

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/19/2016
File #	2016-01352

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

Petitioner,

Case No. 2015-041971

v.

ROBERT ANTHONY GONZALEZ,

Respondent.

FINAL ORDER ON WAIVER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Department” or “Division”), issues this Final Order on Waiver against Robert Anthony Gonzalez (“Respondent”), and states as follows:

1. An Administrative Complaint was filed in this case on November 16, 2015, alleging a violation of Rule 61D-11.005(a-c), Florida Administrative Code.
2. The Administrative Complaint, Election of Rights form, an Explanation of Rights, and a cover letter were hand-served upon Respondent or on some person at Respondent’s usual place of abode over the age of 15 residing there on December 21, 2015.
3. The Election of Rights form, cover letter, and Explanation of Rights informed Respondent that a written response to the Administrative Complaint, including the right to request a hearing was due within the twenty-one (21) day period to dispute the allegations.
4. Rule 28-106.111, Florida Administrative Code, provides that Respondent waives the right to a hearing on the complaint if Respondent fails to request a hearing in this matter.

5. Petitioner made all reasonable efforts to provide notice to Respondent. Proof of service by Affidavit of Service is attached in said Motion for Waiver of Rights and Final Order as Exhibit "A".

Upon consideration of the motion and given facts and conclusions of law in the Administrative Complaint, it is ordered:

1. The allegations of fact set for in the Administrative Complaint are approved, adopted and incorporated herein by reference as findings of fact by the Division.

2. The conclusions of law alleged and set forth in the Administrative Complaint are approved, adopted and incorporated herein by reference as the conclusions of law by the Division.

3. There is competent substantial evidence to support the findings of fact and conclusions of law by the Division.

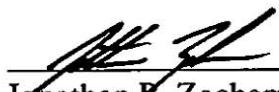
THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent is permanently **EXCLUDED** from all licensed pari-mutuel facilities in the State of Florida.

2. This Final Order shall become effective on the date of the filing with the Department's Agency Clerk.

DONE AND ORDERED this 16th day of February, 2016.

KEN LAWSON, SECRETARY
DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION

BY: 
Jonathan R. Zachem, Director
Division of Pari-Mutuel Wagering
1940 North Monroe Street
Tallahassee, Florida 32399

NOTICE OF RIGHT TO APPEAL

Unless expressly waived, any party substantially affected by this Final Order may seek judicial review by filing an original Notice of Appeal with the Agency Clerk of the Department of Business and Professional Regulation at 1940 North Monroe Street, Tallahassee, Florida 32399, (AGC.Filing@myfloridalicense.com), 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 days rendition of this Order, in accordance with Fla. App. P. 9.110, and section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing "Final Order on Waiver" has been sent by regular United States Mail on this 19th day of February, 2016 to:

Robert Anthony Gonzalez
1054 Siboney Street NW
Palm Bay, Florida 32907



AGENCY CLERK'S OFFICE
Department of Business & Professional Regulation

Copies furnished to:

Gauge Campbell, AAI
Caitlin Mawn, Deputy Chief Attorney

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. 2015-041971

ROBERT ANTHONY GONZALEZ,

Respondent.

MOTION FOR WAIVER OF RIGHTS AND FINAL ORDER

The Department of Business And Professional Regulation, (“Petitioner”), moves the Division of Pari-Mutuel Wagering (“Division”) for a finding of Waiver of Rights by Robert Anthony Gonzalez, (Respondent) and a Final Order. In support thereof, Petitioner states the following:

1. An Administrative Complaint was filed in this case on November 16, 2015, alleging a violation of Rule 61D-11.005(a-c), Florida Administrative Code (2015). A true copy of the Administrative Complaint is attached as Exhibit “A” and incorporated by reference.

2. On or about December 21, 2015, Petitioner served Respondent the Administrative Complaint, Explanation of Rights, and Election of Rights Form via personal service on the Respondent or on some person at the Respondent’s usual place of abode over the age of 15 residing there. Proof of service is attached as Exhibit “B” and incorporated by reference.

3. The Election of Rights and Explanation of Rights informed Respondent that a response to the Complaint, including an election of rights form for return, was due within twenty-one (21) days of service of the Administrative Complaint. Respondent was informed further that failure to respond to the Administrative Complaint would result in a waiver of Respondent’s right to a hearing in this matter.



4. To date, Respondent has not filed an Election of Rights form or otherwise established a disputed issue of material fact in response to the Administrative Complaint filed and served in this action. Pursuant to Rule 28-106.111, Florida Administrative Code (2015), if Respondent fails to request a hearing within twenty-one (21) days of receipt of an agency pleading, Respondent shall have waived his right to request a hearing of the facts alleged.

5. By failing to file a response within twenty-one (21) days of receipt of the Administrative Complaint, Respondent has waived his right to request a hearing. Therefore, Petitioner submits this matter for final action by the Division pursuant to Section 120.57(2), Florida Statutes (2015).

WHEREFORE, Petitioner respectfully moves the Division to enter a finding of waiver and the entry of a Final Order that imposes such penalties as authorized by Chapter 550, Florida Statutes, and the rules promulgated thereunder.

Respectfully submitted,

By: /s/ Caitlin R. Mawn
CAITLIN R. MAWN
Florida Bar No. 99545
Deputy Chief Attorney
Office of the General Counsel
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
Northwood Center
1940 North Monroe Street, Suite 40
Tallahassee, Florida 32399-2202

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing MOTION FOR WAIVER OF RIGHTS AND FINAL ORDER was forwarded by regular U.S. Mail to: Robert Anthony Gonzalez, 1054 Siboney Street NW, Palm Bay, Florida, 32907 this 22nd day of January, 2016.

Gauge D. Campbell
Gauge D. Campbell, AAI
Department of Business &
Professional Regulation

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	11/16/2015
File #	

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

Petitioner,

v.

Case No. 2015-041971

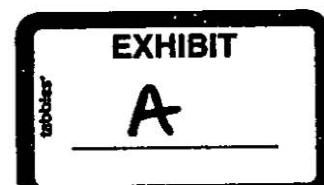
ROBERT ANTHONY GONZALEZ,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner") files this Administrative Complaint against Robert Anthony Gonzalez ("Respondent") and alleges:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes and cardroom operations pursuant to Section 849.086, Florida Statutes.
2. Respondent's address is reported as 1054 Siboney Street N.W., Palm Bay, Florida 32907.
3. At all times material hereto, Melbourne Greyhound Park was a licensed pari-mutuel and cardroom facility in the State of Florida.
4. On or about July 15, 2015, Respondent, while playing two separate hands simultaneously of Three Card Poker at Melbourne Greyhound Park, was observed switching cards between his two hands.



5. On or about August 3, 2015, Melbourne Greyhound Park security permanently barred Respondent from Melbourne Greyhound Park.

6. Respondent's conduct would constitute a violation of Rule 61D-11.005(4)(a-c), Florida Administrative Code (2015), which provides in full "[n]o person shall, either directly or indirectly: [e]mploy or attempt to employ any device, scheme, or artifice to defraud any participant in a card game, or the cardroom operator, [e]ngage in any act, practice, or course of operation as would operate as a fraud or deceit upon any participant in a game or any cardroom operator, [or] [e]ngage in any act, practice, or course of operation with the intent of cheating any participant or the cardroom operator."

7. Section 550.0251(6), Florida Statutes (2015), provides in relevant part that "[i]n addition to the power to exclude certain persons from any pari-mutuel facility in the 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."

8. Based on the foregoing, the Respondent is subject to exclusion by the Division for conduct that would constitute a violation of Rule 61D-11.005(a-c), Florida Administrative Code (2015), and because he was ejected from a pari-mutuel facility in Florida.

WHEREFORE, Petitioner respectfully requests the Division enter an Order permanently excluding Respondent from all licensed pari-mutuel facilities in the State of Florida.

Signed this 16th day of November, 2015.

KEN LAWSON, Secretary
Department of Business and
Professional Regulation

By:

/s/ William D. Hall

William D. Hall
Florida Bar No. 67936
Chief Attorney
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
Northwood Center
1940 North Monroe Street, Suite 40
Tallahassee, Florida 32399-2202

NOTICE OF RIGHTS

Please be advised that mediation under section 120.573, Florida Statutes, is not available for administrative disputes involving this type of agency action.

Please be advised that Respondent has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas and *subpoenas duces tecum* issued on his or her behalf if a hearing is requested. Any request for an administrative proceeding to challenge or contest the charges contained in the administrative complaint must conform to Rule 28-106.2015, Florida Administrative Code. Rule 28-106.111, Florida Administrative Code, provides in part that if Respondent fails to request a hearing within 21 days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged.

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DBPR, DIVISION OF PARI-MUTUEL WAGERING,

Petitioner,

V.

CASE NO. 2015-041971

ROBERT ANTHONY GONZALEZ,

Respondent.

AFFIDAVIT OF SERVICE OR DILIGENT SEARCH

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) 12-21-2015, 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; ESO and related papers; (other).

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) 12-21-2015.

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:

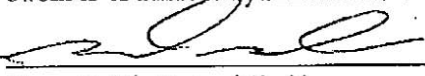

Signature of Affiant

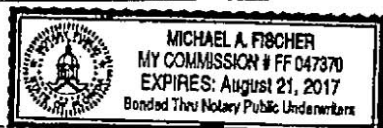
STATE OF FLORIDA
COUNTY OF Brevard

Before me, appeared Bryan Keith Wall
 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 23 day of December 2015.


Notary Public-State of Florida



Type or Print Name

My Commission Expires

