

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: LLOYD CHARLES & PEARL STOKES D/B/A VICK'S BAR & LOUNGE
NO. VP3601111998

This is an appeal by Vick's Bar and Lounge from a decision of the Hearing Officer denying the issuance of a Type I video gaming device license.

PROCEDURAL HISTORY

By letter dated February 22, 2001, Vick's Bar & Lounge was notified that its original video gaming license application was recommended for denial. The basis for the recommendation was the omission of material information regarding the criminal history of Lloyd Charles, a 50% owner of the applicant. Vick's Bar & Lounge timely requested an administrative hearing before the Hearing Officer of the Louisiana Gaming Control Board.

Apparently, on April 4, 2001, Mr. Charles submitted an affidavit to the Division which explained why he failed to disclose his entire criminal history. The Division was satisfied with the explanation and no longer wished to proceed with administrative action. On April 10, 2001, prior to the scheduled hearing date, the Division filed a motion to dismiss the pending administrative proceedings. The written motion also requested that after dismissing the proceedings, the Hearing Officer order that a license be issued. The Hearing Officer denied the motion and issued written reasons, stating that the Division's motion to dismiss would have been granted had it not been coupled with the request that the Hearing Officer order licensing.

On April 19, 2001, the Hearing Officer considered a “Joint Motion for Entry of Stipulations and Approval of Proposed Settlement” which was presented by the Division. The Division was not willing to go forward with the case, thus, there was no hearing on the merits and no evidence was introduced. The instrument provided in pertinent part:

1) The licensee admits that it did violate LAC 42:XI.2405(A)(15) by failing to list Lloyd Charles’ December 18, 1969 conviction for Attempted Theft in Orleans Parish, Louisiana.

2) With this admission, there is no longer any evidence which would preclude licensing, and the Division recommends approval of application and the issuance of a Type 1 video gaming license.

The Hearing Officer rejected the proposed settlement and also denied the license.

In previous decisions we have stated that an applicant’s criminal history is relevant and material to a determination of the applicant’s general suitability and should be disclosed, even though an arrest, guilty plea or conviction would not result in automatic or statutory disqualification of the applicant. An applicant may be generally unsuitable because of his criminal history or his failure to disclose his criminal history regardless of whether he is statutorily disqualified. A person who is not statutorily disqualified under La. R.S. 27:310(A) may be unsuitable under La. R.S. 27:310(B) and failure to disclose the entire criminal history **may** also be a basis for finding the applicant unsuitable, depending on the facts and circumstances of each particular case. See **In Re: Twin B. Casinos, Inc. d/b/a America’s Sport Bar**, No. VP5104110751, decided on January 19, 2000.

The Hearing Officer was correct in denying the Division’s motion to dismiss because the motion also contained a prayer for the issuance of a license. If, prior to an administrative hearing on the merits, the Division reconsiders its position and no longer recommends denial, it should

request dismissal of the administrative proceedings. The Hearing Officer has jurisdiction to dismiss the proceedings but has no jurisdiction to order licensing because to do so under these circumstances would result in circumvention of the Board's jurisdiction to issue original video gaming licenses. Thus after dismissal of the proceedings the established procedures for approval of any other original Type I video gaming license should be followed: the application and supporting documentation should be forwarded directly to the Board along with the Division's recommendation of approval.

Because there was no hearing on the merits, the Hearing Officer should have neither issued nor denied the license. Accordingly, that portion of the judgment denying the license should be reversed.

After review of the record we also conclude that although the Hearing Officer rejected the proposed settlement, the Board may and in this instance should exercise its prerogative to consider the "Joint Motion for Entry of Stipulations and Approval of Proposed Settlement."

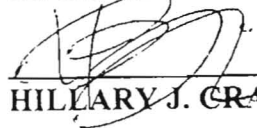
ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of July 17, 2001:

IT IS HEREBY ORDERED THAT THE Hearing Officer's decision ordering denial of the video gaming license application is **REVERSED** and the Board **APPROVES** the proposed settlement. **THUS DONE AND SIGNED** this 18th day of July, 2001.

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 19th DAY
OF July, 2001
APPEAL DOCKET CLERK
Suzanne A. Coleman

RECEIVED

APR 17 2001

RECEIVED

APR 17 2001

ADMINISTRATIVE
DOCKET CLERK

STATE OF LOUISIANA

DEPT. OF JUSTICE
GAMING DIVISION

LOUISIANA GAMING CONTROL BOARD

ADMINISTRATIVE HEARING OFFICE

IN RE: VICK'S BAR AND LOUNGE

VGL.#3601111998

JOINT MOTION FOR ENTRY OF STIPULATIONS AND
APPROVAL OF PROPOSED SETTLEMENT

ON THE JOINT MOTION OF:

The State of Louisiana, Department of Public Safety and Corrections, Office of State Police, Video Gaming Division ("Division"), and

Vick's Bar and Lounge, VGL.# 3601111998 ("Applicant"), who respectfully represent the following:

WHEREAS:

- 1) On the 10th day of August 2000, Vick's Bar and Lounge submitted an original application for approval of a Type 1 video poker license.
- 2) Lloyd Charles is a fifty percent owner of the Applicant.
- 3) On December 18, 1969, Lloyd Charles was convicted of Attempted Theft in Orleans Parish, Louisiana.
- 4) The Applicant failed to disclose Mr. Charles' conviction on its original application for a video poker license.
- 5) On a subsequent day, a Division agent conducted a personal interview with the Applicant. During the course of the interview, the Division agent went over each question on the application and asked the Applicant to verify that the responses given were true and accurate. The Applicant made no corrections at the interview regarding Mr. Charles' conviction.
- 6) On February 22, 2001, the Louisiana Gaming Control Board caused to be sent to the Applicant a Notice of Recommendation of Denial of Original Application. The basis for the denial was the failure of the Applicant to disclose Mr. Charles' criminal conviction.

- 7) The Applicant timely requested an administrative hearing. An administrative hearing was docketed for April 19, 2001 before Hearing Officer Joseph Anzalone.
- 8) On April 4, 2001, the Applicant submitted an affidavit wherein Lloyd Charles attested to the fact that his recollection has been refreshed and that he was indeed convicted in Orleans Parish.

The Division and the Applicant have had the occasion to review all of the facts and circumstances attendant to the violations and agree and stipulate as follows:

- 1) The Licensee admits that it did violate LAC 42:XI.2405(A)(15) by failing to list Lloyd Charles' December 18, 1969 conviction for Attempted Theft in Orleans Parish, Louisiana.
- 2) With this admission, there is no longer any evidence which would preclude licensing, and the Division recommends approval of application and the issuance of a Type I video gaming license.
- 3) The Division reserves the right to take into consideration these violations in connection with any future violation;
- 4) The form and substance of this settlement are to be interpreted under the laws of the State of Louisiana;
- 5) This settlement constitutes the entire agreement between the Division and Vick's Bar and Grill, Inc. pertaining to the subject matter contained, herein, and supercedes all prior and contemporaneous agreements, representations, and understandings of the parties;
- 6) This settlement is subject to approval by the Hearing Officer of the Louisiana Gaming Control Board; it is expressly understood that if this proposed settlement is approved by the Hearing Officer, this agreement is not executory and will be submitted to the Board for its determination as to whether the matter should be heard by the Hearing Officer;
- 7) The Division and the Applicant waive their rights to appeal this settlement if the Order is signed by the Hearing Officer and accepted by the Board.

RESPECTFULLY SUBMITTED

Vick's Bar and Lounge

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STATE OF LOUISIANA
LOUISIANA GAMING CONTROL BOARD
ADMINISTRATIVE HEARING OFFICE

IN RE: VICK'S BAR AND LOUNGE

VGL#3601111998

ORDER

It is hereby ordered that the administrative hearing docketed is DISMISSED.

It is hereby ordered that Vick's Bar and Lounge be conferred a Type 1 video poker license.

Done this _____ day of April, 2001

JOSEPH ANZALONE
ADMINISTRATIVE HEARING OFFICER

Notim
Qual Pearson
Apr 19, 2001
[Signature]

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 19th DAY
OF April 2001
[Signature]
DOCKET CLERK, ADMINISTRATIVE HEARING OFFICE

cc. Pearl Stokes
Toby Dawrs, Esq.
Sgt. Jules Finero

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