



State of Louisiana

Gaming Control Board

M. J. "MIKE" FOSTER, JR.
GOVERNOR

HILLARY J. CRAIN
CHAIRMAN

DECISION OF THE LOUISIANA GAMING CONTROL BOARD

IN RE: DEEP DELTA KITCHEN

VP3800211756

Violation/Inspection Report No. 13201

This is an appeal by the Louisiana State Police Video Gaming Division (Division) from the decision of the Hearing Officer assessing a \$15.00 fine against licensee, Deep Delta Kitchens.

Regardless of the expiration date of the license, each video gaming licensee is required to submit to the Division on or before July 1st of each calendar year the following: a state and a local tax clearance certificate, a \$100.00 annual licensing fee and a \$100.00 annual processing fee accompanied by a completed annual licensee form (annual license requirements). La. R.S. 27:311(K)(4)¹; L.A.C. 42:XI.2405(B)(4) and (7)². Deep Delta Kitchen submitted the annual license requirements by mail,

¹La. R.S. 27:311(K) provides in pertinent part:

(4) Each license issued is contingent upon the payment by July first of each year of the annual fees required in this Section. Failure to submit the annual fee before July first of each year is cause for immediate suspension or revocation of the license. Each license issued is also contingent on the continuation of the authority in each parish to operate video draw poker devices.

² L.A.C. 42:XI.2405(B) provides in pertinent part:

(4) The appropriate annual fee shall be paid by all licensees regardless of the expiration date of the license on or before July 1 of each year.

.....
(7) All applications shall include the name of the owner(s) of the premises on which the establishment is located. Proof of current tax filings and payments, including tax clearance certificates from the state and all appropriate local taxing

postmarked July 14, 2001. The Division received the packet on July 16, 2001. Based on the above, the Division subsequently recommended the issuance of a "Notice of Violation and Hearing" (Violation/Inspection Report No. 13201), citing the licensee for failure to timely comply with La. R.S. 27:311(K)(4) and L.A.C. 42:XI.2405(B)(4) and (7).

A review of the record reveals that on or about February or March of 2001 the Division mailed a packet to all licensees whose video gaming licenses were not set to expire on July 1st. The packet contained an "Annual Licensee Form" (DPSSP 6643) instructing the licensee to submit the completed form, the requisite fees and tax clearances to the Division on or before July 1, 2001 (the original notice).³ Subsequently, the Division sent a letter dated June 20, 2001, titled "Second Reminder and Caution" (the second notice) to the licensees from whom the Division had received no response, urging them to timely comply.⁴

Carol Turner, owner of Deep Delta Kitchen, acknowledged having received the packet containing the "Annual Licensee Form" and accompanying instructions (the "original notice") stating: "Granted the first notice that I received about the license fee came earlier that year. I'm a person that's not too good on bookkeeping. I really am not. The second notice was in this pile of mail that was held in the box."

The Hearing Officer found that Ms. Turner was denied mail service "from the period on or before

authorities shall be submitted to the division along with the annual fee as provided in Subsection B.4.

³ See page 31 of the record.

⁴ State Exhibit No. 3

June 20 until after July 1"; when the box was opened she had no inkling there was yet undelivered mail; and several days or weeks later (after July 1st) she received 52 pieces of mail. The second notice was among the undelivered mail. The Hearing Officer found the licensee was 15 days tardy in submitting the fees, tax clearances and annual license form. He found, however, that under the circumstances of this case, justice would be served by the issuance of a fine of \$1.00 for every tardy day (\$15.00).

The Division contends that Ms. Taylor's difficulties with the postal service were resolved by June 17, 2001, prior to the mailing of the "second notice." In addition, even if Ms. Taylor had not received the "second notice" prior to July 1st, she undoubtedly received the "original notice" several months before the due date and still failed to comply with La. R.S. 27:311 and L.A.C. 42:XI.2405(B)(4) and (7). The Division further contends that in the interest of fairness and consistent treatment of all licensees, Deep Delta Kitchen should be assessed a fine of \$500.00, rather than the sum of \$15.00.

We need not decide whether the Hearing Officer was correct in finding that Ms. Taylor did not timely receive the "second notice" and if untimely received, whether it was due to the fault of the postal authorities because the "second notice" was a reminder, sent as a courtesy to licensees from whom the Division had received no response, reminding them of the July 1st deadline. Ms. Taylor received the "original notice" in ample time to comply with La. R.S. 27:311(K)(4) and L.A.C. 42:XI.2407 (B)(4) and (7), but apparently either forgot about it or ignored it. In her own words Ms. is "not too good on bookkeeping." The fact that a "second notice" may or may not have been timely received is immaterial. A gaming license is a privilege and gaming must be strictly regulated. As a gaming licensee, Ms. Taylor may potentially receive lucrative gaming proceeds. It is not too much to expect a gaming licensee to comply with statutory and regulatory requirements, regardless of whether she timely received a reminder to comply

with those requirements. Other gaming licensees in Ms. Taylor's situation were fined the sum of \$500.00.

There is no reason that Ms. Taylor should be fined any lesser amount.

Accordingly, the decision of the Hearing Officer should be amended to reflect a fine in the sum of \$500.00.

ORDER

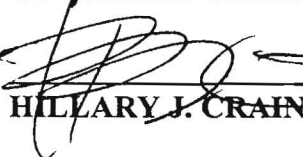
This matter having been considered by the Louisiana Gaming Control Board in open meeting of May 13, 2002:

IT IS ORDERED that the decision of the Hearing Officer is **AMENDED** to reflect a fine in the sum of \$500.00.

THUS DONE AND SIGNED this 16th day of May, 2002.

LOUISIANA GAMING CONTROL BOARD

BY:



HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
I HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 16th DAY
OF May 2002

APPEAL DOCKET CLERK

