

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	5/9/2022
File #	2022-03761

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.: 2021-042367

v.

DAVID ROSADO,

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 March 2, 2022, Alison A. Parker, Hearing Officer for the Department, issued the Recommended Order in this matter. The 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

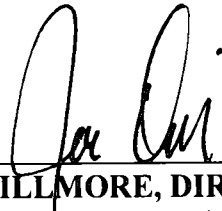
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

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 **EXCLUDED** from all pari-mutuel facilities within the State of Florida for a period of six (6) months.
- 2) This six (6) month period will commence on the effective date of this Final Order.
- 3) This Final Order shall become effective on the date of filing with the Agency Clerk of the Department of Business and Professional Regulation.

This Final Order in DBPR Case Number 2021-042367 is DONE AND ORDERED this 6th day of MAY, 2022, in Tallahassee, Florida.



JOE DILLMORE, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-1035

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.

CERTIFICATE OF SERVICE

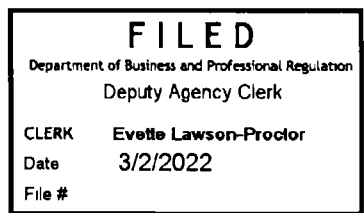
I HEREBY CERTIFY this 9th day of May 2022, that a true and correct copy of the foregoing Final Order has been sent via U.S. Mail to:

David Rosado
3300 Spanish Moss Terrace, Unit 301
Lauderhill, Florida 33319



AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

CC: Ebonie Lanier



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.: 2021-042367

v.

DAVID ROSADO,

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 on February 9, 2022, in Tallahassee, Florida, in accordance with the provisions of Sections 120.569 and 120.57(2), Florida Statutes, for consideration of the Division's Administrative Complaint filed against David Rosado ("Respondent"), in DBPR Case Number 2021-042367 ("Administrative Complaint"). The Division of Pari-Mutuel Wagering ("Division") was represented by Eric Saccomanno, Assistant General Counsel. Respondent appeared *pro se* and the hearing was held by conference call. Both sides were permitted to present witnesses, proffer items into evidence, and otherwise fully participate in the hearing.

PROCEDURAL HISTORY

1. On November 10, 2021, the Division filed a one-count Administrative Complaint against Respondent alleging that on September 4, 2021, Respondent was excluded for a period of six months from PPI Inc., a permitholder authorized to conduct pari-mutuel wagering, slot machines, and cardroom operations in the State of Florida.

2. Additionally, the aforementioned Administrative Complaint alleged that he is subject to exclusion from all licensed pari-mutuel facilities in the State of Florida.

3. On December 22, 2021, Respondent requested an informal hearing pursuant to Section 120.57(2), Florida Statutes.

4. At the informal hearing on February 9, 2022, the Division presented the issues raised in its Administrative Complaint. The Hearing Officer granted the Division's motion to accept the Findings of Fact in the Administrative Complaint as the undisputed facts in the case, and accepted the investigative report into the record.

5. At the informal hearing, the Hearing Officer questioned the Division about the recommended starting date of the exclusion. The Division stated that it is recommended that the exclusion begin on the filing date of the Final Order.

6. Prior to the Respondent's testimony, the Division had recommended a six month exclusion. However, after the informal hearing and Respondent's testimony, the Division will no longer be recommending a six month exclusion.

7. At the February 9, 2022 informal hearing, Respondent testified on a variety of topics. He asserted his premature betting does not constitute cheating and that this is prevalent at the pari-mutuel wagering facility. Additionally, he testified that he has not gotten into trouble for "capping" or any other betting-based malfeasance cheating in his thirty years as a recreational gambler.

8. However, the previous statement is in conflict with Respondent's previous ejection from PPI, Inc. In April 2021, Respondent was ejected and issued a thirty-day exclusion after being caught illegally "capping" his bet during a poker game at PPI, Inc.

9. At the informal hearing, Respondent only acknowledged his previous instance of cheating when questioned about the incident.

10. Respondent further stated that he will continue the behavior that led to his ejection as he believes this form of illegal wager is normal or pervasive within the culture of the poker community.

11. Respondent also testified that he does not care to return to PPI, Inc. and will abide with any potential decision reached by the Division.

FINDINGS OF FACT

12. At all times pertinent to the allegations contained herein, Respondent was a patron of PPI, Inc.

13. On or about September 2, 2021, Respondent was ejected from PPI, Inc.

14. On or about September 4, 2021, Respondent was excluded from PPI, Inc. for six months.

CONCLUSIONS OF LAW

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

16. At all times material, PPI, Inc. was a facility operated by a permit holder authorized to conduct pari-mutuel wagering, cardroom, and slot machine operations in the State of Florida.

17. Section 550.0251(6), Florida Statutes, provides in relevant part, with emphasis added:

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.

18. Section 551.112, Florida Statutes, provides (emphasis added):

In addition to the power to exclude certain persons from any facility of a slot machine licensee in this state, the division may exclude any person from any facility of a slot machine licensee 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 facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state or who has been excluded from any facility of a slot machine licensee or gaming facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over the gaming in such other state. This section does not abrogate the common law right of a slot machine licensee to exclude a patron absolutely in this state.

19. Respondent is subject to exclusion from all licensed pari-mutuel facilities and any facility of a slot machine licensee in the State of Florida based on his September 2nd ejection and September 4th exclusion from PPI, Inc. *See* § 550.0251(6) and § 551.112, Fla. Stat.

20. Respondent's testimony neither mitigates the fact that Respondent was excluded from PPI, Inc., nor precludes the Division from permanently excluding Respondent from all licensed pari-mutuel facilities in the State of Florida. *See Id.*

21. The Division is not required to be the arbiter of the underlying allegations that led to a patron's exclusion. Under the simple statement of the law, patron's exclusion from a licensed pari-mutuel wagering facility is enough to trigger a wholesale exclusion of the patron from all pari-mutuel facilities in the State of Florida.

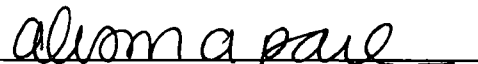
22. Based upon the totality of the circumstances, a six month exclusion from all pari-mutuel wagering facilities is reasonable. This time period equals that of his exclusion by PPI, Inc.

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

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law, it is hereby RECOMMENDED that the Division issue a Final Order excluding Respondent from all pari-mutuel facilities in the State of Florida for a period of six months. This six month-period will commence on the effective filing date of the Final Order rendered in this matter.

Respectfully submitted this 2nd day of March 2022.


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 2 day of March 2022 that a true copy of the foregoing Hearing Officer's Recommended Order has been provided via U.S. mail to:

David Rosado
3300 Spanish Moss Terrace, Unit 301
Lauderhill, Florida 33319


AGENCY CLERK'S OFFICE



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

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_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against David Rosado (“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 849, Florida Statutes.
2. At all times material hereto, Respondent’s address was reported as 3300 Spanish Moss Terrace, Lauderhill, Florida 33319.
3. At all times material hereto, PPI, Inc. was a facility operated by a permit holder authorized to conduct pari-mutuel wagering, slot machines, and cardroom operations in the State of Florida.
4. On or about September 2, 2021, Respondent was a patron of PPI, Inc.
5. On or about September 2, 2021, Respondent was ejected from PPI, Inc.
6. On or about September 4, 2021, Respondent was excluded from PPI, Inc. for a period of six months.

7. 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).

8. Section 551.112, Florida Statutes, provides:

In addition to the power to exclude certain persons from any facility of a slot machine licensee in this state, the division may exclude any person from any facility of a slot machine licensee 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 facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state or who has been excluded from any facility of a slot machine licensee or gaming facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over the gaming in such other state. This section does not abrogate the common law right of a slot machine licensee to exclude a patron absolutely in this state.

(Emphasis supplied).

9. Based on the foregoing, Respondent violated Sections 550.0251(6) and 551.112, Florida Statutes and is subject to exclusion from all licensed pari-mutuel wagering facilities and any facility of a slot machine licensee in the State of Florida based on his ejection from PPI, Inc. on or about September 2, 2021.

WHEREFORE, Petitioner respectfully requests the Division Director enter an Order excluding Respondent from all licensed pari-mutuel wagering facilities and any facility of a slot machine licensee in the State of Florida for a period of six months beginning on the date of his exclusion from PPI, Inc., along with any other remedy provided by Chapters 550 and 551, Florida Statutes, and/or the rules promulgated thereunder.

This Administrative Complaint for DBPR Case Number 2021-042367 is signed this 8th day of November 2021.

/s/ Eric Saccomanno

Eric Saccomanno

Assistant General Counsel

FBN: 1032559

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) 717-1786

Facsimile: (850) 921-1311

Primary: Eric.Saccomanno@MyFloridaLicense.com

Secondary: Ebonie.Lanier@MyFloridaLicense.com

NOTICE OF RIGHTS TO REQUEST A HEARING

Pursuant to Sections 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.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.