

FILED	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	3/11/2009
File #	2009-01767

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING**

**DEPARTMENT OF BUSINESS &
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,**

Petitioner,

DBPR CASE NO. 2008050728

v.

JACKSON EUSTACHE,

Respondent,

_____ /

FINAL ORDER

The State of Florida, Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (Division), hereby enters this Final Order for the above styled matter.

FINDINGS OF FACT

1. On September 29, 2008, Investigator Bryan Wall signed an Investigative Report setting forth facts, which if true, would constitute a violation of Rule 61D-11.005(4), Florida Administrative Code, and Section 550.0251(6), Florida Statutes.

2. On January 8, 2009, an Administrative Complaint was filed with the agency clerk that alleged the Respondent violated Rule 61D-11.005(4), Florida Administrative Code, by defrauding participants in a game; and Section 550.0251(6), Florida Statutes, by being permanently banned from Fort Pierce Jai-Alai Poker Room, a pari-mutuel facility.

3. Respondent was served with the Administrative Complaint via certified U.S. Mail on January 21, 2009.

4. Respondent's Election of Rights Form was due to the Division on or before February 12, 2009. To date, the Division has not received Respondent's Election of Rights and, accordingly, Respondent has waived his rights to elect a forum.

5. The Division hereby adopts and incorporates by reference the facts contained and set forth in the Motion for Final Order, together with the supporting exhibits attached thereto, as the Division's Findings of Facts in this matter.

6. The Division also hereby adopts and incorporates by reference the facts contained in the Investigative Report as the Division's Findings of Facts in this matter.

CONCLUSIONS OF LAW

7. The Division has jurisdiction over the parties and subject matter of this case pursuant to Chapter 550, Florida Statutes.

8. Respondent failed to return an Election of Rights and thereby waived his rights to elect a forum.

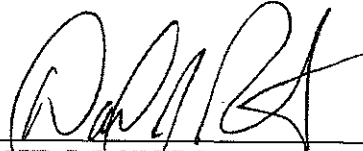
9. Respondent violated Section 550.0251(6), Florida Statutes.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law it is hereby ORDERED:

Respondent is hereby excluded from any and all pari-mutuel facilities in this state per Section 550.0251(6), Florida Statutes.

DONE AND ORDERED this 10th day of MARCH, 2009, in Tallahassee,
Florida.



DAVID J. ROBERTS, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1035

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

Unless expressly waived, any party substantially affected by this final order may seek judicial review by filing an original Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, and a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal within thirty (30) days of rendition of this order, in accordance with Rule 9.110, Florida Rules of Appellate Procedure, and Section 120.68, Florida Statutes

CERTIFICATE OF SERVICE

I hereby certify this 11th day of March, 2009, that a true copy of the foregoing "Final Order" has been provided by U.S. Certified Mail to:

JACKSON EUSTACHE
1034 SW Dartmouth Ave.
Port St. Lucie, FL 34953



SARAH WACHMAN, AGENCY CLERK
Department of Business & Professional Regulation

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING**

**DEPARTMENT OF BUSINESS &
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,**

Petitioner,

DBPR CASE NO. 2008050728

v.

JACKSON EUSTACHE,

Respondent,

MOTION FOR FINAL ORDER

The Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner") hereby moves for entry of a Final Order against Jackson Eustache ("Respondent"). As grounds therefor Petitioner states as follows:

1. On September 29, 2008, Investigator Bryan Wall signed an Investigative Report setting forth facts, which if true, would constitute a violation of Rule 61D-11.005(4), Florida Administrative Code, and Section 550.0251(6), Florida Statutes. A true copy of the Investigative Report is hereby attached as Exhibit A.
2. On January 8, 2009, an Administrative Complaint was filed with the agency clerk alleging Respondent violated Rule 61D-11.005(4), Florida Administrative Code, by defrauding participants in a game; and Section 550.0251(6), Florida Statutes, by being permanently banned

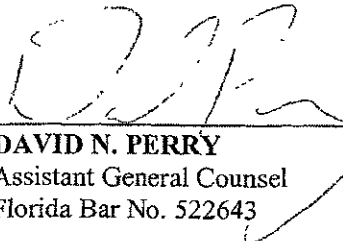
from Fort Pierce Jai-Alai Poker Room, a pari-mutuel facility. A true copy of the Administrative Complaint is hereby attached as Exhibit B.

3. Respondent was served with the Administrative Complaint via certified U.S. Mail on January 21, 2009. A true copy of the Certified Mail Return Receipt is attached hereto as Exhibit C.

4. Respondent's Election of Rights Form was due to the Division on or before February 12, 2009. To date, the Division has not received Respondent's Election of Rights Form and, therefore, Respondent has waived his rights to elect a forum.

WHEREFORE, Petitioner respectfully requests that the Director of the Division of Pari-Mutuel Wagering issue a Final Order deeming all allegations of fact in the Administrative Complaint admitted and adopting them as the Department's Finding of Fact, adopting the violations enumerated in the Administrative Complaint as the Department's Conclusions of Law, excluding Respondent from any and all pari-mutuel facilities in this state per Section 550.0251(6), Florida Statutes.

Respectfully submitted,



DAVID N. PERRY
Assistant General Counsel
Florida Bar No. 522643

Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
1940 North Monroe Street, Suite 40
Tallahassee, Florida 32399-2202
(850) 487-2563 / FAX 921-1311

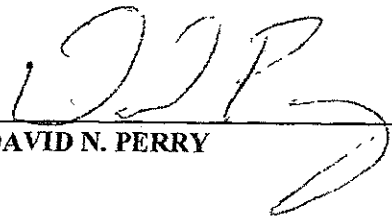
Attorney for Division of Pari-Mutuel Wagering

CERTIFICATE OF SERVICE

I hereby certify this 25th day of February, 2009, a true copy of the foregoing

“Motion for Final Order” has been served by U.S. mail upon:

JACKSON EUSTACHE
1034 SW Dartmouth Ave.
Port St. Lucie, FL 34953



DAVID N. PERRY

Charles W. Drago, Secretary

Charlie Crist, Governor

OFFICE OF INVESTIGATIONS

INVESTIGATIVE REPORT

Office: PMW	Region: Central	Date of Complaint: September 11, 2008	Case Number: 2008-05-0728
Respondent: Eustache, Jackson a.k.a. Wonder, Philippe Clement 1034 SW Dartmouth Ave Port St. Luice Fl 34953		Complainant: STATE OF FLORIDA, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF PARI-MUTUEL WAGERING	
License # and Type: None / Patron		Profession: Patron	Report Date: September 29, 2008
Period of Investigation: September 9, 2008 to September 29, 2008		Type of Report: Preliminary	
<p>Alleged Violation: 550.0251,6 Patron Exclusion, In addition to the power to exclude certain persons from any pari-mutuel facility in this state, the division may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the division. The division may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been excluded from any pari-mutuel facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state. The division may authorize any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon a finding that the attendance of such person at pari-mutuel facilities would not be adverse to the public interest or to the integrity of the sport or industry; however this subsection shall not be construed to abrogate the common-law right of a pari-mutuel permitholder to exclude absolutely a patron in this state.</p>			
<p>Synopsis: On September 9, 2008 the Respondent was taken into custody by officers of the St. Lucie County Sheriffs Department based on a complaint made by the management of Ft. Pierce Jai-Alai, stating they had evidence in the form of video surveillance showing that Eustache, Jackson a.k.a. Wonder, Philippe Clement had used "slight of hand and diversion techniques" to remove poker chips that were in play on a state license table and game. At the time he was taken into custody, he was issued a trespass warning and ban for life from the PMW facility. Exhibit # 1 & 2. A Notice of Violation has been issued requesting permanent state wide exclusion from all pari-mutuel sites.</p>			
<p>Related Case: St Lucie County Sheriffs Department Case Number 01-08-011479</p>			
Investigator / Date <i>[Signature]</i> 09-29-2008		Investigator Supervisor / Date <i>[Signature]</i> 9/30/08	
Chief of Investigations / Date <i>[Signature]</i> - October 11, 2008			



CONTINUATION

Investigation and review of witness statements and the video surveillance will show the following: On September 2, 2008 at 10:17:20 to 10:18:18 hours, while seated at table number 15 in the Ft. Pierce Jai-Alai Poker room, playing at a State of Florida certified and licensed poker game, the witness, **Cifuni, William** (White /Male wearing a baseball hat), a patron in position number 7, observed **Eustache** pull a \$1 chip from a pile of chips in front of the elderly white/male in position number 6. **Eustache** then attempted to give the stolen chip as a tip to the poker dealer **Grandez, Giovanna** while the game was in play. **Grandez** tossed this chip back to the elderly white/male in position number 6. **Eustache** then pick it up again, and two more times tossed it to **Grandez**, who each time returned it to the elderly white male. **Eustache** then placed the chip in his stack of chips. At the end of the play of the hand, he again tossed it back to the dealer who finally placed it in her tip box. **Exhibit # 3, 4, &5, 6, 7, Video Exhibit Act #1&2**

At 10:18:58 to 10:20:14 hours, the witness **Cifuni** observed **Eustache** palm with his left hand a stack of \$5 red poker chips valued between \$50.00 and \$70.00 from the elderly W/M player seated in position number 6. A review of the video surveillance showed **Eustache** had taken a stack of 10 \$5.00 red chips totaling \$50. Soon after, **Eustache** left the table and appeared to leave the cardroom.

Exhibit #3, 4&6, 7 Video Exhibit Act #'s 1&2

At 10:41:44 to 10:43:25 hours, **Eustache** is at table number 6 in position number 1 as show on video surveillance. He is observed in an attempted theft by palming three (3) twenty-five dollar green chips from an unknown white/male in a blue t-shirt in position number 2. It appears that **Eustache** is discovered by the victim and returns the three palmed chips, along with a single red \$5.00 chip, to the unknown subject. **Eustache** after a moment reaches over and takes the one red chip back from this unknown white/male. **Exhibit # 7 Video Exhibit Act # 3**

At 11:32:30 to 11:33:22 hours, **Eustache** is observed at table number 6 with the same dealer **Grandez** that has rotated from table number 15. **Eustache** is playing in position number 6, next to an unidentified elderly white/female in position number 7. **Eustache** palms ten (10) \$5.00 dollar chips from her and places a \$50.00 bet in the pot while the game is in play. **Eustache** wins the pot at the end of play.

Exhibit # 5 Video Exhibit # Act 4

Videos of **Eustache** were studied and analyzed by **Ken Lewis**, Director of Ft. Pierce Jai-Alai Poker room, **Leslie Mimms**, Poker Room Manager, **Agus Somanto & John D. Beasley**, Security Department Surveillance Team and this investigator. It was found that **Eustache** had stolen a total \$101.00 in three incidents and attempted to steal \$75.00 in a fourth incident. **Eustache** diverted these chips for his own use.

Exhibits # 6, 7, 8&9 Video # Act 1&2, Act #3, Act # 4 Video 4.I.D.Suspect 1 & Video 5.I.D. Suspect 2, Video 6.Witness, Video 7 Witness, Video 8 Shaking Tip Box

CONTINUATION

On September 9, 2008 at 5:38 hours, it was observed that **Eustache** had returned to the poker room to again play Texas Hold'em. The St. Lucie County Sheriffs Department was contacted to dispatch a deputy to identify **Eustache** and issue a trespass warning. At the time he was contacted, **Eustache** produced a valid Florida identification card in the name of Wonder, Philippe Clement. The Deputy also found a valid Florida drivers license in the name of **Eustache**. A Florida Crime Information Check found that **Eustache** was a fugitive from justice. He had a warrant for "Writ of Bodily Attachment/Purge" Bond of \$1500.00 **Eustache** was placed under arrest for the warrant and for resisting an officer without violence. A trespass warning was issued for life for **Eustache**.

Eustache bonded out of the St. Lucie County Jail on September 12, 2008.

On September 29, 2008, the probable cause affidavit was filed in St. Lucie County at the offices of the 19th Judicial Circuit State Attorney with Assistant State Attorney (ASA) Rebecca Ivy White at 411 South 2nd Street, Fort Pierce, FL 34950, (772) 465-3000.

After review of the case, ASA White approved the warrant application. Judge Larry Shack reviewed the probable cause affidavit and approved three warrants for second degree petit theft. The warrant's numbers are 562008mm004288A1 with bond of \$500.00; 562008mm004288A2 with bond of \$500.00; and 562008mm004288A3 with bond of \$500.00. After Judge Shack approved the three warrants, they were filed with the St. Lucie County Clerk of Courts. Exhibits # 14,15,16,17

September 30, 2008: Case Status; Referred to Legal for review and determination.

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

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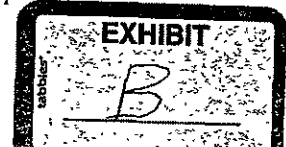
JACKSON EUSTACHE,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division"), files this Administrative Complaint against Jackson Eustache ("Respondent"), and alleges as follows:

1. The Division is the state agency charged with regulating pari-mutuel wagering, pursuant to Chapter 550, Florida Statutes.
2. At all times material hereto, Ft. Pierce Jai-Alai was a pari-mutuel facility licensed to operate by the Division and subject to regulation by the Division pursuant to Chapter 550, Florida Statutes.
3. On September 2, 2008, at approximately 10:20 a.m., Respondent was seated at table #15 in the Ft. Pierce Jai-Alai Poker Room. Respondent stole a \$1 chip from the patron seated next to him and gave it to the dealer, who eventually placed it in her tip jar. Respondent



then stole a stack of ten (10) \$5.00 chips from the same patron seated next to him and left the table.

4. At approximately 10:41 a.m., Respondent sat at table #6. He attempted to steal three (3) \$25 chips from the patron seated beside him. When discovered by the patron, Respondent returned the chips.

5. At approximately 11:32 a.m., Respondent again sat at table #6. Respondent stole ten (10) \$5.00 chips from the patron sitting beside him, which he placed in the pot while the game was in play. Respondent won the pot.

6. Video surveillance of the three incidents revealed that Respondent had stolen a total of \$101.00 and attempted to steal \$75.00 in a fourth incident.

7. Upon arrest by the St. Lucie County Sheriff's Department, Respondent was notified that he was being given a lifetime trespass and ban (ejection) from the pari-mutuel facility.

8. Rule 61D-11.005(4), Florida Administrative Code, states:

No person shall, either directly or indirectly:

- a. Employ or attempt to employ any device, scheme, or artifice to defraud any participant in a game or the cardroom operator.
- b. Engage in any act, practice, or course of operation that would constitute a fraud or deceit upon any participant in a game or the cardroom operator.
- c. Engage in any act, practice, or course of operation with the intent of cheating any participant or the cardroom operator.

9. Section 550.0251(6), states:

In addition to the power to exclude certain persons from any pari-mutuel facility in this state, the division may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or

the rules of the division. The division may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state...

WHEREFORE, Petitioner respectfully requests that the Division enter an Order excluding Respondent from any and all pari-mutuel facilities in this state, as specified in Section 550.0251(6), Florida Statutes.

Signed this 5th day of January, 2009.



JOSEPH M. HELTON, JR.

Florida Bar No. 0879622

Chief Attorney

Division of Pari-Mutuel Wagering

Department of Business & Professional Regulation

Northwood Center

1940 North Monroe Street, Suite 40

Tallahassee, Florida 32399-2202

Copies furnished to:

Jackson Eustache – Cert. Mail/Return Receipt

Office of Operation/Licensing Section

Office of Investigations

David N. Perry, Assistant General Counsel

FILED

Department of Business and Professional Regulation

DEPUTY CLERK

CLERK

Brandon M. Nichols

DATE

1-8-2009

