



*State of Louisiana*  
*Gaming Control Board*

*KATHLEEN BABINEAUX BLANCO*  
GOVERNOR

*HILLARY J. CRAIN*  
CHAIRMAN

**DECISION OF THE  
LOUISIANA GAMING CONTROL BOARD**

**IN RE: DAVID HOLDEN  
No. P040005573**

**RULING ON APPLICATION FOR REHEARING**

This is an appeal by David Holden, P040005573, of the Hearing Officer's decision revoking his non-key gaming employee permit.

A "Notice of Recommendation of Revocation" of David Holden's permit was issued on August 6, 2003. The basis for the recommendation was the pending charge of Unauthorized Entry of an Inhabited Dwelling, an offense punishable by imprisonment of more than one year. A hearing was requested. The Hearing Officer rendered a decision on December 8, 2003, ordering the revocation of Mr. Holden's permit.

Mr. Holden appealed on the grounds that his court date was January 7, 2004, and he believed the charges would be dropped or reduced. The matter came before the Louisiana Gaming Control Board ("Board") at its meeting on January 20, 2004. Mr. Holden did not appear. The Board affirmed the revocation.

Mr. Holden now requests a rehearing on the grounds that at his court appearance on the charges he did not plead guilty, he was not offered a misdemeanor charge, was offered a "diversion" and after completing the diversion classes, the charges will not be on his record.

### LEGAL ANALYSIS

Louisiana Revised Statute 49:959 enumerates the grounds upon which an agency or Board may rehear, reopen, or reconsider its decision and provides, in pertinent part:

A. A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the agency, within ten days from the date of its entry. The grounds for such action shall be either that:

- (1) The decision or order is clearly contrary to the law and the evidence;
- (2) The party has discovered since the hearing evidence important to the issues which he could not have with due diligence obtained before or during the hearing;
- (3) There is a showing that issues not previously considered ought to be examined in order properly to dispose of the matter; or
- (4) There is other good ground for further consideration of the issues and the evidence in the public interest.

"Adjudication" is defined as the agency process for the formulation of a decision or order. La. R.S. 49:951(1).

Mr. Holden has presented grounds for reconsideration. Therefore, this matter will be forwarded to the Louisiana Gaming Control Board Hearing Office for scheduling of an administrative hearing before the Hearing Officer for further proceedings. Mr. Holden can present evidence at the hearing. The Hearing

Officer can then determine whether Mr. Holden is disqualified under La. R.S.27:28(B)(2)<sup>1</sup> and the appropriate action to take under La. R.S. 27:28(F)<sup>2</sup> including, revocation, suspension, or deferral.

## ORDER

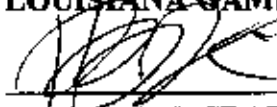
This matter having been considered by the Louisiana Gaming Control Board in open meeting of February 17, 2004:

**IT IS ORDERED THAT** the request for rehearing is **GRANTED** and the matter is **FORWARDED** to the Louisiana Gaming Control Board Hearing Office for action in accordance with this decision.

**THUS DONE AND SIGNED** on this the 17<sup>th</sup> day of February, 2004.

**LOUISIANA GAMING CONTROL BOARD**

**BY:**



**HILLARY J. CRAIN, CHAIRMAN**

<sup>1</sup> Louisiana Revised Statute 27:28(B)(2) provides:

The Board ... shall not grant a license or permit ... to any person who is disqualified on the basis of the following criteria:

...

(2) There is a current prosecution or pending charge against the person in any jurisdiction for any offense listed in Paragraph (1) of this Subsection.

Louisiana Revised Statute 27:28(F) provides:

All licensees, all permittees, the casino gaming operator, and any other persons who have been found suitable or approved by the board or division shall maintain suitability throughout the term of the license, permit, casino operating contract, or approval. In the event of a current prosecution of an offense as provided in R.S. 27:28(B)(2), the board, or division where applicable, shall have the discretion to defer a determination on a person's continuing suitability pending the outcome of the proceedings provided that if a decision is deferred pending such outcome of the board, or division where applicable, may take such action as is necessary to protect the public trust, including the suspension of any license or permit. (Emphasis added.)

**LOUISIANA GAMING CONTROL BOARD**  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 17<sup>th</sup> DAY  
OF February 2004.

**APPEAL DOCKET CLERK**

