



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: P & J DAIQUIRI CAFÉ, INC. D/B/A GATEWAY
NO. VP3601212724

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 P&J Daiquiri Café, Inc. d/b/a Gateway (Gateway).

On October 3, 2003, a "Notice of Recommendation of Administrative Action" was received by the licensee as evidenced by the signed return receipt of certified mail. The basis for the recommendation was the alleged failure of the licensee to have either an owner, manager or designated representative on the premises during a routine inspection by the Division and the failure to post the required toll-free problem gambling telephone number at the establishment. The licensee was notified that an administrative hearing must be requested within 10 days of receipt of the notice and informed that failure to request a hearing would result in the revocation of its video gaming license without further proceedings.

The licensee did not request a hearing. As a result, on October 24, 2003, the Board issued a "Notice of Revocation" which was received on October 25, 2003, as evidenced by the signed return receipt of certified mail. On behalf of the licensee, Mr. Philip Rizzuto timely requested a rehearing of the revocation, alleging that upon receipt of the "Notice of Recommendation of Administrative Action" steps

were immediately taken to correct the deficiencies and mistakenly thinking that the corrective actions had resolved the issue, no hearing was requested.

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).

The licensee has presented grounds for reconsideration. Therefore, this matter will 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 November 18, 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 18th day of November, 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 20th DAY
OF November 2003
APPEAL DOCKET CLERK
