

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	Brandon Nichols
Date	<b>11/10/2016</b>
File #	<b>2016-08712</b>

EVAN NACHERLILLA,

Petitioner,

v.

DBPR CASE No. 2016-033927

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

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 October 7, 2016, Paige Shoemaker, 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.

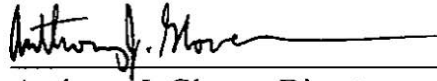
ORDER

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) Petitioner's request for reconsideration of the state-wide exclusion list is DENIED, without prejudice, so that Petitioner may submit another request for reconsideration at a later point in time.

(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 4 day of November, 2016, in Tallahassee, Florida.



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

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been provided by regular United States Mail to Evan R. Nacherlilla, 1000 Parkview Drive, Unit 516, Hallandale Beach, Florida 33009, this 10<sup>th</sup> day of November, 2016.

Ronda L. Bryan, Agency Clerk



Deputy Agency Clerk  
Department of Business & Professional Regulation

CC:  
Keneidra Williams, AAIH

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.

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	10/7/2016
File #	

EVAN NACHERLILLA,

Petitioner,

v.

DBPR CASE NO. 2016-033927

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

Respondent.

\_\_\_\_\_ /

**HEARING OFFICER'S RECOMMENDED ORDER**

THIS MATTER came before Paige Shoemaker, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering on September 7, 2016, in Tallahassee, Florida, in accordance with the provisions of Section 120.57(2), Florida Statutes, for consideration of the Division's denial of Evan Nacherlilla's ("Petitioner") request for reconsideration of his state-wide exclusion in DBPR Case No. 2016-033927. The Division of Pari-Mutuel Wagering ("Respondent") was represented by Caitlin R. Mawn, Assistant General Counsel. Petitioner appeared pro se by telephone.

**PRELIMINARY STATEMENT**

1. On October 21, 2015, Respondent entered a final order in DBPR Case No. 2015-007289 revoking Petitioner's pari-mutuel wagering cardroom employee occupational license and excluding Petitioner from all pari-mutuel facilities within the state after Petitioner was ejected from Gulfstream Park for moving chips to his tip box.

2. On May 4, 2016, Petitioner submitted a request for reconsideration of the state-wide Exclusion.
3. On July 20, 2016, Respondent issued a letter denying Petitioner's request for reconsideration of the state-wide exclusion in accordance with the provisions of section 550.0251(6), Fla. Stat.
4. On August 4, 2016, Petitioner executed an Election of Rights indicating that he did not dispute the allegations of material fact in the July 20, 2016, denial letter and that he desired an informal hearing pursuant to section 120.57(2), Florida Statutes.
5. On September 7, 2016, an informal hearing was conducted, during which Respondent presented the issues raised in the July 20, 2016, denial letter as the undisputed facts of the case. Petitioner then presented his case.

#### FINDINGS OF FACT

1. Gulfstream Park is a facility operated by a permit holder authorized to conduct pari-mutuel wagering in this state.
2. On February 13, 2015, Gulfstream Park indefinitely excluded Petitioner from its facility.
3. On October 21, 2015, Respondent revoked Petitioner's pari-mutuel wagering cardroom employee occupational license and excluded Petitioner from all pari-mutuel facilities in Florida based upon his February 13, 2015, exclusion from Gulfstream Park and the moving of chips to his tip box that formed the basis of his revocation.
4. On or about April 27, 2016, Gulfstream Park amended the terms of Petitioner's exclusion to permit Petitioner to access parts of its facility; however, Petitioner is still excluded from Gulfstream Park's casinos and poker room.

5. Petitioner testified that he would like to be able to join his family on visits to the racetrack at Gulfstream Park, an activity he has enjoyed since childhood. Petitioner further testified that his revocation was due to working while tired as a result of sleep apnea and not intentional. His testimony concerning this issue is not credible.

6. Petitioner also testified that were the state-wide exclusion to be lifted, he intends to occasionally visit the casinos and to play poker at other pari-mutuel facilities within the state.

### CONCLUSIONS OF LAW

1. The Division has jurisdiction over this matter pursuant to Chapter 550, Florida Statutes.

2. Section 550.0251(6), Florida Statutes, provides that "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..."

3. Section 550.0251(6), Florida Statutes, further provides, in pertinent part, that "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 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..."

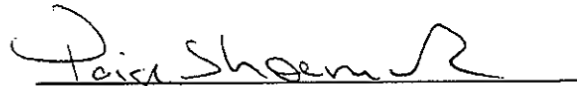
4. Petitioner's revocation of his license occurred less than one year ago. The actions the revocation was based on were egregious enough to warrant the revocation. Based upon this, Petitioner has failed to demonstrate that his attendance at pari-mutuel facilities in Florida would not be adverse to the public interest or to the integrity of the sport or industry.

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:

Denying Petitioner's request for reconsideration of the state-wide exclusion without prejudice so that Petitioner may submit another request for reconsideration at a later time.

Respectfully submitted this 4<sup>th</sup> day of October, 2016.



Paige Shoemaker, 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 October, 2016, that a true copy of the foregoing has been provided by Certified U.S. Mail to:

EVAN R. NACHERLILLA  
1000 Parkview Drive, Unit #516  
Hallandale Beach, FL 33009

  
AGENCY CLERK'S OFFICE

Cc:  
Paige Shoemaker, Informal Hearing Officer  
Caitlin R. Mawn, 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.



<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	<b>Evette Lawson-Proctor</b>
Date	<b>7/20/2016</b>
File #	

Ken Lawson, Secretary

July 20, 2016

Mr. Evan Nacherlilla  
1000 Parkview Drive  
Apt. 516  
Hallandale Beach, FL 33009

DBPR Case: 2016-033927

Dear Mr. Nacherlilla:

This letter is to inform you that your request that the Division reconsider and remove the state wide exclusion that has been imposed against you is denied.

On October 21, 2015, a Final Order was entered against you in DBPR Case 2015-007289. According to the Final Order, your pari-mutuel wagering cardroom employee occupational license (#8572785-1012) was revoked and you were excluded from all Pari-Mutuel facilities within the state in accordance with section 550.0251(6), Fla. Stat.

On May 4, 2016, the Division received your request for reconsideration of the state wide exclusion and attached documents showing that Gulfstream Park has amended their permanent exclusion to allow you on some parts of their property.

After review of the request and supporting documents the Division hereby DENIES your request for reconsideration and removal of the state-wide exclusion.

Pursuant to section 120.57, Florida Statutes, you may request a formal or informal hearing to challenge the Division's decision, within twenty-one (21) days of receipt of this Denial, as provided for in Chapter 28-106, Florida Administrative Code. If you request a formal hearing, you must specify each material fact contained in this Denial which you dispute.

At a formal hearing you will be entitled to respond, present evidence and argument on all issues involved, conduct cross-examination and submit rebuttal evidence, file exceptions to any order or hearing officer's recommended order, and be represented by counsel. Failure to allege a material fact in your petition will result in that petition being construed as a request for an informal hearing.

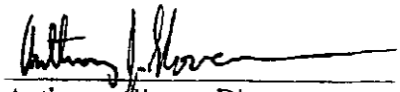
At an informal hearing you will be entitled to present written or oral evidence in accordance with section 120.57(2), Florida Statutes. You must realize, however, that the facts as alleged in this Denial will be deemed admitted.

You will be notified by the Division of Pari-Mutuel Wagering of the time, date and place of said hearing, if requested.

If you do not request a hearing within twenty-one (21) days of your receipt of this Denial, this Denial will become the Agency's Final Order.

Dated this 20th day of July, 2016.


Sincerely,



Anthony Glover, Director  
Division of Pari-Mutuel Wagering

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Letter of License Denial has been served upon Evan Nacherilla by U.S. mail, this 20th day of July, 2016.



Louis Trombetta  
Department of Business and  
Professional Regulation.