

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

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Tara Ashlock
Date	6/14/2017
File #	2017-04718

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

Petitioner,

DBPR CASE NO. 2016-002893,

v.

SCOTT A. ALLY,

Respondent.

\_\_\_\_\_ /

FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division"), hereby enters this Final Order for the above styled matter. On May 24, 2017, Alison Parker, designated Hearing Officer for the Division, issued the Recommended Order in this matter. That Recommended Order is attached to the Final Order and incorporated herein by reference.

FINDINGS OF FACT

The Findings of Fact contained in the Recommended Order are hereby adopted as the Findings of Fact of the Division.

CONCLUSIONS OF LAW

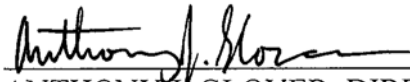
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law adopted from the Recommended Order of the Division's Informal Hearing, it is hereby ORDERED that:

1. Respondent's pari-mutuel wagering cardroom employee occupational license number, 8489213-1012, is REVOKED.
2. Respondent is PERMANENTLY EXCLUDED from all licensed pari-mutuel facilities in this state.
3. This Final Order shall become effective on the date of filing with the Agency Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 12 day of June, 2017, in Tallahassee, Florida.



\_\_\_\_\_  
ANTHONY J. GLOVER, DIRECTOR  
Division of Pari-Mutuel Wagering  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-2202

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, 2601 Blair Stone Road, Mail Stop G3, Tallahassee, Florida 32399-2203 (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 14<sup>th</sup> day of June, 2017, that a true copy of the foregoing "Final Order" has been provided by U.S. Mail to:

SCOTT A. ALLY  
c/o Jason L. Harr, Esquire  
The Harr Law Firm  
517 South Ridgewood Avenue  
Daytona Beach, Florida 32114



AGENCY CLERK  
Department of Business and  
Professional Regulation

Cc:  
Keneidra Williams, AAI OGC  
Deborah Matthews, AAI OGC/PMW

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

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	5/24/2017
File #	

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

Petitioner,

DBPR CASE NO. 2016-002893

v.

SCOTT A. ALLY,

Respondent.

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Alison Parker, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, on April 24, 2017, in Tallahassee, Florida, in accordance with the provisions of Section 120.57(2), Florida Statutes, for consideration of the Administrative Complaint issued against Scott A. Ally ("Respondent"), in DBPR Case No. 2016-002893. The Division of Pari-Mutuel Wagering ("Petitioner" or "Division") was represented by Shay Marcelus, Assistant General Counsel, a representative of Louis Trombetta, Chief Attorney. Petitioner was represented by Jason L. Harr, Esquire, who appeared telephonically.

PRELIMINARY STATEMENT

1. On August 15, 2016, Petitioner filed a two-count Administrative Complaint alleging Respondent violated Rule 61D-11.005(4)(b), Florida Administrative Code (2015), by engaging in a practice that would constitute a fraud or deceit upon any participant in a game or cardroom operator, and further alleging that Respondent be subject to permanent exclusion from all licensed Florida pari-mutuel wagering facilities in ac-

cordance with Section 550.0251(6), Florida Statutes (2015), for being trespassed from Daytona Beach Kennel Club.

2. At the informal hearing on April 24, 2017, the Petitioner presented the issues raised in the Administrative Complaint and cited Respondent's election of an informal hearing on or about October 24, 2016. The findings of fact in the Administrative Complaint were accepted as the undisputed facts in the case. Respondent, through his attorney, then presented his case.

#### FINDINGS OF FACT

3. At all times material to the Administrative Complaint, Respondent was licensed in the state of Florida with a pari-mutuel wagering cardroom employee occupational license, having been issued license number 8489213-1012, by the Petitioner.

4. At all times material hereto, Daytona Beach Kennel Club was a facility operated by a permit holder authorized to conduct pari-mutuel wagering and cardroom gaming in this state in accordance with Chapter 550 and Section 849.086, Florida Statutes.

5. From on or about December 18, 2015, through December 30, 2015, Respondent stole poker chips from the jackpot fund and concealed them in his tip box.

6. On or about January 19, 2016, Respondent was ejected from Daytona Beach Kennel Club.

7. Respondent or his attorney offered various items as mitigation:
- a. Respondent has no further discipline with the Department;
  - b. Respondent enjoyed a seven-year stint of employment without other incident;

- c. Respondent has not reapplied for a position at any pari-mutuel wagering facilities;
- d. Within two weeks the discovery of the missing tips, Respondent paid restitution;
- e. Respondent attends therapy on a semi-regular basis, and attended these more frequently directly after the incident;
- f. Respondent was having marital or familial strife at the time the theft occurred;
- g. Respondent stressed he had no intent to commit fraud or deceit on anyone; and
- h. Respondent did not know what he was doing at the time as his medical issues caused him to take the tips.

CONCLUSIONS OF LAW

8. The Division has jurisdiction over this matter pursuant to Chapters 120, 550, and Section 849.086, Florida Statutes.

9. Rule 61D-11.005(4)(b), Florida Administrative Code (2015), provides that "[n]o person shall, either, directly or indirectly: [e]ngage in any act [or] practice...that would constitute a fraud or deceit upon any participant in a game, or any cardroom operator."

10. Pursuant to Section 849.086(6)(f), Florida Statutes (2015), "[t]he provisions specified s. 550.105(4), (5), (6), (7), (8), and (10) relating to licensure shall be applicable to cardroom occupational licenses."

11. Section 550.105(5)(b), Florida Statutes (2015), provides in pertinent part "[t]he 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.”

12. Respondent stated his medical issue ostensibly caused him to take the tips, but otherwise absolves himself of responsibility for the theft. While citing lack of intent as a large mitigating factor in his case, Respondent seemingly did not express remorse for taking the chips.

13. Respondent additionally cited that that he sees a therapist on a semi-regular basis, but otherwise has not provided mitigation to prove that future events would not occur. Theft of chips is an acutely serious violation in a pari-mutuel wagering facility, and ultimately a breach of the public's trust.

14. Respondent is subject to discipline under Section 550.105(5)(b), Florida Statutes, by virtue his violation of the provisions of Rule 61D-11.005(4)(b), Florida Administrative Code (2015).

15. Section 550.0251(6), Florida Statutes (2015), empowers the Division to “exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state...”

16. Respondent is subject to permanent exclusion from all licensed Florida pari-mutuel facilities under Section 550.0251(6), Florida Statutes (2015), for his ejection from Daytona Beach Kennel Club.

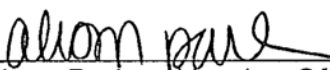
17. There is competent substantial evidence to support the conclusions of law.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Business and Professional Regulation, enter a Final Order:

1. Revoking Respondent's pari-mutuel wagering cardroom employee occupational license.
2. Permanently excluding Respondent from all licensed pari-mutuel facilities in this state.

Respectfully submitted this 24<sup>th</sup> day of May, 2017.

  
\_\_\_\_\_  
Alison Parker, Hearing Officer  
Office of the General Counsel  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, FL 32399-2202



CERTIFICATE OF SERVICE

I hereby certify this 24 day of May, 2017 that a true copy of the foregoing has been provided by Certified U.S. Mail to:

**Scott A. Ally**  
c/o Jason L. Harr, Esquire  
The Harr Law Firm  
517 South Ridgewood Avenue  
Daytona Beach, Florida 32114

  
Evette L. Pioctor  
AGENCY CLERK'S OFFICE

Cc:  
Alison Parker, Informal Hearing Officer  
Shay Marcelus, Assistant General Counsel

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to the Recommended Order should be filed with the Department.

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	<b>Evette Lawson-Proctor</b>
Date	<b>8/15/2016</b>
File #	

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

Petitioner,

DBPR CASE NO. 2016-002893

v.

SCOTT A. ALLY,

Respondent.

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ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner" or "Division"), hereby files this Administrative Complaint against Scott Ally ("Respondent"), and alleges as follows:

1. The 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. At all times material hereto, Respondent held a pari-mutuel wagering cardroom employee occupational license, number 8489213-1012 issued by the Petitioner.
3. At all times material hereto, Respondent worked as a poker dealer in the cardroom at the Daytona Beach Kennel Club ("DBKC").
4. DBKC is a facility operated by a permitholder authorized to conduct pari-mutuel wagering and cardroom gambling in this state under Chapters 550 and 849, Florida Statutes.

Count I

5. Petitioner hereby re-alleges and incorporates the allegations contained within paragraphs one through four, as though fully set forth herein.

6. From on or about December 18, 2015, through December 30, 2015, Respondent stole chips from the jackpot fund and concealed the stolen chips in his tip box.

7. Rule 61D-11.005(4)(b), Florida Administrative Code (2015), provides that “[n]o person shall, either directly or indirectly: [e]ngage in any act [or] practice...that would constitute a fraud or deceit upon any participant in a game, or any cardroom operator.””

8. Based on the foregoing, Respondent violated Rule 61D-11.005(4)(b), Florida Administrative Code (2015), by engaging in a practice that would constitute a fraud or deceit upon any participant in a game, or any cardroom operator.

#### Count II

9. Petitioner hereby re-alleges and incorporates the allegations contained within paragraphs one through four, as though fully set forth herein.

10. On or about January 19, 2016, Respondent was given a lifetime ejection from DBKC.

11. Section 550.0251(6), Florida Statutes (2015), provides in relevant part, “[t]he 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...”

12. Based on the foregoing, Respondent is subject to exclusion by the Division because he was ejected from a pari-mutuel facility in Florida.

WHEREFORE, Petitioner respectfully requests the Division enter an Order against the Respondent imposing one or more of the penalties as permissible under Chapters 550 and 849 Florida Statutes, and the rules promulgated thereunder and permanently excluding the Respondent from all licensed pari-mutuel facilities in the State of Florida.

[SIGNATURE APPEARS ON FOLLOWING PAGE]

Signed on this 12th day of August, 2016.

KEN LAWSON, Secretary  
Department of Business and  
Professional Regulation

*/s/ William Hall*

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William D. Hall  
Chief Attorney  
Florida Bar No. 67936  
Office of the General Counsel  
Division of Pari-Mutuel Wagering  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road, 5th Floor  
Tallahassee, Florida 32399-2202

WDH/sm

NOTICE OF RIGHTS

Please be advised that within twenty-one (21) days of your receipt of this administrative complaint you have the right to request an administrative hearing. Any such hearing would be conducted in accordance with the provisions of Sections 120.569 and 120.57, Florida Statutes, and you would have the right to be represented by counsel or other qualified representative, to call and examine witnesses, and to have subpoenas issued on your behalf. However, if you do not file (i.e., we do not receive) your request for hearing within the twenty-one (21) days, you will have waived your right to any hearing.

Please also be advised that mediation is not available in this matter.