

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

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/28/2015
File #	2015-00809

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

Petitioner,

CASE NO. 2011-045293

v.

ELIO RAMON RODRIGUEZ,

Respondent,  

---

**FINAL ORDER**

The Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering hereby enters this Final Order against the Respondent, Elio Ramon Rodriguez in the above styled matter.

1. On September 29, 2011, Petitioner Investigator Charles H. Taylor signed an Investigative Report setting forth facts which, if true, would constitute a violation of Rule 61D-11.005(4), Florida Administrative Code, and Section 550.0251(6), (10), Florida Statutes (2011).
2. On March 27, 2014, an Administrative Complaint was filed with the agency clerk alleging Respondent violated Rule 61D-11.005(4), Florida Administrative Code and Section 550.0251(6), (10), Florida Statutes (2011), by passing cards with another patron at a poker table on August 26, 2011.
3. Respondent was served with the Administrative Complaint via personal hand service on October 28, 2014.

4. Respondent's Election of Rights Form was due to the Division on or before November 18, 2014. To date, the Petitioner has not received Respondent's Election of Rights Form and, therefore, 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 Fact in this matter.

6. The Division also hereby adopts and incorporates 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. Under the facts of this case, Section 550.0251, Florida Statutes, authorizes the Division to enter an order permanently excluding Respondent from any and all licensed pari-mutuel facilities in this state.

#### **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that Respondent is PERMANENTLY EXCLUDED from any and all pari-mutuel facilities in this state.

*[Signature appears on the following page.]*

DONE AND ORDERED this 16<sup>th</sup> day of January, 2015, in Tallahassee,  
Florida.

  
\_\_\_\_\_  
**JONATHAN ZACHEM, DIRECTOR**  
Division of Pari-Mutuel Wagering  
Department of Business & Professional Regulation  
1940 North Monroe Street  
Tallahassee, Florida 32399-1035  
(850) 488-9130

**NOTICE OF RIGHT TO APPEAL**

Any party to this proceeding has the right to seek its judicial review under section 120.68, Florida Statutes, by the filing of an original notice of appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Agency Clerk, 1940 North Monroe Street, Tallahassee, Florida 32399-2202 (email: [ogcagencyclerk@myfloridalicense.com](mailto:ogcagencyclerk@myfloridalicense.com)), **and** by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate Florida district court of appeal. The notice of appeal must be filed (received) in the Office of the Agency Clerk within thirty (30) days after the date this Order is filed with the Clerk.

**CERTIFICATE OF SERVICE**

I hereby certify this 28<sup>th</sup> day of January, 2015, that a true copy of the foregoing "Final Order" has been provided by U.S. Mail to:

**Elio Ramon Rodriguez**  
3340 41<sup>st</sup> Avenue, N.E.  
Naples, Florida 34120

*Brendan M. Nibbe*  
for: **AGENCY CLERK**  
Department of Business & Professional Regulation

7004 1350 0002 7397 5795

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
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Total Postage & Fees	\$
2011045293	
Postmark Here	
Sent To <u>Elio Rodriguez</u>	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, June 2002	
See Reverse for Instructions	

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

<b>FILED</b>	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	<b>12/12/2014</b>
File #	

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

Petitioner,

CASE NO. 2011-045293

v.

ELIO RAMON RODRIGUEZ,

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 September 29, 2011, Petitioner Investigator Charles H. Taylor signed an Investigative Report setting forth facts which, if true, would constitute a violation of Rule 61D-11.005(4), Florida Administrative Code, and Section 550.0251(6), (10), Florida Statutes (2011). A true copy of the Investigative Report is hereby attached as Exhibit A.

2. On March 27, 2014, an Administrative Complaint was filed with the agency clerk alleging Respondent violated Rule 61D-11.005(4), Florida Administrative Code and Section 550.0251(6), (10), Florida Statutes (2011), by passing cards with another patron at a poker table on August 26, 2011. A true copy of the Administrative Complaint is hereby attached as Exhibit B.

3. Respondent was served with the Administrative Complaint via personal hand service on October 28, 2014. A true copy of the Affidavit of Service is attached hereto as Exhibit C.

4. Respondent's Election of Rights Form was due to the Division on or before November 18, 2014. To date, the Petitioner has not received Respondent's Election of Rights Form and, therefore, Respondent has waived his rights to elect a forum.

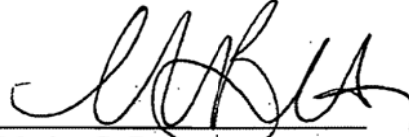
WHEREFORE, Petitioner respectfully requests that the Director of the Division of Pari-Mutuel Wagering promptly issue a Final Order deeming all allegations of fact in the Administrative Complaint admitted and adopting them as the Department's Finding of Fact, adopting the violations enumerated in the Administrative Complaint as the Department's Conclusions of Law, and permanently excluding Respondent from all licensed slot machine and pari-mutuel facilities in this state.

*[Signatures appear on the following page]*

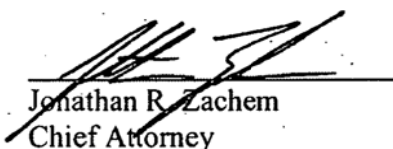
Signed this 12<sup>th</sup> day of December, 2014.

KEN LAWSON, Secretary  
Department of Business and  
Professional Regulation

By:



Marisa G. Button  
Assistant General Counsel  
Division of Pari-Mutuel Wagering  
Florida Bar No. 0102263  
Department of Business and  
Professional Regulation  
1940 N. Monroe Street, Ste. 40  
Tallahassee, FL 32399-2202  
(850)717-1197 Telephone  
(850)921-1311 Facsimile

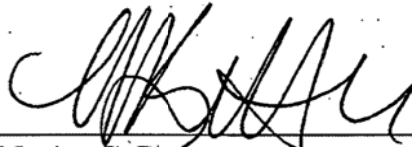


Jonathan R. Zachem  
Chief Attorney  
Division of Pari-Mutuel Wagering  
Florida Bar No. 0083617  
Department of Business and  
Professional Regulation  
1940 N. Monroe Street, Ste. 40  
Tallahassee, FL 32399-2202  
(850)488-0062 Telephone  
(850)921-1311 Facsimile

**CERTIFICATE OF SERVICE**

I hereby certify this 12<sup>th</sup> day of December, 2014, that a true copy of the foregoing "Motion for Final Order" has been served by U.S. mail upon:

**Elio Ramon Rodriguez  
3340 41<sup>st</sup> Avenue, N.E.  
Naples, Florida 34120**



**Marisa G. Button**


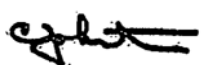



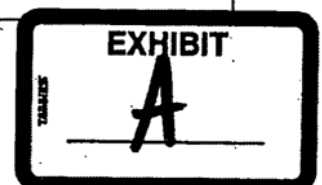
Ken Lawson, Secretary

Rick Scott, Governor

## OFFICE OF INVESTIGATIONS

### INVESTIGATIVE REPORT

Office: <b>P M W /</b>	Region: <b>Southern</b>	Date of Complaint: <b>September 15, 2011</b>	Case Number: <b>2011 04 5293</b>
Respondent:  <b>RODRIGUEZ, Elio Ramon 2770 Fountain View Circle Naples, FL., 34109 954-793-8788 239-304-8742</b>		Complainant:  <b>DBPR – PMW- INVESTIGATION SECTION 1400 W. COMMERCIAL BLVD. SUITE 115 FT. LAUDERDALE, FL 33309 954-202-3900</b>	
License # and Type: <b>N/A</b>	Profession: <b>N/A</b>	Board:	Report Date: <b>September 29, 2011</b>
Period of Investigation: <b>09/15/2011 Through 09/29/2011</b>		Type of Report: <b>Preliminary</b>	
Alleged Violation: 61 D-11.005 <b>Prohibitions (4)</b> No person shall, either directly or indirectly: <b>(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.</b> <b>(c) Engage in any act, practice, or course of operation with the intent of cheating any participant or the cardroom operator.</b>			
Synopsis: On 08/26/2011, Roberto Carlos Martinez was dealing poker on table # 2, in the Naples-Ft. Myers Greyhound Track (NFMGT) Cardroom: Immediately after being "Tapped Out" (changing dealers) he notified his floor manager, David Hudgins that possible cheating was occurring between seat # 5 and seat # 6 while he was dealing. Supplied a written statement ( <b>EXHIBIT #1</b> )  Hudgins went to the Surveillance Room and viewed the surveillance DVD of table # 2. At 3:37 PM he witnessed card passing and he notified Cindy Fra, Cardroom Manager and security. He supplied a written statement. ( <b>EXHIBIT # 2</b> )			
Related Case:			
Investigator Charles H. Taylor/ Date <b>09/29/2011</b> 		Investigator Supervisor / Date <b>10/5/11</b> 	
Chief of Investigations / Date   <b>October 5, 2011</b>			



## CONTINUATION

Fra then notified security and directed them to the player in seat # 5 at table # 2. The player in seat # 6 who was involved left the table and cashed out prior to the arrival of Security.

Director of Security, Jim Schwartz along with Security Officers J. Paris and R. Natal escorted the player in seat # 5 later identified as **Elio Ramon RODRIGUEZ** to the security office where a Security Incident Report # 11-42 was completed. (EXHIBIT #3)

**RODRIGUEZ** presented a Florida Drivers License as identification (not copied) and gave his local address of 2770 Fountain View, Naples, Fl 33111, phone 954-793-8788. **RODRIGUEZ** was advised he was being issued an Ejection/Trespass Warning from the (NFMGT) facility for Cheating by passing cards under the table to another player. (EXHIBIT #4)

A photograph of **RODRIGUEZ** was taken for placement into their Exclusion Book, located at the Cardroom Check-In-Podium. (EXHIBIT #5)

Additional statements were taken from Security Officer Roberto Natal, reference his actions in the Trespass/Ejection process of **RODRIGUEZ**, and his observation of the unknown Latin Male from seat # 6 at table # 2. The unknown L/M walked to the parking lot and entered a white 4dr. Lincoln Fl license plate "924 NWL" Hendry County expires 08/12. He attempted to start the vehicle, but exited then opened the hood. Natal was ordered by radio to leave the parking lot and return to the Cardroom for assistance with **RODRIGUEZ** who was being detained. Natal's written statement (EXHIBIT #6).

**RODRIGUEZ** was issued a Trespass/Lifetime Exclusion and escorted to the parking lot by S/O Jim Paris. S/O Natal met with Paris, where they discovered the hood ajar and door open on the Lincoln. A check of the vehicle revealed a FL Tax Lien in the name of "LaBelle Homes of Immokalee", and a Social Security card in the name of David Esquivel. An announcement was made over the facility P/A system in an attempt to locate the owner of the Lincoln. There was no response. Paris written statement (EXHIBIT #7)

On 09/01/2011, I was notified by Cardroom Manager, Cindy Fra of the Cheating incident and the Trespass/Ejection that occurred 08/26/2011. We reviewed the surveillance video showing **RODRIGUEZ** in seat # 5 passing/ receiving cards under table # 2 with/from an unidentified male player located in seat #6.

There were several occurrences of card passing noted:  
3:26.47 pm seat # 5 left arm/hand under table with card  
3:26.50 pm seat # 6 right arm/hand under table with card  
3:26.52 pm exchange both have hands under table  
3:27.41pm seat # 6 buys the pot

3:42.36 pm seat # 5 left arm/hand under table  
3:43.50 pm seat # 6 right arm/hand under table  
3:42.53 pm exchange complete  
3:42.58 pm showdown seat # 6 wins

I requested a copy of DVD from 08/26/2011 Property Receipt issued. (EXHIBIT #8)

**CONTINUATION**

Further review of the DVD (EXHIBIT #8), revealed several attempts were made by RODRIGUEZ and the Unknown L/M in seat # 6. These are documented in. (EXHIBIT #9)

On 09/14/2011, A Notice of Violation was prepared and Case 2011 04 5293 was opened. (EXHIBIT #10)

A record check on RODRIGUEZ was accomplished through FICCIS which revealed previous arrests in Florida and a Florida Drivers License R362216701310 Issued to; Elio Ramon RODRIGUEZ. (EXHIBIT #11)

A Collier County computer record check with an Arrest Photo, revealed RODRIGUEZ 's Drivers License is now under Suspension/Revoked for DUI his court date is set for 8:30 am on 10/05/2011 in Collier County, FL (EXHIBIT #12)

A Collier County computer record check revealed an Arrest Photo of the name found in the Lincoln FI Tag 924NWL, David Esquivel D.O.B. 08/12/1987. This photo matched the second individual in the surveillance DVD. (EXHIBIT #13)

On 8/26/11, I reviewed Mr. Esquivel from the (NFMGT) DVD. He sat in seat # 5 on table # 2 for one hand. He arrived 2:56 PM exited 3:03 PM. He then spoke with RODRIGUEZ as they passed the Sign-In-Podium at the Cardroom entrance. RODRIGUEZ, entered without checking with the Brush and sat in seat # 5 on table # 2 and played poker.

**Case Status:** Case is forwarded to legal for possible Administrative Action by placement of RODRIGUEZ on the State Exclusion list for cheating.

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

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	3/27/2014
File #	

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

Petitioner,

DBPR CASE NO. 2011045293

v.

**ELION RAMON RODRIGUEZ,**

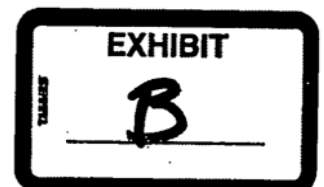
Respondent.

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**ADMINISTRATIVE COMPLAINT**

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

1. The Division is the state agency charged with regulating pari-mutuel wagering and cardrooms located at pari-mutuel facilities, pursuant to Chapter 550 and Section 849.086, Florida Statutes.
2. On the afternoon of August 26, 2011, Respondent was a cardroom patron at Naples-Ft. Myers Greyhound Track ("NFMGT").
3. NFMGT was, and is, a licensed pari-mutuel facility in the State of Florida.
4. On August 26, 2011 Respondent was seated at Table 2, Seat 5 at NFMGT.
5. Table 2 at that time and date was a poker table.
6. Table 2, Seat 5 was briefly occupied by patron David Esquinel before Respondent took that seat at approximately 3:00 p.m. on August 26, 2011.



7. At approximately 3:50 p.m. the Table 2 dealer alerted NFMGT management, who observed Respondent passing cards to another patron at Table 2.

8. At approximately 4:10 p.m. NFMGT security officers conducted Respondent to an NFMGT office where officers completed Security Incident Report #11-42. Division Exh. A, attached.

9. At that time, NFMGT security officers issued Respondent a written Ejection/Trespass Warning.

10. Respondent thereupon left the NFMGT property.

11. Rule 61D-11.005(4), F.A.C., provides:

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.

12. 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.

13. Section 550.0251(10), Florida Statutes, provides:

The division may impose an administrative fine for a violation under this chapter of not more than \$1,000 for each count or separate offense, except as otherwise provided in this chapter, and may suspend or revoke a permit, a pari-mutuel license, or an occupational license for a violation under this chapter.

14. By passing cards with another patron at NFMGT Table 2, Respondent violated Rule 61D-011.005(4), F.A.C., because Respondent was cheating at poker.

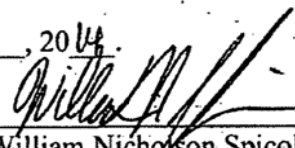
15. The Division possesses authority under section 550.0251(6), Florida Statutes, to discipline Respondent for cheating.

16. The Division possesses authority under section 550.0251(10), Florida Statutes, to fine Respondent for cheating.

17. The appropriate fine for cheating at poker is \$1000.00 under section 550.0251(10), Florida Statutes.

**WHEREFORE**, Petitioner respectfully requests the Division, pursuant to the laws and regulations cited above, enter an Order finding Respondent guilty of cheating at cards, permanently excluding Respondent from all licensed pari-mutuel facilities in this state, and fining Respondent \$1000.00 for his misconduct.

Signed this 26<sup>th</sup> day of March, 2014.

  
\_\_\_\_\_  
William Nicholson Spicola  
Chief Attorney  
Division of Pari-Mutuel Wagering  
Florida Bar Number: 70732  
Department of Business and  
Professional Regulation  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, FL 32399-2202

**Copies furnished to:**

Richard McNelis, Assistant General Counsel

Naples-Fort Myers  
**GREYHOUND TRACK**  
At Bonita Springs

**SECURITY INCIDENT REPORT # 11-42**

Incident # 11-42 Date: 08/26/11 Location: CARD ROOM

Type of Incident CHEATING - CARDS Injuries N/A

Medical Assistance requested N/A

Police Involvement N/A Officer's Name N/A

Property Safeguarded N/A Property Returned N/A

Person Involved: Name ELIO RAMON RODRIGUEZ

Address 2770 FOUNTAIN VIEW

NAPLES FL. 34111

Telephone # 954/793-8788 DOB 04/11/70 SS#

Alcohol Involved N/A Ejected YES Trespass Warning YES

Witness: Name: DAVID HUGGINS

Address: 10601 BONITA BEACH RD

BONITA SPRINGS FL. 34135

Telephone: 239-992-2411

Synopsis of Incident

I WAS CALLED TO CARD ROOM AT APPROX. 4:10 PM. UPON  
ARRIVAL I LEARNED THAT SUBJECT NOW KNOWN AS  
ELIO RAMON RODRIGUEZ AND ANOTHER PLAYER WERE  
PASSING CARDS BACK AND FORTH UNDER THE TABLE.  
THE OTHER PLAYER INVOLVED HAD LEFT AND CASHED  
HIS CHIPS. (CONTINUED) PAGE 2

Security Guard J.M. SCHWARTZ Reviewed By J. Lopez

Date of Report 08/26/2011



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

DBPR and Division of Pari-Mutuel Wagering  
PETITIONER

Case No. 2011-045293

ELION RAMON RODRIGUEZ  
RESPONDENT

3340 41<sup>ST</sup> AVE N.E.  
NAPLES, FL 3340 34120

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

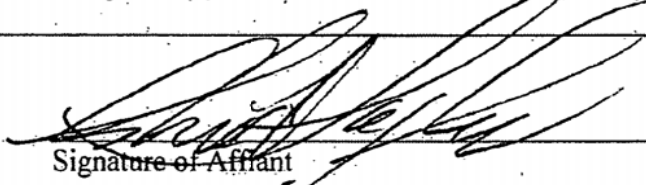
1) Affiant is an Investigator/Inspector employed by the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, State of Florida.

2) That on (date) \_\_\_\_\_, Affiant made a diligent effort to locate Respondent, to serve: \_\_\_\_\_ Administrative Complaint and related papers; \_\_\_\_\_ Order compelling examination(s); \_\_\_\_\_ Subpoena(s); \_\_\_\_\_ Consent Order; \_\_\_\_\_ Motion For Final Order; \_\_\_\_\_ Final order; \_\_\_\_\_ Notice to cease and desist; \_\_\_\_\_ SSO and related papers. (check appropriate block)

3) (Check applicable answer)

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) 10/28/2014 NILKA MOLLINEDO

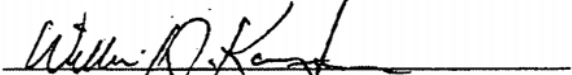
\_\_\_\_\_ Affiant was unable to make service after searching for Respondent at: (a) all addresses for Respondent shown in the D.B.P.R. investigation of the case; (b) all official addresses for Respondent shown in his/her licensing records of the Division of Pari-Mutuel Wagering; (c) local telephone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

  
Signature of Affiant

STATE OF FLORIDA  
COUNTY OF COLLIER

Before me, appeared CHARLES TAYLOR  
 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 28<sup>th</sup> day of OCTOBER 2014

  
Notary Public-State of Florida  
WILLIAM KAEMPFER  
Type or Print Name

4/30/2016  
My Commission Expires

