

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/5/2009
File #	2009-08097

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

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

Petitioner,

v.

DBPR Case No. 2008022661

SARA JANE SHULL,

Respondent,

FINAL ORDER

THIS MATTER came before April Dawn M. Skilling, Presiding Officer of the Division of Pari-Mutuel Wagering ("Division"), on June 3, 2009, in Tallahassee, Florida, in accordance with the provisions of Section 120.57(2), Florida Statutes, for consideration of the Division's Administrative Complaint issued against Sara Jane Shull ("Respondent") in DBPR Case No. 2008022661. The Division of Pari-Mutuel Wagering ("Petitioner") was represented by David N. Perry, Assistant General Counsel. Respondent appeared pro se by telephone.

After a complete review of the record, including the Administrative Complaint, evidence contained in the investigative file, and any mitigating or aggravating circumstances, the Division finds as follows:

PRELIMINARY STATEMENT

1. On or about October 23, 2008, the Division of Pari-Mutuel Wagering issued an Administrative Complaint against the Respondent which alleged that she was ejected from Sanford-Orlando Kennel Club ("SOKC"), a pari-mutuel facility in Florida, due to her negligent failure to seek adequate medical treatment of a racing greyhound. The Administrative Complaint sought to exclude Respondent from all pari-mutuel facilities within the state, pursuant to Section 550.0251(6), Florida Statutes.

2. On or about March 22, 2009, Respondent filed her Election of Rights, which was not notarized, in which she requested a formal hearing pursuant to Section 120.57(1), Florida Statutes. Respondent's Election of Rights indicates her address is 100 Lamont Avenue, Longwood, Florida.

3. In her Election of Rights, Respondent wrote "I dispute the alligations (sic) of being negligent for failure to seek adequate medical treatment."

4. In response, Petitioner sent Respondent a letter dated April 2, 2009, explaining that although the Administrative Complaint noted the reason for the ejection, failure to seek adequate medical care for a greyhound is not a material fact because Petitioner is not required to prove that fact for an exclusion charge. Respondent was advised that if she failed to state which material facts she disputed, the case would automatically be set for an informal hearing.

5. On April 15, 2009, Respondent again returned an Election of Rights in which she requested a formal hearing. In her Election of Rights, Respondent wrote "I dispute reference of failure to seek adequate medical treatment of a racing greyhound."

6. Petitioner set this case for an informal hearing because Respondent failed to state any material facts related to her ejection.

7. At the informal hearing on June 3, 2009, Petitioner presented the issues raised in its October 23, 2008, Administrative Complaint and cited Respondent's Election of Rights, in which Respondent requested a formal hearing but failed to state any disputed material facts. The facts are therefore accepted as presented in the Administrative Complaint.

FINDINGS OF FACT

8. Respondent held a pari-mutuel wagering occupational license, number 7549029-1021, issued by the Division, at all times material to this case.

9. Sanford-Orlando Kennel Club is a pari-mutuel facility in Florida licensed by the Division.

10. Respondent was a greyhound trainer at Sanford-Orlando Kennel Club at all times material to this case.

11. In a letter dated September 18, 2008, Mark Loewe, General Manager at Sanford-Orlando Kennel Club, sent to the Division a letter serving as formal notification that the facility instituted a lifetime exclusion on Respondent.

12. At the informal hearing, Respondent did not dispute that SOKC was a licensed pari-mutuel facility in Florida or that SOKC instituted a lifetime exclusion against Respondent.

13. Respondent testified that she was not informed of the lifetime exclusion until she received the Division's Administrative Complaint, since she was no longer working at SOKC.

14. Neither Respondent nor her brother, Matthew Shull, who also appeared by telephone at the hearing, offered any evidence to mitigate.

15. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

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

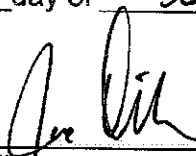
17. Section 550.0251(6), Florida Statutes, states in relevant part:

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.

18. There is competent substantial evidence to support the conclusions of law. Therefore, the conclusions of law as set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the Conclusions of Law by the Division.

WHEREFORE, based upon the Findings of Fact and Conclusions of Law, it is hereby ORDERED and ADJUDGED that Respondent shall be excluded from all pari-mutuel facilities in this state.

DONE AND ORDERED this 28th day of SEPTEMBER, 2009.



Joe Dillmore, Interim Director
Division of Pari-Mutuel Wagering
Department of Business and
Professional Regulation
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 rendition of this order, in accordance with Rule 9.110, Fla. R. App. P., and Section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Final Order has been provided by U.S. Certified Mail to SARA JANE SHULL, 100 Lamont Avenue, Longwood, Florida 32750, on this 5th day of October, 2009.

SARAH WACHMAN, AGENCY CLERK



Brandon Nichols, Deputy Agency Clerk

Copies furnished to:

April Dawn M. Skilling, Informal Hearing Officer
David N. Perry, Assistant General Counsel

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

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

Petitioner,

v.

DBPR CASE NO. 2008022661

SARA JANE SHULL,

Respondent,

PROPOSED RECOMMENDED ORDER

THIS MATTER came before the Presiding Officer of the Division of Pari-Mutuel Wagering on June 3, 2009, in Tallahassee, Florida, in accordance with the provisions of Section 120.57(2), Florida Statutes, for consideration of the Division's Administrative Complaint issued against Sara Jane Shull ("Respondent") in DBPR Case No. 2008022661. The Division of Pari-Mutuel Wagering ("Division") was represented by David N. Perry, Assistant General Counsel. Respondent appeared pro se by telephone.

PRELIMINARY STATEMENT

1. On or about October 23, 2008, the Division of Pari-Mutuel Wagering issued an Administrative Complaint against the Respondent which alleged that she been ejected from Sanford Orlando Kennel Club ("SOKC"), a pari-mutuel facility in Florida, due to her negligent failure to seek adequate medical treatment of a racing greyhound. The Administrative Complaint

sought to exclude Respondent from all pari-mutuel facilities within the state, pursuant to Section 550.0251(6), Florida Statutes.

2. On or about March 22, 2009, Respondent filed her Election of Rights, which was not notarized, in which she requested a formal hearing pursuant to Section 120.57(1), Florida Statutes. The Respondent's Election of Rights indicates that Respondent's address is 100 Lamont Ave., Longwood, Florida.

3. In her Election of Rights, Respondent wrote "I dispute the alligations (sic) of being negligent for failure to seek adequate medical treatment."

4. In response, the Division sent Respondent a letter dated April 2, 2009, in which it explained that, although the Administrative Complaint notes the reason for the ejection, failure to seek adequate medical care for a greyhound is not a material fact, as the Division is not required to prove that fact for an exclusion charge. She was advised that if she failed to state which material facts she disputed, the case would automatically be set for an informal hearing.

5. On April 15, 2009, Respondent again returned an Election of Rights in which she requested a formal hearing. In her Election of Rights, Respondent wrote "I dispute reference of failure to seek adequate medical treatment of a racing greyhound."

6. As Respondent had failed to state any material facts related to the ejection that she disputed, the Division set this case for an informal hearing.

7. At the informal hearing on June 3, 2009, the Division presented the issues raised in its October 23, 2008 Administrative Complaint and cited Respondent's Election of Rights, in which Respondent requested a formal hearing but failed to state any disputed material facts. The facts are therefore accepted as presented in the Administrative Complaint.

FINDINGS OF FACT

8. At all times material hereto, Respondent held a pari-mutuel wagering occupational license, number 7549029-1021, issued by the Division
9. Sanford Orlando Kennel Club is a pari-mutuel facility in Florida licensed by the Division.
10. At all times material hereto, Respondent was a greyhound trainer at Sanford Orlando Kennel Club.
11. In a letter dated September 18, 2008, Mark Loewe, General Manager at Sanford Orlando Kennel Club, sent to the Division a letter, serving as formal notification that the facility had instituted a lifetime exclusion on Respondent.
12. At the informal hearing, Respondent did not dispute that SOKC was a licensed pari-mutuel facility in Florida, or that SOKC had instituted a lifetime exclusion against her
13. Respondent testified that she was not informed of the lifetime exclusion until she received the Division's Administrative Complaint, since she was no longer working at SOKC
14. Neither Respondent nor her brother Matthew Shull, who also appeared by telephone at the hearing, offered any evidence to mitigate.

CONCLUSIONS OF LAW

15. The Division has jurisdiction over this matter pursuant to Chapters 120 and 550, Florida Statutes.
16. Section 550.0251(6), Florida Statutes, states in relevant part:


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.

RECOMMENDED ORDER

Based upon the Findings of Fact and Conclusions of Law, it is hereby proposed that the Hearing Officer enter a Recommended Order excluding Respondent from all pari-mutuel facilities in this state.

Respectfully submitted this 4TH day of JUNE, 2009.

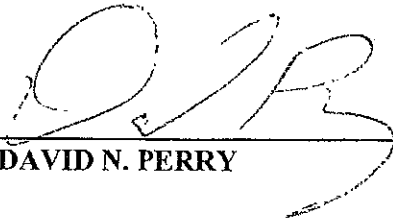


DAVID N. PERRY
Assistant General Counsel
Division of Pari-Mutuel Wagering
Dept of Business & Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-2202
(850) 488-0062 / FAX 921-1311

CERTIFICATE OF SERVICE

I hereby certify this 4TH day of JUNE, 2009, that a true copy of the foregoing "Proposed Final Order" has been provided by U.S. Mail to the Respondent:

MS. SARA JANE SHULL
100 Lamont Avenue
Longwood, Florida 32750



DAVID N. PERRY

**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. 2008022661

SARA JANE SHULL,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division"), files this Administrative Complaint against Sara Jane Shull ("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 7549029-1021, issued by the Division.
3. At all times material hereto, Respondent was a Greyhound trainer at Sanford Orlando Kennel Club ("SOKC"), a pari-mutuel facility in the state of Florida.

4. In a letter dated September 18, 2008, SOKC confirmed that Respondent was ejected from the facility, due to her negligent failure to seek adequate medical treatment of a racing greyhound.

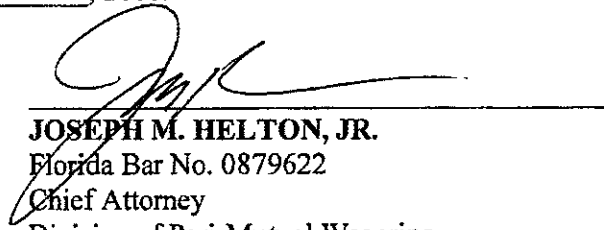
5. Section 550.0251(6), Florida Statutes, states in pertinent part:

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.

6. Respondent violated Section 550.0251(6), Florida Statutes, by being permanently ejected from SOKC, a pari-mutuel facility.

WHEREFORE, Petitioner respectfully requests that the Division enter an Order excluding Respondent from any and all pari-mutuel facilities in this state, as specified in Section 550.0251(6), Florida Statutes. In addition, Petitioner respectfully requests that the Division enter an Order imposing one or more of the following penalties as specified in Sections 550.105(5)(b) and 550.0251(10), Florida Statutes: declare Respondent ineligible for occupational licensure; impose a fine against the Respondent in an amount not exceeding \$1,000; or impose against the Respondent any combination of such penalties.

Signed this 20th day of October, 2008.



JOSEPH M. HELTON, JR.
Florida Bar No. 0879622
Chief Attorney
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
Northwood Center
1940 North Monroe Street, Suite 40
Tallahassee, Florida 32399-2202

Copies furnished to:

Sara Jane Shull – Cert. Mail/Return Receipt

Office of Operation/Licensing Section
Office of Investigations

David N. Perry, Assistant General Counsel

FILED
Department of Business and Professional Regulation
DEPUTY CLERK
CLERK *Brandon M. Nichols*
DATE 10-23-2008