

**FILED**  
Department of Business and Professional Regulation  
Deputy Agency Clerk  
CLERK Brandon Nichols  
Date 1/31/2018  
File # 2018-00733

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.

Case No. 2017-030599

ALVARO HERNANDEZ,

Respondent.

FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (hereinafter "Petitioner"), issues this Final Order against ALVARO HERNANDEZ (hereinafter "Respondent") as follows:

1. An Administrative Complaint was filed in this case on August 16, 2017, alleging that Respondent violated certain provisions of chapter 550, Florida Statutes. A copy of the Administrative Complaint is attached hereto as Exhibit "A".
2. The Administrative Complaint, Election of Rights form, an Explanation of Rights, and a cover letter were served on Respondent via U.S. certified mail on November 24, 2017. Proof of service is attached hereto as Exhibit "B".
3. The Election of Rights form, Explanation of Rights, and cover letter informed Respondent that a written response to the Administrative Complaint, including the right to request a hearing, was due within 21 days of actual service of the Administrative Complaint. See section 120.569(1), Florida Statutes, and rule 28-106.111, Florida Administrative Code.
4. Petitioner made all reasonable efforts to provide actual notice to Respondent.

5. Petitioner informed Respondent that the failure to file a timely response to the Administrative Complaint shall be deemed a waiver of the right to a hearing.

6. Respondent has not filed a timely response to the Administrative Complaint. Respondent has not submitted any evidence or made any allegations that would support the application of the doctrine of equitable tolling.

Having considered the Administrative Complaint, the evidence of Petitioner's reasonable attempts to provide actual notice to Respondent, and being otherwise fully advised in the premises, it is hereby

**ORDERED and ADJUDGED:**

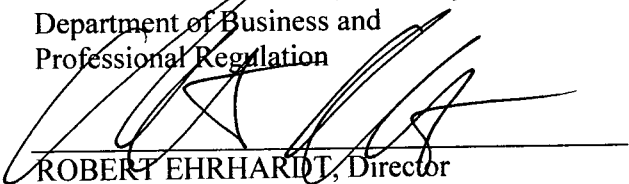
7. The allegations of fact and the conclusions of law in the Administrative Complaint are adopted in their entirety herein.

8. Respondent is hereby **PERMANENTLY EXCLUDED** from all pari-mutuel facilities in the state of Florida.

9. This Final Order is effective on the date it is filed with the Agency Clerk of the Department of Business and Professional Regulation as indicated on the first page of this Final Order.

DONE and ORDERED this 30 day of JANUARY, 2018.

JONATHAN ZACHEM, Secretary  
Department of Business and  
Professional Regulation



ROBERT EHRHARDT, 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 this Final Order on Waiver was provided to Respondent at: 19131 N.W. 89<sup>th</sup> Court, Hialeah, Florida 33017, this 31<sup>st</sup> day of January, 2018.

  
AGENCY CLERK'S OFFICE

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, Tallahassee, Florida 32399-2202 (Email: AGC.Filing@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.

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	<b>Evette Lawson-Proctor</b>
Date	<b>8/16/2017</b>
File #	

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

Petitioner,

DBPR Case No. 2017-030599

v.

ALVARO HERNANDEZ,

Respondent.

ADMINISTRATIVE COMPLAINT

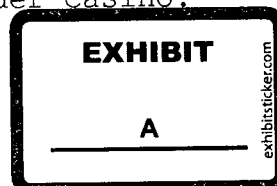
The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner"), files this Administrative Complaint against Alvaro Hernandez ("Respondent"), and alleges as follows:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes.

2. Calder Casino is a licensed pari-mutuel facility that holds a slot machine license in accordance with Chapter 551, Florida Statutes.

3. Surveillance footage from Calder Casino on February 27, 2016, showed Respondent, a patron, using altered Players Club cards that were not associated with him for free play at Calder Casino's slot machines.

4. On or about March 11, 2016, Respondent was given a lifetime ejection from Calder Casino.



5. According to Chapter 550.0251(6), Florida Statutes, "[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..."

WHEREFORE, Petitioner requests the Division enter an ORDER permanently excluding Respondent from all licensed pari-mutuel facilities in the state. .

Signed this 15th day of August, 2017.

JONATHAN ZACHEM, Secretary  
Department of Business and  
Professional Regulation


By: /s/ Joseph Yauger Whealdon, III  
Joseph Yauger Whealdon, III  
Florida Bar No. 92141  
Assistant General Counsel  
Office of the General Counsel  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, FL 32399  
Phone: (850) 488-0062

/s/ Louis Trombetta  
Louis Trombetta  
Chief Attorney  
Florida Bar No. 108119  
Office of the General Counsel  
Division of Pari-Mutuel Wagering  
Department of Business and  
Professional Regulation

NOTICE OF RIGHTS

Please be advised that mediation under section 120.573, Florida Statutes, is not available for administrative disputes involving this type of agency action.

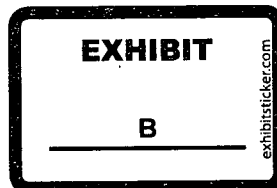
Please be advised that Respondent has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas 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.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Signature <input checked="" type="checkbox"/>  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:	B. Received by (Printed Name) ALVARO HERNANDEZ	C. Date of Delivery 1/14
Alvaro Hernandez 19131 N.W. 89 <sup>th</sup> Court Hialeah, Florida 33017 AC 2017-030599 PMW	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
2. Article Number (Transfer from service label)	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
	7007 0220 0000 0198 8707	

PS Form 3811, February 2004

Domestic Return Receipt

102695 02-M-1540



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### **Delivered**

November 24, 2017 at 2:25 pm  
DELIVERED, LEFT WITH INDIVIDUAL  
HIALEAH, FL 33018

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