



State of Louisiana
Gaming Control Board

BOBBY JINDAL
GOVERNOR

DALE A. HALL
CHAIRMAN

**DECISION OF THE
LOUISIANA GAMING CONTROL BOARD**

Rehearing

**IN RE: IBERVILLE LOUNGE, LLC D/B/A THE ALIBI
NO. 3601115238**

The matter before the Louisiana Gaming Control Board is Iberville Lounge, L.L.C. d/b/a The Alibi's ("The Alibi") request for a rehearing of the revocation of its Type 1 video gaming license.

By letter dated February 27, 2013, a "Notice of Recommendation of Revocation" was sent to The Alibi by certified mail to its mailing address on record. The letter was received on March 8, 2013, as evidenced by the signed and dated return receipt of certified mail. The recommendation was based on the failure of the licensee, its owner, Kyle J. Arceneaux, and its manager, David M. Morel, to obtain tax clearances from the Louisiana Department of Revenue ("LDR") and the Internal Revenue Service ("IRS"). The notice advised that the licensee had 10 (ten) days to request a hearing and that failure to timely request a hearing would result in the revocation of its license without further proceedings.

The licensee did not request a hearing. By letter dated March 20, 2013, the licensee was notified that its license was revoked. This letter was received on March 23, 2013, as evidenced by the return receipt of certified mail.

The licensee timely filed a request for rehearing.

LEGAL ANALYSIS

Louisiana Revised Statute 49:959 provides the grounds for an agency rehearing, reopening, or reconsideration as follows:

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.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the agency granting it, shall set forth the grounds which justify such action. Nothing in this Section shall prevent rehearing, reopening or reconsideration of a matter by any agency in accordance with other statutory provisions applicable to such agency, or, at any time, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter may be heard by the agency, or it may be referred to a subordinate deciding officer. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

The Alibi argues that there are grounds for reconsideration. The Alibi alleges that evidence of its and its owner's and manager's federal and state tax status should be considered.

The Alibi also argues that L.A.C. 42:III.2114 is applicable. This regulation does not apply to video gaming.

The Alibi further argues that L.A.C. 42:III.108(A) is applicable. The "Notice of Revocation" is not an enforcement action therefore the Alibi's argument is without merit.

The Alibi claims that it has a protected interest in its gaming license which entitles it to certain due process rights which have been violated because the revocation was without prior notice and a hearing. This argument is totally without merit. The Alibi was given notice and an opportunity for a hearing. The Alibi failed to timely request a hearing and this failure resulted in the license revocation. Furthermore, Louisiana courts have recognized that a gaming license is a privilege and not a property right.

The Division argues that there are no grounds for a rehearing or reconsideration. The Alibi had ample opportunity to present evidence of its tax status prior to revocation and failed to do so. At the time of revocation, the licensee was not suitable due to its failure to have all required tax clearances.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of May 16, 2013:

IT IS ORDERED THAT the request for rehearing is **DENIED**.

THUS DONE AND SIGNED on this the *16th* day of *May*, 2013.

LOUISIANA GAMING CONTROL BOARD

BY:


VELMA C. ROGERS, VICE-CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
HEREBY CERTIFY THAT A CERTIFIED
COPIES HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 20th DAY
OF May, 2013
APPEAL DOCKET CLERK
