

FILED	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	2/16/2010
File #	2010-00963

**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. 2009002339

v.

RICHARD W. TRACHUK,

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 January 29, 2009, Investigator Bryan Wall signed an Investigative Report setting forth facts, which if true, would constitute a violation of Section 550.0251(6), Florida Statutes.
2. On April 15, 2009, an Administrative Complaint was filed with the agency clerk that alleged the Respondent violated 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 hand delivery on May 14, 2009.

4. Respondent's Election of Rights Form was due to the Division on or before June 4, 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 3rd day of February, 2010, in Tallahassee,
Florida.


Milton Champion, 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 16th day of February, 2010, that a true copy of the foregoing "Final Order" has been provided by U.S. Certified Mail to:

RICHARD W. TRACHUK
542 NW San Reano Circle
Port St. Lucie, Florida 34982

Brandon M. Nichols

AGENCY CLERK'S OFFICE
Department of Business & Professional Regulation

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

**DEPARTMENT OF BUSINESS &
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Petitioner,

DBPR CASE NO. 2009002339

v.

RICHARD W. TRACHUK,

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 Richard Trachuk ("Respondent"). As grounds therefor Petitioner states as follows:

1. On January 29, 2009, Investigator Bryan Wall signed an Investigative Report setting forth facts, which if true, would constitute a violation of Section 550.0251(6), Florida Statutes. A true copy of the Investigative Report is hereby attached as Exhibit A.
2. On April 15, 2009, an Administrative Complaint was filed with the agency clerk alleging Respondent violated 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 hand delivery on May 14, 2009. A true copy of the affidavit of service or diligent search is attached hereto as Exhibit C.

4. Respondent's Election of Rights Form was due to the Division on or before June 4, 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

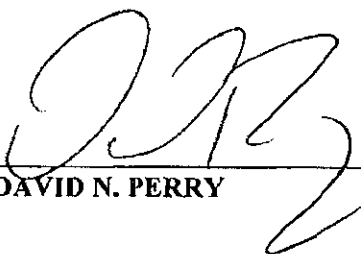
Attorney for Division of Pari-Mutuel Wagering

CERTIFICATE OF SERVICE

I hereby certify this 16th day of June, 2009, a true copy of the foregoing

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

o
RICHARD W. TRACHUK
542 NW San Reano Circle
Port St. Lucie, Florida 34982



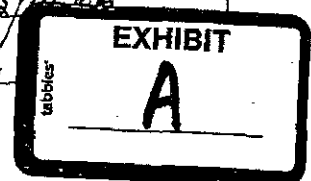
DAVID N. PERRY

Charles W. Drago, Secretary

Charlie Crist, Governor

**OFFICE OF INVESTIGATIONS
 INVESTIGATIVE REPORT**

Office: PMW	Region: Central	Date of Complaint: January 6, 2009	Case Number: 2009 00 2339
Respondent: TRACHUK, RICHARD W. 542 NW San Reano Circle Port St. Luice FI 34982		Complainant: Florida Gaming Center of Ft Pierce dba Ft. Pierce Jai-Alai 1750 South Kings Highway Ft Pierce FI 34945 & STATE OF FLORIDA, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF PARI-MUTUEL WAGERING	
License # and Type: None		Profession: Patron	Report Date: January 29, 2009
Period of Investigation: January 6, 2009 – January 29, 2009		Type of Report: Preliminary	
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.			
Synopsis: On January 6, 2009, the Director of the Ft Pierce Poker room, Ken Lewis, advised this investigator of an incident that had occurred on December 20, 2008 in which TRACHUK, RICHARD W. was observed at table number five by the floor manager. While at the table, witnesses observed and overheard TRACHUK inviting and recruiting other patrons and the table dealer to come to a "home game" at his home with a \$500.00 buy in and professional dealers. TRACHUK was escorted from Ft Pierce Jai-Alai and Poker Room and when he returned on December 30, 2008 at 11:15 AM, he was given a trespass warning for Fort Pierce Jai-Alai/Poker Room for life. (Exhibit #1 thru 4) (Video Exhibit# 1&2)			
Related Case:			
Investigator / Date: January 29, 2009		Investigator Supervisor / Date <i>James L. Dickson 02/02/09</i>	
Chief of Investigations / Date <i>Steven E. Kogan - February 13, 2009</i>			



CONTINUATION

December 20, 2008 8:30 PM, **TRACHUK** was seated in seat number 8 at Table 5 with Floor Supervisor Coby Jacobs standing behind him and the dealer Larry Moylan seated next to him. He attempted to openly recruit players for a home game at his house. He informed everyone at the table that the buy in was \$300.00 to \$500.00 dollars, that he took about 10% of the rack during play and that he had two full tables on Fridays and Sundays. He stated that he lives in a gated community and did not have to worry about local law enforcement. **TRACHUK** also advised players that he was a retired insurance executive and made a lot of money in this business. **TRACHUK** was escorted from the table and asked to leave the property on this date.

December 30, 2008 at 11:15 AM, **TRACHUK** returned to Ft Pierce Jai Alai to play poker. He was intercepted and given a trespass warning for this location.

On January 9, 2009, Assistant General Manager Stu Neiman issued a memorandum permanently ejecting **TRACHUK** from Ft Pierce Jai-Alai for his conduct. (Exhibit 5)

On January 29, 2009: Case Status; Referred to Legal for review and determination.

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/15/2009
File #	

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

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Petitioner,

DBPR CASE NO. 2009002339

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RICHARD W. TRACHUK,

Respondent.

ADMINISTRATIVE COMPLAINT

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

1. The Division is the state agency charged with regulating pari-mutuel wagering and cardrooms pursuant to Chapters 550 & 849, Florida Statutes.
2. On December 20, 2008, Respondent was a patron at the Ft. Pierce Jai-Alai and Poker Room cardroom ("Ft. Pierce"). Respondent was seated at seat number eight, at table five.
3. Respondent openly attempted to recruit cardroom employees, including dealer Larry Moylan, for a card game at his house.
4. Respondent informed everyone at the table that the buy in for the game at his house was \$300 to \$500 dollars, and that he took about 10% of the chip rack during play. Respondent



told everyone that he lives in a gated community and did not have to worry about law enforcement.

5. Thereafter, Ft. Pierce informed Respondent he was "permanently ejected from Ft. Pierce Jai-Alai & Poker for conduct that is not in the best interest of the facility", in a "Notice of Permanent Ejection" dated December 30, 2008 (copy of exclusion letter hereto attached as Exhibit "A").

6. Ft. Pierce Jai-Alai and Poker Room is a licensed Florida pari-mutuel and cardroom facility.

7. Section 550.0251(6), Florida Statutes, provides:

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 permit holder to exclude absolutely a patron in this state.

WHEREFORE, Petitioner respectfully requests the Division, pursuant to Section 550.0251(6), Florida Statutes, enter an Order permanently excluding Respondent from all licensed pari-mutuel facilities in this state.

Signed this 9th day of April, 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

Copy furnished to:

Respondent – Hand Delivery

FORT PIERCE JAI-ALAI & POKER

A SUBSIDIARY OF FLORIDA GAMING CENTERS, INC.

1750 SOUTH KINGS HIGHWAY -- FORT PIERCE, FLORIDA 34945

(772) 464-7500

December 30th, 2008

NOTICE OF PERMANENT EJECTION

TO: Bryan Wall - Investigator II - D.B.P.R. State of Florida

FROM: Stu Neiman - Assistant General Manager

REGARDING: Richard W. Trachuk

Please be advised that the above captioned individual, Richard Trachuk has been permanently ejected from Ft. Pierce Jai-Alai & Poker for conduct that is not in the best interest of the facility.

On multiple occasions, Mr. Trachuk was overheard attempting to recruit customers in our poker room to play in private poker games. This became a disruption to our customers and interfered with the smooth operation of our card room.

Mr. Trachuk was confronted, ejected and subsequently received a notice of trespass for life.



DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

DBPR and Division of Pari-Mutuel Wagering
PETITIONER

Case No.'s: 2009002339

Richard W. Trachuk
RESPONDENT

COMES NOW, the affiant, who first being duly sworn, deposes and states:

1) Affiant is an Investigator/Inspector employed by the Department of Business and Professional Regulation, State of Florida.

2) That on (date) May 14, 2009, Affiant made a diligent effort to locate Respondent, to serve X Administrative Complaint and related papers; Order compelling examination(s); Subpoena(s); Consent Order; Final order; Notice to cease and desist; SSO and related papers. (check appropriate block)

3) (Check applicable answer)

 X Affiant made personal service on Respondent, or on some person at Respondent's usual place of abode over the age of 15 residing there, on (date) May 14 2009.

 Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the D.B.P.R. investigation of the case; (b) all official addresses for Respondent shown in his/her licensing records of the Division of Pari-Mutuel Wagering; (c) local telephone company for the last area Respondent was known to frequent; (d) Division of Driver Licenses; and (e) utilities (electric, cable, etc.); any others: _____

Bryan K Wall
Signature of Affiant

STATE OF FLORIDA
COUNTY OF ORANGE

Before me, appeared BRYAN K. WALL
 X who is personally known to me.
 whose identity I proved on the basis of _____
and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 2ND day of JUNE 2009.

Stephen E Toner
Notary Public-State of Florida
STEPHEN E. TONER
Type or Print Name

06/14/09
My Commission Expires

JUN 09 2009



STEPHEN E. TONER
MY COMMISSION # DD 440662
EXPIRES: June 14, 2009
Regulated Thru Board of Notary Services

RECEIVED
2009 JUN -9 -A 10:56
PARI-MUTUEL WAGERING

