

**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. 2009024876**

**DAVID PAUL VIRAG,**

Respondent.

\_\_\_\_\_ /

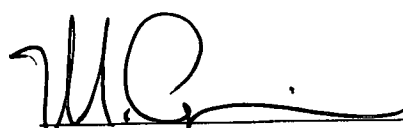
**FINAL ORDER**

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.

Based upon the Findings of Fact and Conclusions of Law set forth in the Motion for Final Order of the Division of Pari-Mutuel Wagering, it is hereby ORDERED:

Respondent's pari-mutuel occupational license is hereby revoked and/or Respondent is hereby declared ineligible for a license or permit, and Respondent is hereby permanently excluded from all licensed pari-mutuel facilities in this state. No other fine or penalty shall issue.

DONE AND ORDERED this 28<sup>th</sup> day of September 2010.

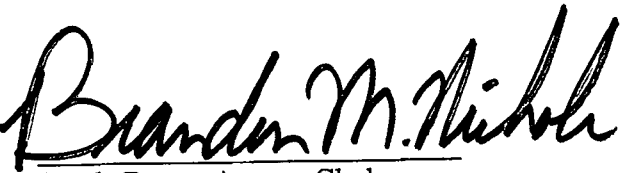
  
\_\_\_\_\_  
Milton Champion, Director  
Division of Pari-Mutuel Wagering  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, Florida 32399-1035

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 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 copy of the foregoing Motion for Final Order has been provided by US <sup>Certified - mp</sup> Mail to the Respondent, David Paul Virag, 2802 South West 68<sup>th</sup> Avenue, Miramar, Florida 33023, this 30<sup>th</sup> day of September, 2010.

  
for: Brandon M. Nichols  
Ronda Bryan, Agency Clerk  
Department of Business and Professional  
Regulation

Copies furnished to:

Ralf E. Michels, Assistant General Counsel

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

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v.

**DBPR CASE NO. 2009024876**

**DAVID PAUL VIRAG,**

Respondent.

\_\_\_\_\_ /

MOTION FOR FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (Division), hereby moves for a Final Order in the above styled matter. In support of its motion, the Division would state as follows:

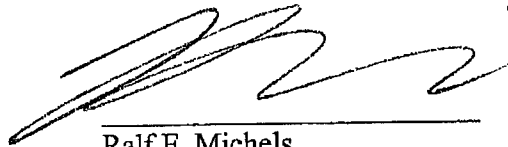
1. On August 26, 2010, a five count Administrative Complaint was filed with the agency clerk against the Respondent, David Paul Virag, alleging in Counts One through Four that Respondent was stealing poker chips while working as a cardroom dealer, in violation of Rule 61D-11.005, Florida Administrative Code; and alleging in Count Five that the Respondent's subsequent exclusion from the pari-mutuel facility where the above incidents occurred made the Respondent subject to exclusion from all Florida pari-mutuel facilities under Section 550.0251(6), Florida Statutes. A true copy of the Administrative Complaint and the [blank] Election of Rights Form enclosed with the Administrative Complaint is hereby attached as Exhibit "A".

2. Respondent has returned a properly executed Election of Rights form dated September 14, 2010, and by marking option "three" he has elected to waive his right to object or

be heard in this case. A true copy of the executed the Election of Rights Form is hereby attached as Exhibit "B".

Based upon the foregoing, the Division hereby respectfully requests the Division enter an Order revoking Respondent's pari-mutuel occupational license and/or declaring Respondent ineligible for a license or permit, and permanently excluding Respondent from all licensed pari-mutuel facilities in this state.

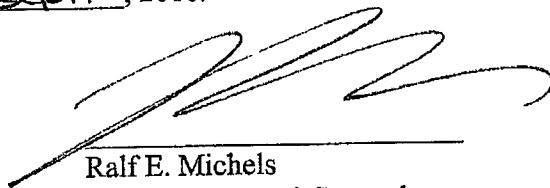
Respectfully submitted this 16<sup>th</sup> day of Sept., 2010.



Ralf E. Michels  
Assistant General Counsel  
Division of Pari-Mutuel Wagering  
Florida Bar Number: 867896  
Department of Business and  
Professional Regulation  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, FL 32399-2202

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion for Final Order has been provided by US Mail to the Respondent, David Paul Virag, 2802 South West 68<sup>th</sup> Avenue, Miramar, Florida 33023, this 16<sup>th</sup> day of Sept., 2010.



Ralf E. Michels  
Assistant General Counsel

<b>FILED</b>	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
<small>CLERK</small>	<small>Evette L. Proctor</small>
<small>Date</small>	<small>8/26/2010</small>
<small>File #</small>	

**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. 2009024876**

v.

**DAVID PAUL VIRAG,**

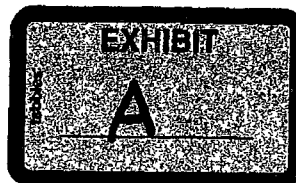
Respondent.

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**ADMINISTRATIVE COMPLAINT**

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division") files this Administrative Complaint against **DAVID PAUL VIRAG** ("Respondent"), and alleges as follows:

1. The Division is the state agency charged with regulating pari-mutuel wagering and cardrooms pursuant to Chapter 550 and Section 849.086, Florida Statutes.
2. The Respondent was employed as a cardroom dealer at the Mardi Gras Race Track and Gaming Center poker room from December, 2008 until the termination of his employment for cause (theft) on May 7, 2009. During the above period Respondent held pari-mutuel occupational license number 8424207-1012 (expired June 30, 2009).
3. On May 11, 2009, Division Investigator **Robert Fronrath** met with **Brad Dunlap**, Mardi Gras Race Track and Gaming Center Assistant Director of Surveillance, and reviewed a Surveillance Incident Report (including video recordings) regarding the Respondent dated May 8, 2009. **Dunlap** stated an investigation was requested because it was reported that Respondent



routinely was receiving forty to fifty dollars more in tips per night than the other dealers, raising suspicions that Respondent was possibly stealing.

4. The four individual incidents recorded in the above report are described in corresponding separate counts below, each into which paragraphs 1 through 3 above are incorporated as if fully set forth therein:

COUNT ONE

5. On April 16, 2009, at 01:40:10 am, the Surveillance Manager reported Respondent at poker table #1 receiving a nine dollar tip consisting of nine white \$1.00 chips from a patron in seat #2. Respondent is seen breaking these chips in two sections. One stack had three \$1.00 chips while the second had six \$1.00 chips. Respondent placed the stack with three \$1.00 chips into the imprest bank and removed one red \$5.00 chip, and proceeded to place the six remaining white chips and the single red chip into his tip box for a total of \$11.00.

COUNT TWO

6. On April 16, 2009, at 03:52:09 am, while at poker table #2, the Respondent was tipped by two patrons. Player #1 was sitting in seat #6 and tipped three dollars (3 white \$1.00 chips) for a previous hand. Player #2 in seat #9 tipped the Respondent one white \$1.00 chip. The Respondent was seen placing these four white \$1.00 chips into the imprest bank and removing one red \$5.00 chip which was placed into his tip box.

COUNT THREE

7. On May 1, 2009, at 01:48:36 am, while at poker table #16, the Respondent was observed shorting the pot by taking one red \$5.00 chip from the pot and placing it into the imprest bank. The Respondent then proceeded to remove four white \$1.00 chips and placed them in the pot.

COUNT FOUR

8. On May 01, 2009 at 01:55:06 am, while at poker table #16, the Respondent received a tip of four white \$1.00 chips from the patron in seat #1. The Respondent placed the four white \$1.00 chips into the imprest bank and removed one \$5.00 red chip which he placed into his tip box.

9. Section 550.0251, Florida Statutes states in pertinent part:

(12) The division shall have full authority and power to make, adopt, amend, or repeal rules relating to cardroom operations, to enforce and to carry out the provisions of [Florida Statute Section] 849.086, and to regulate the authorized cardroom activities in the state.

10. Section 550.105, Florida Statutes, states in pertinent part:

(5)(b) The division may deny, suspend, revoke, or declare ineligible any occupational license if the applicant for or holder thereof has violated the provisions of this chapter or the rules of the division governing the conduct of persons connected with racetracks and frontons.

11. Section 849.086(4), Florida Statutes, states in pertinent part:

(4) AUTHORITY OF DIVISION.--The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation shall administer this section and regulate the operation of cardrooms under this section and the rule adopted pursuant thereto, and is hereby authorized to:

(a) Adopt rules, including, but not limited to: the issuance of cardroom and employee licenses for cardroom operations; the operation of a cardroom; recordkeeping and reporting requirements; and the collection of all fees and taxes imposed by this section.

(b) Conduct investigations and monitor the operation of cardrooms and the playing of authorized games therein.

(c) Review the books, accounts, and records of any current or former cardroom operator.

(d) Suspend or revoke any license or permit, after hearing, for any violation of the provisions of this section or the administrative rules adopted pursuant thereto.

12. Section 849.086(6), Florida Statutes, states in pertinent part:

(f) The division shall adopt rules regarding cardroom occupational licenses. The provisions specified in s. 550.105(4), (5), (6), (7), (8), and (10) relating to licensure shall be applicable to cardroom occupational licenses.

13. Section 849.086(14), Florida Statutes, states in pertinent part:

(a) The division may deny a license or the renewal thereof, or may suspend or revoke any license, when the applicant has: violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rules adopted pursuant thereto; or obtained a license or permit by fraud, misrepresentation, or concealment; or if the holder of such license or permit is no longer eligible under this section.

(c) Notwithstanding any other provision of this section, the division may impose an administrative fine not to exceed \$1,000 for each violation against any person who has violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto.

14. Rule 61D-11.005, Florida Administrative Code states in pertinent part:

**Prohibitions-**

(4) No person shall, either directly or indirectly:

(a) Employ or attempt to employ any device, scheme, or artifice to defraud any participant in a game or the cardroom operator.

(b) Engage 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.

(c) Engage in any act, practice, or course of operation with the intent of cheating any participant or the cardroom operator.

15. The Respondent **DAVID PAUL VIRAG** has violated Rule 61D-11.005(4), Florida Administrative Code by engaging in the conduct described in Counts One through Four above.

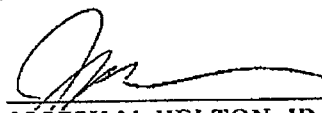


COUNT FIVE

16. The Division re-alleges Paragraphs 1-15 above as if fully set forth herein.
17. The Respondent's employment with Mardi Gras Race Track and Gaming Center was terminated for cause (theft) on May 7, 2009, due to the observation of Respondent's actions under surveillance on the dates set forth in Counts One through Four above.
18. Section 550.0251, Florida Statutes, provides in pertinent part:
- (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.
19. The Respondent **DAVID PAUL VIRAG**, by (i) his violations of Rule 61D-11.005(4), Florida Administrative Code, as set forth in Counts One through Four above, and (ii) his subsequent exclusion from the premises of Mardi Gras Race Track and Gaming Center as set forth in Count Five above, is subject to exclusion from any and all state-regulated pari-mutuel facilities within the state as set forth in Section 550.0251(6), Florida Statutes.

WHEREFORE, Petitioner respectfully requests the Division, pursuant to Sections 849.086(4), 849.086(14) and 550.105(5) Florida Statutes, enter an Order declaring Respondent ineligible for a pari-mutuel occupational license, imposing a fine not to exceed \$1000.00 per count for Counts One through Four, and permanently excluding Respondent from all licensed pari-mutuel facilities in this state.

Signed this 25<sup>th</sup> day of August, 2010.



**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:**

Ralf Michels, Assistant General Counsel

ADMINISTRATIVE COMPLAINT  
ELECTION OF RIGHTS

Licensee: Virag, David Paul

Case No. 2009024876

I have read the Administrative Complaint and Explanation of Rights in this matter, and elect as follows

1.  I do not dispute the material facts alleged in the Administrative Complaint but do wish to appear before the Division of Pari-Mutuel Wagering to be heard on the conclusions of law and the issue of penalty. I, therefore request a hearing not involving disputed issues of material fact, pursuant to Section 120.57(2), Florida Statutes. I understand that at the hearing I will not be allowed to deny the facts alleged in the Administrative Complaint, but will only be permitted to submit written and/or oral evidence in mitigation of the charges in the Administrative Complaint or explain why the facts alleged do not amount to a violation of law.
2.  I do dispute the material facts alleged in the Administrative Complaint and request that this be considered a petition for a hearing involving disputed issues of material fact before an administrative law judge with the Division of Administrative Hearings, pursuant to Section 120.57(1), Florida Statutes. If you select this option, please state below which specific facts you dispute. (Use the back of this sheet if needed.)
- 

3.  I waive my right to object or be heard concerning this case. The Division of Pari-Mutuel Wagering may do as it sees fit concerning this matter.

Please be advised, pursuant to Section 120.573 Florida Statutes, mediation is not available for this type of agency action.

**THIS IS A LEGALLY BINDING DOCUMENT. IF YOU DO NOT FULLY UNDERSTAND THE TERMS OF THIS DOCUMENT, YOU SHOULD SEEK LEGAL ADVICE BEFORE SIGNING.**

**MUST BE SIGNED AND NOTARIZED.**

\_\_\_\_\_  
Mailing Address (if different)

\_\_\_\_\_  
City State Zip

David P. Virag  
Name (Signature)

DAVID P. VIRAG  
Name (Printed)

2902 SW 67 AVENUE  
Street Address

MIAMI FL 33023  
City State Zip

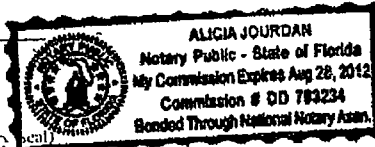
(754) 244-0940  
Respondent's daytime phone number

STATE OF FLORIDA

COUNTY OF Broward

The foregoing was acknowledged before me this 14 day of September, <sup>2010</sup> 2009, by David P. Virag, personally known to me or who has produced Florida Driver License as identification.

[Signature]  
Notary Public  
My Commission Expires.



PLEASE MAIL FORM TO: MARY POLOMBO, Division Clerk  
Division of Pari-Mutuel Wagering  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, Florida 32399-1035

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DIVISION OF  
PARI-MUTUEL WAGERING

