

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.: 2018-052912

ADALBERTO CHAMORRO,

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 July 9, 2019, 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

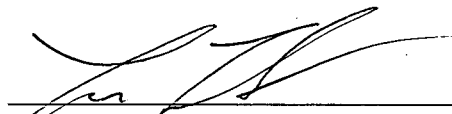
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

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 is hereby PERMANENTLY EXCLUDED from all pari-mutuel wagering facilities in 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 30 day of July, 2019, in Tallahassee, Florida.



LOUIS TROMBETTA, 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 this 31st day of July 2019, that a true and correct copy of the foregoing Final Order has been provided by U.S. mail to:

Adalberto Chamorro
5424 Southwest 43rd Street
Fort Lauderdale, Florida 33314

Branda M. Niels

AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

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	7/10/2019
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.: 2018-052912

v.

ADALBERTO CHAMORRO,

Respondent.

PROPOSED 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 on June 5, 2019, 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 Adalberto Chamorro ("Respondent"), in DBPR Case Number 2018-052912 ("Administrative Complaint"). The Division of Pari-Mutuel Wagering ("Petitioner") was represented by Christina L. Roberts, Law Clerk, under the supervision of Jason Holman, Assistant General Counsel. Respondent appeared *pro se* by telephone. Both sides were allowed to call witnesses, provide sworn testimony, proffer items into evidence and otherwise fully participate in the hearing.

PRELIMINARY STATEMENT

1. On February 28, 2019, the Petitioner filed a one-count Administrative Complaint against Respondent, alleging that Respondent was subject to exclusion from

all pari-mutuel wagering facilities in the State of Florida under sections 551.112 and 550.0251(6), Florida Statutes.

2. Respondent submitted an Election of Rights form on March 20, 2019, in which he indicated that he disputed the allegations of material fact in the Administrative Complaint and that he desired a formal hearing pursuant to sections 120.569(2)(a) and 120.57(1), Florida Statutes.

3. A deficiency letter was sent on March 26, 2019, requesting an Amended Election of Rights form, as Respondent did not specify what issues of material fact were disputed.

4. An Amended Election of Rights form was not submitted, and the matter was referred to this informal hearing.

5. At the informal hearing on June 5, 2019, the Petitioner presented the issues raised in the Administrative Complaint and cited the Respondent's Election of Rights submitted on March 20, 2019. The Hearing Officer granted the Petitioner's motion to accept the findings of fact in the Administrative Complaint as the undisputed facts in the case. Respondent then presented his case.

FINDINGS OF FACT

1. At all times material to the Administrative Complaint, Respondent held a Pari-Mutuel Wagering Slot Combo Professional License, number 10541992-1055, issued by the Petitioner.

2. Hialeah Park is a licensed pari-mutuel wagering and slot machine facility in the State of Florida.

3. On or September 28, 2018, Hialeah Park permanently excluded Respondent from Hialeah Park's facilities.

CONCLUSIONS OF LAW

4. The undersigned Hearing Officer has jurisdiction to hear this case pursuant to section 120.57(2), Florida Statutes.

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

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

In addition to the power to exclude certain persons from any pari-mutuel facility in the 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.

7. Section 551.112, Florida Statutes, provides that Petitioner may exclude any person from all slot machine facilities in this state "who has been excluded from any facility of a slot machine licensee or gaming facility..."

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

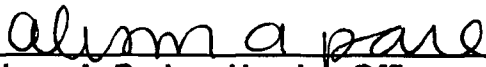
[RECOMMENDATION ON FOLLOWING PAGE]

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:

Excluding Respondent from all pari-mutuel wagering facilities in the State of Florida.

Respectfully submitted this 9th day of July 2019.


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 10 day of July 2019 that a true copy of the foregoing has been furnished by regular U.S. mail to:

Adalberto Chamorro
5424 Southwest 43rd Terrace
Fort Lauderdale, Florida 33314


EVELYN J. PROCTOR
AGENCY CLERK'S OFFICE

cc:
Alison A. Parker, Informal Hearing Officer
Jason Holman, 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.

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	2/28/2019
File #	

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

DEPARTMENT OF BUSINESS AND
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DIVISION OF PARI-MUTUEL WAGERING,

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v.

DBPR Case No. 2018-052912

ADALBERTO CHAMORRO,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner” or “Division”), files this Administrative Complaint against Adalberto Chamorro (“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 PMW Slot Combo Professional license, number 10541992-1055, issued by the Division.
3. Hialeah Park is a licensed pari-mutuel wagering and slot machine facility in the State of Florida.
4. On or September 28, 2018, Hialeah Park permanently excluded Respondent from Hialeah Park’s facilities.

COUNT I

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

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

In addition to the power to exclude certain persons from any pari-mutuel facility in the 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.

(Emphasis supplied).

7. Section 551.112, Florida Statutes, provides that the Division may exclude any person from all slot machine facilities in this state “any person who has been excluded from any facility of a slot machine licensee or gaming facility...”

8. Based on the foregoing, Respondent is subject to exclusion from all slot machine and pari-mutuel facilities within the state by being excluded from Hialeah Park on September 28, 2018.

WHEREFORE, Petitioner respectfully requests the Division Director enter an Order permanently excluding Respondent from all licensed pari-mutuel and slot machine facilities in the State of Florida along with any other remedy provided by chapter 550 or chapter 551, Florida Statutes, and/or the rules promulgated thereunder.

(SIGNATURE PAGE TO FOLLOW)

This Administrative Complaint in case number 2018-052912 is signed this 27th day of February, 2019.

/s/ Jason Holman

JASON HOLMAN

Senior Attorney

Florida Bar No. 105238

Jason.Holman@MyFloridaLicense.com

/s/ Megan Silver

MEGAN SILVER

Deputy Chief Attorney

Florida Bar No. 115518

Megan.Silver@MyFloridaLicense.com

Office of the General Counsel
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202
Telephone: (850)-717-1585
Facsimile: (850) 921-1311

NOTICE OF RIGHTS TO REQUEST A HEARING

Pursuant to section 120.569 and 120.57, Florida Statutes, you have the right to request a hearing to challenge the charges contained in this Administrative Complaint. If you choose to request a hearing, you will have the right 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 your behalf.

Any request for an administrative proceeding to challenge or contest the charges contained in this Administrative Complaint must conform to Rule 28-106.2015, *Florida Administrative Code*. Pursuant to Rule 28-106.111, *Florida Administrative Code*, you must request a hearing within 21 days from receipt of this Notice, or you will waive your right to request a hearing.