

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-16-147
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 April 9, 2015, Lumiere Place Casino and Hotels ("the Casino") was notified of an issue with the ACSC sweepstakes module when the Company e-mailed Field Advisory 2015-002 to the Casino's Director of Technology which described the following issue: "When a user manually adjusted the patron's table rating, the reverse process deleted the entire sweepstakes entries for the patron."
6. On July 1, 2015, the Casino's Compliance Officer sent an e-mail to the MGC Enforcement Manager requesting a time frame on when the Casino could install ModPack 3 software.
7. Prior to July 1, 2015, the MGC had not received any notification from the Company of the potential problem with the ACSC sweepstakes module or Field Advisory 2015-002.

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

² 20160129009

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.
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 45-5.210(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.

VIOLATIONS

11. The actions or omissions of employees or agents of the Company as described above constitute failure promptly notify the MGC of the malfunction or anomaly affecting the integrity or operation of the system or software provided to the Casino, which is a violation of 11 CSR 45-5.210(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 the amount of \$5,000 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 _____, 2016, to:

Michelle Rodriguez
Sr. Manager Product Compliance
Bally Technologies
6601 S. Bermuda Rd.
Las Vegas, NV 89119

Herbert M. Kohn
Chairman
Missouri Gaming Commission