

Supplemental Meeting Materials for 7/8/2025

Corrected Hearing Officer's Recommended Order

Item # 4.3
2024-060053 - Gutierrez, Omar

STATE OF FLORIDA
FLORIDA GAMING CONTROL COMMISSION
DIVISION OF PARI-MUTUEL WAGERING

FLORIDA GAMING CONTROL COMMISSION,
DIVISION OF PARI-MUTUEL WAGERING,

Petitioner,
v.

FGCC Case No.: 2024-060053

OMAR GUTIERREZ,

Respondent.

_____ /

CORRECTED HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Renee Harkins, designated Hearing Officer for the Florida Gaming Control Commission ("Commission"), on May 21, 2025, in Tallahassee, Florida, in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes, for consideration of the Commission's Administrative Complaint filed against Omar Gutierrez, ("Respondent"), in FGCC Case Number 2024-060053 ("Administrative Complaint"). Respondent appeared *pro se*. The Commission was represented by Justin Hundesmarck, Senior Attorney, and the hearing was held telephonically.

PROCEDURAL HISTORY

1. On or about December 17, 2024, the Commission filed an Administrative Complaint against Respondent, alleging that Respondent was a patron of and was ejected and excluded from Bonita-Ft. Myers Corp Wholly Subsidiary of Southwest Florida Enterprises, Inc., d/b/a Bonita Springs Poker Room ("Bonita Springs"). The Administrative Complaint sought to exclude Respondent from all licensed pari-mutuel wagering facilities in the State of Florida due to Respondent's ejection and exclusion from Bonita Springs.

2. On or about March 20, 2025, the Commission received an Election of Rights form from Respondent requesting a telephonic hearing in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes.

3. An informal hearing was scheduled for May 21, 2025.

The May 21, 2025, Informal Hearing

4. At the informal hearing held on May 21, 2025, the Commission presented the issues raised in its Administrative Complaint. The Hearing Officer granted the Commission's motion to accept the Findings of Fact in the Administrative Complaint as the undisputed facts in the case and admitted the investigative packet into the record.

5. The investigative packet that was admitted into the record contained an Investigative Report detailing the activity that led to the permanent ejection and exclusion of Respondent from Bonita Springs.

6. At the informal hearing, Respondent testified that he initiated a confrontation in the parking lot against a long-time acquaintance over an unpaid debt. He testified that the other party stabbed him with a knife. Respondent remained hospitalized for weeks due to his injuries. Respondent stated he was not charged with any crime in the incident.

7. Respondent testified that he no longer sells narcotics and plays a lot of poker. He stated that he does not want to be banned from any facilities because of this incident. Respondent testified that he does not own a firearm and that his conduct would not be an issue in the future.

FINDINGS OF FACT

8. Petitioner is the state agency charged with regulating pari-mutuel wagering and cardroom operations pursuant to chapters 550 and 849, Florida Statutes.

9. At all times material hereto, Bonita Springs was a facility operated by a permitholder authorized by the Commission to conduct pari-mutuel wagering and cardroom operations in the State of Florida.

10. On or about September 28, 2024, the Respondent was a patron of, and was ejected and permanently excluded from Bonita Springs.

CONCLUSIONS OF LAW

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

12. The Commission has jurisdiction over this matter pursuant to chapters 120, 550, and 849, Florida Statutes.

13. At all times material hereto, Bonita Springs was a facility operated by a permitholder authorized to conduct pari-mutuel wagering and cardroom operations in the State of Florida.

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 this state, the commission 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 commission. The commission 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.)

14. Pursuant to the statutes, Respondent's ejection and exclusion from one facility is enough to trigger an exclusion of the person from all pari-mutuel facilities in the State of Florida.

15. Respondent is subject to permanent exclusion from all licensed pari-mutuel wagering facilities in the State of Florida based on Respondent's ejection and permanent exclusion from Bonita Springs on or about September 28, 2024.

16. Respondent's testimony neither mitigates that Respondent was ejected and excluded from Bonita Springs nor precludes the Commission from permanently excluding Respondent from all licensed pari-mutuel facilities in the State of Florida.

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

RECOMMENDED ORDER

Based upon the Findings of Fact and Conclusions of Law, it is hereby recommended that the Florida Gaming Control Commission issue an Order permanently excluding Respondent from all licensed pari-mutuel wagering facilities in the State of Florida.

This Hearing Officer's Recommended Order in FGCC Case Number 2024-060053 is submitted this 27th day of June 2025.

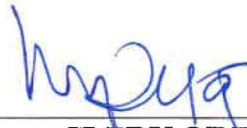
/s/ Renee Harkins
Renee Harkins, Hearing Officer
Florida Gaming Control Commission

CERTIFICATE OF SERVICE

I hereby certify that this 27th of June 2025, that a true copy of the foregoing "Hearing Officer's Recommended Order" has been provided by email to:

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CLERK OF THE COMMISSION
Florida Gaming Control Commission