

IN THE MISSOURI GAMING COMMISSION

In Re:)
) DC-19-022
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),¹ 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 FACTS²

5. On May 25, 2018, BMM notified the MGC of payout discrepancies with a gaming equipment supplier's previously tested and certified software program.
6. The MGC confirmed an award combination in the gaming equipment supplier's Probability and Accounting Report (PAR Sheet) was inconsistent with the game's advertised rules of play, violating 11 CSR 45-5.190(4)(I).
7. BMM asserted a visual inspection of the combination(s) was conducted and evaluated against the gaming equipment supplier's PAR sheet; however, the discrepancy was not discovered, violating 11 CSR 45-4.230(4)(E) and 11 CSR 45-4.230(4)(V).
8. Upon MGC request, BMM was unable to produce documented test results, violating 11 CSR 45-4.230(4)(DD).

¹ All statutory references are to RSMo (2016), unless otherwise specified.

² 20180926006

LAW

9. 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.

10. 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[.]

8. Title 11 CSR 11 CSR 45-5.190 states, in pertinent part, as follows:

(4) Electronic gaming devices shall –

* * *

- (I) Clearly and accurately display applicable rules of play and the award that will be paid to the player when the player obtains a specific win, including mystery awards. The displays shall clearly indicate whether awards are designated in denominational units, currency, credits or some other unit. All pay-table information must be able to be accessed by a player prior to the player committing to a wager. Pay glass and its corresponding artwork for mechanical displays must be submitted to an independent testing laboratory designated by the commission for review and approval prior to implementation within the state[.]

9. 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;

* * *

(E) The ITL shall verify compliance with all requirements to the sole satisfaction of the commission;

* * *

(V) The ITL shall draft and maintain gaming equipment test scripts to address Missouri statutes, regulations, minimum internal control standards, and adopted technical standards for testing a specific device. In addition, the ITL shall create specific testing procedures (test cases) that shall be used to assess compliance with the applicable test scripts. All gaming equipment shall be tested in accordance with said test scripts and test cases. Each test script shall have a unique version number. The ITL shall modify the test scripts and test cases to adapt to new technology, rule changes, or as directed by the commission. Anytime a Missouri test script is revised, a copy with the effective date shall be forwarded to the commission. The ITL and commission will conduct an annual review of the test scripts and the ITL shall modify them as necessary. All documents, procedures or other intellectual property employed by an ITL in conjunction with the development of Missouri test case(s) shall be deemed to be proprietary information and a closed record under section 313.847, RSMo, unless otherwise determined by the commission;

* * *

(DD) All test cases conducted and the results of those procedures shall be documented by the ITL. Such documentation shall be made available to the commission upon request[.]

VIOLATIONS

10. The actions or omissions of employees or agents of the Company as described above constitute the failure to properly test software and then notify the Commission of resulting discrepancies, which are violations of 11 CSR 45-5.190(4)(I), 11 CSR 45-4.230(4)(E), (V), and (DD).

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

PENALTY PROPOSED

- 12. 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.
- 13. THEREFORE, it is proposed that the Commission fine BMM North America, Inc., the amount of \$2,500 for the violations set forth herein.

Brian Jamison
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 28th day of February, 2019, to:

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

Brian Jamison
Chairman
Missouri Gaming Commission