



*State of Louisiana*  
*Gaming Control Board*

*BOBBY JINDAL*  
*GOVERNOR*

*DANE K. MORGAN*  
*CHAIRMAN*

**DECISION OF THE  
LOUISIANA GAMING CONTROL BOARD**

**IN RE: ROBERTSON'S LOUNGE, INC. D/B/A ROBERTSON'S LOUNGE  
NO. 3601111215**

This matter is before the Louisiana Gaming Control Board on appeals by Robertson's Lounge, Inc. d/b/a Robertson's Lounge, No. 3601111215, and the State of Louisiana, Department of Public Safety and Corrections, Office of State Police (the "Division"), from the Hearing Officer's decision dated July 2, 2010.

Robertson's Lounge has a license to operate video gaming devices in its bar. Yolanda Stewart is an owner of Robertson's Lounge. She is married to Carl Stewart. There is no allegation by the Stewarts or proof that Ms. Stewart's ownership interest is her separate property.

The Division recommended the revocation of Robertson's Lounge's video gaming license and the finding of unsuitability of Yolanda Stewart and Carl Stewart. After a hearing, the Hearing Officer revoked the license, found Yolanda Stewart unsuitable, and dismissed the "action seeking a determination of unsuitability of Carl Stewart." From this decision, both parties appeal.

**ANALYSIS**

**Suitability of Spouse, Carl Stewart**

The first issue to be addressed is the Hearing Officer's finding that Carl Stewart is not required to meet suitability. The Louisiana Gaming Control Board has previously held:

In this state, generally, property acquired during a marriage is community property and each spouse owns 50% of this property. La. C.C. arts. 2334 and 2336. Louisiana Revised Statute 27:310(D) of the Video Draw Poker Devices Control Law,

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requires that “[e]very person who has or controls directly or indirectly more than a five percent ownership ... interest in an entity which has or applies for a license ... meet all suitability requirements and qualifications for licenses.” Therefore, the spouse of a business owner must undergo a suitability investigation if the business is community property. *In Re: Trudeau Tavern, Inc., No. 2600601103, LGCB Decision, 5-20-98.*

Pursuant to La. R.S. 27:310(D), a “spouse must meet all suitability requirements and submit to a suitability investigation.” *In Re: Petition for Declaratory Order of H.W.T. Properties, Inc., No.510130051, LGCB Ruling, 5-18-00.*

There are no allegations or proof presented by Robertson’s Lounge or the Stewarts that Yolanda Stewart’s ownership interest is her separate property. Yolanda Stewart’s spouse, Carl Stewart, must meet suitability. See also, *In Re: Donea Benandi d/b/a Payton’s Place Pizza and Burgers, No. 3800209234, LGCB Decision, 5-20-98<sup>1</sup> ; In Re: Petition for Declaratory Order of H.W.T. Properties, Inc., No.510130051, LGCB Ruling, 5-18-00; La. Civ. Code arts. 2339 and 2340.* The portion of the Hearing Officer’s decision finding otherwise will be reversed.

Suitability requirements are set forth in La. R.S. 27:310 which provides, in pertinent part:

A. No person may be eligible to apply or be granted a license under the provisions of this Chapter if he has been convicted in any jurisdiction of any of the following offenses within ten years prior to the date of the application or less than ten years has elapsed between the date of application and the successful completion or service of any sentence, deferred adjudication, or period of probation or parole for any of the following:

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<sup>1</sup> In *Payton’s Place Pizza and Burgers*, the Board held that La. R.S. 27:310(D) “prohibits the use of a sham or simulated transaction in which a disqualified or otherwise unsuitable person may attempt to circumvent the gaming law of this state by, on paper, transferring all assets and ownership interest in a business to a suitable person but otherwise indirectly maintaining control or remaining influentially involved in the operation of the business. ... A partition of community may be a legitimate step in actually separating a non-qualified or unsuitable spouse from any involvement in a license and qualified gaming establishment. However, neither the Civil Code, nor the classification of property as separate or community thereunder, prohibits or limits the application of La. R.S. 27:310(D) to the non-owner spouse. It does not bar the Division from looking beyond the transaction and classification of property in order to strictly and effectively regulate under Title 27 of the Revised Statutes. In fact, regardless of the application of Title VI of the Civil Code to a gaming business, the Division is statutorily required to conduct an investigation to determine whether, under La. R.S. 27:310(D), the transaction was accomplished in order to circumvent the provisions of La. R.S. 27:310; whether [the spouse] “has the ability, in the opinion of the division, to exercise a significant influence over the activities of a licensee...” and whether [the spouse] directly or indirectly controls an income or profit interest in an entity. Additionally, the Division has the authority and duty to look beyond any affidavit or statement in which an applicant or spouse swears that the non-owner spouse will not participate in the operation of the business.

- (1) Any offense punishable by imprisonment for more than one year.
- (2) Theft or any crime involving false statements or declarations.
- (3) Gambling as defined by the laws or ordinances of any municipality, any parish, any state, or the United States.

On January 16, 2001, Carl Stewart pled guilty to a felony, violation of La. R.S. 40:967(C)(2), possession of crack cocaine, and was sentenced to two years active probation. Ten years has not elapsed since the completion of probation. Mr. Stewart is not qualified and is therefore unsuitable.

### Hearsay

Robertson's Lounge objected to the introduction of Exhibits 20, 21, and 23 on the basis that these exhibits were inadmissible hearsay evidence and of Exhibit 24 on the basis that the chart was not representative of the evidence and testimony.<sup>2</sup> The Hearing Officer overruled the objection. Robertson's Lounge raises this ruling on appeal.

Hearsay is admissible in administrative proceedings. It may also be determined to be "competent" evidence in administrative proceedings if the evidence has some degree of reliability and trustworthiness and is of the type upon which reasonable persons can rely. The determination of the reliability of the evidence is made on a case by case basis. *Chaisson v. Cajun Bag & Supply Co.*, 97-1225 (La. 3/4/98), 708 So. 2d 375; La. R.S. 49:956; and La. C.E. art. 1101.

Exhibits 20, 21, and 23 relate to the alleged gambling activities occurring at Robertson's Lounge. The Hearing Officer found the "evidence introduced at the hearing ...regarding gambling activities at Robertson's Lounge and the participation of Yolanda Stewart in these activities was inconclusive and insufficient to meet the burden of establishing the existence of such activities." The evidence was admissible. We find no error in the consideration given this

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<sup>2</sup> Exhibit 20 – Evidence and Property Receipt  
Exhibit 21 - Affidavit for Arrest Warrant of Yolanda Stewart  
Exhibit 23 – Interview Transcript of Thomas Antoine  
Exhibit 24 – Division Chart

evidence by the Hearing Officer as it relates to competency. The determination by the Hearing Officer allowing the introduction of Exhibits 20, 21, and 23 was correct.

Exhibit 24 is a chart prepared by the Division's attorney outlining the information and documents submitted to the Division and the Secretary of State's office. It was introduced as an aid to the fact finder. This was not the only evidence produced regarding the information and documents. Exhibits 1 – 19 include information and documents relied upon by the Division in supporting its recommendations of revocation and findings of unsuitability. Robertson's Lounge's argument regarding Exhibit 24 is without merit.

### **Revocation and Finding of Unsuitability of Yolanda Stewart**

We adopt the Hearing Officer's "Findings of Fact" and "Applicable Law." We agree with the ruling of the Hearing Officer wherein he found:

Yolanda Stewart and Robertson's Lounge, Inc. d/b/a Robertson's Lounge through its activities and representation made numerous repeated misrepresentations of material facts relating to Robertson's Lounge, Inc. d/b/a Robertson's Lounge and/or failed to disclose required information to the Louisiana Office of State Police regarding the Type 1 Video Poker license of Robertson's Lounge, Inc. d/b/a Robertson's Lounge in contravention to the requirements of Louisiana law. Accordingly, Yolanda Stewart is deemed unsuitable regarding the video poker license of Robertson's Lounge, Inc. d/b/a Robertson's Lounge. Further, Robertson's Lounge, Inc. d/b/a Robertson's Lounge has failed to comply with the requirements of Louisiana law for possession of a Type I Video Gaming License.

Furthermore, the presence on the licensed establishment's premises of gambling chips, playing cards, football pool papers, and firearms "enhance the dangers of unsuitable, unfair, or illegal practices, methods, and operations" and indicate that the licensee is not "likely to conduct business" as authorized by the Louisiana Gaming Control Law. La. R.S. 27:310. The legislature has declared that "the success and growth of gaming are dependent upon public confidence and trust that gaming activities and particularly video draw poker gaming activities are conducted honestly and are free from criminal and corruptive elements." To this end, the state "has a legitimate interest in

providing strict regulation of all persons, practices, associations and activities related to the operation of licensed establishments.” La. R. S. 27:306(A)(1).

Based on the facts and law and for the foregoing reasons, we find Carl Stewart and Yolanda Stewart unsuitable and agree with the revocation of the license of Robertson’s Lounge.

## ORDER

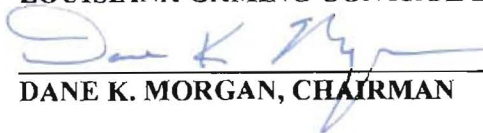
This matter having been considered by the Louisiana Gaming Control Board in open meeting of October 21, 2010:

**IT IS ORDERED THAT** the Hearing Officer’s ruling dismissing the action seeking a determination of the suitability of Carl Stewart is **REVERSED**; Carl Stewart is found **UNSUITABLE**; the finding that Yolanda Stewart is unsuitable is **AFFIRMED**; and the revocation of the license of Robertson’s Lounge, Inc. d/b/a Robertson’s Lounge is **AFFIRMED**.

**THUS DONE AND SIGNED** on this the *21<sup>st</sup>* day of *October, 2010*.

**LOUISIANA GAMING CONTROL BOARD**

BY:

  
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**DANE K. MORGAN, CHAIRMAN**

**LOUISIANA GAMING CONTROL BOARD**  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 21<sup>st</sup> DAY  
OF October, 2010

APPEAL DOCKET CLERK

