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**GAMBLING COMMISSION
COMM & LEGAL DIVISION**

STATE OF WASHINGTON
GAMBLING COMMISSION

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**GAMBLING COMMISSION
COMM & LEGAL DIVISION**

In the Matter of the Suspension of the
License to Conduct Gambling Activities of:

NO. CR 2008-01602

Bally Technologies,

SETTLEMENT ORDER

Licensee.

This Settlement Order is entered into between the Washington State Gambling Commission and Bally Technologies. The Gambling Commission is represented by H. Bruce Marvin, Assistant Attorney General, and Melinda A. Froud, Lead Staff Attorney. Gabriel S. Galanda of Williams Kastner represents the licensee.

I.

The Washington State Gambling Commission has 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.

II.

The Director issued Notices of Charges and Opportunity for an Adjudicative Proceeding on January 8, 2009, seeking a suspension of Bally Technologies' license. Commission staff timely received the licensee's Request for Administrative Hearing on February 2, 2009.

III.

The following is a summary of the facts and violations alleged in the Notice of Administrative Charges:

SUMMARY:

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

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 alleged 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.

IV.

The licensee acknowledges that it received the Notice of Administrative Charges issued in this case, and understands the facts and violations alleged therein. This violation, if established on the record as alleged by the Commission staff, could support an allegation that Bally's license should be suspended pursuant to RCW 9.46.075 and WAC 230-03-085. Bally Technologies does not admit to any of the allegations or violations contained in the Notice of Administrative Charges; specifically, Bally denies any willful disregard for compliance with administrative rules.

The licensee has taken the following measures that it believes will ensure IPSec security components are properly configured:

- Bally has inspected all of its TLS systems statewide to ensure that the IPSec security capability is properly configured and has provided Commission staff with documentation of its compliance.
- Bally technicians now follow a Policy Verification Procedure and complete an IPSec Confirmation Form for each tribal casino in Washington operating Bally TLS systems.

- Bally plans to deploy a dedicated server maintenance group in Washington. This group will be responsible for ensuring that all Bally TLS systems are fully compliant with Washington State gambling laws and regulations, including IPsec requirements.

On January 8, 2009, the licensee requested a hearing. However, the licensee has waived its right to a hearing based on the terms and conditions of this Settlement Order. The licensee agrees to the following terms and conditions:

- 1) The Commission dismisses all allegations that Bally Technologies willfully disregarded compliance with administrative rules and any violation based on such allegations.
- 2) Bally Technologies' license is suspended for **ten (10) days**, provided that **eight (8) days** of the suspension will not be imposed, but will be deferred for a period of one (1) year from the date of this settlement, subject to the following:
 - a) The licensee agrees not to violate Washington State's gambling statutes or regulations during the one (1) year term. The Director may impose the eight-day deferred suspension of the current gambling license and any subsequently acquired gambling license(s) if the licensee violates any law or rule after the date of this settlement, and that violation is the type warranting administrative charges.
 - b) The parties agree that the Director of the Washington State Gambling Commission will determine whether the licensee has violated any term of this Settlement Order. If the Director reasonably determines that a material violation of this settlement has occurred, he may suspend Bally Technologies' license for up to eight (8) days by mailing or delivering a Notice of Administrative Charges to the licensee. The licensee shall have the opportunity to respond and defend itself from all such charges and shall also have the opportunity for a hearing before an administrative law judge and an appeal, if any, on the new alleged violations.
 - c) Based on RCW 9.46.077, the licensee has chosen to vacate the remaining **two (2) days** of this suspension, by paying a fine of **twenty thousand dollars (\$20,000)**. The licensee has also agreed to reimburse the Commission for its investigative and administrative costs of **seven thousand, seven hundred and forty-one dollars (\$7,741)**.
- 3) The licensee shall pay the total fine of **twenty-seven thousand, seven hundred and forty-one dollars (\$27,741)** by **April 20, 2009**. Payment shall be mailed to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
P.O. Box 42400
Olympia, WA 98504-2400

or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
4565 7th Avenue SE; Fourth Floor
Lacey, WA 98503

4) If the licensee makes its payment by the date agreed to in paragraph IV(3), this matter will be deemed closed. If the licensee fails to timely make its payment, the Director may impose a two (2) day suspension for the late payment. However, serving the suspension does not relieve the licensee of the obligation to pay its fine.

DATED this 11th day of May, 2009.



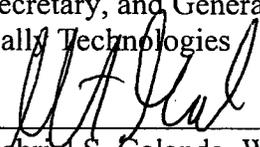
Administrative Law Judge

APPROVED FOR ENTRY:

APPROVED AS TO FORM:

By the signatures below, the licensee acknowledges reading this Settlement Order, and understands the terms and conditions contained in it.

Mark Lerner
Senior V.P. for Law and Government,
Secretary, and General Counsel
Bally Technologies



Gabriel S. Galanda, WSBA #30331
Attorney at Law, Representing
Bally Technologies

H. Bruce Marvin, WSBA #25158
Assistant Attorney General,
Representing the Washington State
Gambling Commission

Melinda A. Froud, WSBA #26792
Lead Staff Attorney, Representing the
Washington State Gambling Commission

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DATED this _____ day of _____, 2009.

Administrative Law Judge

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