amended from time to time. Any agent or employee of a Class A licensee that is involved in a violation of the minimum internal control standards may be subject to fine, discipline or license revocation.

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. The MICS, Chapter E, § 1.07, requires that all aspects of an EGD and any associated device/system, including all hardware and software, be subject to the following:

- (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

12. The actions or omissions of employees or agents of the Company, as described above, constitutes shipping unapproved software into the state of Missouri, thereby violating 11 CSR 45-5.237(2) and the MICS, Chapter E, § 1.07.
13. The Company is therefore subject to discipline for such violations pursuant to §§ 313.805(6), and 313.812.14(1) and (2), RSMo, and 11 CSR 45-9.060(3),

PENALTY PROPOSED

14. 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.
15. THEREFORE, it is proposed that the Commission fine Bally Technologies, Inc., the amount of \$5,000.00 for the violations set forth herein.

Darryl T. Jones
Vice-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 _____, 2014, to:

Marc Comella
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Darryl T. Jones
Vice-Chairman
Missouri Gaming Commission