



State of Louisiana
Gaming Control Board

BOBBY JINDAL
GOVERNOR

RONNIE JONES
CHAIRMAN

**DECISION OF THE
LOUISIANA GAMING CONTROL BOARD**

**IN RE: VODOO, LLC D/B/A VODOO BAR
NO. 3601115312**

This matter is before the Louisiana Gaming Control Board (“Board”) on appeal by Voodoo, LLC d/b/a Voodoo Bar (“Voodoo Bar”), No. 3601115312, from the Hearing Officer’s decision dated April 30, 2014, in which the license was revoked because state tax clearances were not provided for the licensee’s owner, Michael Sheehan.

In its appeal, the licensee alleges that Michael Sheehan’s inability to obtain a tax clearance is not based on his personal tax liability, but on an associated business’, Straide, LLC’s, tax liability. The appellant asks that the Hearing Officer’s decision be reversed or, in the alternative, a penalty or suspension be imposed.

The Louisiana State Police, Gaming Enforcement Division (“Division”), requests that the Hearing Officer’s decision be affirmed. The Division argues that Michael Sheehan has had ample time to obtain a tax clearance and has failed to do so.

FINDINGS OF FACT

This matter began in July 2012 when the Division received notification from the Louisiana Department of Revenue that Voodoo, LLC d/b/a Voodoo Bar and Michael Sheehan, member of Voodoo, LLC, were delinquent in the filing or payment of state taxes and returns.

The Division notified the parties of this in November 2012. The parties remained ineligible for a tax clearance resulting in the issuance of a “Notice of Recommendation of Revocation” in April 2013.

The initial hearing on the recommendation of revocation was held in September 2013. The Division requested that the hearing be reopened. That motion was denied and a decision revoking the license was rendered on November 14, 2013. The Division filed a second Motion to Reopen. At the time the Division’s second motion for reopening was pending, Voodoo Bar appealed the decision to the Board. The Board dismissed the appeal finding that it lacked jurisdiction.

The Hearing Officer granted the Division’s second Motion to Reopen, Voodoo Bar having no objection, and a second hearing on the recommendation of revocation was held on March 31, 2014. At that time, Voodoo Bar had obtained a tax clearance, but Michael Sheehan had not. The Hearing Officer again ordered the revocation of Voodoo Bar’s license. The decision was rendered on April 30, 2014. It is from this decision that the licensee appeals.

A tax clearance status is certified by a representative of the Louisiana Department of Revenue (“LDR”) on a form provided by the Division (“Tax Clearance Form.”) This form has an area to indicate whether the tax clearance is “Granted” or is “Unable to be granted at this time.” The form has a signature line for the LDR representative and a line for the date of certification.

There were two hearings on the recommendation of revocation, September 9, 2013, and March 31, 2014. It was at these hearings that evidence was introduced concerning Michael Sheehan’s state tax status. At the September hearing, the Division introduced three (3) Tax Clearance Forms dated July 18, 2012, August 22, 2013, and September 4, 2013. On all three,

LDR denied a tax clearance to Michael Sheehan. The licensee introduced a letter dated September 9, 2013, that indicated that Michael Sheehan was “in good standing for all taxes collected by the Louisiana Department of Revenue.” This letter was signed by Robert Williams in LDR’s Collection Division.

At the March hearing, the Division introduced four (4) exhibits. The licensee did not introduce any evidence. There were three (3) Tax Clearance Forms dated September 11, 2013, February 6, 2014, and March 27, 2014. On all three, LDR denied a tax clearance to Michael Sheehan. Also introduced was a letter from Venessa Carter, Revenue Accounts Specialist, LDR Collection Division, dated September 12, 2013, in which was stated, “This is to certify that LDR notice of good standing issued on September 9, 2013, was issue [sic] in error in reference to Michael S Sheehan individual income taxes due to an outstanding debt on his business taxes.”

ANALYSIS

Voodoo Bar and Michael Sheehan do not dispute that Michael Sheehan, in his position as member of Voodoo, LLC, is required to “meet all suitability requirements and qualifications for licensees.” La. R. S. 27:427(D). The pertinent suitability requirement in this matter is that of being current in the filing and payment of state taxes. Louisiana Administrative Code 42:XI.2405(B)(1)(b) provides:

All applicants for a license and licensees shall be current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to ... the state of Louisiana excluding contested amounts pursuant to applicable statutes, and excluding items for which the Department of Revenue and Taxation ... have accepted a payment schedule of back taxes.”

In its appeal, the licensee argues that Mr. Sheehan’s inability to obtain a tax clearance is based on tax problems of a business to which he is associated, Straide, LLC, and not on his association with the licensee, Voodoo Bar, and therefore the Board should not consider Mr.

Sheehan to be delinquent in his personal taxes. There is no testimony in the record concerning Straide, LLC. The only mention of Straide, LLC in evidence is the September 12, 2013, LDR letter. In the reference section of the letter, the taxpayer is shown as Michael S Sheehan/Straide LLC. It is stated in the letter that the notice of good standing was issued in error “in reference to Michael S Sheehan **individual income taxes** due to an outstanding debt on his business taxes.” Emphasis added.

The rescission of the notice of good standing occurred on September 12, 2013. On three separate occasions thereafter, the LDR denied a tax clearance to Mr. Sheehan.

Mr. Sheehan is required to be current “in the payment of all taxes, interest and penalties owed” to the state. LAC 42:XI.2405(B)(1)(b). The state, through the Department of Revenue, has certified on numerous occasions that Mr. Sheehan is not current in the payment of taxes **he** owes. The reason he personally owes state taxes is irrelevant to a determination of whether he meets the requirements of LAC 42:XI.2405(B)(1)(b). There is neither proof nor allegation that the tax clearance denials were issued in error.

The licensee attached exhibits to its Reply Memorandum. The exhibits are State Sales and Use Tax Clearance Certificates for Straide, LLC and Voodoo, LLC dated June 20, 2014, and a City of New Orleans Tax Clearance Certificate for Voodoo Bar dated June 24, 2014. These exhibits are not part of the record and cannot be considered on appeal. Even if these documents were part of the record, Sales and Use Tax Clearance Certificates for Straide, LLC and Voodoo, LLC and a New Orleans tax clearance certificate for Voodoo, LLC do not prove that Mr. Sheehan has or would be granted a state tax clearance.

Michael Sheehan, member of licensee, Voodoo Bar, has had ample time to obtain a tax clearance. Notice was given in November 2012 of the tax delinquency. The last hearing on this

matter was in March 2014. The Louisiana Department of Revenue has on six separate occasions stated that it is unable to grant a tax clearance to taxpayer, Michael Sheehan.

The licensee also argues that its Constitutional rights to due process and equal protection have been violated. We find no support or legal authority for these allegations.

We find the decision of the Hearing Officer to be correct. An individual required to meet suitability has failed to do so.

ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of July 24, 2014:

IT IS ORDERED THAT the Hearing Officer's decision is **AFFIRMED**.

THUS DONE AND SIGNED on this the *24th* day of *July, 2014*.

LOUISIANA GAMING CONTROL BOARD

BY:



RONNIE JONES, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD
HEREBY CERTIFY THAT A CERTIFIED
COPY HAS BEEN MAILED OR SERVED ON
ALL PARTIES THIS 25th DAY
OF July, 2014
APPEAL DOCKET CLERK
