WILLIAM D. MARTIN, JR. AND : NUMBER: 564,388-B

MACOLA, LLC

VERSUS : FIRST JUDICIAL DISTRICT COURT

STATE LICENSING BOARD : CADDO PARISH, LOUISIANA

FOR CONTRACTORS

**REASONS FOR JUDGMENT ON EXCEPTIONS**

**(AND RELATED ISSUES)**

On January 14, 2013, a hearing was held on the Declinatory Exception of Improper Venue and Dilatory Exception of Prematurity. The Court heard testimony from William D. Martin, Jr. and Bobby Abraham and received into evidence numerous exhibits. After considering the applicable law, evidence and arguments of counsel, and for reasons which follow, the Court has rendered Judgment overruling the exceptions.

The plaintiffs William D. Martin, Jr. and Macola, LLC seek monetary damages and assert causes of action under the Louisiana Unfair Trade Practices Act and the Louisiana Anti Trust Act. The Louisiana State Licensing Board for Contractors does not have authority to address such causes of action and, if proven, to consider monetary damages. In a similar case, *Louisiana Horsemen’s Benevolent and Protective Association v. Fair Grounds Corporation* 95-1702 (La. App. 1 Cir. 4/4/96); 672 So.2d 340 , the district court was deemed to have original exclusive jurisdiction when money damages are sought. In that case, the plaintiff filed suit for damages against the State alleging that defendants conspired to improperly disburse revenues from video gaming devices, engaged in unfair trade practices, and breached various other obligations. Defendant filed an exception of prematurity and an exception of lack of subject matter jurisdiction.

Defendant relied on an act that invoked a procedure to handle disputes arising from the licensing of the video gaming devices and the levying of fines. The act required that a hearing in front of the state agency had to occur before a suit could be filed in the district court. The defendant contended that the statute gave the state agency exclusive power over the plaintiff’s suit.

The district court sustained the two exceptions. The appellate court reversed the decision, overruling both exceptions. It disagreed with the defendant’s argument and explained that a delegation of limited judicial authority to administrative agencies is narrowly construed. An administrative agency has only the power and authority expressly granted by the constitution or statutes. It reasoned that the state agency was not expressly granted authority to award money damages and had no jurisdiction over the claims because money damages were within the original exclusive jurisdiction of Louisiana’s district courts. This Court believes that the cited First Circuit Court of Appeal’s case provides significant jurisprudential direction on this issue; accordingly, the dilatory exception of prematurity is overruled.

Regarding the declinatory exception of venue issue, the Court concludes that a majority of defendant’s alleged conduct occurred in Caddo Parish and that plaintiffs sustained damages in Caddo Parish. Based upon La. R.S. 13:5104, the declinatory exception of improper venue is overruled.

The preliminary injunction issue was not addressed at the January 14, 2013 hearing. The parties apparently agreed to extend the temporary restraining order issued December 3, 2012 pending resolution of the exceptions. Unless the TRO continues to be extended by agreement, the Court deems it to be extinguished and the Board therefore has the right to conduct its investigation and business in accordance with law. In the event the Board resumes its investigation, this Court believes that a confidentiality order should be confected by the attorneys so that the business interests of the plaintiffs are protected. Upon request of counsel, this Court will conduct a phone conference to address that issue.

Signed this 30th day of January, 2013 in Shreveport, Caddo Parish, Louisiana.

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SCOTT J. CRICHTON

DISTRICT JUDGE

DISTRIBUTION:

Scott R. Wolf, Counsel for William D. Martin and MACOLA, LLC

Stephanie B. Laborde, Counsel for Louisiana State Licensing Board for Contractors