

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/4/2011
File #	2011-05280

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

Petitioner,

v.

DBPR CASE NO. 2009011054

OSMAN MARTINEZ,

Respondent,

FINAL ORDER

THIS MATTER came before the Presiding Officer of the Division of Pari-Mutuel Wagering on May 4, 2011, in Tallahassee, Florida, in accordance with the provisions of Section 120.57(2), Florida Statutes, for consideration of the Division's Administrative Complaint issued against Osman Martinez ("Respondent") in DBPR Case No. 2009011054. The Division of Pari-Mutuel Wagering ("Division") was represented by David N. Perry, Assistant General Counsel. Respondent appeared *pro se* by telephone.

PRELIMINARY STATEMENT

1. On or about May 26, 2010, the Division issued an Administrative Complaint against the Respondent which alleged that he been ejected from Palm Beach Kennel Club ("PBKC"), a pari-mutuel facility in Florida, due to his negligent failure to seek adequate medical treatment of a racing greyhound. The Administrative Complaint sought to exclude Respondent from all pari-mutuel facilities within the state, pursuant to Section 550.0251(6), Florida Statutes.

2. The Division had difficulty providing service to Respondent. The Administrative Complaint was hand served upon Respondent on February 1, 2011. Respondent's Election of Rights was due by February 22, 2011.

3. On March 4, 2011, Respondent returned his Election of Rights, requesting a formal hearing pursuant to Section 120.57(1), Florida Statutes. The Respondent's Election of Rights indicates that Respondent's address is 1450 Haverhill Rd., West Palm Beach, FL 33415.

4. In the space provided for explaining which specific facts he disputed, Respondent wrote "Explain why they eject me from PBKC."

5. Because of the lateness of his Election of Rights, and the fact that Respondent failed to state a material fact he disputed, this case was set for informal hearing.

6. At the informal hearing on May 4, 2011, the Division presented the issues raised in its May 26, 2010, Administrative Complaint and cited Respondent's Election of Rights, in which Respondent requested a formal hearing but failed to state any disputed material facts. The facts are therefore accepted as presented in the Administrative Complaint.

FINDINGS OF FACT

7. At all times material hereto, Respondent held a pari-mutuel wagering occupational license, number 1386304-1021, issued by the Division.

8. PBKC is a pari-mutuel facility in Florida licensed by the Division.

9. At all times material hereto, Respondent was a greyhound trainer at PBKC.

10. In a letter dated October 5, 2009, Renee Lampman, Director of Security at PBKC, sent a letter to the Division serving as formal notification that the facility had instituted a lifetime exclusion on Respondent.

11. At the informal hearing, Respondent did not dispute that PBKC was a licensed pari-mutuel facility in Florida, or that PBKC had instituted a lifetime exclusion against him.

12. Respondent testified that he had been taking care of two buildings. A helper was taking care of DOOLEY, the injured greyhound.

13. When Respondent brought DOOLEY to the veterinarian, he was told that nothing could be done to help it, and the dog was given antibiotics.

14. Respondent admitted that it was his fault, that he did not take the dog to the vet fast enough.

CONCLUSIONS OF LAW

15. The Division has jurisdiction over this matter pursuant to Chapters 120 and 550, Florida Statutes.

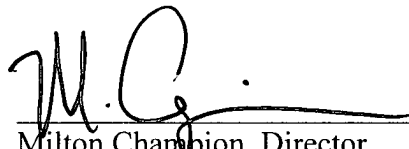
16. Section 550.0251(6), Florida Statutes, states in relevant part:

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.

WHEREFORE, based upon the Findings of Fact and Conclusions of Law, it is hereby ORDERED and ADJUDGED that Respondent shall be excluded from all pari-mutuel facilities in this state.

This Final Order shall become effective on the date filed with the Agency Clerk.

DONE AND ORDERED this 3rd day of August, 2011.



Milton Champion, Director
Division of Pari-Mutuel Wagering
Department of Business and
Professional Regulation
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 rendition of this order, in accordance with Rule 9.110, Fla. R. App. P., and Section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to **OSMAN MARTINEZ**, 1450 Haverhill Rd., West Palm Beach, Florida 33415, on this 4th day of August, 2011.



Brandon Nichols, Deputy Agency Clerk

Copies furnished to:

Amy Toman, Informal Hearing Officer
David N. Perry, Assistant General Counsel

FILED	
Department of Business and Professional Regulation	
AGENCY CLERK	
CLERK	Evette L. Proctor
Date	5/26/2010
File #	

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

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

Petitioner,

v.

DBPR CASE NO. 2009011054

OSMAN MARTINEZ,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division"), files this Administrative Complaint against Osman Martinez ("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, Respondent held a pari-mutuel wagering occupational license, number 1386304-1021, issued by the Division.
3. At all times material hereto, Respondent was a Greyhound trainer at Palm Beach Kennel Club ("PBKC"), a pari-mutuel facility in the state of Florida.
4. In a letter dated October 5, 2009, PBKC confirmed that Respondent was ejected from the facility, due to his negligent failure to seek adequate medical treatment of a racing greyhound.
5. Section 550.0251(6), Florida Statutes, states in pertinent part:

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.

6. Respondent violated Section 550.0251(6), Florida Statutes, by being permanently ejected from PBKC, a pari-mutuel facility.

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. In addition, Petitioner respectfully requests that the Division enter an Order imposing one or more of the following penalties as specified in Sections 550.105(5)(b) and 550.0251(10), Florida Statutes: declare Respondent ineligible for occupational licensure; impose a fine against the Respondent in an amount not exceeding \$1,000; or impose against the Respondent any combination of such penalties.

Signed this 20th day of May, 2010.



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:

Osman Martinez – Cert. Mail/Return Receipt

David N. Perry, Assistant General Counsel

ADMINISTRATIVE COMPLAINT
ELECTION OF RIGHTS

Licensee: Osman Martinez

Case Numbers: 2009011054

I have read the Administrative Complaint and Explanation of Rights in this matter, and elect as follows.

1 () I do not dispute the material facts alleged in the Administrative Complaint but do wish to appear before the Division of Pari-Mutuel Wagering to be heard on the conclusions of law and the issue of penalty. I, therefore request a hearing not involving disputed issues of material fact, pursuant to Section 120.57(2), *Florida Statutes*. I understand that at the hearing I will not be allowed to deny the facts alleged in the Administrative Complaint, but will only be permitted to submit written and/or oral evidence in mitigation of the charges in the Administrative Complaint or explain why the facts alleged do not amount to a violation of law.

2 () I do dispute the material facts alleged in the Administrative Complaint and request that this be considered a petition for a hearing involving disputed issues of material fact before an administrative law judge with the Division of Administrative Hearings, pursuant to Section 120.57(1), *Florida Statutes*. **If you select this option, please state below which specific facts you dispute.** (Use the back of this sheet if needed.)

3. () I waive my right to object or be heard concerning this case. The Division of Pari-Mutuel Wagering may do as it sees fit concerning this matter

Please be advised, pursuant to Section 120.573, *Florida Statutes*, mediation is not available for this type of agency action.

THIS IS A LEGALLY BINDING DOCUMENT. IF YOU DO NOT FULLY UNDERSTAND THE TERMS OF THIS DOCUMENT, YOU SHOULD SEEK LEGAL ADVICE BEFORE SIGNING.

MUST BE SIGNED AND NOTARIZED.

Name (Signature)

Mailing Address (if different)

Name (Printed)

City State Zip

Street Address

City State Zip

Respondent's daytime phone number

STATE OF FLORIDA

COUNTY OF _____

The foregoing was acknowledged before me this _____ day of _____, 2009, by _____ personally known to me or who has produced _____ as identification.

Notary Public

My Commission Expires:

(Notary Seal)

PLEASE MAIL FORM TO: **ETHEL BARNES, AAIL**
Office of the General Counsel, PMW
Northwood Centre
1940 North Monroe Street
Suite 40
Tallahassee, Florida 32399-2202