



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: EMBASSY SALES, L.L.C. P080802096

This is an appeal by the Louisiana State Police, Gaming Suitability Unit ("Unit"), of the decision of the Hearing Officer of the Louisiana Gaming Control Board ("Board") allowing Embassy Sales, L.L.C. ("Embassy Sales") to withdraw, without prejudice, its application for a non-gaming supplier permit.

Embassy Sales applied for a non-gaming supplier permit with the Unit on or about June 21, 2001. By notice dated January 7, 2002, the Unit denied the application on the basis that Embassy Sales was not a legitimate ongoing business as required by La. R.S. 27:28(A)(3) and L.A.C. 42:XIII.2331(A)(1-8).

Louisiana Revised Statute 27:28(A)(3) provides:

A. No person shall be eligible to obtain a license or permit, enter into a casino operating contract with the state, or obtain any other approval pursuant to the provisions of this Title unless the applicant has demonstrated by clear and convincing evidence to the board or division, where applicable, that he is suitable. For the purposes of this Title, "suitable" means the applicant, licensee, casino gaming operator, permittee, or other person is:

...

(3) Capable of and likely to conduct the activities for which the applicant, licensee, permittee, casino gaming operator, or licensed eligible facility is licensed, permitted, or approved pursuant to the provisions of this Title.

Louisiana Administrative Code 42:XIII.2331(A)(1-8) provides:

A. The division shall determine whether suppliers providing goods and/or services to licensees are legitimate ongoing businesses. In making such determination the division shall consider any or all of the following nonexclusive factors:

1. years in business providing specific goods and/or services procured by licensees;
2. number of employees;
3. total customer base;
4. dollar volume of all sales compared to sales to licensees;
5. existence and nature of warehouse and storage facilities;
6. existence and number of commercial delivery vehicles owned or leased;
7. existence and nature of business offices, equipment and facilities;
8. whether the goods and/or services provided to the licensee are brokered, and, if so, whether the actual supplier distributes through brokers as a common business practice;

The notice of denial contained the following contentions in support of the Unit's denial: Embassy Sales had not transacted any business from the time of its formation in May 2001; Embassy Sales is housed inside Farmers Seafood Company's facility, leasing cold storage and a small office from the property owner. Embassy Sales owns no vehicles but has an agreement with Farmers Seafood by which Farmers Seafood will provide vehicles, drivers, and insurance coverage for Embassy Sales as evidenced by an agreement with Farmers Seafood. Embassy Sales plans to purchase the majority of its product from Farmers Seafood; Farmers Seafood is permitted as a non-gaming supplier by the Unit, making direct sales to the riverboat casinos in the Shreveport and Bossier City area; Farmers Seafood does not routinely use brokers; and at the time of the denial notice, Embassy Sales' Articles of Incorporation contained the provision, "It is understood that all of the organizers are presently employees of Farmers Seafood Co., Inc. It is specifically agreed that in the event any of the organizers discontinue employment with Farmers Seafood Co., Inc., for any

reason, including death, Embassy Sales, L.L.C. shall terminate and cease to exist.”¹ Embassy Sales lists three full time employees plus a part-time secretary.

At the hearing on this matter, counsel for Embassy Sales requested that Embassy Sales be allowed to withdraw its application. He stated that Embassy Sales had not done any business because riverboat licensees were reluctant to do business with an unpermitted company. He also stated that Embassy Sales was a minority owned business, had done nothing wrong and was entitled to be allowed to prove that it was a legitimate business. He requested the withdrawal of Embassy Sales’ application rather than face the consequence of an application denial- ineligibility to reapply within five years. *L.A.C. 42:XIII.2157.*

The Unit strenuously objects to the withdrawal without prejudice of the application. It claims that only the Unit has the authority to approve withdrawal citing L.A.C. 42:XIII.2155. This issue has been addressed by the Board in, *In Re: Janet B. Verrett (P040016440), December 11, 1997*, wherein we found that when an administrative action is before the Board, the Board implicitly has the authority to render any order legally permissible, including ordering the withdrawal of a permit issued or denied initially by the Unit.

The Unit also objects on the grounds that a great amount of resources has been expended processing and investigating the application and preparing for the administrative proceedings. Additionally, under the circumstances alleged in this case, and where the division objects, the Board is concerned with deciding the withdrawal issue before the facts alleged in the denial letter are fully explored.

Consequently, this matter having been considered by the Louisiana Gaming Control Board in open meeting of June 18, 2002:

¹ This provision was removed after the “Notice of Denial” and prior to the hearing.

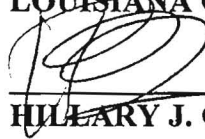
in open meeting of June 18, 2002:

IT IS ORDERED that the Hearing Officer's decision to allow Embassy Sales, L.L.C. to withdraw, without prejudice, its application is **REMANDED** to the Hearing Officer to conduct a hearing on the allegations for denial of Embassy Sales non-gaming supplier permit application, P080802096, prior to deciding the question of withdrawal of the application.

THUS DONE AND SIGNED this 18th day of June, 2002.

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 18th DAY
OF June, 2002

APPEAL DOCKET CLERK

