



JOHN BEL EDWARDS
GOVERNOR

RONNIE S. JOHNS
CHAIRMAN

DECISION OF THE LOUISIANA GAMING CONTROL BOARD

IN RE: BAYOU BEER GARDEN, LLC D/B/A BAYOU BEER GARDEN NO. 3601116006A

The State of Louisiana, Office of State Police (the Division), filed this appeal in the matter of Bayou Beer Garden, LLC d/b/a Bayou Beer Garden (the Licensee). The Division is appealing the Hearing Officer's decision rendered on August 25, 2022, wherein a penalty of \$1750.00 was assessed for failure to notify of two management changes and failure to timely notify the Division of a marriage. On September 6, 2022, the Division filed a Motion for Reconsideration of Decision. That motion was Denied on September 14, 2022.

On June 30, 2021 Louisiana Office of State Police received a Video Draw Poker Renewal Application and Record Update Form from Bayou Beer Garden for its Type 1 video draw poker gaming license. The renewal application disclosed that Fiona D. Shore holds 51%, Dean J. DiSalvo holds 39%, and John David Demarest holds 10% of the membership interest in the Licensee. This information differed from the records of the Division.

Investigation by the Division revealed that the Licensee failed to notify the Division of two separate transfers of membership interest. On January 1, 2021, Dean DiSalvo transferred 1% of his membership interest to Fiona D. Shore and on April 21, 2021, he transferred 10% of his membership interest to John David Demarest, JR. It was also discovered that Dean DiSalvo married Jennifer DiSalvo on October 9, 2010.

The Hearing Officer determined that a penalty of \$500.00 for the first management change would be assessed and \$1000.00 for the second. The failure to timely notify of the marriage was assessed according to the penalty schedule, which is \$250.00. Fines were assessed at a total of \$1750.00.

LAC 42:XI.2417(B)(4) provides that all licensees and permittees shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including DWI; however, minor traffic violations need not be included. All licensees and permittees shall have a continuing duty 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 or the ability to conduct the activities for which the licensee or permittee is licensed or permitted. Such notification shall be made within ten calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action

LAC 42:XI.2424 (A) states that pursuant to La. R.S. 27:432, in lieu of other administrative action, the Division may impose a civil penalty as provided for in the penalty schedule contained in LAC 42:XI.2424 (B). The Hearing Officer incorrectly classified the transfer of membership interests as management changes. A transfer of membership change is not a management change, it is a change in the ownership of the licensee. Transfers of membership interests are not on the penalty schedule.

Factors that should be considered are length of time between transfer and notification, whether the transferee had previously met suitability, whether the transferee was required to meet suitability, past violations, whether the transferee was determined unsuitable, and whether the licensee notified or it was discovered by the Division.

LAC 42:XI.2424 (B) provides that failure to notify the Division of a marriage should be assessed at \$250.

In the present case, there were two transfers of membership interest that were not timely disclosed. There was also one marriage that was not timely disclosed. One of the transfers was made to an individual who had already met suitability, but the licensee failed to notify for four months. The other transfer was to an individual that had not met suitability. They received gaming revenue for a period of two months while not having been through a suitability investigation. The last, was a marriage that occurred in 2010 and it was not discovered by the Division until August 2021. The Licensee did disclose this information in their renewal application, just not within the 10 days as required by law. These are the first violations for the Licensee.

ORDER

This matter having been considered by the Louisiana Gaming Control Board on appeal by the Division, from the Hearing Officer's decision dated August 25, 2022, in an open meeting of November 17, 2022:

IT IS ORDERED that the Hearing Officer's Decision as to the fine of \$250.00 for failure to timely disclose a marriage be increased to \$500.00. The Board does note that the penalty was increased because the Licensee failed to notify the Division of the marriage for eleven (11) years. This amount of time is unacceptable and why the Board did not follow the penalty schedule.

IT IS FURTHER ORDERED that the fine of \$1500.00 is affirmed. However, for the purpose and reasons set forth in this decision, we clarify that these fines are assessed for transfers of ownership interest, not management changes.

THUS DONE AND SIGNED on this the *18th* day of *November*, 2022.

LOUISIANA GAMING CONTROL BOARD

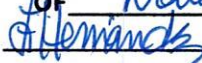
BY:



RONNIE S. JOHNS, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD

I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON

ALL PARTIES THIS 18th DAY
OF November, 2022


APPEAL DOCKET CLERK