

Final Order No. BPR-2007-09816 Date: **12-18-07**

FILED

Department of Business and Professional Regulation
AGENCY CLERK

By: *Sarah Wachman, Agency Clerk*
Brenda M. Nichol

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

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

Petitioner,

DBPR CASE NO. 2006054542

vs.

DEBRA JEAN STRALEY,

Respondent.

2007/DEC 18 PM 1:30
DIVISION OF PARI-MUTUEL WAGERING
STATE OF FLORIDA

FINAL ORDER

The State of Florida, Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (Division), hereby enters this Final Order for the above styled matter.

FINDINGS OF FACT

1. On November 6, 2006, Investigator Nick Miyar signed an Investigative Report setting forth facts which, if true, would constitute a violation of Section 550.0251(6), Florida Statutes.
2. On July 12, 2007, an Administrative Complaint was filed with the agency clerk alleging Respondent violated Section 550.0251(6), Florida Statutes, by being ejected by the Judges/Stewards from Tampa Greyhound Park.
3. Respondent was personally served with the Administrative Complaint on September 4, 2007.

4. Respondent's Election of Rights Form was due to the Division on or before September 25, 2007. To date, the Division has not received Respondent's Election of Rights Form and, therefore, Respondent has waived her rights to elect a forum.

5. Respondent's pari-mutuel wagering occupational license (number 6802681-1021) expired June 30, 2007, and she is not currently licensed.

6. The Division hereby adopts and incorporates by reference the facts contained and set forth in the Motion for Final Order, together with the supporting exhibits attached thereto, as the Division's Findings of Facts in this matter.

CONCLUSIONS OF LAW

7. The Division has jurisdiction over the parties and subject matter of this case pursuant to Chapter 550, Florida Statutes.

8. Respondent failed to return an Election of Rights and thereby waived her rights to elect a forum.

9. Respondent, by being ejected from Tampa Greyhound Park, may also be excluded from other pari-mutuel facilities in this state pursuant to Section 550.0251(6), Florida Statutes.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law it is therefore ORDERED that Respondent shall be and is hereby EXCLUDED from all pari-mutuel facilities in the State of Florida.

DONE AND ORDERED this 18TH day of DECEMBER, 2007, in Tallahassee, Florida.



DAVID J. ROBERTS, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1035

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

Unless expressly waived, any party substantially affected by this final order may seek judicial review by filing an original Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, and a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal within thirty (30) days of rendition of this order, in accordance with Rule 9.110, Florida Rules of Appellate Procedure, and Section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I hereby certify this 18th day of December, 2007, that a true copy of the foregoing

“Final Order” has been provided by U.S. Certified Mail to the Appellant:

DEBRA JEAN STRALEY
2721 60th Avenue North
St. Petersburg, Florida 33714-1455



SARAH WACHMAN, AGENCY CLERK
Department of Business & Professional Regulation

Copies furnished to:

Office of Operations/Licensing Section
Office of Investigations

Charles T. “Chip” Collette, Assistant General Counsel

General Manager, Tampa Greyhound Track
Chief Inspector, Tampa Greyhound Track
Judges/Stewards, Tampa Greyhound Track

National Greyhound Association
P.O. Box 543
Abilene, KS 67410

Florida Kennels, Inc.
7218 West 4th Avenue
Hialeah, FL 33014

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

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

Petitioner,

DBPR CASE NO. 2006054542

vs.

DEBRA JEAN STRALEY,

Respondent.

MOTION FOR FINAL ORDER

The Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner") hereby moves for entry of a Final Order against the Respondent. As grounds therefor Petitioner states as follows:

1. On November 6, 2006, Investigator Nick Miyar signed an Investigative Report setting forth facts which, if true, would constitute a violation of Section 550.0251(6), Florida Statutes. A true copy of the Investigative Report is hereby attached as Exhibit A.

2. On July 12, 2007, an Administrative Complaint was filed with the agency clerk alleging Respondent violated Section 550.0251(6), Florida Statutes, by being ejected by the Judges/Stewards from Tampa Greyhound Park. A true copy of the Administrative Complaint is hereby attached as Exhibit B.

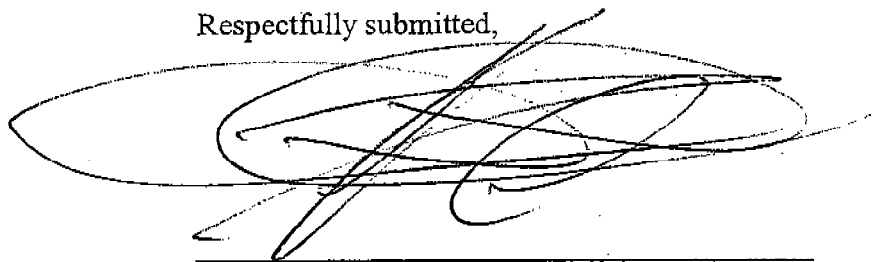
3. On September 4, 2007, the Administrative Complaint and Explanation of Rights were personally served on the Respondent by Division investigator Nick Miyar. A true copy of the return of service therefor is hereto attached as Exhibit C.

4. Respondent's pari-mutuel wagering occupational license (number 6802681-1021) expired June 30, 2007, and he is not currently licensed.

5. Respondent's Election of Rights Form was due to the Division on or before September 25, 2007. To date, the Division has not received Respondent's Election of Rights Form and, therefore, Respondent has waived his rights to elect a forum.

WHEREFORE, Petitioner respectfully requests that the Director of the Division of Pari-Mutuel Wagering issue a Final Order pursuant to Section 550.0251(6), Florida Statutes, excluding Respondent from all pari-mutuel facilities in the State of Florida.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Chip Collette', is written over a horizontal line. The signature is highly cursive and loops around the line.

CHARLES T. "CHIP" COLLETTE

Assistant General Counsel

Florida Bar No. 126657

Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
1940 North Monroe Street, Suite 40
Tallahassee, Florida 32399-2202
(850) 488-0062 / FAX 921-1311

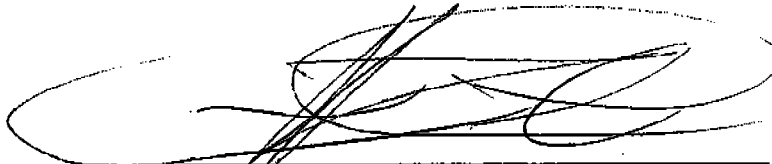
Attorney for Division of Pari-Mutuel Wagering

CERTIFICATE OF SERVICE

I hereby certify this 29th day of November, 2007, a true copy of the foregoing

“Motion for Final Order” has been served by U.S. mail upon:

DEBRA JEAN STRALEY
2721 60th Avenue North
St. Petersburg, Florida 33714-1455



CHARLES T. “CHIP” COLLETTE



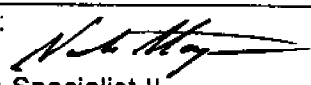
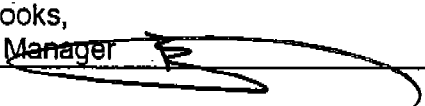
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION

Jeb Bush, Governor

Simone Marstiller, Secretary

OFFICE OF INVESTIGATIONS

INVESTIGATIVE REPORT

Office: P M W /	Region: Central	Date of Complaint: October 5, 2006	Complaint Number: 2006054542	
Respondent: STRALEY, DEBRA JEAN 2624 37 th Avenue N. St. Petersburg, Florida 33702 727-643-6071		Complainant: STATE OF FLORIDA, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF PARI-MUTUEL WAGERING		
Prefix:	License #: 6802681	Profession: 1021	Board: 100	Report Date: October 26, 2006
Period of Investigation: September 26, 2006 to October 26, 2006		Type of Report: PRELIMINARY II		
<p>Alleged Violation: FS 550.0251 (6) (11) The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.--The division shall administer this chapter and regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto, and:</p> <p>(6) In addition to the power to exclude certain persons from any pari-mutuel facility in this 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. The division may authorize any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon a finding that the attendance of such person at pari-mutuel facilities would not be adverse to the public interest or to the integrity of the sport or industry; however, this subsection shall not be construed to abrogate the common-law right of a pari-mutuel permit holder to exclude absolutely a patron in this state.</p> <p>(11) The division shall supervise and regulate the welfare of racing animals at pari-mutuel facilities.</p> <p>FS 828.12 (1) Cruelty to animals.-- (1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.</p> <p>FS 550.0425 (4) Minors attendance at pari-mutuel performances; restrictions.-- (4) Minor children of licensed greyhound trainers, kennel operators, or other licensed persons employed in the kennel compound areas may be granted access to kennel compound areas without being licensed, provided they are in no way employed unless properly licensed, and only when under the direct supervision of one of their parents or legal guardian.</p>				
Synopsis: September 26, 2006: Investigator NICK MIYAR received a call from JANE EVANS, CHIEF INSPECTOR AT TAMPA GREYHOUND TRACK. The call was to inform MIYAR that a greyhound died over the weekend in the Transport Area. The greyhound was from the Cal Holland Kennel and the dog was at the track under the supervision of the RESPONDENT. It appeared that someone unplugged the air conditioning that was keeping the greyhounds cool in the transport truck.				
Related Case: N/A				
Submitted By: Nick Miyar,  Investigations Specialist II		Approved By: Bobby Brooks, Regional Manager  11/6/06		
Distribution:				



CONTINUATION

September 27, 2006: MIYAR traveled to Tampa Greyhound Track and spoke with WILLIAM H. SHELTON, D.V.M., TRACK VETERINARIAN. SHELTON told MIYAR that the incident happened on Friday, September 22, 2006, the greyhound's name was SH'S ALFRED and in his opinion, the RESPONDENT was not paying attention to the dogs. She had two children with her and she was on the telephone for about 20 or 25 minutes, not watching her children or the dogs. He told MIYAR that a boy told him the dog was not breathing in the 7th or 8th race and he went back to the Transport Area and checked the greyhound with his stethoscope but the dog was already dead. He said there were a total of five dogs in the truck three other were marginal and one was severely overheated with a temperature of 105 degrees Fahrenheit. All surviving dogs were cooled down.

September 27, 2006: MIYAR spoke with THERESA HUGHES, RACING SECRETARY. MS.

HUGHES told MIYAR that personnel from other kennels were present during the incident and gave him the names of JEANNE LESPERANCE and NOVA HIGGINS. She also told MIYAR that the RESPONDENT was ruled off the track. HUGHES gave MIYAR copies of her memos addressed to the kennel personnel dated August 12, 2006 and September 23, 2006 regarding children in the backside (Exhibits 1 & 2). MIYAR obtained a copy of the program showing that the greyhound SH'S ALFRED ran in the fifth race in the fifth position (Exhibit 3).

September 29, 2006: The Board of Judges issued House Ruling indicating that the RESPONDENT was ruled off the premises of Associated Outdoor Clubs and that the death of the greyhound SH'S ALFRED was due to her negligence (Exhibit 4).

October 4, 2006: MIYAR prepared the Notice of Violation and faxed it to MS. ROSARIO to open a case (Exhibit 5).

October 5, 2006: MIYAR received the case number.

October 5, 2006: The case was submitted for review.

October 19, 2006: MIYAR received a call from STEVE KOGAN, CHIEF OF INVESTIGATIONS. The call was to instruct MIYAR to contact the law enforcement authority that would have jurisdiction and check if they would prosecute.

CONTINUATION

October 20, 2006: MIYAR traveled to Tampa Greyhound Track and went to the transport area where he interviewed MS. JEANNE LESPERANCE who was present during the incident. LESPERANCE told MIYAR that she did not know about the dog that died, but knew about the circumstances before and after. LESPERANCE said the RESPONDENT apparently was having problems with her older son and was screaming on the phone to her older son and husband. She brought with her to the transport area her youngest son and a little girl, both between the ages of ten and twelve years old. She said that the RESPONDENT may have tripped over the cord going to the outlet and accidentally disconnected it, or forgot to turn it on, or the children that were inside the truck may have turned it off accidentally. LESPERANCE showed MIYAR how cool the back of her truck was which had the air conditioning running. She said that if the RESPONDENT would have been paying attention to her dogs the RESPONDENT would have noticed that the air conditioning was not running since she had between four or five races in a row. LESPERANCE said she does not know what happened with the air conditioning. However, she had her youngest son giving water to the dogs and cooling them.

LESPERANCE said she was cooling down her own dogs when the RESPONDENT asked her for help. She said that the RESPONDENT just panic and stood saying "Oh my God!" She said that NOVA HIGGINS went to help and physically put one of the dogs that was still alive in the dip tank and that the dog could not stand. Regarding the dog that died, LESPERANCE said the RESPONDENT told her that there was blood everywhere, but she went after and did not see it.

October 20, 2006: MIYAR interviewed MS. NOVA HIGGINS. HIGGINS told MIYAR that her races were split up and that the RESPONDENT was talking on the telephone for an hour. HIGGINS said that when the RESPONDENT said "Somebody help me" after the boy said a dog died. She said the RESPONDENT told her that there was blood all over in the truck, but she did not want to look and did not see it. She said the RESPONDENT was frantic and crying "Somebody help me." HIGGINS said when she lifted the dog that was alive and put it in the dip tank, the dog was dead weight. She said the dog was soaked for a good thirty minutes. All of the RESPONDENT dogs were soaked and DOCTOR SHELTON was also attending them rubbing the dogs down as they were been soaked. HIGGINGS finally told MIYAR that the RESPONDENT had two kids in the transport area and the RESPONDENT'S son was walking the dogs and putting the dogs in the truck.

October 20, 2006: MIYAR copied the entire program for the day of the incident and it shows that the RESPONDENT had greyhounds running consecutively from the third to the seventh race like LESPERANCE said (Exhibit 7).

October 20, 2006: MIYAR spoke with SERGEANT DAVID GOODMAN of the TAMPA POLICE DEPARTMENT. MIYAR told GOODMAN about the dog that died and GOODMAN said that he heard about it. MIYAR next showed him his report and asked GOODMAN if TAMPA POLICE would prosecute. GOODMAN read the report and told MIYAR that it was a very difficult to prosecute because they had to show intent, the dead dog was no longer available, and that the veterinarian would have be willing to testify. He also told MIYAR that it had to be proven how the air conditioning was turned off, could it have been an accident or intentional? He also read the cruelty to animal statute from the report and said that it was only a misdemeanor and that negligence to children was different than to animals. GOODMAN concluded that he did not think they can prosecute.

CONTINUATION

10/23/2006: MIYAR searched the RESPONDENT on ARCI (Association of Racing Commissioners International) no rulings were found (Exhibit 11).

10/23/06: MIYAR called MR. DAN SUBACH, CHIEF STEWARD OF THE STATE OF WISCONSIN DIVISION OF GAMING. SUBACH checked for the RESPONDENT on his records and there was no information on file for the RESPONDENT.

10/25/2006: MIYAR called the RESPONDENT to interview her, but the telephone number on file was incorrect. MS. JANE EVANS, CHIEF INSPECTOR, called MS. THERESA HUGHES, RACING SECRETARY, but she did not have any other telephone number for the RESPONDENT.

10/26/06: The additional information was submitted for review.

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.

Case No. 2006054542

DEBRA JEAN STRALEY,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (hereinafter "Division"), files this Administrative Complaint against Debra Jean Straley (hereinafter "Respondent"), and alleges as follows:

1. The Division is the state agency charged with regulating pari-mutuel wagering, pursuant to Chapter 550, Florida Statutes.
2. At all times material hereto, Respondent held a pari-mutuel wagering occupational license, number 6802681-1021, issued by the Division.
3. On September 29, 2006, the Judges at Tampa Greyhound Track ruled that Respondent was guilty of negligence in the care of greyhounds that resulted in the death of greyhound "SH'S ALFED" on September 22, 2006. Respondent was ruled off the premises of Associated Outdoors Track.
4. Section 550.0251(6), Florida Statutes, states that:

In addition to the power to exclude certain persons from any pari-mutuel facility in this 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. The division may authorize any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon finding that the attendance of such person at pari-mutuel subsection shall not be construed to abrogate the common-law right of a pari-mutuel permitholder to exclude absolutely a patron in this state.

5. Section 550.0251(11), Florida Statutes, states that:

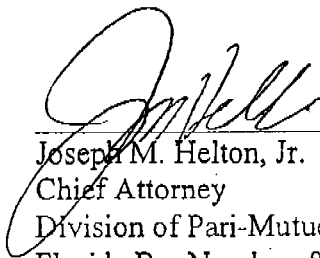
The division shall supervise and regulate the welfare of racing animals at pari-mutuel facilities.

6. Respondent's ejection from the pari-mutuel facility, Tampa Greyhound Track, constitutes grounds in which the division can exclude her from any other pari-mutuel facility within the state of Florida.

WHEREFORE, Petitioner respectfully requests the Division enter an Order pursuant to Section 550.0251(6), Florida Statutes, excluding Respondent from all pari-mutuel facilities in the state of Florida.

Signed this 10th day of July, 2007.

FILED
Department of Business and Professional Regulation
DEPUTY CLERK
CLERK Brandon M. Nichols
DATE 7-12-2007



Joseph M. Helton, Jr.
Chief Attorney
Division of Pari-Mutuel Wagering
Florida Bar Number: 879622
Department of Business and
Professional Regulation
Northwood Centre
1940 North Monroe Street
Tallahassee, FL 32399-2202

Copies furnished to:

Respondent – Cert. Mail/Return Receipt

Office of Operations/Licensing Section
Office of Investigations

Ralf E. Michels, Assistant General Counsel



STATE OF FLORIDA
 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
 1940 North Monroe Street
 Tallahassee, Florida 32399
www.MyFlorida.com/dbpr

Debra Jean Straley
 2624 37th Avenue N.
 St. Petersburg, FL 33702

CERTIFIED MAIL™

7005 1150
 009493 2034 JUL 13 2007
 \$ 05.77
 MILED FROM ZIP CODE 32399
 PITNEY BOWES

NIXIE 337 1732-24 07 07/19/07

RETURN TO SENDER
 NO SUCH NUMBER
 UNABLE TO FORWARD

BC: 32399550540 *2574-02246-19-26

33713+1732-24 332205506

6/30/07
24

2007 JUL 24 A 10 42

DEPARTMENT OF
REGISTRATION

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Debra Jean Straley
 2624 37th Avenue N.
 St. Petersburg, FL 33702
 MC-2006054542

2. Article Number

(Transfer from service label)

7005 1160 0003 8803 1032

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
 4. Restricted Delivery? (Extra Fee) Yes

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

PETITIONER

vs.

CASE NO.(S): 2006054542

Debra Jean Straley

RESPONDENT

COMES NOW, the affiant, who first being duly sworn, deposes and states:

- 1) Affiant is an Investigator employed by the Department of Business and Professional Regulation, State of Florida.
- 2) That on September 4, 2007, Affiant made a diligent effort to locate Respondent, to serve X Administrative Complaint and related papers; Order compelling examination(s); Subpoena(s); Final order; Notice to cease and desist; SSO and related papers.

3)

X Affiant made personal service on Respondent at her home located at 2721 60th Avenue North, St. Petersburg, FL on September 4, 2007, at 10:45 A.M. in the presence of Jane Evans, Chief Inspector.

 Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the D.B.P.R. investigation of the case; (b) all official addresses for Respondent shown in his/her licensing records of the Division of Pari-Mutuel Wagering; (c) local telephone company for the last area Respondent was known to frequent; (d) Division of Driver Licenses; and (e) utilities (electric, cable, etc.); any others:


[Signature]
Signature of Affiant

STATE OF FLORIDA
COUNTY OF BROWARD

Before me, appeared Nicolas Morgan
X who is personally known to me.
 whose identity I proved on the basis of
and who, acknowledges that his/her signature appears above.

Sworn to or affirmed by Affiant before me this 11 day of September 2007.

[Signature]
Notary Public-State of Florida

 MICHAEL J. FUFFELL
MY COMMISSION 00040042
EXPIRES June 14, 2010
Buckley Title Agency, Inc. Notary Services

Type or Print Name

My Commission Expires

