

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.: 2022-006056

v.

PEDRO CARLOS CUELLAR,

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 June 13, 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

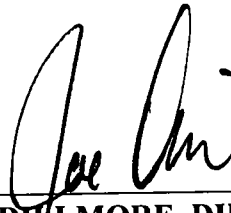
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

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 and all facilities of a slot machine licensee within 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 2022-006056 is DONE AND ORDERED this 28 day of JUNE, 2022, in Tallahassee, Florida.



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**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](mailto: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 29<sup>th</sup> day of June 2022, that a true and correct copy of the foregoing Final Order has been sent via U.S. Mail to:

**Pedro Carlos Cuellar**  
1120 Northeast 201<sup>st</sup> Terrace  
Miami, Florida 33179

*Brandon M. Nichols*

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**AGENCY CLERK'S OFFICE**  
Department of Business and Professional Regulation

cc: Ebonie Lanier



STATE OF FLORIDA  
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DIVISION OF PARI-MUTUEL WAGERING

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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 June 1, 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 Pedro Carlos Cuellar ("Respondent"), in DBPR Case Number 2022-006056 ("Administrative Complaint"). The Division of Pari-Mutuel Wagering ("Division") was represented by Emily A. Alvarado, Deputy Chief Attorney. Respondent appeared *pro se* and the hearing was held telephonically. Both sides were permitted to present witnesses, offer items into evidence, and otherwise fully participate in the hearing.

**PROCEDURAL HISTORY**

1. On February 22, 2022, the Division filed a one-count Administrative Complaint against Respondent alleging that on January 24, 2022, Respondent was permanently excluded from Magic City Casino and that he is subject to exclusion from all licensed pari-mutuel facilities and all facilities of a slot machine licensee in the State of Florida.

2. On March 14, 2022, Respondent requested a formal hearing pursuant to section 120.57(1), Florida Statutes, along with a letter explaining the reason for the exclusion.

3. The Division reviewed the request for a formal hearing and determined that no material facts were in dispute.

4. Subsequently, the Division issued a deficiency letter to Respondent, requesting he submit an amended Election of Rights form which specifically identified which issues of material fact Respondent disputed.

5. Respondent failed to respond to the amended Election of Rights within 21 days. Therefore, this case was set for an informal hearing pursuant to section 120.57(2), Florida Statutes, with proper notice to all parties.

#### **The Informal Hearing – June 1, 2022**

6. The informal hearing transpired as scheduled on June 1, 2022.

7. 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.

8. During the hearing, Respondent testified regarding the incident that lead to his exclusion at Magic City Casino on January 24, 2022:

- a. Respondent stated that he was playing poker in the Magic City Casino cardroom and won a high hand;
- b. Respondent testified that after winning the high hand, he was approached by another patron who insisted that Respondent give him a part of his high hand winnings;

- c. Respondent refused to do this and proceeded to use the restroom;
- d. When Respondent exited the restroom he was approached by the patron a second time and was slapped in the face by the patron; and
- e. Respondent testified that he attempted to defend himself from the patron.

9. Following the incident, Respondent and the patron were taken to the security office at Magic City Casino and were told that the problem would be resolved.

10. Respondent further explained he is a regular at Magic City Casino and loves to play poker. He stated that he has never had a problem at this facility or any other facility within the state of Florida.

#### **FINDINGS OF FACT**

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

12. On January 24, 2022, Respondent was ejected and permanently excluded from Magic City Casino.

#### **CONCLUSIONS OF LAW**

13. The undersigned Hearing Officer has jurisdiction over this matter and the parties pursuant to Section 120.57(2), Florida Statutes.

14. The Division has jurisdiction over this matter pursuant to Chapters 120, 550, and 551, Florida Statutes.

15. 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.

16. 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.

17. 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.

18. Respondent is subject to exclusion from all licensed pari-mutuel facilities and all facilities of a slot machine licensee in the State of Florida based on his ejection and permanent exclusion from Magic City Casino on January 24, 2022. *See* § 550.0251(6), and § 551.112 Fla. Stat.

19. Respondent's testimony neither mitigates the fact that Respondent was permanently excluded from Magic City Casino, nor precludes the Division from excluding Respondent from all licensed pari-mutuel facilities and all facilities of a slot machine licensee in the State of Florida. *See Id.*



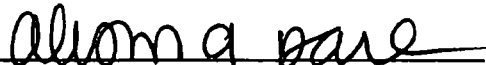
20. Neither the Department nor its Division are in a position to re-litigate the underlying events that caused Respondent's initial ejection and subsequent exclusion from Magic City Casino.

21. 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 excluding Respondent for six months from all pari-mutuel facilities and all facilities of a slot machine licensee in the State of Florida.

Respectfully submitted this 8<sup>th</sup> day of June 2022.

  
**Alison A. Parker, Hearing Officer**  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, FL 32399-2202

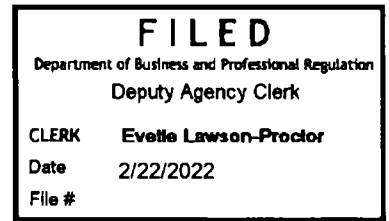
**CERTIFICATE OF SERVICE**

I hereby certify this 13 day of June 2022 that a true copy of the foregoing Hearing Officer's Recommended Order has been provided by mail to:

**Pedro C. Cuellar**  
1120 Northeast 201<sup>st</sup> Terrace  
Miami, Florida 33179

  
**AGENCY CLERK'S OFFICE**

Cc: Alison A. Parker, Hearing Officer  
Emily A. Alvarado née Emily Leiva, Deputy Chief Attorney



STATE OF FLORIDA  
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ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner"), files this Administrative Complaint against Pedro Carlos Cuellar ("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 1120 Northeast 201st Terrace Miami, Florida 33179.
3. At all times material hereto, Magic City Casino 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 January 24, 2022, Respondent was a patron of Magic City Casino.
5. On or about January 24, 2022, Respondent was ejected and permanently excluded from Magic City Casino.
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:

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).

8. 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 Magic City Casino on or about January 24, 2022.

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 2022-006056 is signed this 22nd day of February 2022.

/s/ Emily A. Leiva

Emily A. Leiva  
Assistant General Counsel  
Florida Bar Number: 1025200  
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) 717-1783  
Facsimile: (850) 921-1311  
Primary: Emily.Leiva@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.