

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	1/17/2019
File #	2019-00379

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

Petitioner,
v.

DBPR CASE No. 2017-023952

JOSE A. DIAZ-SANCHEZ,

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 December 7, 2018, 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.

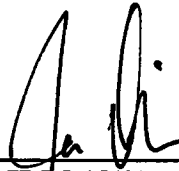
ORDER

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, Jose A. Diaz-Sanchez, is hereby EXCLUDED from all 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 15 day of JANUARY, 2019, in Tallahassee,

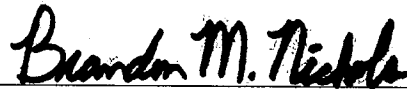
Florida.



JOE DILLMORE, DEPUTY 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 Jose A. Diaz-Sanchez, c/o Greta Gonzalez, Esq., 8492 S.W. 8th Street, Miami, Florida 33144, this 17th day of January, 2019.



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.

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	12/28/2018
File #	

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

DBPR Case No.: 2017-023952

v.

JOSE A. DIAZ-SANCHEZ,

Respondent.

AMENDED HEARING OFFICER'S RECOMMENDED ORDER

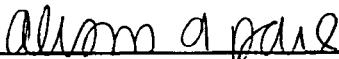
THIS MATTER came before Alison A. Parker, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering. This Amended Order amends the previous Hearing Officer's Recommended Order only to the case styling. The Administrative Complaint correctly lists Mr. Diaz-Sanchez as the Respondent, whereas the Department's Proposed Recommended Order and the Hearing Officer's Recommended Order had this transposed.

The undersigned, having reviewed the record in this case, ORDERS that:

1. The scrivener's error of case party transposition in the Hearing Officer's

Recommended Order is corrected to reflect the correct case styling above.

Respectfully submitted this 27th day of December 2018.



Alison A. Parker, Hearing Officer
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

Cc:
Alison Parker, Informal Hearing Officer
Johnny ElHachem, Assistant General Counsel

CERTIFICATE OF SERVICE

I hereby certify this 28 day of December 2018, that a true copy of the foregoing
has been furnished via U.S. Mail to:

Jose A. Diaz-Sanchez
c/o Greta Gonzalez, Esquire
8492 S.W. 8th Street
Miami, Florida, 33144
civil@gallardolawyers.com


AGENCY CLERK'S OFFICE

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	12/10/2018
File #	

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

Petitioner,

DBPR Case No.: 2017-023952

v.

JOSE A. DIAZ-SANCHEZ,

Respondent.

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Alison A. Parker, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner") on October 3, 2018, in Tallahassee, Florida, in accordance with the provisions of section 120.57(2), Florida Statutes, for consideration whether Respondent's violation of section 550.0251, Florida Statutes, warrants an exclusion under the applicable rules and statutes. Petitioner was represented by Johnny ElHachem, Assistant General Counsel. Respondent and his counsel, Ms. Greta Gonzalez, appeared via telephone. Both parties were allowed to call witnesses, present evidence, and otherwise fully participate in the hearing.

PROCEDURAL HISTORY

On January 10, 2018, Petitioner filed a three-count Administrative Complaint against Respondent alleging violations of chapters 550 and 551, Florida Statutes.

On March 1, 2018, Respondent requested a formal hearing pursuant to section 120.57(1), Florida Statutes.

On August 9, 2018, Petitioner referred the case to the Division of Administrative Hearings for assignment of an Administrative Law Judge.

On September 4, 2018, Petitioner filed a Motion for Leave to Amend Complaint, dropping two counts and alleging a violation of section 550.0251(6), Florida Statutes. Petitioner's motion was subsequently granted.

On September 13, 2018, the parties agreed that there were no material facts in dispute and Petitioner filed an Unopposed Motion to Relinquish Jurisdiction to proceed at an informal hearing pursuant to Section 120.57(2), Florida Statutes, which was granted on September 14, 2018.

At the informal hearing on October 3, 2018, Petitioner presented the issues raised in its Amended Administrative Complaint. The undersigned granted Petitioner's motion to accept the findings of fact in the Amended Administrative Complaint and the Unopposed Motion to Relinquish Jurisdiction as the undisputed facts in the case, and accepted the investigative file into the record.

FINDINGS OF FACT

1. At all times material to this case, Respondent held a Slot Combo Professional license, number 9837495-1055, issued by the Division.
2. At all times material, Respondent was employed as a cage cashier at Gulfstream Park Racing Association, Inc. (Gulfstream).
3. On or about January 30, 2017, Respondent was dismissed from his employment at Gulfstream.
4. On or about January 28, 2017 – January 30, 2017, Respondent provided large amounts of unauthorized free play to patrons at the casino at Gulfstream.

5. On or about May 10, 2017, Respondent was permanently excluded from Gulfstream.

6. Respondent's counsel highlighted that while Respondent was dismissed from his employment in January 2017, he was not excluded until May 2017.

CONCLUSIONS OF LAW

7. The undersigned has jurisdiction over the subject matter and the Parties pursuant to chapters 120 and 550, Florida Statutes.

8. Section 550.0251(6), Florida Statutes, provides in relevant part that "[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..."

9. Respondent has violated chapter 550, Florida Statutes, and the rules of the Petitioner in the above-referenced DBPR case, and Petitioner determined that, under the applicable rules and statutes, Respondent's violation warrants an exclusion from all pari-mutuel facilities in the state of Florida.

10. The distance of time between Respondent's dismissal and exclusion is not relevant and does not negate the veracity that he was excluded from a pari-mutuel facility.

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

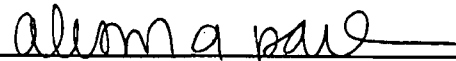
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RECOMMENDATION

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 Petitioner from all pari-mutuel facilities in the State of Florida.

Respectfully submitted this 7th day of December 2018.


Alison A. Parker, Hearing Officer
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

Cc:
Alison A. Parker, Informal Hearing Officer
Johnny ElHachem, Assistant General Counsel

CERTIFICATE OF SERVICE

I hereby certify this 10 day of December 2018, that a true copy of the foregoing
has been furnished via U.S. and Electronic Mail to:

Jose A. Diaz-Sanchez
c/o Greta Gonzalez, Esquire
8492 S.W. 8th Street
Miami, Florida, 33144
civil@gallardolawyers.com


AGENCY CLERK'S OFFICE

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

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

Petitioner,

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v.

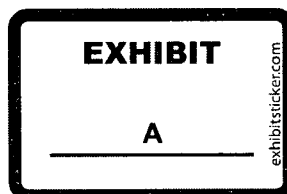
JOSE A. DIAZ-SANCHEZ,

Respondent.

AMENDED ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Jose A. Diaz-Sanchez (“Respondent”), and alleges as follows:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes.
2. At all times material, Respondent held a slot combo professional license, number 9837495-1055, issued by the Division.
3. At all times material, Respondent was employed as a cage cashier at Gulfstream Park.
4. On or about January 28, 2017 – January 30, 2017, Respondent provided large amounts of unauthorized free play to patrons at the casino at Gulfstream Park.
5. On or about January 30, 2017, Respondent was terminated from his employment at Gulfstream Park.



6. On or about May 10, 2018, Respondent was permanently excluded from Gulfstream Park. (Exclusion attached as "Exhibit 1").

7. Section 550.0251(6), Florida Statutes, provides in relevant part that "[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..."

8. Based on the forgoing, Respondent is subject to exclusion from all pari-mutuel facilities within the state by virtue of violating Section 550.0251(6), Florida Statutes.

WHEREFORE, Petitioner respectfully requests the Division enter an Order against Respondent imposing one or more of the penalties specified in Section 550.0251, Florida Statutes, together with any other relief the Division is authorized to impose pursuant to Chapter 550, Florida Statutes, and the rules promulgated thereunder.

Signed this 4th day of September, 2018.

/s/ Johnny ElHachem

JOHNNY P. ELHACHEM

Qualified Representative

Office of the General Counsel
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202
Telephone: (850) 717-1796
Facsimile: (850) 921-1311
Johnny.ElHachem@MyFloridaLicense.com

NOTICE OF RIGHT TO REQUEST A HEARING

Pursuant to Section 120.569 and 120.57, Florida Statutes, you have the right to request a hearing to challenge the charges contained in this Administrative Complaint. If you choose to request a hearing, you will have the right 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 your behalf.

Any request for an administrative proceeding to challenge or contest the charges contained in this Administrative Complaint must conform to Rule 28-106.2015, Florida Administrative Code. Pursuant to Rule 28-106.111, Florida Administrative Code, you must request a hearing within 21 days from receipt of this Notice, or you will waive your right to request a hearing.

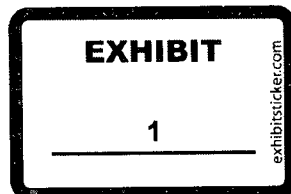
Colucci, Andrea

From: Santana, Ezequiel <Ezequiel.Santana@gulfstreampark.com>
Sent: Thursday, May 10, 2018 3:20 PM
To: GSP Security Distribution Group; GSP Surveillance Distribution Group
Cc: GSP Gaming Supervisors; Colucci, Andrea
Subject: Exclusion
Attachments: 16499.xml



SECURITY REPORT - INCIDENT

INCIDENT SECTION	
Incident Information	
Report Number: 16499	Date: Thursday, May 10, 2018
Incident Type: Exclusion	Complainant: Gulfstream Park
Incident Date/Time: 5/10/2018 2:47 PM	Incident Location: Security Office
Security Personnel Involved: SM W. Rose and CSOS E. Santana	Reported To: <input type="checkbox"/> Police <input type="checkbox"/> Fire <input type="checkbox"/> Ambulance
Surveillance and Gaming	Time Reported:
	Time Arrived:
	Time Departed:
Additional Report Type: <input checked="" type="checkbox"/> Person Report <input type="checkbox"/> Vehicle Report	

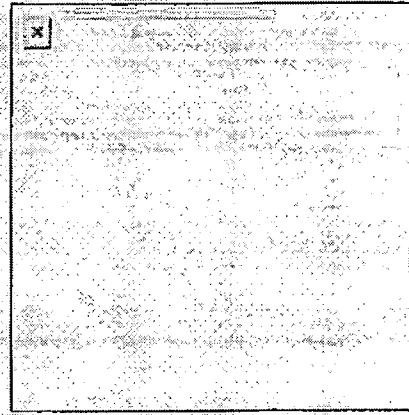
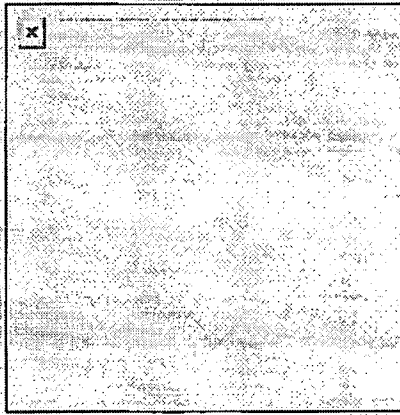


PERSON SECTION

Person Involved

Related Incidents: <input type="checkbox"/> Exclusion <input type="checkbox"/> Self Exclusion	Exclusion Terms: Excluded indefinitely
Person/Party: Suspect	Race/Ethnicity: Hispanic
First Name: Jose A.	Last Name: Diaz-Sanchez
Date of Birth: 1/17/1983	Sex: Male
Height: ft 10 in	Weight: 220 LBS
Hair Color: Black	Eye Color: Brown
Address: 210 East 3rd Street	City: Hialeah
State: FL - Florida	Country: USA
Zip Code: 33010	SSN / ID: Unavailable
Home Phone: 786-521-7292	Work Phone:
Identifying Marks:	

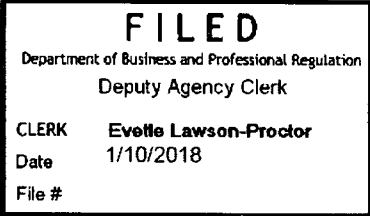
Features of Person(s)



LIFE-TIME EXCLUDE

Narrative:

On Thursday May 10th, 2018 at approximately 2:40 PM, while reviewing pending investigations, Security Director William Rose decided to Administratively Life-Time Exclude Mr. Jose A. Diaz-Sanchez due to an incident that had occurred on January 30th, 2017. Surveillance and GSP Gaming will be advised of the administrative decision. Nothing further to report at this time.



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

DEPARTMENT OF BUSINESS AND
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DIVISION OF PARI-MUTUEL WAGERING,

Petitioner,

DBPR Case No. 2017-023952

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JOSE A. DIAZ-SANCHEZ,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

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1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes.
2. At all times material, Respondent held a slot combo professional license, number 9837495-1055, issued by the Division.
3. At all times material, Respondent was employed as a cage cashier at Gulfstream Park.
4. On or about January 28, 2017 – January 30, 2017, Respondent provided large amounts of unauthorized free play to patrons at the casino at Gulfstream Park.
5. On or about January 30, 2017, Respondent was terminated from his employment and permanently excluded from Gulfstream Park.

COUNT I

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

7. Section 551.109(3), Florida Statutes, states:

Any person who knowingly excludes, or takes any action in an attempt to exclude, anything of value from the deposit, counting, collection, or computation of revenues from slot machine activity, or any person who by trick, sleigh-of-hand performance, a fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof or reduces or attempts to reduce a losing wager in connection with slot machine gaming commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

8. Based on the foregoing, Respondent violated Section 551.109(3), Florida Statutes, by attempting to win for himself or for another, money or property or a combination thereof or reducing or attempted to reduce a losing wager in connection with slot machine gaming by trick, fraud or fraudulent scheme, or device on or about January 28, 2017 – January 30, 2017.

COUNT II

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

10. Section 551.109(5), Florida Statutes, states:

Theft of any slot machine proceeds or of property belonging to the slot machine operator or licensed facility by an employee of the operator or facility or by an employee of a person, firm, or entity that has contracted to provide services to the operator or facility constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

11. Based on the foregoing, Respondent violated Section 551.109(5), Florida Statutes, by providing large amounts of free play to patrons while employed as the cage cashier at Gulfstream Park on or about January 28, 2017 – January 30, 2017.

COUNT III

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

13. Section 550.0251(6), Florida Statutes, provides in relevant part that “[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...”

14. Based on the forgoing, Respondent is subject to exclusion from all pari-mutuel facilities within the state by virtue of violating Section 550.0251(6), Florida Statutes.

WHEREFORE, Petitioner respectfully requests the Division enter an Order against Respondent imposing one or more of the penalties specified in Section 550.0251, Florida Statutes, together with any other relief the Division is authorized to impose pursuant to Chapter 550, Florida Statutes, and the rules promulgated thereunder.

Signed this 9th day of January, 2018.

/s/ Charles Dewrell
CHARLES DEWRELL
Deputy Chief Attorney
Florida Bar No. 0102579
Charles.Dewrell@MyFloridaLicense.com

/s/ Louis Trombetta
LOUIS TROMBETTA
Chief Attorney
Florida Bar No. 108119
Louis.Trombetta@MyFloridaLicense.com

Department of Business and
Professional Regulation
Office of the General Counsel
Division of Pari-Mutuel Wagering
2601 Blair Stone Road
Tallahassee, Florida 32399-2202
Telephone: (850) 717-1508
Facsimile: (850) 921-1311

NOTICE OF RIGHT TO REQUEST A HEARING

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.