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

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

Petitioner,

v.

XAVIER MIJARES TELLEZ,

Respondent.

________________________________________

DBPR CASE NO. 2016-056368

STIPULATION AND CONSENT ORDER

The State of Florida, Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division"), and Xavier Mijares Tellez ("Respondent") hereby stipulate and agree to the following terms and issuance of this Consent Order.

1. At all times material hereto, Respondent held a pari-mutuel wagering slot machine combo general occupational license, having been issued license number 10300785-1056, by the Division.

2. This Stipulation and Consent Order is to be entered in resolution of the two (2) count Administrative Complaint filed in DBPR Case No. 2016-056368, alleging that on November 29, 2016, Respondent was excluded from Magic City Casino.

3. Mitigation/Aggravation: This Consent Order was entered into in consideration of Respondent's lack of disciplinary history.

STIPULATION

WHEREAS the parties desire to resolve this matter, the following terms are stipulated:

4. The Division has jurisdiction over this matter and the parties.

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5. The Division is authorized by section 120.57, Florida Statutes, to resolve administrative proceedings by Consent Order.

6. Each party has entered into the terms of this Consent Order voluntarily. Respondent is aware that he is entitled to the advice of counsel. Respondent has either sought the advice of counsel or by execution of this Consent Order is knowingly waiving the opportunity to seek advice of counsel. Respondent acknowledges that the Division has not made any promise nor has it in any other way encouraged Respondent to enter into this Consent Order without the advice of counsel.

7. This Consent Order is enforceable under section 120.69 and chapter 550, Florida Statutes, as final agency action.

8. Each party shall bear its own costs and legal fees related to this matter, and no financial claim shall be made against the Division in this action.

9. Respondent and the Division acknowledge and agree that this Consent Order and contained stipulation constitute the Final Order of the Division respecting the matters set forth above and that further administrative and judicial review is hereby waived by both parties.

10. Respondent and the Division fully understand that this Consent Order will in no way preclude additional proceedings by the Division against Respondent for acts or omissions not specifically set forth herein.

11. Respondent neither admits nor denies committing the violation(s) set forth in this Consent Order, but this Consent Order and the violations addressed hereby may be considered in aggravation of any future disciplinary proceedings involving Respondent.

12. TEMPORARY EXCLUSION: The parties agree that Respondent shall be placed on the Division's Exclusionary List for a period of two (2) years, beginning at the date this Consent Order is filed with the Agency Clerk of the Department of Business and Professional Regulation.

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Respondent will be denied access, use, and privileges of all grounds under the jurisdiction of the Florida Division of Pari-Mutuel Wagering during the term of exclusion. At the conclusion of Respondent's two (2) years placement on the Division's Exclusionary List, Respondent may petition the Division to authorize him to attend the pari-mutuel facilities in this state in accordance with the applicable provisions of section 550.0251(6), Florida Statutes.

13. **PERMANENT EXCLUSION:** The parties agree that Respondent shall be excluded from Magic City Casino in perpetuity.

14. **LICENSE:** Respondent agrees that his pari-mutuel wagering slot machine combo general occupational license, number 10300785-1056, is hereby REVOKED.

15. The Consent Order, along with payment, shall be mailed to: Department of Business and Professional Regulation, Office of the General Counsel, 2601 Blair Stone Road, Stop Code N21, Tallahassee, Florida 32399-2202. Attention: Deborah Matthews.

16. It is expressly understood that this Stipulation is subject to the approval of the Director of the Division of Pari-Mutuel Wagering ("Director"). In this regard, the Stipulation shall have no force and effect unless this Consent Order, incorporating the terms of this Stipulation, is signed by both parties. Should this Consent Order be rejected, no statement made in furtherance of it by Respondent may be used as direct evidence against Respondent in any proceeding.

17. Upon the Division's adoption of this Consent Order, Respondent expressly waives all further procedural steps, including all rights to seek judicial review of this Consent Order and the matters addressed hereby. Upon the Division's adoption of this Consent Order, Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this proceeding.

18. This Stipulation and Consent Order is executed by both parties for the purpose of avoiding further administrative action with respect to the matters addressed hereby. In this re-
gard, Respondent authorizes the Director to review and examine all materials concerning Respondent prior to or in conjunction with consideration of the Stipulation. Should this Stipulation not be accepted by the Director, it is agreed that presentation to and consideration of this Consent Order and other documents and matters by the Director shall not unfairly or illegally prejudice the Director from further participation, consideration, or resolution of these proceedings.

Respondent, Xavier Mijares Tellez, hereby agrees and consents to the terms and conditions of this Stipulation and Consent Order this 3 day of November, 2017.

XAVIER MIJARES TELLEZ
Respondent

STATE OF Florida
COUNTY OF Miami Dade

Sworn to (or affirmed) and subscribed before me this 7 day of November, 2017, by Xavier Mijares Tellez, who is personally known to me or who produced the following as identification:

Notary Public
My Commission Expires:
APPROVED for legal sufficiency this 21st day of November, 2017.

[Signature]

LOUIS TROMBETTA, CHIEF ATTORNEY
Division of Pari-Mutuel Wagering
Department of Business and
Professional Regulation

ORDER

IT IS HEREBY ORDERED THAT:

The foregoing Consent Order shall constitute the agreed resolution of this matter and the Final Order of the Division in DBPR Case No. 2016-056368 once it is filed with the Agency Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 21st day of November, 2017, in Tallahassee, Florida.

[Signature]

ROBERT EHRHARDT, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202
CERTIFICATE OF SERVICE

I hereby certify this 29th day of November, 2017, that a true copy of
the foregoing has been furnished by regular U.S. mail to:

Xavier Mijares Tellez
c/o Antonio G. Hernandez, Esquire
4 S.E. 1st Street, 2nd Floor
Miami, Florida 33131

[Signature]

AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

Copies to:
Louis Trombetta, Chief Attorney
Louis.Trombetta@myfloridalicense.com
Deborah Matthews, AAI OGC/PMW
Deborah.Matthews@myfloridalicense.com
Glenda Hicks, Chief of Operations PMW
Glenda.Hicks@myfloridalicense.com
STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING

DEPARTMENT OF BUSINESS AND
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/                                                          DBPR CASE NO. 2016-056368

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner"), hereby files this Administrative Complaint against XAVIER MIJARES TELLEZ ("Respondent") and alleges as follows:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering, slot machine and cardroom operations pursuant to Chapters 550, 551, and Section 849.086, Florida Statutes.

2. At all times material hereto, Respondent held a pari-mutuel wagering slot machine combo general individual license, number 10300785-1056, issued by the Division.

3. At all times material hereto, Respondent worked as a food and beverage teller at Magic City Casino.

4. Magic City Casino is a facility operated by a permitholder authorized to conduct pari-mutuel wagering, slot machines, and cardroom operations in this state under Chapters 550, 551, and Section 849.086, Florida Statutes.
5. On or about November 8, 2016, Respondent removed cash out of a cash register and placed it in his pocket.

6. On or about November 29, 2016, Respondent was excluded from Magic City Casino.

COUNT I

7. Petitioner hereby realleges and incorporates the allegations contained in paragraphs one through six as though fully set forth herein.

8. Section 551.109(5), Florida Statutes (2016), provides that “[t]heft of any slot machine proceeds or of property belonging to the slot machine operator or licensed facility by an employee...constitutes a felony of the third degree.”

9. Rule 61D-14.090(2), Florida Administrative Code (2016), prohibits individuals from engaging in a violation of Chapter 551, Florida Statutes, stating “[n]o person shall conspire with, solicit, aid, abet, counsel, hire, or procure any other person or persons to engage in a violation of Chapter 551, F.S., or Chapter 61D-14, F.A.C., nor shall he or she commit any such act on his or her own.” (Emphasis added).

10. Section 551.107(6)(a), Florida Statutes (2016), states, “[t]he division may deny, suspend, revoke, or refuse to renew any slot machine occupational license if...the licensee has violated the provisions of this chapter or the rules of the division governing the conduct of persons connected with slot machine gaming.”

11. Based on the foregoing, the Division may revoke Respondent’s pari-mutuel wagering slot machine combo general individual license for his violation of Rule 61D-14.090(2), Florida Administrative Code (2016), occurring when he removed cash from a cash register and placed it in his pocket, on or about November 8, 2016.
COUNT II

12. Petitioner hereby realleges and incorporates the allegations contained in paragraphs one through six as though fully set forth herein.

13. Section 550.0251(6), Florida Statutes (2016), empowers the Division to “exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state…”

14. Based on the foregoing, the Division may permanently exclude Respondent from all licensed pari-mutuel facilities in this state based upon his ejection from Magic City Casino, occurring on or about November 29, 2016.

WHEREFORE, Petitioner respectfully requests the Division enter an Order imposing one or more of the penalties against the Respondent as permissible under Chapters 550 and 551, Florida Statutes, and Section 551.107(11), Florida Statutes, and the rules promulgated thereunder.

Signed on this 22nd day of June, 2017.

/s/
LOUIS TROMBETTA
Florida Bar No. 108119
Chief Attorney
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
Office of the General Counsel
2601 Blarstone Road
Mail Stop N21
Tallahassee, Florida 32399-2202
NOTICE OF RIGHTS

Please be advised that within twenty-one (21) days of your receipt of this administrative complaint you have the right to request an administrative hearing. Any such hearing would be conducted in accordance with the provisions of Sections 120.569 and 120.57, Florida Statutes, and you would have the right to be represented by counsel or other qualified representative, to call and examine witnesses, and to have subpoenas issued on your behalf. However, if you do not file (i.e., we do not receive) your request for hearing within the twenty-one (21) days, you will have waived your right to any hearing.

Please also be advised that mediation is not available in this matter.