



State of Louisiana
Gaming Control Board

JOHN BEL EDWARDS
GOVERNOR

RONNIE JONES
CHAIRMAN

**DECISION OF THE
LOUISIANA GAMING CONTROL BOARD**

**IN RE: S & I INVESTMENT, LLC D/B/A S & I INVESTMENT, LLC - No. 4900617125
ARNAUDVILLE PETROLEUM, LLC D/B/A TIGER DELI - No. 4900216854
S & I INVESTMENT, LLC D/B/A DIAMOND JUBILEE - No. 3601517512**

This matter is before the Louisiana Gaming Control Board on appeal by the State of Louisiana, Office of State Police, Gaming Enforcement Division (“Division”), of the decision of the Hearing Officer rendered December 18, 2019, wherein she ordered that the violations alleged in the Notices be amended to “provide proper notice ... of the particular statute the party(ies) is charged with violating and the nature, with particularity, of the alleged violation.” For the following reasons, we disagree with the Hearing Officer and will reverse.

LEGAL ANALYSIS

Notices of Recommendation of Revocation and Findings of Unsuitability were issued to S & I Investment, LLC d/b/a Diamond Jubilee, License No. 3601517512; Arnaudville Petroleum, LLC d/b/a Tiger Deli, License No. 4900216854; and S & I Investment, LLC d/b/a S & I Investment, LLC, License No. 4900617125, in June 2019. The cases were consolidated. A Motion, Application and Order for Clarification of the Issues was filed by the licensees in September 2019. The Division opposed the motion. After a hearing, the Hearing Officer ordered that the Notices be amended. The Division filed a Motion for Reconsideration. A hearing was held on the Motion for Reconsideration after which the Hearing Officer rendered a decision LGCB-5445-20-B

ordering amendment of the violations which should include “the particular statute the party(ies) is charged with violating and the nature, with particularity, of the alleged violation.”¹

The relevant statute in this matter and that which was relied on by the Hearing Officer is La. R.S. 49:955(B) which provides:

B. The notice shall include:

- (1) A statement of the time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and rules involved;
- (4) A short and plain statement of the matters asserted.

If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

In addressing adequate, reasonable notice in administrative proceedings, courts, interpreting La. R.S. 49:955(B), have stated that the requirement of notice in an administrative proceeding is not as strict or exacting as that in a judicial proceeding; notice must be reasonable under the circumstances of the particular case, and it serves the primary function of allowing the plaintiff the opportunity to prepare for the hearing. *Lambert v. Louisiana Board of Veterinary Medicine*, 489 So. 2d 1341, 1344 (La. App. 1st Cir. 1986) *writ denied*, 491 So. 2d 18 (La. 1986); *Buras v. Bd. of Trustees of Pol. Pens. Fund*, 430 So. 2d 237 (La. App. 4th Cir. 1983).

The Board addressed a similar issue *In the Matter of Louisiana Casino Cruises, Inc. d/b/a*

¹ In her decision, the Hearing Officer incorrectly stated the issue as, “Whether a more definite detailed statement be furnished regarding the alleged violations of the Licensees in the Notices of Recommendation of Revocation, Order of Immediate Emergency Suspension, and Findings of Unsuitability dated June 3, 2019.” The Notices at issue did not contain an Order of Immediate Emergency Suspension.
LGCB-5445-20-B

Casino Rouge, No. R011700193, January 19, 2000, wherein a Notice of Violation was found adequate when it cited the regulation and “set forth the factual circumstances upon which the notice of violation was based.” The Board found that adequate notice was provided to allow the licensee to prepare for the hearing and relied on *Lambert*.

The Notices in the instant matter are identical in form as all other Recommendation Notices issued by the Board. The first paragraph establishes the legal authority of Division to make the recommendation, the administrative action which is recommended, and the applicable provisions of each statute and regulation which form the basis for the recommendation. This is followed by allegations of fact which, if proven, show violations of the law and regulation cited.

There is no prescribed form needed to meet the requirements of La. R.S. 49:955(B) only that there is a reference to the particular sections of the statutes and rules involved and a short and plain statement of the matters asserted.

In the instant matter, we find that the Notices issued not only met but exceeded the requirements of La. R.S. 49:955(B). Particular sections of the statutes and rules were cited. A detailed statement of the matters asserted was given. The factual allegations were specific and definite. For example, La. R.S. 27:417(A)(2)(a) and (e) was cited which provides:

- A. As used in this Chapter, a qualified truck stop facility shall mean a facility covering at least five developed contiguous acres which sells fuel, lubricating oil, and other vehicular merchandise, such as batteries, tires, or vehicle parts for eighteen-wheel tractor-trailers, and which also meets all of the following criteria:

• • •

- (2) It must have an onsite restaurant, except for reason of force majeure affecting the ability to maintain the on-site restaurant for a reasonable period of time as determined by the division following the interruption of such ability, which for the purposes of

qualifying as a qualified truck stop facility, shall be required to have only the following features:

- (a) Provides seating for at least fifty patrons, with all seats located within a centralized area.

• • •

- (e) In Orleans Parish, qualified truck stop facility restaurants shall provide full table service for sit-down meals.

The allegations contain the following statement:

The investigators then inspected the truck stop's purported on-site restaurant and discovered that it only has seating for thirty-two patrons, less than the fifty seats that are required by gaming law.

Another example regards allegations of hidden ownership. LAC 42:XI.2405(B)(1)(a) and

(6) were cited which provides:

B. Requirements for Licensing

1.a. No person shall be granted a license, and no license shall be renewed unless the applicant demonstrates to the division that he is suitable for licensing, and thereafter continues to maintain suitability, as provided in the Act.

• • •

6. Upon discovery, hidden ownership, whether by counter letter or other device or agreement, whether oral or written, shall constitute grounds for immediate suspension, revocation or denial of a license or application.

The factual allegations regarding hidden ownership began with a section titled: **Hidden Ownership of the ... Licensed Establishment.** This is followed by five (5) paragraphs providing detailed allegations that form the basis of the violation. Nothing more is needed.

The licensees' argument regarding the reading of La. R.S. 49:955(B) is clearly in error.

The statute requires a short and plain statement of the matters asserted and further provides that “**IF** the agency ... is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved.” Emphasis added.

This provision is not applicable in the present case. The Board was able and did, in fact, state the matters in detail. The Notices contained allegations which were stated with specificity. The Notices did not just provide a “statement of the issues involved” but provided specific reference to each provision of statute or regulation that was a basis of the recommended action.

Counsel for the licensees argues that any time a request is made, “a more definite and detailed statement shall be furnished.” This is also a misinterpretation of the statute. La. R.S. 49:955(B) provides:

If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice **may be limited** to a statement of the issues involved. **Thereafter, upon application, a more definite and detailed statement shall be furnished.** Emphasis added.

A more definite and detailed statement is required only when the agency is unable to provide such a statement in the initial notice.

Only the relevant provisions of statute and regulation were cited. The licensees were not required to pick out which provisions of each statute and regulation were at issue. This meets the requirement of La. R.S. 49:955(B) (3) which requires “a reference to the particular sections of the statutes and rules involved.” Furthermore, all licensees are required to know the law and regulations. LAC 42:XI.2405(A)(10)(b) and (c) requires an applicant for a video gaming license to certify that the applicant has read the law and rules and agrees to comply with them. Additionally, approximately 6 months before the Notices of Recommendation were sent, the

licensees were given detailed notice of the facts which were alleged to show violation of law and regulation and the specific provisions of the statute and regulations alleged to be violated. This occurred in the "Notice of Availability of Compliance Conference." Prior to this, starting in 2017, the Division conducted several compliance inspections of the licensed establishments and informed the licensees of violations found.

The factual allegations were in extreme detail. La. R.S. 49:955(B)(4) requires a short and plain statement of the matters asserted. The Notices far exceeded this requirement. Nothing more is required by law or common sense.

We find the Notices meet all requirements of La. R.S. 49:955(B).

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of February 20, 2020:

IT IS ORDERED THAT the decision of the Hearing Officer is **REVERSED**.

THUS DONE AND SIGNED on this the *20th* day of *February*, 2020.

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 *20th* DAY
OF *February*, 20*20*.



CLERK