



State of Louisiana
Gaming Control Board

BOBBY JINDAL
GOVERNOR

RONNIE JONES
CHAIRMAN

**IN RE: THE PHOENIX BAR COMPLEX, LLC D/B/A
PHOENIX
NO. 3601114959**

ORDER

This matter was considered by the Louisiana Gaming Control Board at its meeting of November 21, 2013. The Hearing Officer's order dated October 21, 2013, based on the "Joint Motion for Approval of Compromise and Settlement Agreement" in the matter of the "Notice of Recommendation of Administrative Action", by and between The Phoenix Bar Complex, LLC d/b/a Phoenix, No. 3601114959, and the State of Louisiana, Department of Public Safety and Corrections, Office of State Police, which is attached hereto and incorporated herein, is **APPROVED**.

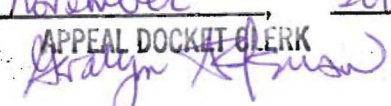
THUS DONE AND SIGNED on this the 21st day of November, 2013.

LOUISIANA GAMING CONTROL BOARD

BY:


RONNIE JONES, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 22nd DAY
OF November, 2013

APPEAL DOCKET CLERK


LGCB-2468-13-B

RECEIVED

By GERALYN COLEMAN at 11:43 am, Oct 21, 2013

RECEIVED

OCT 14 2013

**STATE OF LOUISIANA
LOUISIANA GAMING CONTROL BOARD
ADMINISTRATIVE HEARING OFFICE**

**LGCB
ADMINISTRATIVE HEARING OFFICE**

**RE: THE PHOENIX BAR COMPLEX, LLC
D/B/A PHOENIX**

LIC. NO.: 3601114959

**JOINT MOTION FOR APPROVAL OF COMPROMISE AND
SETTLEMENT AGREEMENT**

TO THE HONORABLE ADMINISTRATIVE HEARING OFFICER:

NOW COME the State of Louisiana, Department of Public Safety and Corrections, Office of State Police (hereinafter, the "Division") and The Phoenix Bar Complex, LLC d/b/a Phoenix (hereinafter, "Phoenix"), who file this Joint Motion for Approval of Compromise and Settlement Agreement, and in support thereof would respectively show unto the Hearing Officer as follows:

1.

The Division and Phoenix are desirous of compromising and settling all disputes between them relative to the referenced administrative proceeding. In connection therewith, the parties have entered into a Compromise and Settlement Agreement, which by its terms will become effective upon approval by the Administrative Hearing Office and the Louisiana Gaming Control Board.


2.


A true and correct copy of the proposed Compromise and Settlement Agreement is attached hereto as Exhibit "A" and incorporated by reference for all purposes.

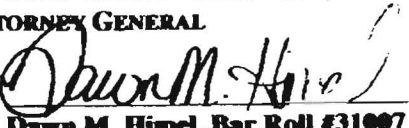
TRUE COPY
[Signature]
R. 13
Executive Director, Louisiana Gaming Control Board

WHEREFORE, PREMISES CONSIDERED, the Division and Phoenix respectfully request that this Honorable Administrative Hearing Officer approve the parties' Compromise and Settlement Agreement.

Respectfully Submitted,

By: 
Allison U. Rovira, Bar Roll # 27634
730 North Street
Baton Rouge, Louisiana 70802
Telephone: (225) 381-0019
Facsimile: (225) 381-0178
*Counsel for The Phoenix Bar Complex,
LLC d/b/a Phoenix*

By: 
Tracy M. Deroche
941 Elysian Fields Avenue
New Orleans, Louisiana 70117
Telephone: (504) 945-9264
*95% member and on behalf of The
Phoenix Bar Complex, LLC d/b/a Phoenix*

JAMES D. "BUDDY" CALDWELL,
ATTORNEY GENERAL
By: 
Dawn M. Himel, Bar Roll #31007
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STATE OF LOUISIANA
LOUISIANA GAMING CONTROL BOARD
ADMINISTRATIVE HEARING OFFICE

RE: THE PHOENIX BAR COMPLEX, LLC
D/B/A PHOENIX

LIC. NO.: 3601114959

COMPROMISE AND SETTLEMENT AGREEMENT

The State of Louisiana, Department of Public Safety and Corrections, Office of State Police (hereinafter, the "Division") and The Phoenix Bar Complex, LLC d/b/a Phoenix (hereinafter, "Phoenix"), do hereby represent and agree as follows:

WHEREAS, the Louisiana Gaming Control Board has sent a Notice of Recommendation of Administrative Action to Phoenix, which Notice contains allegations of certain violations of Louisiana Gaming Control Law; and

WHEREAS, the issues raised by said Notice are set for hearing before the Louisiana Gaming Control Board Administrative Hearing Office on October 14, 2013; and

WHEREAS, the Division and Phoenix are desirous of fully and finally compromising and settling all issues and disputes arising out of and in connection with said notice;

NOW, THEREFORE, in consideration of the foregoing, the parties hereto do hereby agree and stipulate as follows:

STIPULATIONS

1. Phoenix is a Type 1 licensed establishment located at 941 Elysian Fields Avenue, New Orleans, Louisiana 70117.

2. Tracy Deroche (hereinafter, "Mr. Deroche") holds a 95% membership interest in Phoenix. Robert Landry (hereinafter, "Mr. Landry") holds a 5% membership interest in Phoenix. Mr. Landry is also the Secretary of Phoenix.

3. On January 12, 2010, Mr. Landry held a 50% interest in Phoenix. On that date, Mr. Landry transferred 45% of the membership interest in Phoenix to Bobby Connell (hereinafter, "Mr. Connell"), causing the membership of Phoenix to be Mr. Connell, 95%, and Mr. Landry, 5%. Phoenix did not notify the Division of this change in membership until June 28, 2010, in violation of Louisiana gaming law.

4. Phoenix failed to submit the documents evidencing the transfer on January 12, 2010, of 45% from Mr. Landry to Mr. Connell until October 4, 2012, in violation of Louisiana gaming law.

5. Mr. Connell died on October 13, 2010. Phoenix failed to disclose the death of Mr. Connell until June 14, 2011, in violation of Louisiana gaming law.

6. Phoenix failed to submit documents related to Mr. Connell's succession until June 29, 2012, in violation of Louisiana gaming law.

7. Upon Mr. Connell's death on October 13, 2010, Jacqueline Sue Bentley (hereinafter, "Ms. Bentley"), as a legatee under his will, acquired Mr. Connell's 95% membership interest in Phoenix and the real property and improvements on which the licensed establishment is situated. Phoenix failed to disclose that Ms. Bentley acquired Mr. Connell's 95% membership in Phoenix until June 14, 2011, in violation of Louisiana gaming law.

8. Phoenix failed to disclose that the ownership of the land and improvements on which the licensed establishment is situated was transferred on October 13, 2010, from Mr. Connell to Ms. Bentley until June 14, 2011, in violation of Louisiana gaming law.

9. Ms. Bentley never submitted to or met suitability on this license. Phoenix failed to submit suitability documents for Ms. Bentley while she was the 95% member of Phoenix and executrix of Mr. Connell's estate, in violation of Louisiana gaming law.

10. On May 31, 2011, Ms. Bentley sold her 95% membership interest in Phoenix to Mr. Deroche. Phoenix did not notify the Division of this transfer of interest until June 14, 2011, in violation of Louisiana gaming law.

11. Because the transfer of 95% membership interest to Ms. Bentley on October 13, 2010, and the transfer of 95% membership interest to Mr. Deroche on May 31, 2011, were membership transfers of fifty percent or more, Phoenix was required to pay a licensing fee of \$1,000.00 for each transfer. Phoenix failed to submit the first stock transfer fee of \$1,000.00 until August 15, 2012, in violation of Louisiana gaming law. Phoenix failed to submit the second stock transfer fee of \$1,000.00 until July 17, 2013, in violation of Louisiana gaming law.

12. On May 31, 2011, Ms. Bentley sold the property that the licensed establishment is located on to 941, LLC, whose sole member is Carlo DeMatteo. This sale was never disclosed to the Division, but was discovered during the course of the current investigation. Phoenix failed to disclose this transfer of the land and improvements on which the licensed establishment is situated to the Division, in violation of Louisiana gaming law.

13. On April 16, 2013, Phoenix provided the Division with a "Lease of Commercial Property" entered into with 941, LLC, dated May 31, 2011. The lease's term is written as June 1, 2011, through May 31, 2016. Phoenix failed to timely submit the lease to the Division, in violation of Louisiana gaming law, and only did so upon the Division's request.

14. On June 21, 2012, the Division received the 2012/2013 renewal application for Phoenix, which stated that there had been no changes in the prior ownership structure of the

company. The renewal application listed Mr. Deroche as the only member of Phoenix. Mr. Landry was not listed on the renewal application as a member or officer. Phoenix failed to provide the Division with the correct membership and officer information and complete contact information in its 2012/2013 renewal application, in violation of Louisiana gaming law.

15. The 2012/2013 renewal application, submitted on June 21, 2012, requested suitability documents for Mr. Landry. Phoenix failed to submit the required renewal suitability documents for Mr. Landry until July 15, 2013, in violation of Louisiana gaming law.

16. The 2012/2013 renewal application, submitted on June 21, 2012, requested suitability documents for Mr. Deroche. Phoenix failed to submit all of the required renewal suitability documents for Mr. Deroche until July 15, 2013, in violation of Louisiana gaming law.

17. On August 8, 2012, a ten (10) day demand letter was mailed to Phoenix requesting all suitability documents of Mr. Deroche including, but not limited to, an Affidavit of Full Disclosure; Request to Release Information; Release of All Claims; Personal History Questionnaire; Individual Consent to Disclosure of Tax Information; Personal Tax Returns; and two FBI Fingerprint cards. The 10-day demand letter was signed for on August 9, 2012. Mr. Deroche failed to submit the Personal History Questionnaire and Release of All Claims until July 15, 2013, in violation of Louisiana gaming law. Phoenix failed to respond in a timely manner to communications from the Division by failing to timely submit the requested suitability documents of Mr. Deroche as requested by a 10-day letter, in violation of Louisiana gaming law.

18. On October 10, 2012, the Internal Revenue Service (hereinafter, "IRS") informed the Division that Phoenix and Mr. Deroche were delinquent in the filing and/or payment of taxes and/or returns. On October 15, 2012, a thirty (30) day letter was personally served on Mr. Deroche, informing Phoenix and Mr. Deroche of the tax delinquencies and that they had 30 days

to remedy the tax delinquencies. Phoenix was not granted a clearance by the IRS until July 19, 2013. Mr. Deroche was not granted a tax clearance from the IRS until July 22, 2013. Phoenix and Mr. Deroche were delinquent in the filing and/or payment of Federal taxes and/or returns, in violation of Louisiana gaming law. Phoenix and Mr. Deroche failed to timely remedy their respective Federal tax delinquencies, in violation of Louisiana gaming law.

19. On December 11, 2012, the Louisiana Department of Revenue (hereinafter, "LDR") informed the Division that Phoenix and Mr. Deroche were delinquent in the filing and/or payment of taxes and/or returns. On January 11, 2013, a thirty (30) day letter was mailed by certified mail to Phoenix, informing Phoenix and Mr. Deroche of the delinquencies and that they had 30 days to remedy the tax delinquencies. The 30-day letter was signed for on January 12, 2013. On February 26, 2013, Phoenix and Mr. Deroche were granted tax clearances from LDR. On June 6, 2013, LDR reported to the Division that Phoenix and Mr. Deroche were again delinquent. Phoenix and Mr. Deroche did not receive clearances from LDR until July 22, 2013. Phoenix and Mr. Deroche were delinquent in the filing and/or payment of State taxes and/or returns, in violation of Louisiana gaming law. Phoenix and Mr. Deroche failed to timely remedy their respective State tax delinquencies, in violation of Louisiana gaming law.

20. Phoenix previously demonstrated a reluctance or inability to comply with the requirements of Louisiana gaming law.

TERMS AND CONDITIONS

1. In lieu of administrative action, Phoenix will pay a penalty of FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$5,500.00) for its violations of La. R.S. 27:427(D), La. R.S. 27:435(H)(5), LAC 42:XI.2405(A)(7), (9), and (13), LAC 42:XI:2405(B)(1)(b), LAC 42:XI:2417(B)(4), LAC 42:XI.2417(C)(1)(c), LAC 42:XI.2417(C)(1)(i).

2. The Division hereby agrees that payment of a penalty of FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$5,500.00) shall be in full and final settlement of all matters set forth in the Notice of Recommendation of Administrative Action for Phoenix's violations of La. R.S. 27:427(D), La. R.S. 27:435(H)(5), LAC 42:XI.2405(A)(7), (9), and (13), LAC 42:XI.2405(B)(1)(b), LAC 42:XI.2417(B)(4), LAC 42:XI.2417(C)(1)(c), LAC 42:XI.2417(C)(1)(i).

3. Phoenix shall immediately appoint a compliance manager, who will ensure that Phoenix stays in compliance with all laws and regulations, particularly with Louisiana gaming laws and regulations.

4. Phoenix shall immediately change its mailing address on record with the Division to that of a proper mailing address where it can receive any and all correspondences from the Board, the Division, and the Office of the Attorney General's Gaming Division, and shall ensure that it will receive such correspondences.

5. The Division reserves the right to take into consideration these admitted violations in connection with any future investigation, violation or assessment of penalty and in connection with any future assessments of Phoenix's suitability.

6. The terms of this Compromise and Settlement Agreement shall be interpreted under the laws of the State of Louisiana.

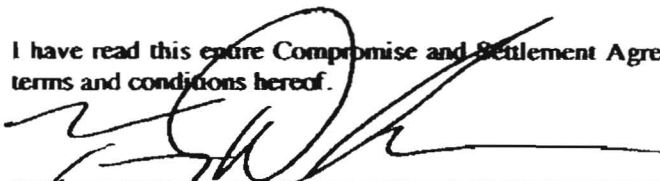
7. This Compromise and Settlement Agreement constitutes the entire agreement between the Division and Phoenix, pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties.

8. This Compromise and Settlement Agreement is subject to approval by the Hearing Officer and the Louisiana Gaming Control Board. It is expressly understood that if the


Hearing Officer approves this proposed settlement, this agreement is not thereby executory, but will be submitted to the Louisiana Gaming Control Board for its determination as to whether to approve same or to remand the matter to the Hearing Officer for a full hearing on the merits.

9. If approved, Phoenix agrees to make full payment of the civil penalty within fifteen (15) days of approval of this settlement by the Louisiana Gaming Control Board. Phoenix agrees that failure to meet this requirement shall result in immediate suspension of the video draw poker license without the necessity of any further administrative action until the penalty is paid in full.


I have read this entire Compromise and Settlement Agreement and agree to all stipulations and terms and conditions hereof.



**Tracy M. Desroche, 95% member of and on behalf of
The Phoenix Bar Complex, LLC d/b/a Phoenix**



**Allison U. Rovira, counsel for
The Phoenix Bar Complex d/b/a Phoenix**



**Dawn M. Himmel, AAG, on behalf of
State of Louisiana, Department of Public Safety &
Corrections, Office of State Police**

STATE OF LOUISIANA
LOUISIANA GAMING CONTROL BOARD
ADMINISTRATIVE HEARING OFFICE

RE: THE PHOENIX BAR COMPLEX, LLC
D/B/A PHOENIX

LIC. NO.: 3601114959


ORDER

BE IT REMEMBERED that on the 21st day of October, 2013, came on for consideration the Joint Motion for Approval of Compromise and Settlement Agreement, and the parties having appeared by and through their respective attorneys of record and/or authorized person, and the Hearing Officer having considered the pleadings on file, the proposed Compromise and Settlement Agreement, and the said Motion, and it appearing to the Hearing Officer that the said Compromise and Settlement Agreement should be approved; it is, therefore,

ORDERED, ADJUDGED, AND DECREED that the Compromise and Settlement Agreement attached to the parties' Joint Motion for Approval of Compromise and Settlement Agreement be, and the same is hereby, **APPROVED**; that The Phoenix Bar Complex, LLC d/b/a Phoenix must pay a total penalty of FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$5,500.00) to the Division within fifteen (15) days of approval by the Louisiana Gaming Control Board. Failure to do so shall result in the immediate suspension of the gaming permit without the necessity of any further administrative action until the penalty is paid in full.

SIGNED AND ENTERED this 21st day of October, 2013, in Baton

LOUISIANA GAMING CONTROL BOARD
Baton Rouge, Louisiana
21st 2013
cc: Allison R. ...
Tracy M. Derocche
Dawn ...
Sgt. ...


HEARING OFFICER RICHARD REYNOLDS
LOUISIANA GAMING CONTROL BOARD
HEARING OFFICE
BATON ROUGE LA 10-21-13
BY: CLERK 