

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the)
License to Conduct Gambling Activities of:) NO. CR 2008-01602
)
Bally Technologies,)
)
) **NOTICE OF ADMINISTRATIVE**
) **CHARGES AND OPPORTUNITY**
Licensee.) **FOR AN ADJUDICATIVE PROCEEDING**
)
_____)

RICK DAY alleges as follows:

I.

He is the Director of the Washington State Gambling Commission and makes these charges in his official capacity.

II.

Jurisdiction of this proceeding is based on chapter 9.46 RCW, Gambling, Chapter 34.05 RCW, the Administrative Procedure Act, Title 230 WAC.

III.

The Washington State Gambling Commission issued Bally Technologies, 6601 S. Bermuda Road, Las Vegas, Nevada, organization number 20-00119, the following license:

License Number 20-00119, authorizing Class "F" Manufacturer Activity.

The license, which expires on June 30, 2009, was issued subject to the licensee's compliance with state gambling laws and regulations.

IV.

SUMMARY:

The licensee, Bally Technologies, installed an unapproved software configuration in Tribal Lottery System machines at the Colville Tribes' Okanogan Bingo Casino and the Coulee Dam Casino. This is the licensee's third violation since 2004 for installing unapproved software or software components.

FACTS:

- 1) The licensee, Bally Technologies (“Bally”), manufactures Tribal Lottery System (TLS)¹ gaming machines used at the Colville Tribes’ casinos.
- 2) Before a licensed manufacturer can connect any component, i.e., hardware or software, to its TLS system, the licensee must submit it for approval by the Commission’s Electronic Gaming Lab (EGL). Appendices X and X2 to the Colville Tribes’ Compact require that an independent gaming lab certify all components and that the Tribes submit the certification to the EGL as a part of the approval process.²
- 3) In addition, Section 9.3 of Appendices X and X2 to the Tribal-State Compact require that all internal communication within the TLS must be encrypted to prevent tampering or unauthorized access to the data communication exchanged between TLS components. Data encryption converts regular data communication into a form that cannot be read or interpreted without specific access to the encryption method used.
- 4) To meet this encryption requirement, Bally submitted a detailed Windows Internet Protocol Security (IPSec) configuration plan to the Gambling Commission’s Electronic Gambling Lab in 2006 for approval. IPSec is a method of securing and authenticating network communications and is built into recent versions of Windows operating systems. To function properly, IPSec must be carefully configured and assigned to appropriate sections of the network.
- 5) After the EGL approved Bally’s IPSec configuration plan, it became a required part of Bally’s TLS. EGL staff also prepared a step-by-step procedure for Commission agents to use to verify proper encryption while on-site at a tribal casino. The procedure verifies correct implementation of several key configuration and assignment settings. If TLS configuration settings are not properly implemented according to the configuration plan, Bally’s encryption solution is not fully implemented and does not meet the requirements of Appendices X and X2.
- 6) On July 3, 2008, a Commission Special Agent (agent) performed the EGL’s encryption verification procedure for Bally’s TLS at the Colville Tribes’ Coulee Dam Casino.

¹ TLS machines are linked lottery terminals where a central computer delivers a virtual “scratch ticket” to a player terminal, upon the request of a casino guest. The virtual scratch tickets are dispensed from a finite “game set” that delivers tickets randomly to two or more terminals. Typically, players on the same group or “bank” of machines play from the same game set.

² Section 10.3 of Appendices X and X2 provide as follows:
Approval by the SGA. Upon receiving the certification from the test laboratory, the SGA (State Gaming Authority) shall either approve or disapprove the Tribal Lottery System or component thereof based on the technical criteria contained in this Appendix, within sixty (60) days of receipt of the certification as to any new Tribal Lottery System or any component thereof, and within fifteen (15) days of the receipt of the certification as to any modification of a system which has already been approved by the SGA...

7) As part of the procedure, the agent entered the Windows operating system section that controls the names and addresses of all components of Bally's TLS. The agent viewed a computer program entitled IP Security Monitor (IPSecMon) which, according to Bally's configuration plan approved by the EGL, should have listed the Player Account Server, Management Terminal and Data Base servers. However, when the agent viewed this screen, those servers were not listed.

8) During his review, the agent looked at a Windows system category entitled Active Directory Users and Computers, which is the server function used by Windows administrators to manage network access and security. In the approved Bally configuration, the IPSec container should be created and include all servers that do not typically use encryption. However, when the agent viewed the Active Directory, it did not include an IPSec container, as required.

9) Bally's approved configuration includes two encryption policies specifically related to IPSec. Policy DCsOUSMBSQL is applied to Active Directory servers and policy Server OUSMBSQL is applied to non-Active Directory servers. These policies must be assigned to a larger security policy in order to be implemented. If these policies are not assigned, they will not be active and encryption will not take place.

10) When the agent reviewed the system security policies, the encryption policies were listed, indicating that they had been created at some point. However, the column entitled "Policy Assigned" on the screen showed "No," instead of "Yes," as required by the approved Bally configuration.

11) On July 7, 2008, the agent reviewed the IPSecMon at the Okanogan Bingo and Casino. He determined that the IPSecMon showed no enrolled components or evidence of any encryption activity. The agent also noted that the IPSec Security Policies under the Active Directory DCOUSMBSQL and DCOUSMBSQ were not assigned.

12) The agent forwarded a copy of the inspection results to an EGL Senior Testing Engineer. The engineer determined that the Colville TLS configurations were not identical to the ones previously approved by the EGL, and he sent an e-mail message to Paul Warketin, Product Compliance Manager for Bally. In his message, the engineer requested a response, and he initiated Notice of System Incident³ (NSI) 352.

13) Mr. Warketin sent several e-mail responses, indicating that one of the IPSec policies had a misconfigured setting. However, the underlying issue was that the policy itself was not assigned to the system, as required.

³ EGL initiates an NSI investigation when it receives reports of technical exceptions that have potential compliance impacts. The NSI process identifies the nature of the exception, how it occurred, and whether staff must follow up on compliance impacts. Staff update the NSI database with any relevant information. Once staff has all information relating to the NSI and determines that the manufacturer and Tribe have taken corrective action, it closes out the NSI.

14) On September 11, 2008, the agent and two staff from the EGL participated in a conference call with Jay Clements, Bally Field Service Systems Manager and Mr. Warketin. When the agent asked whether communication between all components of the Tribal Lottery System were encrypted during his inspections of the Colville Tribes' Coulee Dam Casino and its Okanogan Bingo and Casino in July of 2008, Mr. Clements said that the communication was not encrypted.

15) Prior to the agent's inspection of the Colville Tribes' casinos, Bally had difficulty implementing its IPsec encryption solution, as follows:

- After the EGL approved Bally's IPsec in October of 2006, Bally stated in May of 2007 that there were problems with the original configuration and that it wished to update the configuration. EGL issued NSI 295.
- The EGL approved the new configuration in June of 2007.
- In August 2007, the EGL closed NSI 295 after staff entries indicate Bally was to update all facilities within 45 days.
- In November 2007, Commission agents determined that IPsec had not been installed at Port Gamble, and the EGL opened NSI 325.
- EGL closed NSI 325 in March of 2008, after allowing Bally additional time to install IPsec at Port Gamble.

16) The licensee has the following administrative history:

- Commission staff issued two warning letters in 2004 for the installation of unapproved TLS software files/components.
- In 2005, Commission staff issued a Settlement in Lieu of Charges for the installation of unapproved software files/components in the TLS.
- In 2005, Commission staff issued a warning letter for the purchase of layouts from an unlicensed manufacturer.
- In 2005, Commission staff issued a verbal warning for the lack of sufficient controls to prevent unauthorized individuals from having access to TLS account information or history.
- In 2006, Commission staff issued administrative charges for selling unapproved TLS terminals. The parties resolved this case with a Settlement Order.
- In 2007, Commission staff issued a warning letter for one occurrence of having an unlicensed manufacturer in a tribal casino. Commission staff also issued administrative charges in 2007 for a separate occurrence of this violation. The parties resolved this case with a Settlement Order.

VIOLATIONS:

- 1) RCW 9.46.075(1) provides that the Commission may suspend a license for any reason it deems to be in the public interest, including when the licensee has violated, failed or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW.
- 2) WAC 230-03-085 provides that the Commission may suspend a license when the licensee commits any act that constitutes grounds for denying, suspending or revoking licenses or permits.
- 3) WAC 230-03-085(3) provides that the Commission may suspend any and all licenses when the holder has demonstrated willful disregard for complying with administrative rules.
- 4) WAC 230-06-050(3) provides that licensees must operate equipment identical to the version the director or designee approved.

Even though Commission staff gave Bally additional time to install the proper IPSec configuration at all of its TLS facilities, Bally failed to do this. Instead, Bally had unapproved software components in Tribal Lottery System machines at the Colville Tribes' Coulee Dam Casino and its Okanogan Bingo and Casino, in violation of WAC 230-06-050. In addition, this is the licensee's third violation for installing unapproved software or file components since 2004. This repeated violation demonstrates Bally's willful disregard for complying with administrative rules, and grounds exist to suspend Bally's license pursuant to RCW 9.46.075 and WAC 230-03-085.

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V.

The charges specified in paragraph IV above constitute grounds for the suspension of the gambling license held by Bally Technologies to conduct authorized gambling activity under authority of RCW 9.46.075.

VI.

The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations. In order to commence an Adjudicative Proceeding, the enclosed APPLICATION FOR ADJUDICATIVE PROCEEDING AND REQUEST FOR HEARING MUST BE COMPLETED IN FULL by the LICENSEE OR REPRESENTATIVE and returned to the Gambling Commission **within 23 days from the date of mailing of this notice**. FAILURE TO RETURN THIS DOCUMENT WILL RESULT IN THE ENTRY OF A DEFAULT ORDER PURSUANT TO RCW 34.05.440 AND WAC 230-50-010, THE IMPOSITION OF THE PENALTY SET OUT ABOVE (THIRTY DAY SUSPENSION OF YOUR GAMBLING LICENSE) OR ONE OF LESSER DEGREE AND SHALL CONSTITUTE A WAIVER OF ANY FURTHER RIGHTS TO A HEARING OR REVIEW IN THIS MATTER.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being first duly sworn on oath, deposes and says: That he has read the foregoing Notice of Administrative Charges and Opportunity for Adjudicative Proceeding, knows the contents thereof, and believes the same to be true, and that he is the Director of the Washington State Gambling Commission and in that capacity has executed said Statement of Charges.

Rick Day, Director

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 8th day of January, 2009

Communications and Legal Department
Washington State Gambling Commission

SUBSCRIBED AND SWORN TO before me
this 7th day of January, 2009.

NOTARY PUBLIC in and for the State of
Washington residing at: Lacey

