

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA GAMBLING CONTROL BOARD

In the Matter of the Distributor License of
All American Gaming Supplies, Inc.,
License No. DI-080, and Michael Anderson,
its President and CEO

FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson on October 9, 1997, in the City of Minneapolis. Fabian Hoffner, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Minnesota Gambling Control Board ("the Board"). Dennis B. Johnson, Attorney at Law, Chestnut & Brooks, 3700 Piper Jaffray Tower, 222 South Ninth Street, Minneapolis, Minnesota 55402, appeared on behalf of the Respondents, All American Gaming Supplies, Inc., and Michael Anderson.

This Report is a recommendation, not a final decision. The Board will make the final decision after a review of the record. The Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Board shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact Harry Baltzer, Director, Minnesota Gambling Control Board, 1711 West County Road B, Suite S300, Roseville, Minnesota 55113, (telephone no. (612) 639-4000), to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issues in this contested case proceeding are whether or not Respondent American Gaming Supplies, Inc., allowed persons other than registered employees to make sales on its behalf; sold, offered for sale, or furnished gambling equipment within the state of Minnesota to someone other than a licensed organization; made false statements in documents submitted to the Board; or engaged in conduct that is contrary to the public health, welfare, or safety or to the integrity of gambling; and thereby violated Minn. Stat. §§ 349.155, subd. 4(3) and (8), and 349.161, subds. 1 and 8 (1996); and Minn. R. 7863.0010, subp. 7A(6) (1995); and, if so, whether disciplinary action should be taken against the Respondent's lawful gambling premises permits for sites

located at Sam's Place Restaurant and Lounge and the Chalet Club in Marshall, Minnesota.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Notice of and Order for Hearing and original Statement of Charges in this matter were served upon counsel for the Respondent by mail on June 24, 1997. An Amended Statement of Charges was served upon counsel for the Respondent by mail on October 1, 1997.

2. The parties and their counsel reached an agreement prior to the commencement of the hearing on October 9, 1997, under which the Respondents would be deemed to be in default in this matter. The parties further agreed that the Board would not consider the Report issued by the Administrative Law Judge in this matter prior to the Board's November 22, 1997, meeting.

3. At the hearing, the Board clarified that the references in the original and Amended Statement of Charges to the "Respondent" pertain only to All American Gaming Supplies, Inc., and corrected paragraph 4 of the Amended Statement of Charges to refer to the Respondent's 1996 application, not its 1997 application. The Board offered Exhibits 1-59 into evidence. There was no objection by the Respondents, and the exhibits were received.

4. Pursuant to Minn. R. 1400.6000 (1995), the allegations contained in the Notice of and Order for Hearing, the original Statement of Charges, and the Amended Statement of Charges are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Gambling Control Board have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 349.151, and 349.155 (1996).

2. The Notice of and Order for Hearing in this matter was proper and all relevant substantive and procedural requirements of law or rule have been satisfied.

3. Under Minn. Stat. § 349.155 (1996), the Board has authority to suspend or revoke a license or censure a licensee if it finds that the order is in the public interest and that the licensee has violated Minn. Stat. §§ 349.11-349.23, or any rule adopted thereunder.

4. Minn. R. 1400.6000 (1995) provides that, upon the default of a party, "the allegations of or the issues set out in the notice of and order for hearing or other

pleading may be taken as true or deemed proved without further evidence.” Because the Respondents herein have agreed to be deemed in default, the allegations set forth in the Notice of and Order for Hearing, the original Statement of Charges, and the Amended Statement of Charges are hereby taken as true and deemed proved.

5. The conduct described in the Notice of and Order for Prehearing Conference and Hearing constitutes a violation of Minn. Stat. §§ 349.155, subd. 4(3)and (8), and 349.161, subds. 1 and 8 (1996); and Minn. R. 7863.0010, subp. 7A(6) (1995).

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED: that the Gambling Control Board take appropriate disciplinary action against the license(s) of Respondent All American Gaming Supplies, Inc.

Dated this 15th day of October, 1997

BARBARA L. NEILSON
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Tape recorded (one tape).