

FILED

Department of Business and Professional Regulation
Deputy Agency Clerk

CLERK Brandon Nichols

Date **7/27/2017**

File # **2017-05856**

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.

VAGAS N. MAI,

Respondent.

DBPR CASE NO. 2016-022126

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 July 6, 2017, Alison Parker, Hearing Officer for the Department, 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 Department's Informal Hearing, it is hereby ORDERED that:

- (1) Respondent is hereby **EXCLUDED** from all licensed pari-mutuel facilities in the State of Florida.
- (2) This Final Order shall become effective on the date of filing with the Agency Clerk of the Department of Business and Professional Regulation.

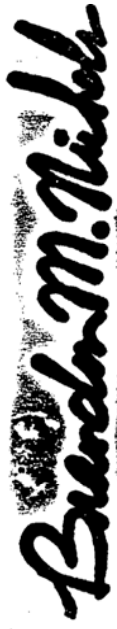
DONE AND ORDERED this 24 day of July, 2017, in Tallahassee,
Florida.

JONATHAN ZACHEM, Secretary
Department of Business and
Professional Regulation


ANTHONY J. GLOVER, Director
Division of Pari-Mutuel Wagering
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-1035

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing "Final Order" has been provided by regular U.S. mail to Vagas N. Mai at 9185 Pineapple Road, Fort Myers, Florida 33967, this 27th day of July, 2017.



Agency Clerk's Office

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

A party who is adversely affected by this Final Order 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, 2601 Blair Stone Road, Tallahassee, Florida 32399 (agc.filing@myfloridalicense.com) 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.



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DBPR CASE NO. 2016-022126

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VAGAS N. MAI,

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 June 7, 2017, in Tallahassee, Florida, in accordance with the provisions of Section 120.57(2), Florida Statutes, for consideration of the Division's Administrative Complaint issued against Vagas N. Mai, ("Respondent"), in DBPR Case No. 2016-022126. The Division of Pari-Mutuel Wagering ("Petitioner" or "Division") was represented by Charles Dewrell, Esquire, Assistant General Counsel. Petitioner appeared *pro se* via telephone.

PRELIMINARY STATEMENT

1. On March 21, 2017, Petitioner filed a two-count Administrative Complaint against the Respondent alleging the following:
 - a. Count I: On or about April 26, 2017 and April 27, 2016, Respondent violated Rule 61D-11.005(4)(b), Florida Administrative Code, when Respondent stole chips from the jackpot, rake, and the pot and concealed the stolen poker chips in Respondent's tip box.

- b. Count II: On or about April 30, 2016, Respondent was given a lifetime ejection from Bonita-Fort Myers Greyhound Track, and as such is subject to exclusion by the Division from all pari-mutuel facilities in the state pursuant to Section 550.0251(6), Florida Statutes.
2. On April 28, 2017, Respondent executed his Election of Rights. In doing so, Respondent did not dispute the material facts in this case and requested an informal hearing pursuant to Section 120.57(2), Florida Statutes.
3. At the informal hearing on June 7, 2017, the Petitioner presented the issues raised in the Administrative Complaint and cited Respondent's Election of Rights which was executed on or about April 28, 2017. The Hearing Officer granted Petitioner's motion to accept the findings of fact in the Administrative Complaint as the undisputed facts in the case, and also admitted the investigative file into the record. Respondent then presented his case.

FINDINGS OF FACT

4. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes.
5. At all times material hereto, Respondent held a pari-mutuel wagering cardroom employee occupational license, number 10952382-1012, issued by Petitioner.
6. Bonita-Fort Myers Greyhound Track is a facility operated by a permit holder who is authorized to conduct pari-mutuel wagering activity pursuant to Chapter 550, Florida Statutes.
7. At all material times hereto, Respondent worked as a poker dealer in the cardroom located at the Bonita-Fort Myers Greyhound Track.

8. On or about April 26, 2016 and April 27, 2016, Respondent took poker chips from the jackpot, rake, and pot and concealed the chips in his tip box.

9. On or about April 30, 2016, Respondent was given a lifetime ejection from Bonita-Fort Myers Greyhound Track. Respondent also received a trespass warning from a Lee County Deputy Sheriff which prohibits Respondent from ever returning to Bonita-Fort Myers Greyhound Track.

10. During the informal hearing on June 7, 2017, Respondent testified that he may have improperly taken and concealed poker chips while working as a poker dealer at Bonita-Fort Myers Greyhound Track. He does not dispute the veracity of what the security cameras seem to reflect. However, Respondent explained that he may have taken the chips by accident due to the fast paced nature of the poker game and the amount of chips in play at the poker table.

CONCLUSIONS OF LAW

11. The Division has jurisdiction over this matter pursuant to Chapters 120 and 550, Florida Statutes.
12. Rule 61D-11.005(4)(b), Florida Administrative Code, 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 the cardroom operator.”
13. Respondent is subject to discipline under Rule 61D-11.005(4)(b), Florida Administrative Code, by virtue of taking poker chips from the jackpot, rake, and pot and concealing the chips in his tip box on April 26, 2017 and April 27, 2017.
14. Section 550.0251(6), Florida Statutes, 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 government department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state."

15. Based on the foregoing, Respondent is subject to exclusion by the Division by virtue of his ejection from Bonita-Fort Myers Greyhound Track on April 30, 2016.


16. 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:

EXCLUDING Respondent from all licensed pari-mutuel facilities in the State of Florida.

Respectfully submitted this 6th day of JULY, 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 7 day of July, 2017, that a true copy of the foregoing has been provided by Certified U.S. Mail to:

VAGAS N. MAI
9185 Pineapple Rd.
Fort Myers, Florida 33967

Bertha L. Proctor
AGENCY CLERK'S OFFICE

Cc:
Alison Parker, Informal Hearing Officer
Charles Dewrell, 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 AND PROFESSIONAL REGULATION
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Petitioner,

V.

VAGAS N. MAI,

Respondent.

DBPR CASE NO. 2016-022126

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner” or “Division”), hereby files this Administrative Complaint against VAGAS N. MAI (“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 10952382-1012 issued by the Petitioner.
3. At all times material hereto, Respondent worked as a poker dealer in the cardroom at the Bonita-Fort Myers Greyhound Track.
4. Bonita-Fort Myers Greyhound Track is a facility operated by a permit holder 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. On or about April 26, 2016, through April 27, 2016, Respondent stole chips from the jackpot, rake and the pot 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 the 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 the 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 April 30, 2016, Respondent was given a lifetime ejection from Bonita-Fort Myers Greyhound Track. Respondent also received trespass warning from the Lee County Deputy Sheriff which prohibits the Respondent from ever returning to Bonita-Fort Myers Greyhound Track.
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.

Signed on this 20th day of March, 2017.

MATILDE MILLER, Interim Secretary
Department of Business and
Professional Regulation

/s/ William Hall

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.