



*State of Louisiana*  
*Gaming Control Board*

*KATHLEEN BABINEAUX BLANCO*  
*GOVERNOR*

*H. CHARLES GAUDIN*  
*CHAIRMAN*

*ANNE LACOUR NEEB*  
*EXECUTIVE DIRECTOR*

**DECISION OF THE  
LOUISIANA GAMING CONTROL BOARD**

**IN RE: MICHAEL NOVAK**

**NO. P040037516**

This is an appeal by Michael Novak, a non-key gaming employee permittee, of the Hearing Officer's decision revoking his permit.

A "Notice of Recommendation of Revocation and Immediate Emergency Suspension" was issued by the Louisiana Gaming Control Board ("Board") based on the allegations of the Louisiana State Police, Casino Gaming Division ("Division") that Mr. Novak, in his position as slot attendant, underpaid two slot jackpots, misappropriated the funds, and had a pending felony theft charge for the theft. A hearing on the emergency suspension was held at which time the charge had been dismissed and the Hearing Officer lifted the suspension. Following the hearing on the merits of revocation, the Hearing Officer found that Mr. Novak "short changed" a patron and by doing so, poses a threat to the effective regulation and control of gaming. The Hearing Officer revoked Mr. Novak's permit. From this decision, Mr. Novak appeals.

After careful review of the record, we adopt the Hearing Officer's decision as our own and attach a copy hereto.

# ORDER

IT IS ORDERED THAT the Hearing Officer's decision revoking Michael Novak's non-key gaming employee permit, No. P040037516, is **AFFIRMED**.

THUS DONE AND SIGNED on this the 20 day of July, 2004.

BY:   
\_\_\_\_\_  
H. CHARLES GAUDIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 22<sup>nd</sup> DAY  
OF July 2004  
APPEAL DOCKET CLERK

**STATE OF LOUISIANA  
GAMING CONTROL BOARD**

**ADMINISTRATIVE HEARING  
MARCH 16, 2004**

**HEARING OFFICER  
JOSEPH E. ANZALONE, JR.**

**IN RE: MICHAEL O. NOVAK  
#P040037516**

**IN RE: MICHAEL O. NOVAK  
#P040037516**

**APPEARANCES:**

For the State of Louisiana:

Ms. Olga Bogran  
Assistant Attorney General  
365 Canal Place  
One Canal Place, Suite 2730  
New Orleans, LA 70130

Mr. Michael O. Novak  
313 ½ West Napoleon  
Apartment B  
Sulphur, LA 70663  
In Proper Person

**STATEMENT OF THE CASE:**

The Louisiana State Police, Casino Gaming Division ("Division") recommends the revocation of the non-key gaming employee permit held by Mr. Michael Novak, alleging that charges of felony theft are currently pending against him in the 14<sup>th</sup> Judicial District Court, Parish of Calcasieu. The Division alleges Mr. Novak misappropriated funds from the casino by deliberately underpaying jackpots to patrons and should be declared unsuitable for licensing.

In connection with the proposed revocation the Gaming Control Board on January 15, 2004, issued a Notice of Recommendation of Revocation, Order of Immediate Emergency Suspension, and Notice of Hearing, immediately suspending the privileges of the permit and ordering a hearing on the Emergency Suspension on January 27, 2004.

Within days of the hearing on the hearing on the Emergency Suspension, the charges of theft lodged against the permittee were dismissed.

The Division chose to proceed to revoke the permit on the basis that Mr. Novak had deliberately "short changed" persons in paying of slot machines winnings and should, therefore be declared unsuitable.

On January 27, 2004, this court lifted the immediate emergency suspension of Mr. Novak's permit and set the matter for final revocation on March 16, 2004.

**STATE'S EVIDENCE AND CONTENTIONS:**

The State has offered, filed, and introduced, into evidence an exhibit file marked S-1 (in globo) and containing the following documents:

1. Non-Key Gaming Employee Permit submitted by Michael Novak on February 25, 2002;
2. Isle of Capri Grand Palais-Transaction Report dated October 16, 2003;
3. Calcasieu Correctional Facility Booking Report dated November 20, 2003;
4. Notice of Recommendation or Revocation, Order of Immediate Emergency Suspension, and Notice of Hearing dated January 15, 2004;
5. Application for Employment for Michael O. Novak;
6. Session Four Performance Review for Michael Novak dated August 20, 2003;
7. Notice of Disqualification of Benefits dated March 23, 2003, from Isle of Capri Casino;
8. Decision of Administrative Law Judge dated February 18, 2004;
9. Isle of Capri-Grand Palais Transaction Report for October 16, 2003;
10. Photograph of Casino Employee and Slot Machine;
11. Isle of Capri-Grand Palais Transaction Report for October 16, 2003;
12. Videotape of Slot Attendant Theft;
13. Floor Plan for Isle of Capri-Grand Palais

Division witness, Mr. Daryl Bell, testified regarding a surveillance video tape. The tape was made by the Director of Slots, Mr. Connelly, for the purpose of viewing a variance of \$100.00. After viewing the tape, Mr.

Bell and Mr. Connelly came to the conclusion that Mr. Novak made an error on one of the slot transfers.

Division witness, Mr. Todd Connelly, testified he is employed as Director of Slot Operations at Isle of Capri Casino in Lake Charles, LA, and has over thirteen years experience with slot machines. Mr. Novak's transactions were brought to his attention by a shift manager, Mr. Novak was put on investigative suspension, and Mr. Connelly reviewed surveillance tapes of Mr. Novak's activities.

The activity in question occurred on a non-ticket game, wherein winnings over a certain amount are not paid by the gaming machine, but the patron is issued a ticket with a bar code, and a slot technician scans the bar code and pays the patron the amount of the winnings. The first jackpot examined was in the amount of \$1052.00. Once a winning ticket is issued the machine "locks" and cannot be activated without the assistance of a slot technician. Mr. Novak, as the technician, would have approached the patron, scanned the ticket and written down the amount of the jackpot, the date, the time, machine number, and machine location. Mr. Novak would have taken the ticket and typed it into a separate computer to verify the jackpot amount, after verification the slot technician pays the guest and reactivates the machine.

Mr. Novak alleges the original jackpot slip was for \$1152.00, although the sign above the slot machine read \$1051.00 plus pennies. This particular jackpot was issued by a progressive machine. The casino found a variance of \$100.00 between the amount Mr. Novak paid to the patron and the amount on the ticket voucher. Further investigation by casino personnel revealed Mr. Novak had variances totaling more than \$1000.00.

As a result of his activity, Mr. Novak was arrested, charged and the charges were dismissed.

#### PERMITEE'S EVIDENCE AND CONTENTIONS:

The permitte offered, filed, and introduced into evidence the following documents:

- Permittee-1. Statement of Charles Peterson;
- Permittee-2. Corrective Action Notice dated November 20, 2003;
- Permittee-3. Corrective Action Notice dated October 17, 2003;
- Permittee-4. Compliance Review dated September 12, 2003;
  
- Proffer-1. Document of verifier regarding pay out;

### FINDINGS OF FACT:

At issue is whether or not Michael Novak deliberately "short changed" a customer on the pay off of a slot machine jackpot and, therefore, should be deemed to be unsuitable for licensing.

Employees are instructed in the manner of paying slot machine jackpots. Each carries a pouch with a sum of money. In Mr. Novak's case it was \$8,000.00. When a person hits a jackpot too large for the machine to pay automatically, it is paid by the casino attendant from the "pouch." When a jackpot is hit the machine "locks up." It will remain unplayable until it is restarted by the attendant. The attendant writes the amount of the jackpot on a slip of paper. It is verified by another person in the employ of the casino and the customer. The attendant then in a loud voice and with distinct hand motions which are recorded by surveillance cameras, counts out to the customer the amount of the jackpot. When a jackpot is \$1,052.00, as in the instant case, the counting motions must be no less nor more than thirteen. (10 bills of \$100.00; one bill of \$50.00; and two bills of \$1.00.) The attendant cannot pay in more bills and certainly not less because of the non-existence of currency amount.

The attendant replenishes his pouch by bringing the copy to the cashier, who repays the attendant the amount paid when the jackpot is verified.

When the jackpot cannot be paid from the "pouch" or the machine the attendant fills out a slip containing the amount of the jackpot. The

original is given to the customer who cashes it in at the cashier. After the transaction is completed the machine is restarted.

In the instant case an Asian customer, who reportedly was unable to converse in English, hit a jackpot for \$1,052.00. The attendant counts out a payoff with five hand motions, which cannot amount to more than \$500.00. The location of the machine and the counting maneuver is verified by a detail of the location of the machine in the casino.

Mr. Novak insists that he did pay a \$500.00 jackpot during his shift and this transaction was the incident shown on the surveillance tape.

The exact location of the machine involving the \$500.00 payoff and the location of the machine involving the \$1,052.00 are some 25 feet apart. The jackpot on the \$500.00 machine was at 7:25 PM and the jackpot on the \$1,052.00 machine was at 8:16 PM.

Mr. Novak contends that he paid someone \$500.00 during his shift. He has identified himself as the person in the surveillance tape paying a sum of money with five hand motions. However, he did not receive reimbursement for \$500.00 during that shift, which is self evident that he did not pay out \$500.00 as he maintains. Further, the position of the person paying out the sum of money with five hand motions is firmly established as being in front of the machine with the \$1,052.00 jackpot. Since that person uses five hand motions and Mr. Novak has identified that person as himself, this court can only conclude the attendant to be Mr. Novak and that he counted out \$500.00.

Mr. Novak, by virtue of the limited number of hand motions, is found to have probably and deliberately "short changed" a patron.

#### **APPLICABLE LAW:**

La. R.S. 27:28(A) provides in pertinent part:

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 provision 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:

- (1) A person of good character, honesty, and integrity.
- (2) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of the state or to the effective regulation and control gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct or gaming or carrying on of the business and financial arrangements incidental thereto;

La. R.S. 27:28(F) provides:

All licensees, all permittees, the casino gaming operator, any other persons who have been found suitable or approved by the board or division shall maintain suitability throughout the term of the license, permit, casino operating contract, or approval. In the event of a current prosecution of an offense as provided in R.S. 27:28(B)(2), the board or division where applicable, shall have the discretion to defer a determination on a person's continuing suitability pending the outcome of the proceedings provided that if a decision is deferred pending such outcome the board, or division where applicable, may take such action as is necessary to protect the public trust, including the suspension of any license or permit.

La. R.S. 27:58(9) provides:

The division shall:

- (9) Ensure that licenses or permits are not issued to or held by a disqualified person, and that there is no material involvement,

directly or indirectly, with a licensee by a disqualified person in accordance with R.S.27:28.9.

**REASONS FOR DECISION:**

The law appertaining to the effective control of gaming or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming must demand regulations and practices that insure a system that offers proof of proper payouts to gaming customers. This regulation was in place and Mr. Novak had been well schooled in the procedure.

This court must find that "short changing" as is evident in the instant proceedings, amounts to an act which would demand that one conclude Mr. Novak's actions to be that which poses a threat to the effective regulation and control of gaming.

The charges against Mr. Novak which formed a part of the basis for the issuance of the Notice of Recommendation of Revocation, Order of Immediate Emergency Suspension, and Notice of Hearing cannot be considered because they were dismissed by the Prosecuting Attorney.

This writer concludes that Mr. Novak is unsuitable for licensing and his permit should be revoked.

IN RE: MICHAEL O. NOVAK  
#P040037516

JUDGMENT

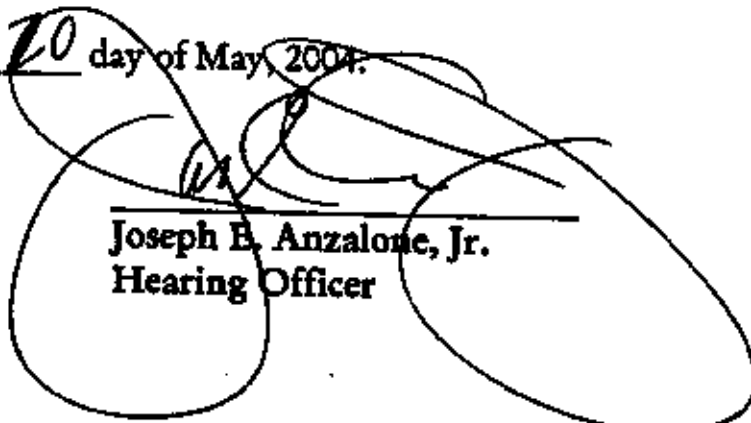
When, after a review of the evidence and argument of the participants and for the reasons aforesaid,

IT IS ORDERED, ADJUDGED AND DECREED that the Non-Key Gaming Employee permit now held by Michael O. Novak, be and is hereby REVOKED.

Baton Rouge, Louisiana, this 20 day of May, 2004.

LOUISIANA GAMING CONTROL BOARD  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 20 DAY  
OF May 2004  
Joseph B. Anzalone, Jr.  
DOCKET CLERK, ADMINISTRATIVE HEARING OFFICE

cc: Michael O. Novak  
Olga Bogran  
Sgt. Rock Schermyde

  
\_\_\_\_\_  
Joseph B. Anzalone, Jr.  
Hearing Officer

A TRUE COPY ATTEST  
LOUISIANA GAMING CONTROL BOARD  
HEARING OFFICE  
BATON ROUGE, LA 5-20-04

Seraine Haynes  
BY: CLERK