FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 11/1/2012
File # 2012-07067

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

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

Petitioner,

v. **DBPR CASE NO. 2009002339**

**RICHARD W. TRACHUK,**

Respondent,
_____/

## FINAL ORDER

THIS MATTER came before J. Yvette Pressley, the Hearing Officer of the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering on July 10, 2012, in Tallahassee, Florida, in accordance with the provisions of Section 28-106.201, Administrative Procedures Act, and Section 120.57(2), Florida Statutes, for consideration of the petition filed by Richard W. Trachuk ("Respondent") in DBPR Case No. 2009002339. 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 February 16, 2010 the Division of Pari-Mutuel Wagering filed a Final Order, in which the Respondent was excluded from all pari-mutuel facilities in the state per 550.0251(6), Florida Statutes. Respondent was properly served with the Administrative Complaint and had waived his right to a hearing by failing to respond.

2. Respondent was issued a lifetime ejection from the Ft. Pierce Jai-Alai and Poker Room ("Ft. Pierce") cardroom on December 30, 2008, for attempting to recruit cardroom employees, including a dealer, for an illegal card game at his house.

3. Section 28-106.201, Florida Administrative Code, provides that:

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

4. In a hand-written petition dated April 4, 2012, Respondent petitioned the Division to initiate proceedings, requesting that he be removed from the Division's exclusion list under the authority of Section 28-106.201, F.A.C.

5. Respondent's petition did not contain disputed issues of material fact. Under the provisions of Section 28-106.201, F.A.C., the Division did not grant the petition or refer this matter to the Division of Administrative Hearings. Although the Division had the authority to deny the petition for lack of disputed material facts, it chose to provide an informal hearing under 120.57(2), Florida Statutes.

6. With his petition, Respondent included a letter from Ken Lewis, Poker Room Manager at Ft. Pierce, in which he stated that Respondent would be allowed to return to Ft. Pierce if approved by the Division.

## FINDINGS OF FACT

7. The purpose of the hearing was not to re-litigate the exclusion case and Final Order. The purpose was to evaluate Respondent's petition and to determine whether the facts offered sufficient mitigation to remove him from the statewide exclusion list. As such, any facts in the petition relating only to the original reasons for the exclusion are not relevant.

8. In support of his petition, Respondent stated that he is 67 years old. His criminal record is spotless, and he was honorably discharged from the military, where he served from December 1963 through December 1967.

9. The Division's position is that a lifetime exclusion from all statewide pari-mutuel facilities is a serious issue, and not a decision that it makes lightly. For that reason, removing somebody from the list is not a decision that is made lightly or arbitrarily. Respondent has been on the exclusion list for less than three years.

10. Respondent has not provided enough evidence that should affect the Division's original decision to exclude Respondent. The main issue Respondent raises is that Ft. Pierce, the

cardroom which initially issued a lifetime ban, is willing to allow him to return. Ft. Pierce's reason for its reversal is unknown, but it does not affect the Division's decision.

11. As a policy matter, Respondent must provide new, relevant facts that can persuade the Division why somebody placed upon the exclusion list for a legitimate cause (in the present case, running an illegal card game) should be removed from the list.

12. In the Division's opinion, the facts are insufficient to reverse its Final Order and remove Respondent from the statewide exclusion list.

## CONCLUSIONS OF LAW

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

14. 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.

## ORDER

WHEREAS based upon the Findings of Fact and Conclusions of Law, it is hereby ORDERED and ADJUDGED that the Respondent's petition to remove him from the Division's lifetime exclusion list, which excludes Respondent from all pari-mutuel facilities in this state, is DENIED.

This Final Order shall become effective on the date filed with the Agency Clerk.

Respectfully submitted this 30th day of October, 2012.

Leon M Biegalski

**LEON M. BIEGALSKI, DIRECTOR**
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
1940 North Monroe Street, Suite 50
Tallahassee, Florida 32399-1035

## NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

A party who is adversely affected by this Final Oder 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, 1940 North Monroe Street, Suite 92, Tallahassee, Florida 32399 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 1st day of November, 2012, that a true copy of the foregoing "Final Order" has been provided by U.S. Mail to the Respondent:

**MR. RICHARD W. TRACHUK**
542 N.W. San Reanno Circle
Port St. Lucie, Florida 34982

Brandon M. Nichols

**AGENCY CLERK'S OFFICE**

**Copies To:**
J. Yvette Pressley, Hearing Officer
David Perry, Assistant General Counsel

3/4/12
Pg 1 of 3

TO: Mr. David Perry - Atty.
Fax # 850-921-1311
FM: Richard Trachuk
772-344-3182

Thank you

4/4/12
REF DBPR CASE #
2009002339

Dear, Mr. Biegalski
Director of Paramutual Gambling
From - Richard Trachuk

1) I am 67yrs old & I dont even have a traffic ticket for over 40yrs. My record is spotless with no civil or Criminal offenses. I am also an honorably discharged veteran having served from 12/63 thrw 12/67.
this letter is in regards to my ban from all paramutual facilities in Fla

2) Your agency recieved a statement from Mr. Ken Lewis, Poker Room Manager in Fort Pierce stating that the penalty I recieved was to harsh, he stated that I would be allowed to return if approved by your office.

3) The initial complaint was that I was banned for 1year & the original Notice dated 12/30/05 of permanent ejection was just for FT. Pierce.

4) I was asked by numerous card players, if I played cards Elsewhere, I said I Did, but never went into detail. This wasn't my game, I played in it.

5) I never recruited anyone to play poker, I don't know Mr. Larry Naylor (Dealer), who was mentioned in the complaint.

Cont. Pg 2

6) I was never an insurance exective + never said I was. My career was in taxes, government agencies + private, this was a misrepresetation.

7) Investigator, Mr. Bryon Wall was abusive + annoyed that I would not identify other home games that I played in and what dealers were having games. I was the only one ejected from Ft. Pierce + was used as an Example.

8) As regards to the initial complaint, I didnt read it timely + then the appeal date passed. I was in NJ + Mass visiting relatives.

Thank you for Any consideration that you may give to my request that the banishment be lifted so that I will be able to return to Fla pari-mutuel facilities. Also if you have further questions you can contact me at: Richard Trachuk
542 NW San Remo Circle
Port St Lucie, Fla 34986
772-344-3182

Sincerely
Richard Trachuk

cc Mr. David Perry

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 2/16/2010
File # 2010-00963

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. 2009002339**

v.

**RICHARD W. TRACHUK,**

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.

## FINDINGS OF FACT

1. On January 29, 2009, Investigator Bryan Wall signed an Investigative Report setting forth facts, which if true, would constitute a violation of Section 550.0251(6), Florida Statutes.

2. On April 15, 2009, an Administrative Complaint was filed with the agency clerk that alleged the Respondent violated Section 550.0251(6), Florida Statutes, by being permanently banned from Fort Pierce Jai-Alai Poker Room, a pari-mutuel facility.

3. Respondent was served with the Administrative Complaint via hand delivery on May 14, 2009.

4. Respondent's Election of Rights Form was due to the Division on or before June 4, 2009. To date, the Division has not received Respondent's Election of Rights and, accordingly, Respondent has waived his rights to elect a forum.

5. 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.

6. The Division also hereby adopts and incorporates by reference the facts contained in the Investigative Report 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 his rights to elect a forum.

9. Respondent violated Section 550.0251(6), Florida Statutes.

## ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law it is hereby ORDERED:

Respondent is hereby excluded from any and all pari-mutuel facilities in this state per Section 550.0251(6), Florida Statutes.

DONE AND ORDERED this 3rd day of February, 2010, in Tallahassee, Florida.

**Milton Champion, 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 16th day of February, 2010, that a true copy of the foregoing "Final Order" has been provided by U.S. Certified Mail to:

**RICHARD W. TRACHUK**
542 NW San Reano Circle
Port St. Lucie, Florida 34982

Brandon M. Nichols
**AGENCY CLERK'S OFFICE**
Department of Business & Professional Regulation

**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. 2009002339**

v.

**RICHARD W. TRACHUK,**

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 Richard Trachuk ("Respondent"). As grounds therefor Petitioner states as follows:

1. On January 29, 2009, Investigator Bryan Wall 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 April 15, 2009, an Administrative Complaint was filed with the agency clerk alleging Respondent violated Section 550.0251(6), Florida Statutes, by being permanently banned from Fort Pierce Jai-Alai Poker Room, a pari-mutuel facility. A true copy of the Administrative Complaint is hereby attached as Exhibit B.

3. Respondent was served with the Administrative Complaint via hand delivery on May 14, 2009. A true copy of the affidavit of service or diligent search is attached hereto as Exhibit C.

4. Respondent's Election of Rights Form was due to the Division on or before June 4, 2009. 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 deeming all allegations of fact in the Administrative Complaint admitted and adopting them as the Department's Finding of Fact, adopting the violations enumerated in the Administrative Complaint as the Department's Conclusions of Law, excluding Respondent from any and all pari-mutuel facilities in this state per Section 550.0251(6), Florida Statutes.

Respectfully submitted,

**DAVID N. PERRY**
Assistant General Counsel
Florida Bar No. 522643

Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
1940 North Monroe Street, Suite 40
Tallahassee, Florida 32399-2202
(850) 487-2563 / FAX 921-1311

Attorney for Division of Pari-Mutuel Wagering

**CERTIFICATE OF SERVICE**

I hereby certify this 16TH day of June, 2009, a true copy of the foregoing "Motion for Final Order" has been served by U.S. mail upon:

**RICHARD W. TRACHUK**
542 NW San Reano Circle
Port St. Lucie, Florida 34982

**DAVID N. PERRY**

Business & Professional Regulation

Division of Pari-Mutuel Wagering
Office of Investigations
1400 West Commercial Boulevard, Suite 165
Ft. Lauderdale, Florida 33309
Phone 954 202.3900 • Fax 954 202 3930

**Charles W. Drago**, Secretary

**Charlie Crist**, Governor

# OFFICE OF INVESTIGATIONS

## INVESTIGATIVE REPORT

| Office: | Region: | Date of Complaint: | Case Number: |
|---|---|---|---|
| **PMW** | **Central** | **January 6 , 2009** | **2009 00 2339** |

| Respondent: | Complainant: |
|---|---|
| **TRACHUK, RICHARD W.**<br>542 NW San Reano Circle<br>Port St. Luice Fl 34982 | Florida Gaming Center of Ft Pierce dba Ft. Pierce Jai-Alai<br>1750 South Kings Highway<br>Ft Pierce Fl 34945<br>&<br>STATE OF FLORIDA,<br>DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION,<br>DIVISION OF PARI-MUTUEL WAGERING |

| License # and Type: None | Profession: Patron | Report Date: **January 29, 2009** |
|---|---|---|

| Period of Investigation: | Type of Report: |
|---|---|
| **January 6, 2009 – January 29, 2009** | **Preliminary** |

Alleged Violation: 550.0251,6 Patron Exclusion, 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 permitholder to exclude absolutely a patron in this state.

Synopsis: On January 6, 2009, the Director of the Ft Pierce Poker room, Ken Lewis, advised this investigator of an incident that had occurred on December 20, 2008 in which **TRACHUK, RICHARD W.** was observed at table number five by the floor manager. While at the table, witnesses observed and overheard **TRACHUK** inviting and recruiting other patrons and the table dealer to come to a "home game" at his home with a $500.00 buy in and professional dealers. **TRACHUK** was escorted from Ft Pierce Jai-Alai and Poker Room and when he returned on December 30, 2008 at 11:15 AM, he was given a trespass warning for Fort Pierce Jai-Alai/Poker Room for life. (Exhibit #1 thru 4)
(Video Exhibit# 1&2)

Related Case:

| Investigator / Date: **January 29, 2009** | Investigator Supervisor / Date |
|---|---|
| Chief of Investigations / Date | |



EXHIBIT
tabbies
A

**CONTINUATION**

December 20, 2008 8:30 PM, **TRACHUK** was seated in seat number 8 at Table 5 with Floor Supervisor Coby Jacobs standing behind him and the dealer Larry Moylan seated next to him. He attempted to openly recruit players for a home game at his house. He informed everyone at the table that the buy in was $300.00 to $500.00 dollars, that he took about 10% of the rack during play and that he had two full tables on Fridays and Sundays. He stated that he lives in a gated community and did not have to worry about local law enforcement. **TRACHUK** also advised players that he was a retired insurance executive and made a lot of money in this business. **TRACHUK** was escorted from the table and asked to leave the property on this date.

December 30, 2008 at 11:15 AM, **TRACHUK** returned to Ft Pierce Jai Alai to play poker. He was intercepted and given a trespass warning for this location.

On January 9, 2009, Assistant General Manager Stu Neiman issued a memorandum permanently ejecting **TRACHUK** from Ft Pierce Jai-Alai for his conduct. (Exhibit 5)

On January 29, 2009: Case Status; Referred to Legal for review and determination.

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 4/15/2009
File #

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. 2009002339

v.

RICHARD W. TRACHUK,

Respondent.
_____/

## ADMINISTRATIVE COMPLAINT

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

1. The Division is the state agency charged with regulating pari-mutuel wagering and cardrooms pursuant to Chapters 550 & 849, Florida Statutes.

2. On December 20, 2008, Respondent was a patron at the Ft. Pierce Jai-Alai and Poker Room cardroom ("Ft. Pierce"). Respondent was seated at seat number eight, at table five.

3. Respondent openly attempted to recruit cardroom employees, including dealer Larry Moylan, for a card game at his house.

4. Respondent informed everyone at the table that the buy in for the game at his house was $300 to $500 dollars, and that he took about 10% of the chip rack during play. Respondent



EXHIBIT
tabbies
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told everyone that he lives in a gated community and did not have to worry about law enforcement.

5. Thereafter, Ft. Pierce informed Respondent he was "permanently ejected from Ft. Pierce Jai-Alai & Poker for conduct that is not in the best interest of the facility", in a "Notice of Permanent Ejection" dated December 30, 2008 (copy of exclusion letter hereto attached as Exhibit "A").

6. Ft. Pierce Jai-Alai and Poker Room is a licensed Florida pari-mutuel and cardroom facility.

7. Section 550.0251(6), Florida Statutes, provides:

> 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 permitholder to exclude absolutely a patron in this state.

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

Signed this 9th day of April, 2009.

**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

**Copy furnished to:**

Respondent – Hand Delivery

FORT PIERCE JAI-ALAI & POKER
A SUBSIDIARY OF FLORIDA GAMING CENTERS, INC.
1750 SOUTH KINGS HIGHWAY – FORT PIERCE, FLORIDA 34945 (772) 464-7500

December 30th, 2008

## NOTICE OF PERMANENT EJECTION

**TO:** Bryan Wall - Investigator II - D.B.P.R. State of Florida
**FROM:** Stu Neiman – Assistant General Manager
**REGARDING:** Richard W. Trachuk

Please be advised that the above captioned individual, Richard Trachuk has been permanently ejected from Ft. Pierce Jai-Alai & Poker for conduct that is not in the best interest of the facility.

On multiple occasions, Mr. Trachuk was overheard attempting to recruit customers in our poker room to play in private poker games. This became a disruption to our customers and interfered with the smooth operation of our card room.

Mr. Trachuk was confronted, ejected and subsequently received a notice of trespass for life.

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

DBPR and Division of Pari-Mutuel Wagering
PETITIONER

Case No.'s: 2009002339

Richard W. Trachuk
RESPONDENT

RECEIVED
2009 JUN -3 A 10:56
PARI-MUTUEL WAGERING

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

1) Affiant is an Investigator/Inspector employed by the Department of Business and Professional Regulation, State of Florida.

2) That on (date)__May 14, 2009, Affiant made a diligent effort to locate Respondent, to serve **X Administrative Complaint** and related papers; ____Order compelling examination(s); ____Subpoena(s); ____Consent Order; ____Final order; ____Notice to cease and desist; ____SSO and related papers. (check appropriate block)

3) (Check applicable answer)

__X__Affiant made personal service on **Respondent,** or on some person at Respondent's usual place of abode over the age of 15 residing there, on (date)_May 14 2009.

____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: _____

Bryan K Wall
Signature of Affiant

STATE OF FLORIDA
COUNTY OF ORANGE

Before me, appeared BRYAN K. WALL
__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 2ND day of JUNE 2009.

Stephen E Toner
Notary Public-State of Florida
STEPHEN E. TONER
Type or Print Name

06/14/09
My Commission Expires

JUN 0 5 2009

STEPHEN E. TONER
MY COMMISSION # DD 448682
EXPIRES: June 14, 2009
Bonded Thru Budget Notary Services

EXHIBIT
tabbies
C