

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	6/21/2017
File #	2017-04879

JORGE M. BOLIVAR ANDRADE

Petitioner,

v.

DBPR CASE No. 2016-050978

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 June 2, 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:

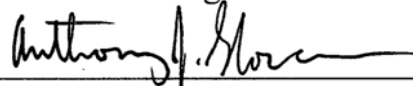
- (1) Respondent is **EXCLUDED** from all pari-mutuel facilities in the State of Florida.
- (2) Respondent shall pay a **FINE** in the amount of **\$1,000.00**. Payment of fine is due within 30 days of the effective date of this order.

Payment of the fine by check or money order issued to the Department of Business and Professional Regulation must be received by the **Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, Capital Commerce Centre, 2601 Blair Stone Road, Tallahassee, Florida, 32399-2202** within 30 calendar days of the effective date of this Final Order. Case number 2016-050978 is to be referenced when making payment.

(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 19 day of June, 2017, in Tallahassee, Florida.

MATILDE MILLER, Interim 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 Jorge M. Bolivar Andrade at 7035 N.W. 186th Street, D-205, Miami, Florida, this 21st day of June, 2017.

33015



Agency Clerk's Office

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

A party who is adversely affected by this Final Oder 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.

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Evette Lawson-Proctor
Date 6/2/2017
File #

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,

DBPR CASE NO. 2016-050978

v.

JORGE M. BOLIVAR ANDRADE,

Respondent.

_____ /

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Alison Parker, designated Hearing Officer for the Department of Business and Professional Regulation, on May 3, 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 Jorge M. Bolivar Andrade ("Respondent"), in the above-style case. The Division of Pari-Mutuel Wagering ("Petitioner" or "Division") was represented by Joseph Yauger Whealdon, III, Assistant General Counsel. Petitioner appeared pro se via telephone.

PRELIMINARY STATEMENT

1. On March 9, 2017, Petitioner filed a two-count Administrative Complaint against the Respondent seeking to exclude Respondent from all pari-mutuel facilities in this state pursuant to Section 550.0251(6), Florida Statutes (2016).

2. On or about March 30, 2017, Petitioner returned an Election of Rights form and requested an informal hearing in accordance with Section 120.57(2), Fla. Statutes (2016).

3. On May 3, 2017, an informal hearing was held. Petitioner appeared via telephone.

FINDINGS OF FACT

4. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes, and cardrooms pursuant to Section 849.086, Florida Statutes.

5. Casino Miami Jai Alai is a licensed pari-mutuel and cardroom facility in this state.

6. On or about October 21, 2016, Respondent, while employed as a slot machine supervisor for Casino Miami Jai Alai, discovered a slot machine with a remaining balance.

7. On or about October 21, 2016, after discovering the slot machine with a remaining balance, Respondent printed a cash-out voucher for \$920.00 from the machine and conspired with a patron to cash it for Respondent.

8. On or about October 21, 2016, the patron cashed the voucher and delivered the balance to Respondent, minus \$20.00.

9. On or about October 27, 2016, Respondent was terminated by and ejected from the premises of Casino Miami Jai Alai.

10. Respondent testified at the hearing, providing the following mitigating testimony:

- a. Respondent stated that he initially lied to his manager, but then told him the truth due to guilt over the theft;
- b. Respondent stated his wife was horrified over his misconduct;
- c. At the time the material facts transpired, Respondent stated he was experiencing a state of financial peril which led him to have the voucher cashed out.

11. Respondent was previously suspended by Casino Miami Jai Alai after a customer complained Respondent removed an item from the customer's car without permission.

CONCLUSIONS OF LAW

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

13. Section 550.109(5), Florida Statutes (2016), provides in relevant part that "[t]heft of any slot machine proceeds or property belonging to the slot machine operator or licensed facility by an employee or the operator or facility" is prohibited and punishable as a third-degree felony.

14. Section 551.0251(6), Florida Statutes (2016), provides in relevant part that:

In 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. Pursuant to Section 550.0251(6), Florida Statutes, Respondent is subject to being excluded from all pari-mutuel facilities in this state by virtue of his ejection from Casino Miami Jai Alai on October 27, 2016.

16. Theft from slot machines is a serious offense, punishable as a third-degree felony. Respondent was previously disciplined by Casino Miami Jai Alai for what was ostensibly a theft. This has the propensity to show a pattern of behavior. Respondent failed to provide sufficient testimony or evidence to reflect rehabilitation or a minimal chance of recidivism.

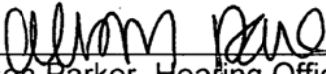
17. There is competent substantial evidence to support the conclusions of law.

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:

EXCLUDING Respondent from all licensed pari-mutuel facilities in the State of Florida and assessing Respondent a fine in the amount of \$1,000.

Respectfully submitted this 1st day of June, 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

We hereby certify this 2 day of June, 2017, that a true copy of the foregoing has been served by Certified U.S. mail upon:

Jorge M. Bolivar Andrade
7035 N.W. 186th Street, D-205
Miami, FL 33015


AGENCY CLERK'S OFFICE

Cc:

Alison Parker, Informal Hearing Officer

Joseph Yauger Whealdon, III, 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
DIVISION OF PARI-MUTUEL WAGERING

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	3/9/2017
File #	

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

Petitioner,

DBPR CASE NO. 2016-050978

v.

JORGE M. BOLIVAR ANDRADE,

Respondent,

ADMINISTRATIVE COMPLAINT

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

1. The Petitioner is the state agency charged with regulating pari-mutuel wagering, slot machine, and cardroom operation pursuant to Chapters 550, 551, and 849, Florida Statutes.
2. At all times material hereto, Respondent held a pari-mutuel wagering slot machine combo professional license, number 9820503-1055, issued by the Division.
3. At all times material hereto, Respondent worked as a slot machine supervisor at Casino Miami Jai Alai.
4. Casino Miami Jai Alai is a facility operated by a permitholder authorized to conduct slot machine gaming in this state under Chapter 551, Florida Statutes.
5. On or about October 21, 2016, Respondent discovered a slot machine with a remaining balance ("the slot machine").

6. On or about October 21, 2016, after discovering the slot machine, Respondent printed a cash-out voucher from it and conspired with a patron (“the patron”) to cash it for him.

7. On or about October 21, 2016, the patron cashed the voucher and delivered the balance to Respondent.

8. On or about October 27, 2016, Respondent was terminated and escorted from the premises of Casino Miami Jai Alai for conspiring with the patron and receiving the balance of the voucher on or about October 21, 2016.

COUNT I

9. Petitioner hereby realleges and incorporates the allegations set forth in paragraphs one through eight as fully set forth herein.

10. Section 551.109(5), Florida Statutes (2016), prohibits the “[t]heft of any slot machine proceeds or property belonging to the slot machine operator or licensed facility by an employee or the operator or facility...” and makes it punishable as a third degree felony.

11. Based on the foregoing, Respondent violated Section 551.109(5), Florida Statutes, for his theft of the slot machine proceeds.

COUNT II

12. Petitioner hereby realleges and incorporates the allegations set forth in paragraphs one through eight as fully set forth herein.

13. Section 551.112, Florida Statutes (2016), states “[t]he division may exclude from any facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state...”

14. As a result of being ejected by Casino Miami Jai Alai, Respondent is subject to being permanently excluded from all licensed slot machine facilities in this state.

WHEREFORE, Petitioner respectfully requests the Division enter an Order imposing one or more of the penalties against the Respondent as permissible under Chapters 550, 551, and 849, Florida Statutes, and the rules promulgated thereunder.

Signed on this 7th day of March, 2017.

MATILDE MILLER,
Interim Secretary
Department of Business and
Professional Regulation

/s/ William Hall
WILLIAM D. HALL
Florida Bar No. 67936
Chief Attorney
Division of Pari-Mutuel Wagering
Department of Business and
Professional Regulation
Office of the General Counsel
2601 Blainstone Road, Mail Stop N21
Tallahassee, Florida 32399-2202

WDH/jl

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.