

<b>FILED</b>	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/14/2019
File #	2019-08740

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.: 2019-009095

RUDY H. POITEVIEN,  
  
Respondent.

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**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 September 10, 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 **PERMANENTLY EXCLUDED** from all pari-mutuel facilities in the State of Florida as of the effective date of this Final Order.
- 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 8 day of October, 2019, in Tallahassee, Florida.



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**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 14<sup>th</sup> day of October 2019, that a true and correct copy of the foregoing Final Order has been provided by U.S. mail to:

**Rudy H. Poitevien**  
939 N.W. 206<sup>th</sup> Street  
Miami, Florida 33169

*Brandon M. Nichols*

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**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 Order 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.

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	<b>Evette Lawson-Proctor</b>
Date	<b>9/13/2019</b>
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.: 2019-009095

v.

RUDY H. POITEVIEN,

Respondent.

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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 on August 7, 2019, in Tallahassee, Florida, in accordance with the provisions of section 120.57(2), Florida Statutes, for consideration of the one-count Administrative Complaint filed March 13, 2019 against Rudy H. Poitevien ("Respondent"). The Division of Pari-Mutuel Wagering ("Petitioner") was represented by Jason Holman, Assistant General Counsel. Respondent appeared *pro se* via telephone. Both sides were allowed provide sworn testimony, call witnesses, proffer items into evidence, and otherwise fully participate in the hearing.

PRELIMINARY STATEMENT

1. On March 13, 2019, the Petitioner filed an Administrative Complaint against Respondent. The Administrative Complaint alleged that Respondent was excluded from The Casino at Dania Beach ("CDB") on or about February 19, 2019 and Respondent was subject to permanent exclusion from all licensed pari-mutuel facilities in the State of Florida based on his permanent exclusion from CDB on February 19, 2019.

2. The Petitioner received Respondent's first Election of Rights form on June 18, 2019 wherein Respondent requested an informal hearing pursuant to section 120.57(2), Florida Statutes. Respondent failed to address what specific facts he disputed, and what paragraphs of the Administrative Complaint that he disputed.

3. On July 16, 2019, Petitioner received an Amended Election of Rights form. Like the first, Respondent failed to address what specific facts he disputed, and what paragraphs of the Administrative Complaint that he disputed. After receiving this second defective Election of Rights, Respondent confirmed his election for an informal hearing via email on July 17, 2019.

4. At the informal hearing on August 7, 2019, the Petitioner presented the issues raised in its Administrative Complaint and cited Respondent's Election of Rights forms and the email in which Respondent requested an informal hearing. The undersigned Hearing Officer granted the Petitioner's motion to allow the Administrative Complaint and investigate report into the record.

#### FINDINGS OF FACT

5. Mr. Poitevien was a patron of The Casino at Dania Beach ("CDB") on February 12, 2019.

6. As a result of his actions on this date, Respondent was initially issued a "29 Day Trespass Warning".

7. Upon subsequent review of the incident, CDB senior management decided to issue a permanent exclusion from CBD.

8. On or about February 19, 2019, Respondent was permanently excluded from CBD.

## CONCLUSIONS OF LAW

9. 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.

10. At all times material hereto, CDB was a facility operated by a permitholder authorized to conduct pari-mutuel wagering in the State of Florida.

11. 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).

12. Respondent was ejected from CBD, and thus he is subject to permanent exclusion from all licensed pari-mutuel facilities in the State of Florida based on his permanent exclusion from CDB on February 19, 2019.

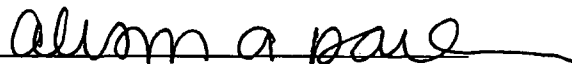
## RECOMMENDATION

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 Rudy H. Poitevien from all pari-mutuel facilities in the State of Florida, effective as of the date of the applicable Final Order in this matter.

Respectfully submitted this 10<sup>th</sup> day of September 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 13 day of September 2019 that a true copy of the foregoing has been furnished by mail to:

**Rudy H. Poitevien**  
939 N.W. 206<sup>th</sup> Street  
Miami, Florida 33169

  
**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.

**FILED**  
Department of Business and Professional Regulation  
Deputy Agency Clerk  
CLERK **Evette Lawson-Proctor**  
Date **3/13/2019**  
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,

vs.

DBPR Case No. 2019-009095

RUDY H. POITEVIEN,

Respondent.

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ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Rudy H. Poitevien (“Respondent”) and alleges:

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, The Casino at Dania Beach (“CDB”) was a facility operated by a permitholder authorized to conduct pari-mutuel wagering in the State of Florida.

3. On or about February 19, 2019, Respondent was permanently excluded from CDB.

4. 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).

5. Based on the foregoing, Respondent is subject to permanent exclusion from all licensed pari-mutuel facilities in the State of Florida based on his permanent exclusion from CDB on February 19, 2019.

WHEREFORE, Petitioner respectfully requests the Division Director enter an Order permanently excluding Respondent from all licensed pari-mutuel facilities in the State of Florida along with any other remedy provided by chapters 550, 551, and 849, Florida Statutes, and/or the rules promulgated thereunder.

This administrative complaint for DBPR Case Number 2019-009095 is signed this 11<sup>th</sup> day of March, 2019.

/s/ Jason Holman  
JASON HOLMAN  
Senior Attorney  
Florida Bar No. 105238  
Jason.Holman@MyFloridaLicense.com

/s/ Megan S. Silver  
MEGAN S. 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.