

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	12/7/2017
File #	2017-09344

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

Petitioner,

DBPR CASE No. 2016-012496

v.

PIERRY IDELCY ROSIER,

Respondent.

FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division"), hereby enters this Final Order for the above styled matter. On November 16, 2017, Alison Parker, Hearing Officer for the Department, issued the Recommended Order in this matter. That Recommended Order is attached to the Final Order and incorporated herein by reference.

FINDINGS OF FACT

The Findings of Fact contained in the Recommended Order are hereby adopted as the Findings of Fact of the Division.

CONCLUSIONS OF LAW

The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law adopted from the Recommended Order of the Department's Informal Hearing, it is hereby ORDERED that:

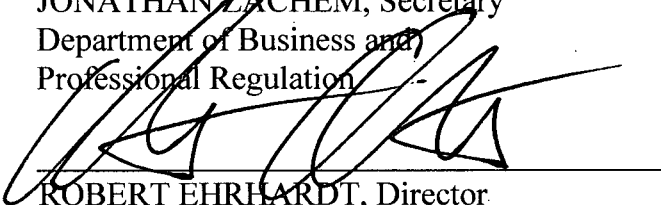
- (1) Respondent shall pay an **administrative fine in the amount of \$1,000.00**, and is **EXCLUDED** from all pari-mutuel facilities in the state of Florida.

Payment of the fine by check or money order issued to the Department of Business and Professional Regulation must be received by the **Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, Capital Commerce Centre, 2601 Blair Stone Road, Tallahassee, Florida, 32399-2202** within 30 calendar days of the effective date of this Final Order. **Case number 2016-012496 is to be referenced when making payment.**

- (2) This Final Order shall become effective on the date of filing with the Agency Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 5th day of December, 2017, in Tallahassee, Florida.

JONATHAN ZACHEM, Secretary
Department of Business and
Professional Regulation



ROBERT EHRHARDT, Director
Division of Pari-Mutuel Wagering
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-1035

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing "Final Order" has been provided by regular U.S. mail to: Pierry Idelcy Rosier, 3252 Foxcroft Road, #115, Miramar, Florida 33025, this 7th day of December, 2017.



Agency Clerk's Office

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

A party who is adversely affected by this Final Oder is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review Proceedings are governed by Rules 9.110 and 9.190, Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Department of Business and Professional Regulation, Attn: Ronda L. Bryan, Agency Clerk, 2601 Blair Stone Road, Tallahassee, Florida 32399 (agc.filing@myfloridalicense.com) and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Florida Appellate District where the Party Resides. The Notice of Appeal must be filed within thirty (30) Days of Rendition of the Order to be reviewed.

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evette Lawson-Proctor**
Date 11/16/2017
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,

DBPR CASE NO. 2016-012496

v.

PIERRY IDELCY ROSIER,

Respondent.

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Alison Parker, Hearing Officer for the Department of Business and Professional Regulation, on October 4, 2017, 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 Pierry Idelcy Rosier ("Respondent"), in the above-styled case. The Division of Pari-Mutuel Wagering ("Petitioner" or "Division") was represented by Joseph Yauger Whealdon, III, Assistant General Counsel. Respondent appeared *pro se* via telephone. Both sides were allowed to submit items into evidence, present witnesses, and otherwise fully participate in the hearing.

PRELIMINARY STATEMENT

1. On April 21, 2017, Petitioner filed a two-count Administrative Complaint against the Respondent alleging violations of sections 551.109(3) and 550.0251(6), Florida Statutes.

2. On or about September 5, 2017, Petitioner returned an Election of Rights form and requested an informal hearing in accordance with section 120.57(2), Florida Statutes.

3. On October 4, 2017, an informal hearing was held. Respondent appeared via telephone.

FINDINGS OF FACT

4. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes, and cardrooms pursuant to section 849.086, Florida Statutes.

5. At all times material to the administrative complaint, Respondent worked as an executive host with Calder Casino.

6. On or about January 30, 2016, Respondent altered Players Club Accounts to allow an individual not associated with those accounts to use Players Club cards for free play at Calder Casino's slot machines.

7. On or about March 11, 2016, Respondent was given a lifetime ejection from Calder Casino.

8. At the informal hearing, Respondent presented allegedly contextual or mitigating testimony as to the violations charged in the administrative complaint:

- a. After about 7 to 8 months on the job, Respondent altered the PIN on a player's account without first seeing the player's identification;
- b. Casino policy states that patrons must show identification before the host undertakes this transaction;
- c. Respondent clarified that he performed this act because some "frequent flyer" patrons become upset if the hosts request identification;
- d. Respondent emphasized that he did not change the PIN on the player's account for nefarious reasons; and

- e. Respondent added that each casino host, such as himself, was working with 200 to 300 players, so with this volume he could not recall if he printed out the patron's card without seeing the relevant identification.

CONCLUSIONS OF LAW

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

10. Section 551.109(3), Florida Statutes, states:

Any person who knowingly excludes, or *takes any action in an attempt to exclude*, anything of value from the deposit, counting, collection, or computation of revenues from slot machine activity, or any person who by trick, sleigh-of-hand performance, a fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof or reduces or attempts to reduce a losing wager in connection with slot machine gaming commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

11. Section 550.0251(6), Florida Statutes, states that "[t]he 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..."

12. Pursuant to Section 550.0251(10), Florida Statutes, Respondent is also subject to a fine of up to \$1,000.

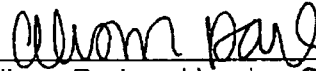
13. There is competent substantial evidence to support the conclusions of law.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Business and Professional Regulation enter a Final Order:

Assessing Respondent a fine of \$1,000 and excluding Respondent from all pari-mutuel facilities within this state.

Respectfully submitted this 15th day of November, 2017.



Alison Parker, Hearing Officer
Office of the General Counsel
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

CERTIFICATE OF SERVICE

I hereby certify this 16 day of November, 2017, that a true copy of the foregoing has been served by Certified U.S. mail upon:

Pierry Idelcy Rosier
3252 Foxcroft Road
Miramar, Florida 33025

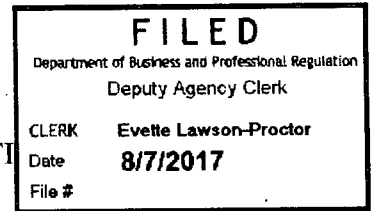


AGENCY CLERK'S OFFICE

Cc:
Alison Parker, Informal Hearing Officer
Joseph Yauger Whealdon, III, Assistant General Counsel

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to the Recommended Order should be filed with the Department.



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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

Petitioner,

DBPR Case No. 2016-012496

v.

PIERRY IDELCY ROSIER,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Pierry Idelcy Rosier (“Respondent”), and alleges as follows:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes.
2. At all times material, Respondent held a slot machine professional employee occupational license, number 9793212-1051, issued by the Division.
3. At all times material, Respondent was employed as an executive host with Calder Casino, a licensed pari-mutuel wagering facility.
4. On or about January 30, 2016, Respondent altered Players Club Accounts to allow an individual not associated with those accounts to use Players Club cards for free play at Calder Casino’s slot machines.
5. On or about March 11, 2016, Respondent was given a lifetime ejection from Calder Casino.

COUNT I

6. Petitioner hereby re-alleges and incorporates the allegations contained within paragraphs one through five, as though fully set forth herein.

7. Section 551.109(3), Florida Statutes (2015), states:

Any person who knowingly excludes, or takes any action in an attempt to exclude, anything of value from the deposit, counting, collection, or computation of revenues from slot machine activity, or any person who by trick, sleight-of-hand performance, a fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof or reduces or attempts to reduce a losing wager in connection with slot machine gaming commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

8. Based on the foregoing, Respondent violated Section 551.109(3), Florida Statutes (2015), by attempting to win for himself or for another, money or property or a combination thereof or reducing or attempted to reduce a losing wager in connection with slot machine gaming by trick, fraud or fraudulent scheme, or device.

COUNT II

9. Petitioner hereby re-alleges and incorporates the allegations contained within paragraphs one through five, as though fully set forth herein.

10. Section 550.0251(6), Florida Statutes (2015), states that “[t]he 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...”

11. Based on the foregoing, Respondent violated Section 550.0251(6), Florida Statutes (2015), by being ejected from Calder Casino, a pari-mutuel facility.

WHEREFORE, Petitioner requests the Division enter an Order imposing one or more of the penalties specified in Section 550.105, or 849.086(14), Florida Statutes including revocation, suspension, or the imposition of an administrative fine.

Signed this 7th day of August, 2017.

Joseph Yauger Whealdon, III
Joseph Yauger Whealdon, III
Assistant General Counsel
Florida Bar No. 92141
Department of Business and
Professional Regulation
Office of the General Counsel
2601 Blair Stone Road
Tallahassee, Florida 32399-2202
(850) 488-0062 Telephone

/s/ Louis Trombetta
Louis Trombetta
Chief Attorney
Florida Bar No. 108119
Louis.Trombetta@MyFloridaLicense.com
Division of Pari-Mutuel Wagering
Office of the General Counsel
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

NOTICE OF RIGHTS

Please be advised that mediation under section 120.573, Florida Statutes, is not available for administrative disputes involving this type of agency action.

Please be advised that Respondent has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas and *subpoenas duces tecum* issued on his or her behalf if a hearing is requested. Any request for an administrative proceeding to challenge or contest the charges contained in the administrative complaint must conform to Rule 28-106.2015, Florida Administrative Code. Rule 28-106.111, Florida Administrative Code, provides in part that if Respondent fails to request a hearing within 21 days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged.