

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/29/2019
File #	2019-00636

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. 2018-014328

SHARMONIQUE BATTLE,

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 January 9, 2019, Nicholas L. DuVal, Hearing Officer for the Department, issued the Recommended Order in this matter. That 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 of the Department's Informal Hearing, it is hereby ORDERED that:

(1) Respondent is PERMANENTLY EXCLUDED from all Pari-Mutuel Facilities within the state of Florida.

(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 29 day of JANUARY, 2019, in Tallahassee, Florida.



JOE DILLMORE, DEPUTY DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202

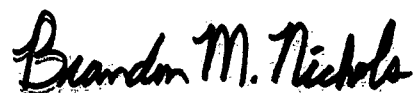
NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

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.

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 this 29th day of January, 2019, to:

SHARMONIQUE BATTLE
2241 N.W. 4th Court
Pompano Beach, Florida 33069



AGENCY CLERK'S OFFICE

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	1/9/2019
File #	

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

Petitioner,

DBPR Case No. 2018- 014328

v.

SHARMONIQUE BATTLE,

Respondent.

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Nicholas Lee Duval, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner" or "Division"), on November 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 filed against Sharmonique Battle ("Respondent"). Petitioner was represented by Louis Trombetta, Esquire. Respondent appeared *pro se* via telephone. Both parties were allowed to call witnesses, present evidence, and otherwise fully participate in the hearing.

PRELIMINARY STATEMENT

1. On April 4, 2018, Petitioner filed a one-count Administrative Complaint against Respondent.
2. On May 16, 2018, Respondent submitted an Election of Rights form and requested a formal hearing, however, Respondent failed to identify any material facts in dispute in accordance with section 120.57(1), Florida Statutes.

3. Petitioner informed Respondent of the aforementioned deficiency and afforded Respondent the opportunity to submit an Amended Election of Rights form. Consequently, Respondent, on September 26, 2018, retracted her previous request for a formal hearing and agreed to proceed via informal hearing pursuant to section 120.57(2), Florida Statutes.

4. At the informal hearing on November 7, 2018, Petitioner presented the issues raised in the Administrative Complaint and cited Respondent's decision to proceed pursuant to section 120.57(2), Florida Statutes. Petitioner's motion to accept the findings of fact in the Administrative Complaint as the undisputed facts in the case was granted.

FINDINGS OF FACT

5. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to chapter 550, Florida Statutes.

6. Respondent is not currently licensed by the Division.

7. Pompano Park is a licensed pari-mutuel and cardroom facility in this state.

8. On February 24, 2018, Respondent was a participant in a game of Ultimate Texas Hold'Em at Pompano Park. At the conclusion of the aforementioned game, Respondent concealed the dealer's view of her wager and subsequently increased the amount of her original bet. Respondent's payout was increased as a result of the aforementioned actions.

9. On February 28, 2018, Pompano Park, after reviewing video surveillance of Respondent's actions, permanently excluded Respondent from Pompano Park's facilities.

CONCLUSIONS OF LAW

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

11. Accordingly, rule 61D-11.005(4), Florida Administrative Code, provides:

(4) No person shall, either directly or indirectly:

(a) Employ or attempt to employ any device, scheme, or artifice to defraud any participant in a game or the cardroom operator.

(b) Engage in any act, practice, or course of operation that would constitute a fraud or deceit upon any participant in a game or the cardroom operator.

(c) Engage in any act, practice, or course of operation with the intent of cheating any participant or the cardroom operator.

12. Respondent violated rule 61D-11.005(4), Florida Administrative Code, by concealing the dealer's view of her wager and increasing the amount of her bet a game of Ultimate Texas Hold'Em at Pompano Park, on February 24, 2018.

13. Section 550.0251(6), Florida Statutes, provides that the Division may exclude any person from 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" or "any person who has been ejected from a pari-mutuel facility in this state ..."

14. Pursuant section 550.0251(6), Florida Statutes, Respondent is subject to exclusion from all pari-mutuel facilities within the state as a result of her permanent exclusion from Pompano Park on February 28, 2018, and by virtue of her violation of rule 61D-11.005(4), Florida Administrative Code.

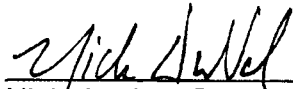
15. There is competent substantial evidence to support the conclusions of law.

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:

PERMANENTLY EXCLUDING Respondent from all pari-mutuel facilities within the state as a result of her permanent exclusion from Pompano Park on February 24, 2018, and by virtue of violating Rule 61D-11.005(4), Florida Administrative Code.

Respectfully submitted this 1th day of January 2019.



Nicholas Lee DuVal, Hearing Officer
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

CERTIFICATE OF SERVICE

I hereby certify this 9 day of January 2019 that a true copy of the foregoing has been furnished by regular U.S. mail to:

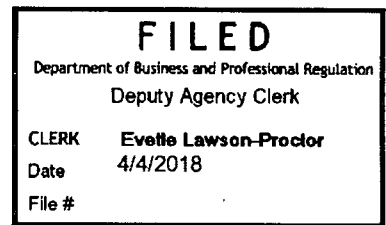
SHARMONIQUE BATTLE
2241 N.W. 4TH COURT
POMPANO BEACH, FLORIDA 33069



AGENCY CLERK'S OFFICE

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

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

Petitioner,

DBPR Case No. 2018- 014328

v.

SHARMONIQUE BATTLE,

Respondent.

ADMINISTRATIVE COMPLAINT

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

1. Petitioner is the state agency charged with regulating pari-mutuel wagering and cardrooms pursuant to chapter 550 and section 849.086, Florida Statutes.
2. Respondent is not currently licensed by the Division.
3. Pompano Park is a licensed pari-mutuel and cardroom facility in this state.
4. At all times pertinent to the allegations contained herein, Respondent was a patron at Pompano Park.
5. On or about February 24, 2018, Respondent, at the conclusion of a game of Ultimate Texas Hold’Em, concealed the dealer’s view of her wager and subsequently increased the amount of her original bet. Respondent’s payout was increased as a result of the aforementioned actions.

6. On or about February 24, 2018, Pompano Park, after reviewing video surveillance of Respondent's actions, permanently excluded Respondent from Pompano Park's facilities.

7. Accordingly, Rule 61D-11.005(4), *Florida Administrative Code*, provides:

(4) No person shall, either directly or indirectly:

- (a) Employ or attempt to employ any device, scheme, or artifice to defraud any participant in a game or the cardroom operator.
- (b) Engage in any act, practice, or course of operation that would constitute a fraud or deceit upon any participant in a game or the cardroom operator.
- (c) Engage in any act, practice, or course of operation with the intent of cheating any participant or the cardroom operator.

8. Furthermore, section 550.0251(6), Florida Statutes, provides that the Division may exclude any person from 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" or "any person who has been ejected from a pari-mutuel facility in this state ..."

9. Based on the forgoing allegation contained within paragraphs five and six, Respondent is subject to exclusion from all pari-mutuel facilities within the state by virtue of violating Rule 61D-11.005(4), *Florida Administrative Code*, and section 550.0251(6), Florida Statutes.

(SIGNATURE PAGE TO FOLLOW)

WHEREFORE, Petitioner respectfully requests the Division enter an Order permanently excluding Respondent from all licensed pari-mutuel facilities in the state pursuant to chapter 550, Florida Statutes, and the rules promulgated thereunder.

Signed this 4th day of March, 2018.

/s/ Jett Baumann

JETT BAUMANN

Senior Attorney

Florida Bar No. 122159

Jett.Baumann@MyFloridaLicense.com

/s/ Charles Dewrell

CHARLES DEWRELL

Deputy Chief Attorney

Florida Bar No. 0102579

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Department of Business and
Professional Regulation
Office of the General Counsel
Division of Pari-Mutuel Wagering
2601 Blair Stone Road
Tallahassee, Florida 32399-2202
Telephone: (850) 717-1508
Facsimile: (850) 921-1311

NOTICE OF RIGHT TO REQUEST A HEARING

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.