



State of Louisiana

Gaming Control Board

M. J. "MIKE" FOSTER, JR.
GOVERNOR

HILLARY J. CRAIN
CHAIRMAN

DECISION OF THE LOUISIANA GAMING CONTROL BOARD

**IN RE: BIG DADDY'S SPORTS BAR RESTAURANT, LLC
D/B/A BIG DADDY'S SPORTS BAR & GRILL
NO. VP1001213399**

RULING ON APPLICATION FOR REHEARING

The matter before the Louisiana Gaming Control Board ("Board") is a request for rehearing of the revocation of the video gaming license of Big Daddy's Sports Bar Restaurant, LLC d/b/a Big Daddy's Sports Bar & Grill.

A "Notice of Recommendation of Administrative Action" dated September 30, 2003, was sent by certified mail to the business address of the above referenced establishment. It was addressed to Big Daddy's Sports Bar & Grill to the attention of Ms. Ida Clooney. The letter was accepted by Mr. Jerald LeBlanc on October 3, 2003, as evidenced by the return receipt of certified mail. The recommendation was based on the failure of the licensee to include the required toll-free telephone number for problem gambling in a printed advertisement as required by La. R.S. 27:27.3. The notice further provided that an administrative hearing must be requested within 10 days of receipt of the notice and that failure to request a hearing would result in the revocation of the license without further proceedings.

No hearing was requested. As a result, on November 12, 2003, the Board issued a "Notice of

Revocation” to the licensee, addressed to Big Daddy’s Sports Bar & Grill to the attention of Ms. Clooney. The licensee refused to accept delivery. The postal service noted on the envelope that the correspondence was not deliverable as addressed.

Prior to the time of the Board’s receipt of the returned correspondence and apparently assuming delivery to the licensee of the “Notice of Revocation,” the Division notified the licensee of the impending disablement of its video gaming devices. The devices were thereafter disabled. Mr. LeBlanc made inquiries and as a result, on November 7, 2003, through counsel, filed a “motion for Rehearing/Reconsideration and/or Appeal of Agency Action and for Stay of Agency Action.” On November 10, 2003, on behalf of the licensee, Mr. LeBlanc requested a hearing before the Hearing Officer of the Louisiana Gaming Control Board. On November 13, 2003, the “Notice of Revocation” was faxed to counsel for the licensee who, on November 12, 2003, filed a supplemental motion re-urging the rehearing, reconsideration and/or appeal of agency action.

The licensee contends that on September 29, 2003, ownership of Big Daddy’s Sports Bar & Grill was transferred from Ms. Ida Clooney to Mr. Jerald LeBlanc. Notification of the transfer of ownership was made to the Division by correspondence dated October 6, 2003. Although Mr. LeBlanc signed for the certified mail containing the “Notice of Recommendation of Administrative Action” on October 3, 2003, because the correspondence was addressed to Big Daddy’s Sports Bar & Grill, to the attention of Ms. Clooney (the former owner), Mr. LeBlanc did not open the letter. Rather, he set it aside for Ms. Clooney. Not having read the letter, he was not aware that he was required to request a hearing within 10 days of its receipt, nor was he aware of the issuance of the “Notice of Recommendation of Administrative Action” until the Division’s telephone call and the resulting disablement of its video gaming devices.

LEGAL ANALYSIS

Louisiana Revised Statute 49:959 gives the grounds for an agency rehearing, reopening, or reconsidering its decision and provides, in pertinent part:

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for such action shall be either that:

- (1) The decision or order is clearly contrary to the law and the evidence;
- (2) The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
- (3) There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or
- (4) There is other good ground for further consideration of the issues and the evidence in the public interest.

“Adjudication” is defined as the agency process for the formulation of a decision or order. La. R.S. 49:951(1).

We need not determine whether the receipt of the correspondence on October 3, 2003, addressed to the licensee but directed to the attention of the prior owner, complies with due process because the “Notice of Revocation” was not received until November 12, 2003, thus the rehearing request was timely. The licensee has presented grounds for reconsideration. Therefore, this matter should be forwarded to the Louisiana Gaming Control Board Hearing Office for the scheduling of an administrative hearing before the Hearing Officer where evidence may be introduced and a determination made as to the appropriate action to be taken and the penalty, if any to be imposed.

ORDER

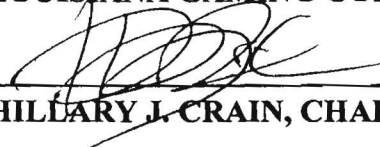
This matter having been considered by the Louisiana Gaming Control Board in open meeting of December 16, 2003:

IT IS ORDERED THAT the request for rehearing is **GRANTED** and the matter is **FORWARDED** to the Louisiana Gaming Control Board Hearing Office for action in accordance with this decision.

THUS DONE AND SIGNED on this the 17th day of December, 2003.

LOUISIANA GAMING CONTROL BOARD

BY:



HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 16th DAY
OF December 2003
APPEAL DOCKET CLERK
