



State of Louisiana
Gaming Control Board

KATHLEEN BABINEAUX BLANCO
GOVERNOR

HILLARY J. CRAIN
CHAIRMAN

**DECISION OF THE
LOUISIANA GAMING CONTROL BOARD**

**IN RE: M.T.M. ASSOCIATES, LLC D/B/A
SPORTSMAN'S PARADISE
NO. VP1001213031**

This is an appeal by M.T.M. Associates, LLC d/b/a Sportsman's Paradise, No. 1001213031, of the decision of the Louisiana Gaming Control Board's ("LGCB") Hearing Officer revoking its license for failure to meet the requirement of deriving at least sixty percent of its monthly gross revenues from the sale of food, food items, and nonalcoholic beverages as provided in La. R.S. 27:301(B)(12)(c).

LEGAL ANALYSIS

Chapter 6 of Title 27 contains provisions for the regulation of video draw poker. Louisiana Revised Statute 27:301(B)(12) contains the definition of restaurant which shall be used throughout Chapter 6 and provides as follows:

(B) As used in this Chapter, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise:

(12) "Restaurant" means an operating establishment primarily engaged in the retail sale of prepared foods for on-premises or immediate consumption that meets all of the following criteria:

(a) Has been granted a Class A-General retail permit or a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of

1950, for the sale of alcoholic beverages for on-premises consumption.

- (b) Serves food during the hours it is open to the public.
- (c) **Derives at least sixty percent of its monthly gross revenues from the sale of food, food items, and nonalcoholic beverages.**
- (d) Maintains financial records that segregate alcoholic beverages sales from food sales.
- (e) Operates a fully equipped kitchen which includes but is not limited to a range, an oven, and refrigerated storage appliances used for the preparation of uncooked foods for on-premises or immediate consumption. (Emphasis added.)

Video gaming licenses are issued to five types of establishments: bars, restaurants, hotels, racetracks (racetrack, pari-mutuel wagering facility or offtrack wagering facility) and truck stops. La. R. S. 27:301(B)(8). To be licensed as a restaurant, an establishment must meet the definition of restaurant as found in La. R. S. 27:301(B)(12).

The Hearing Officer found that an audit conducted May 1, 2003, and a supplemental audit conducted in November 2003, revealed the failure of the licensee to meet the sixty percent sales requirement.

In its appeal, the licensee alleges that it now meets the sixty percent requirement and has made an effort to maintain compliance and will continue to do so.

It is appropriate to remand the matter to the Hearing Officer for a determination of whether the licensee is now in compliance. If so, the Hearing Officer should further determine the length of time the licensee was out of compliance, and in lieu of revocation, amend his decision to suspend the license from the date the Hearing Officer renders a decision for the period of time the licensee was not in compliance.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of February 17, 2004:

IT IS ORDERED THAT the matter is **REMANDED** to the Hearing Officer to determine the length of time the licensee was out of compliance and amend his decision to suspend the license for that period of time, if the licensee is now in compliance.

THUS DONE AND SIGNED on this the 17th day of February, 2004.

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 17th DAY
OF February 2004

APPEAL DOCKET CLERK
