

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	Stephanie Buse
Date	4/25/2018
File #	2018-02973

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

Petitioner,

DBPR CASE NO. 2017-026219

v.

KIMBERLY LASHAY THOMPKINS,

Respondent.

_____ /

FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“the Division”), hereby enters this Final Order in the above-styled matter. On March 23, 2017, Alison Parker, designated Hearing Officer for the Division, issued the Recommended Order in this matter (“the Recommended Order”). The Recommended Order is attached to this 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

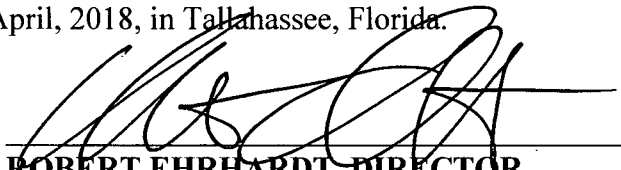
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

ORDER

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

1. Respondent's pari-mutuel wagering slot combo general occupational license, number 11192988-1056, is REVOKED.
2. Respondent is hereby PERMANENTLY EXCLUDED from all licensed slot machine facilities in this state.
3. 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 24 day of April, 2018, in Tallahassee, Florida.


ROBERT EHRHARDT, DIRECTOR
Division of Pari-Mutuel Wagering
Dept. of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202

NOTICE OF RIGHT TO APPEAL

Any party to this proceeding has the right to seek its judicial review under section 120.68, Florida Statutes, by the filing of an original notice of appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Agency Clerk, 2601 Blair Stone Road, Mail Stop G3, Tallahassee, Florida 32399-2203 (email: agc.filing@myfloridalicense.com), and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate Florida district court of appeal. The notice of appeal must be filed (received) in the Office of the Agency Clerk within thirty (30) days after the date this Order is filed with the Clerk.

CERTIFICATE OF SERVICE

I hereby certify this 25 day of April, 2018, that a true copy of the foregoing "Final Order" has been provided by regular U.S. Mail to:

Kimberly Lashay Thompkins
6132 Funston Street, Apt. 1
Hollywood, Florida 33023



AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

Cc:

Keneidra Williams, AIII OGC
Deborah Matthews, AII OGC/PMW

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	Evette Lawson-Proctor
Date	3/23/2018
File #	

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

Petitioner,

DBPR Case No. 2017-026219

v.

KIMBERLY LASHAY THOMPCKINS,

Respondent.

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Alison A. Parker, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("the Petitioner" or "the Division"), on February 7, 2018, 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 Kimberly Lashay Thompkins ("Respondent"), in DBPR Case No. 2017-026219. The Division was represented by James A. Lewis, Assistant General Counsel. Respondent appeared *pro se* by telephone. Both sides were allowed to present witnesses, offer items into evidence, and otherwise fully participate in the hearing.

PRELIMINARY STATEMENT

1. On November 8, 2017, the Petitioner filed a two-count Administrative Complaint against the Respondent, alleging that Respondent is subject to discipline under sections 551.109(5) and 551.112, Florida Statutes (2016) ("the Administrative Complaint")¹.

¹ All references to the Florida Statutes and the Florida Administrative Code will be to the 2016 versions unless otherwise noted.

2. On or about December 22, 2017, Petitioner received Respondent's executed Election of Rights form, indicating she did not dispute the material facts alleged in the Administrative Complaint and requested a hearing pursuant to section 120.57(2), Florida Statutes ("informal hearing").

3. At the informal hearing convened on February 7, 2018, the Petitioner presented the issues raised in the Administrative Complaint and cited the Respondent's signed Election of Rights. The undersigned granted the Petitioner's motion to accept the findings of fact in the Administrative Complaint as the undisputed facts in the case and admitted the Division's composite exhibit into evidence.

FINDINGS OF FACT

1. At all times material to the Administrative Complaint, Respondent was licensed in the state of Florida with a pari-mutuel wagering slot combo general license, having been issued license number 11192988-1056 by the Petitioner ("Respondent's occupational license").

2. At all times material to the Administrative Complaint, Respondent worked as a food service cashier at Calder Casino.

3. Calder Casino is a facility operated by a permit holder authorized to conduct pari-mutuel wagering, slot machine operations, and cardroom gaming in this state under chapters 550, 551, and section 849.086, Florida Statutes.

4. On or about May 6, 2017, during a transaction for the sale of food and/or beverages, Respondent received cash from a patron and placed it in her tip jar instead of the register.

5. On or about May 13, 2017, Respondent was permanently excluded from Calder Casino.

6. At the informal hearing, Respondent testified regarding this matter, stating that during a transaction, she received \$5 in exchange for a bowl of soup, without ringing up the item. She stated she placed the five-dollar-bill in the tip after a short delay of time. A similar occurrence happened at least twice more.

7. After the police department arrived, Respondent admitted to taking a total of \$50 and repaid \$35 immediately. The remaining \$15 remains unpaid and wholly at large.

8. There is competent substantial evidence to support the foregoing findings of fact.

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CONCLUSIONS OF LAW

9. The Division has jurisdiction over this matter pursuant to chapters 120, 550, 551, and section 849.086, Florida Statutes.

10. Section 551.109(5), Florida Statutes, 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.”

11. Rule 61D-14-090(2), Florida Administrative Code, 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 supplied).

12. Section 551.107(6)(a), Florida Statutes, authorizes the Division to “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.”

13. Section 551.112, Florida Statutes, permits the Division to “exclude from any facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state...”

14. Accordingly, the Division may revoke Respondent’s occupational license under the provisions of section 551.107(6)(a), Florida Statutes, for her violation of rule 61D-14.090(2), Florida Administrative Code and permanently exclude her from all licensed slot machine facilities in this state based on her exclusion from Calder Casino pursuant to section 551.112, Florida Statutes.

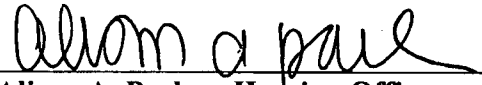
15. There is competent substantial evidence to support the foregoing conclusions of law.

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:

- (1) REVOKING Respondent's pari-mutuel wagering slot combo general license, number 11192988-1056; and
- 2) PERMANENTLY EXCLUDING Respondent from all licensed slot machine facilities in this state.

Respectfully submitted this 21st day of March 2018.


Alison A. Parker, Hearing Officer
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

CERTIFICATE OF SERVICE

I hereby certify this 23 day of March 2018 that a true copy of the foregoing has been provided by Certified U.S. mail to:

Kimberly Lashay Thompkins
6132 Funston Street, Apt. 1
Hollywood, Florida 33023


Evette L. Proctor
AGENCY CLERK'S OFFICE

Cc:
Alison A. Parker, Informal Hearing Officer
James A. Lewis, 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
DIVISION OF PARI-MUTUEL WAGERING

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	11/8/2017
File #	

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

Petitioner,

DBPR CASE NO. 2017-026219

v.

KIMBERLY LASHAY THOMPKINS,

Respondent.

ADMINISTRATIVE COMPLAINT

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

1. Petitioner is the state agency charged with regulating pari-mutuel wagering, slot machines, 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 combo general license, number 11192988-1056, issued by the Division ("Respondent's occupational license").
3. At all times material hereto, Respondent worked as a food service cashier at Calder Casino.
4. Calder Casino is a facility operated by a permitholder authorized to conduct pari-mutuel wagering, and slot machine and cardroom gaming in this state under chapters 550, 551, and section 849.086, Florida Statutes.

5. On or about May 6, 2017, during a transaction for the sale of food and/or beverages, Respondent received cash from a patron and placed it in Respondent's tip jar instead of the register.

6. On or about May 13, 2017, Respondent was permanently excluded from Calder 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 supplied).

10. Section 551.107(6)(a), Florida Statutes (2016), authorizes the Division to "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 occupational license for her violation of rule 61D-14.090(2), Florida Administrative Code.

COUNT II

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

13. Section 551.112, Florida Statutes (2016), permits the Division to “exclude from any facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state...”

14. Based on the foregoing, the Division may permanently exclude Respondent from all licensed slot-machine facilities in this state based upon her exclusion from Calder Casino.

WHEREFORE, Petitioner respectfully requests the Division enter an Order revoking Respondent’s occupational license and excluding Respondent from all pari-mutuel facilities in this State.

Signed on this 7th day of November, 2017.

/s/ James A. Lewis

JAMES A. LEWIS
Assistant General Counsel
Florida Bar No. 1002349
James.Lewis@MyFloridaLicense.com

/s/ Louis Trombetta

LOUIS TROMBETTA
Chief Attorney
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Louis.Trombetta@MyFloridaLicense.com

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Professional Regulation
Office of the General Counsel
Division of Pari-Mutuel Wagering
2601 Blair Stone Road
Mail Stop N21
Tallahassee, Florida 32399-2202
Telephone: (850) 717-1768
Facsimile: (850) 921-1311

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.