



# 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: KRS, INC.  
P081002040

This is an appeal by KRS, Inc. from a decision of the Hearing Officer of the Louisiana Gaming Control Board affirming the denial of KRS, Inc.'s non-gaming supplier permit application by the Louisiana State Police, Gaming Suitability Unit ("Unit"). The denial was based on failure of the applicant to obtain tax clearances from the Internal Revenue Service and the Louisiana Department of Revenue as required by La. R.S. 27:28(B)(3)<sup>1</sup>, L.A.C. 42:XIII.2111<sup>2</sup> and L.A.C. 42:XIII.2114(A) and (B).<sup>3</sup>

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<sup>1</sup> Louisiana Revised Statute 27:28(B)(3) provides

...

B. The board or division, where applicable, shall not grant a license or permit, enter into a casino operating contract, or issue any other approval pursuant to the provisions of this Title to any person who is disqualified on the basis of the following criteria:

...

(3) The person is not current in filing all applicable tax returns and in the payment of all taxes, penalties and interest owed to the state of Louisiana, any political subdivision of Louisiana, or the Internal Revenue Service, excluding items under formal appeal.

...

<sup>2</sup> Louisiana Administrative Code 42:XIII.2111 provides:

A. The division shall not award a license or permit to any person who is disqualified on the basis of any of the following criteria:

1. failure of the applicant to prove by clear and convincing evidence that he is qualified in accordance with the provisions of the act;
2. failure of the applicant to prove by clear and convincing evidence that he is

## FACTS

KRS, Inc. was issued a notice of denial of its April 9, 2001, non-gaming supplier permit application. The notice was dated November 30, 2001 and issued by the Unit based on the failure of two of KRS, Inc.'s owners, Kenneth and Brenda Schexnider<sup>4</sup>, to obtain tax clearances. KRS, Inc. requested a hearing on the matter. The hearing was set for January 29, 2002. A continuance was requested by counsel for KRS, Inc. to allow time for the delinquent tax matter to be resolved. The continuance was granted and the matter set for hearing on April 3, 2002.

At the hearing on April 3, 2002, the Unit presented evidence that there were tax liens and assessments against the Schexnidors by the IRS and the Louisiana Department of Revenue; the IRS would not issue tax clearances for the Schexnidors; and the Louisiana Department of Revenue would not clear KRS, Inc. for a gaming permit. Mr. Schexnider testified that he was in the process of obtaining tax clearances. The Hearing Officer continued the matter to May 14, 2002, in order for Mr. Schexnider to produce written evidence of tax clearances.

At the hearing on May 14, 2002, Mr. Schexnider failed to produce the clearances although introducing into evidence a receipt dated October 30, 2001, for \$2,782.00 from the Louisiana Department

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qualified in accordance with the provisions of these regulations.

<sup>3</sup> Louisiana Administrative Code 42:XIII.2114 (A) and (B) provides:

A. The applicant, its officers, directors and any person with an economic interest of 5 percent or more in an applicant must receive tax clearances from the appropriate federal and state agencies prior to the granting of a license.

B. The applicant, its officers, directors and any person with an economic interest of 5 percent or more shall remain current in filings of tax returns and the payments required pursuant to such returns.

...

<sup>4</sup> Kenneth and Brenda Schexnider each own 25% of KRS, Inc.

of Revenue. The Unit introduced a letter dated May 9, 2002, from the IRS stating the Schexnidrs are listed as delinquent and denying a tax clearance. The Unit also introduced a letter from Louisiana Department of Revenue dated May 9, 2002, stating the taxpayers KRS, Inc., Kenneth R. Schexnider and Brenda Schexnider have not been cleared and are not cleared for gaming permits.

Mr. Schexnider testified that he received a second notice of denial dated April 24, 2002. The notice of denial was introduced into evidence. The grounds given for this denial is that the Unit finds KRS, Inc. unsuitable because it received payment from Harrah's under a consulting contact for which no services have been provided in derogation of the Louisiana Gaming Control Board's policy that conduct such as this is unsuitable.

Mr. Schexnider testified that he doesn't have a consulting contract with Harrah's and the only reason he applied for a non-gaming supplier permit was that he was ordered to do so by the Louisiana State Police in a letter dated February 20, 2001. The letter was introduced into evidence and states that KRS, Inc. is required to obtain a permit in order for KRS, Inc. to continue the current contractual relationship with Harrah's Casino Lake Charles. An application form was enclosed with the letter and a March 22, 2001, deadline given for its filing along with the appropriate fees.

Mr. Schexnider testified that he didn't clear up the tax matter because of the second notice of denial which clouded the tax issue. He requested the return of the money he spent on filing and pursuing the application.

The Hearing Officer set a hearing for September 10, 2002, for the issues contained in the second notice of denial and decided the issue solely on the tax delinquencies. The Hearing Officer affirmed the Unit's denial of KRS, Inc.'s non-gaming supplier permit application.

Mr. Schexnider appeared before the Board and maintained his position that KRS, Inc. is not

required to be permitted as a non-gaming supplier because the company does not do business with a riverboat licensee. The Unit, through the Attorney General's Office, Gaming Division, stated that Mr. Schexnider may be correct.

## ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of July 16, 2002:

**IT IS ORDERED** that this matter is **REMANDED** to the Hearing Officer to hold a hearing for the presentation of evidence to make a determination whether KRS, Inc. is statutorily required to be permitted under the facts and circumstances of this case and to take appropriate action when this determination is made.

**THUS DONE AND SIGNED** this 17<sup>th</sup> day of July, 2002.

**LOUISIANA GAMING CONTROL BOARD**

**BY:**

  
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**HILLARY J. CRAIN, CHAIRMAN**

**LOUISIANA GAMING CONTROL BOARD**  
**I HEREBY CERTIFY THAT A CERTIFIED**  
**COPY HAS BEEN MAILED OR SERVED ON**  
**ALL PARTIES THIS 18<sup>th</sup> DAY**  
**OF July 2002**  
**APPEAL DOCKET CLERK**

