



State of Louisiana
Gaming Control Board

BOBBY JINDAL
GOVERNOR

DANE K. MORGAN
CHAIRMAN

**DECISION OF THE
LOUISIANA GAMING CONTROL BOARD**

**IN RE: ARMAND & GUIDRY, INC. D/B/A TASTEE#61- NO. 2602207392
B.B.B.J. LLC D/B/A JOE'S CAFÉ 2- NO. 2600212727
JAMES ARMAND- NO. 07019
STACEY ARMAND- NO. 07020
HELEN BYRNE- NO. 07021
MARILYN GUIDRY- NO. 07022**

PROCEDURAL HISTORY

By notices issued in September 2008, the Division recommended revocation of the licenses of Tastee #61 and Joe's Café 2, and findings of unsuitability of James Armand, Stacey Armand, Helen Byrne, and Marilyn Guidry. A hearing was held before the Louisiana Gaming Control Board's Hearing Officer who rendered a decision in March 2009, revoking the two licenses and finding all parties unsuitable. The decision was appealed to the Louisiana Gaming Control Board which considered the matter at its meeting on May 19, 2009. The Board remanded the matter to the Hearing Officer "for clarification and additional reasons supporting his individual findings of unsuitability of James Armand, Stacey Armand, Helen Byrne, and Marilyn Guidry and his precise reasons for revocation of the licenses of Armand & Guidry, Inc. d/b/a Tastee #61 and BBBJ, LLC d/b/a Joe's Café 2."

In his judgment of March 3, 2009, the Hearing Officer made findings of fact and gave reasons for his decision as follows:

James Armand, Marilyn Guidry, Helen Byrne and Stacey Armand can not pass the

they failed to provide the Division with a copy of the renegotiated device placement agreement with Master Video Poker, Inc.; they failed to disclose the lawsuit filed by Tastee Corporation due to the renegotiated device placement agreement and its settlement; he falsely submitted notarized documents to the Division over a period of four years without disclosing the renegotiated device placement agreement and did submit notarized documents to the Division denying that any lawsuits were pending against him. Further, James Armand, Marilyn Guidry and Armand & Guidry, Inc. d/b/a Tastee #6 [sic] failed to notify the Division that Helen Byrne possessed a power of attorney from Marilyn Guidry and had been making business decision [sic] on behalf of the company. Nor did Helen Byrne notify the Division of her position.

Stacey Armand, the wife of James Armand, is the owner of B.B.B.J., LLC d/b/a Joe's Café 2. She is subject to significant influence from James Armand and cannot pass the suitability test.

After remand from the Board, the Hearing Officer reconsidered the evidence and considered evidence of the separation of property agreement between James Armand and Stacey Armand as it relates to the ownership of Joe's Café 2. The Division did not object to the introduction of the agreement. In rulings issued on July 8, 2009, and September 2, 2009, the Hearing Officer found and ruled as follows:

- 1) Joe's Café 2 is the separate property of Stacey Armand and James Armand has no significant influence over this licensee resulting in the finding that Stacey Armand is suitable and the license of Joe's Café 2 should not be revoked;
- 2) Helen Byrne's actions in failing to timely notify the Division of her power of attorney from Marilyn Guidry did not rise to the level of unsuitability;
- 3) Tastee #61's license should be revoked because its co-owners, Marilyn Guidry and James Armand, are unsuitable because both failed "to notify the Division of the renegotiated device placement agreement that modified the revenue split that was previously submitted to the Division, ... to provide the Division with a copy of the renegotiated device placement agreement with Master Video Poker, Inc., ... to disclose to the Division a lawsuit filed by Tastee Corporation due to the renegotiated device placement agreement and its settlement," and falsely submitted notarized documents to the Division which denied there were any pending lawsuits. An additional ground for finding Marilyn Guidry unsuitable was her failure to notify the division of the power of attorney to Helen Byrne and Helen Byrne's activities regarding the licensee, Tastee #61.

Marilyn Guidry died on November 13, 2009. All matters relating to her suitability are now moot.

An appeal was filed by Armand & Guidry, Inc. d/b/a Tastee #61 ("Tastee #61"), License No. 2602207392, James Armand, and Marilyn Guidry, from the Hearing Officer's decisions rendered July 8,

2009, and September 2, 2009. The Division also appealed but later withdrew its appeal.

The matter was presented to the Louisiana Gaming Control Board at its meeting of December 15, 2009. A question was raised regarding the scope of the Board's review on appeal. More specifically, did the Board lose its right to consider the suitability of Helen Byrne and Stacey Armand and the revocation of Joe's Café 2 because the Division did not appeal? Each party was ordered to "submit briefs addressing jurisdictional issues presented by the procedural posture of this case as it is currently and as it was when the Board first considered the matter on May 19, 2009."

MATTERS ON APPEAL

When the matter was first presented to the Board in May 2009, it was remanded for clarification of the judgment. Upon remand, the Hearing Officer reopened the case and allowed the introduction of evidence of a separation of property agreement between Stacey and James Armand.

In its ruling in May, the Board did not dismiss the appeal or reverse the judgment and remand. The matter was only remanded for clarification. The initial appeal is still before the Board. In the interest of justice, we will consider the separation of property agreement and the subsequent rulings of the Hearing Officer. All issues presented in this matter at all stages of the proceedings are properly before the Board.

APPLICABLE LAW

Anyone "who has or controls directly or indirectly more than a five percent ownership, income, or profit interest ... or who has the ability ... to exercise a significant influence over the activities of a licensee ... shall meet all suitability requirements and qualifications for licensees." La. R. S. 27:310(D). As provided, in pertinent part, in La. R. S. 27:310(B), suitability means that the applicant or licensee is:

- (a) A person of good character, honesty, and integrity.
- (b) A person whose prior activities, arrest or criminal record if any, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation of video draw poker, and **do not create or enhance the dangers**

of unsuitable, unfair, or illegal practices, methods, and operations in the activities authorized by [the Video Draw Poker Devices Control Law] and financial arrangements incidental thereto.

(c) Likely to conduct business as authorized by [the Video Draw Poker Devices Control Law] in complete compliance with the provisions of [this law.] (Emphasis added.)

Application and licensing procedures are provided in rules and regulations as required by La. R. S. 27:308 and on forms approved by the Board. L.A.C. 42:III.120. A licensee is allowed to apply for renewal of its license by submitting an affidavit certifying that there have been no changes in the prior qualification and suitability information previously furnished to the Board. La. R.S. 27:306(H)(1). Failure to disclose changes in prior qualification and suitability information shall result in denial of the renewal application or revocation of the license. La. R.S. 27:306(H)(2).

All licensees are required to maintain all required records and “keep the division currently informed, in writing, of any changes which could affect the status of any records, reports, or gaming devices.” L.A.C. 42:XI.2411(A)(9). A licensee is required to keep and maintain “all contracts that exist with the licensed business.” L.A.C. 42:XI.2411(A)(10). Licensees are required to “submit copies of all written contracts pertaining to the operation of video gaming devices and summaries of all oral contracts pertaining to the operation of video gaming devices to which they are party or intend to become party within 10 business days of signing or making such contracts.” L.A.C. 42:XI.2411(H).

Unsuitable conduct includes failure by the licensee “to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto.” L.A.C. 42:XI.2417(B)(4).

A licensee is prohibited from intentionally making, causing to be made, or aiding, assisting, or procuring another to make any false statement in any report disclosure, application, or any other

occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto." L.A.C. 42:X1.2417(B)(4).

A licensee is prohibited from intentionally making, causing to be made, or aiding, assisting, or procuring another to make any false statement in any report disclosure, application, or any other document required by statute or regulation. L.A.C. 42:X1.2417(B)(5).

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of January 19, 2010:

IT IS ORDERED THAT the Hearing Officer's rulings finding James Armand unsuitable, revoking the license of Armand & Guidry, Inc. d/b/a Tastee #61, finding Stacey Armand suitable, maintaining the license of B.B.B.J. LLC d/b/a Joe's Café 2, and finding Helen Byrne suitable are **AFFIRMED.**

THUS DONE AND SIGNED on this the *19th* day of *January, 2010.*

LOUISIANA GAMING CONTROL BOARD

BY:


DANE K. MORGAN, CHAIRMAN

DKM/gac

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 21st DAY
OF January, 2010
ATTORNEY AT LAW
