

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.: 2021-042795

NATHANIEL RABELL,
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 25, 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

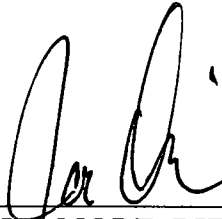
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

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 in the State of Florida for a period of six (6) months.
- 2) 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 2021-042795 is DONE AND ORDERED this 27 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 31st day of May 2022, that a true and correct copy of the foregoing Final Order has been sent via U.S. Mail to:

Nathaniel Rabell
1777 West 58th Street, Apt. 102
Hialeah, Florida 33012

Brandon M. Nichols

AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

cc: Ebonie Lanier



STATE OF FLORIDA
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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 March 2, 2021 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 Nathaniel Rabell ("Respondent"), in DBPR Case Number 2021-042795 ("Administrative Complaint"). The Division of Pari-Mutuel Wagering ("Division") was represented by Elizabeth Pearce, Legal Extern/Gubernatorial Fellow, under the supervision of Eric Saccomanno, Assistant General Counsel. Respondent appeared *pro se* and the hearing was held by telephone conference call. Both sides were permitted to present witnesses, proffer items into evidence, and otherwise fully participate in the hearing.

PROCEDURAL HISTORY

1. On October 14, 2021, the Division filed a two-count Administrative Complaint against Respondent alleging that on or about August 23, 2021, Respondent was ejected and excluded from Magic City Casino, operated by West Flagler Associates, LTD, for 24 hours and

that he is subject to exclusion from all licensed pari-mutuel facilities and any facility of a slot machine in the State of Florida.

2. On November 19, 2021, Respondent requested an informal hearing pursuant to Section 120.57(2), Florida Statutes.

The March 2, 2022 Informal Hearing

3. The informal hearing transpired as scheduled on March 2, 2022.

4. During the hearing, the Division presented the issues raised in its Administrative Complaint. The undersigned Hearing Officer granted the Division's motion to accept the Findings of Fact in the Administrative Complaint as the undisputed facts in the case. Additionally, the Division successfully moved the investigative report into the record.

5. During the hearing, Respondent admitted he intentionally tilted a slot machine while at Magic City Casino due to an adrenaline surge catalyzed by losing his bet. He testified that should he be allowed to frequent casinos in the future, he will have enough control over his faculties in order to refrain from physically tilting, altering, or otherwise interfering with slot machines or other casino devices.

6. Rule 61D-11.005(4), Florida Administrative Code provides, in pertinent part, that "[n]o person shall, either directly or indirectly... (b) [e]ngage in any act, practice, or course of operation that would constitute fraud or deceit upon any participant in a game or the cardroom operator."

FINDINGS OF FACT

7. At all times pertinent to the allegations contained herein, Respondent was a patron at Magic City Casino.

8. On or about August 23, 2021, Respondent was ejected and temporarily excluded from Magic City Casino.

CONCLUSIONS OF LAW

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

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

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

12. Respondent is subject to exclusion from all licensed pari-mutuel facilities in the State of Florida based on his ejection and temporary exclusion from Magic City Casino on August 23, 2021. *See* § 550.0251(6), Fla. Stat.

13. Respondent's testimony does not refute the fact that Respondent was temporarily excluded from Magic City Casino. However, Respondent appears self-aware of the severity of this violation and has testified to his resolve to refrain from future machine-related interference.

14. Nothing in this order should be construed to abrogate the common law right of West Flagler Association, LTD or Magic City Casino from excluding patron absolutely from its premises. *See Id.*

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

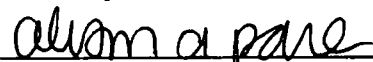
RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law, it is hereby recommended that the Division enter a Final Order with the following provisions:

16. Stating that Respondent violated sections 550.0251(6) and 551.112, Florida Statutes.

17. Excluding Respondent from all pari-mutuel facilities in the State of Florida for a period of six months. The time period of this exclusion will commence starting from the effective filing date of the applicable Final Order entered in this matter.

Respectfully submitted this 25th 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 25 day of March 2022 that a true copy of the foregoing Hearing Officer's Recommended Order has been provided by mail to:

Nathaniel Rabell
1725 West 58th St. Apt 102
Hialeah, Florida 33012



AGENCY CLERK'S OFFICE

Copies:

Alison A. Parker, Hearing Officer
Eric Saccomanno, Assistant General Counsel
Elizabeth Pearce, Gubernatorial Fellow/Legal Extern

STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	12/2/2021
File #	

Petitioner,

DBPR Case No.: 2021-042795

v.

NATHANIEL RABELL,

Respondent.

NOTICE OF SCRIVENER'S ERROR

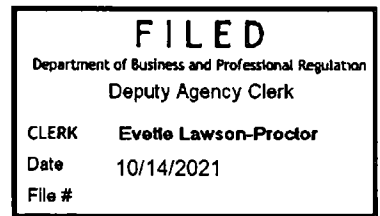
On October 14, 2021, the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Department") filed the Administrative Complaint for the above styled matter, which contained the scrivener's error of an omitted date above the attorney's signature block on the 4th page of the Administrative Complaint.

Accordingly, the date on which the Administrative Complaint was signed should read "signed this 14th day of October 2021." As such, the Department hereby provides this Notice of Scrivener's Error to correct the Administrative Complaint in this matter as described above.

Respectfully submitted this 30th 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
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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,
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_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner"), files this Administrative Complaint against Nathaniel Rabell ("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 1725 West 58th Street, Apt #102 Hialeah Florida, 33012.

3. At all times material hereto, West Flagler Association, LTD, was a facility operated by a permitholder authorized to conduct pari-mutuel wagering, slot machines, and cardroom operations in the State of Florida.

4. On or about August 23, 2021, Respondent was a patron of West Flagler Association, LTD.

5. On or about August 23, 2021, Respondent, a patron, intentionally caused a slot machine to "tilt", preventing the machine from registering Respondent's losing bet.

6. On or about August 23, 2021, Respondent was ejected and excluded for twenty-four hours from West Flagler Association, LTD.

COUNT I

7. Petitioner realleges and incorporates the allegations contained within paragraphs one through six as though fully set forth herein.

8. Rule 61D-11.005(4), Florida Administrative Code, provides, in pertinent part, that “[n]o person shall, either directly or indirectly... (b) [e]ngage 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.”

9. Based on the foregoing, Respondent violated Rule 61D-11.005(4), Florida Administrative Code, by engaging in an act, practice, or course of operation that would constitute deceit upon a cardroom operator.

COUNT II

10. Petitioner realleges and incorporates the allegations contained within paragraphs one through six as though fully set forth herein.

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. 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).

13. 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 the acts leading to his ejection and exclusion from West Flagler Association, LTD, on or about August 23, 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, 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 2021-042795 is signed this ____
day of ____ 2021.

/s/ Eric Saccomanno

Eric Saccomanno
Assistant General Counsel
FBN: Florida Bar Number Pending
Department of Business and Professional Regulation
Office of the General Counsel
Division of Pari-Mutuel Wagering
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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.