

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	8/16/2018
File #	2018-06705

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

Petitioner,

DBPR Case No. 2017-008496

vs.

LUIS MANUEL CARTY,

Respondent.

---

FINAL ORDER

Pursuant to Sections 120.569 and 120.57(2), Florida Statutes (2018), the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (the "Division"), hereby enters this Final Order. This cause came before the Division for the purpose of considering: (1) the Recommended Order issued by Hearing Officer Tom Thomas ("Hearing Officer") on July 10, 2018, in DBPR Case No. 2017-008496 ("Recommended Order"), and (2) Respondent, Luis Manuel Carty's ("Respondent"), Exceptions and Motion for Rehearing filed on July 25, 2018. Copies of the aforementioned are attached hereto as Exhibits "A" and "B" respectively.

BACKGROUND

On January 8, 2018, the Division issued an Administrative Complaint against Respondent, informing him of the Division's intent to discipline his license under the provisions of Sections 551.109(3), 551.109(5), and 550.0251(6), Florida Statutes. On May 10, 2018, Respondent elected for a hearing governed under Sections 120.569 and 120.57(2), Florida Statutes, in response thereto ("informal hearing"). Subsequent to the informal hearing convened in this matter,

the Hearing Officer's Recommended Order was issued, recommending the Division enter a Final Order revoking Respondent's pari-mutuel wagering slot machine combo professional license and permanently excluding Respondent from all licensed pari-mutuel facilities in this state on July 10, 2018. Thereafter, Respondent submitted what the Division considers to be exceptions to the Recommended Order along with a motion for rehearing via electronic mail ("Petitioner's Exceptions" and Petitioner's Motion"). See Exhibit B.

#### AGENCY STANDARD FOR REVIEW

Pursuant to Section 120.57(1)(l), Florida Statutes, the Division may not reject or modify findings of facts unless it determines, from a review of the entire record, and states with particularity, that the findings of fact were not based on competent substantial evidence. "Competent substantial evidence is such evidence that is 'sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached.'" Comprehensive Medical Access, Inc v. Officer of Ins. Regulation, 983 So. 2d 45, 46 (Fla. 1st DCA 2008) (quoting Degroot v. Sheffield, 95 So. 2d 912, 916 (Fla. 1957)).

Pursuant to Section 120.57(1)(l), Florida Statutes, when rejecting or modifying conclusions of law or interpretations of administrative rules, the Division must state with particularity its reasons for rejecting conclusions of law or interpretations of administrative rules and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. However, "an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." § 120.57(1)(k), Fla. Stat. (Emphasis supplied).

## RULINGS ON PETITIONER'S EXCEPTIONS AND MOTION

As stated supra, the Division is not required to make specific rulings on Petitioner's Exceptions if they are insufficiently plead as a matter of law. Id. Here, Petitioner submitted a four sentence email indicating that Petitioner: (1) disagreed with the recommendation of the Recommended Order, (2) believes he is innocent as to the counts alleged against him, and (3) requests a rehearing on this matter. These claims and requests are insufficient to require the Division to make explicit rulings because they lack the requisite specificity and particularity. Id. Thus, the Division generally denies Petitioner's exceptions as legally insufficient.

Further, there is no authority enabling a party to request a rehearing from the designated hearing officer in this matter. See State Dep't of Mgmt. Servs., Div. of Ret. v. Lewis, 653 So. 2d 467, 469 (Fla. 1st DCA 1995) (citing Sys. Mgmt. Assocs. v. State, 391 So. 2d 688, 690 (Fla. 1st DCA 1980)); Dep't of Corr. v. Saulter, 742 So. 2d 368 (Fla. 1st DCA 1999). As a result, the Division hereby denies Petitioner's request for a rehearing.

### FINDINGS OF FACT

Accordingly, based on the Recommended Order, Petitioner's Exceptions, and the record of this matter, it is hereby found that the Findings of Fact contained in the Recommended Order are adopted as the Findings of Fact of the Division.

### CONCLUSIONS OF LAW

Accordingly, based on the Recommended Order, Petitioner's Exceptions, and the record of this matter, it is hereby found that the Conclusions of Law contained in the Recommended Order are hereby as the Conclusions of Law of the Division.

(ORDER APPEARS ON FOLLOWING PAGE)

**ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law adopted from the Recommended Order of the Division's Informal Hearing, it is hereby ORDERED that:

1. Respondent's pari-mutuel wagering slot machine combo professional individual occupational license, number 8809076-1055 is **REVOKED**.
2. Respondent is **EXCLUDED** from all pari-mutuel facilities in the state of Florida.
3. Petitioner's Motion for Rehearing is **DENIED WITH PREJUDICE**.
4. 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 14 day of August, 2018, in Tallahassee, Florida.



**ROBERT EHRHARDT, DIRECTOR**

Division of Pari-Mutuel Wagering  
Dept. of Business and Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-2202

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, Mail Stop G3, Tallahassee, Florida 32399-2203 (email: [agc.filing@myfloridalicense.com](mailto: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 Final Order is filed.

CERTIFICATE OF SERVICE

I hereby certify this 16<sup>th</sup> day of August, 2018, that a true copy of the foregoing “Final Order” has been provided by U.S. Mail to:

Luis Manuel Carty  
P.O. Box 2362  
Hallandale, Florida 33008



---

AGENCY CLERK'S OFFICE  
Department of Business and Professional Regulation

Cc:

Keneidra Williams, AIII OGC  
Deborah Matthews, AII OGC/PMW

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	<b>Evette Lawson-Proctor</b>
Date	7/10/2018
File #	

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

Petitioner,

DBPR CASE NO. 2017-008496

v.

LUIS MANUEL CARTY,

Respondent.

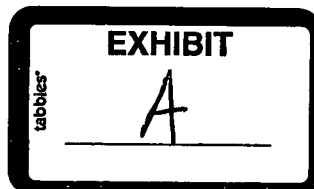
HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Tom Thomas, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, on June 6, 2018, 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 Luis Manuel Carty ("Respondent"), in DBPR Case No. 2017-008496. The Division of Pari-Mutuel Wagering ("Petitioner" or "Division") was represented by Charles ("CJ") Dewrell, Esquire, Deputy Chief Attorney. Petitioner appeared *pro se* by telephone.

PRELIMINARY STATEMENT

1. On January 8, 2018, Petitioner filed a three-count Administrative Complaint against the Respondent alleging the following:

- Count I: Respondent violated Section 551.109(3), Fla. Stat., 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, sleight-of-hand performance, fraud, fraudulent scheme, or device, on or about January 6 - 25, 2017.



- Count II: Respondent violated Section 551.109(5), Fla. Stat., when he altered and/or created fraudulent Players Club accounts to allow individuals not associated with those accounts to use Hialeah Park Players Club Black VIP Cards for free play at Calder Casino, on or about January 6 - 25, 2017.
- Count III: Respondent violated Section 550.0251(6), Fla. Stat., by virtue of being ejected and permanently excluded from Hialeah Park and Casino, on January 25, 2017.

2. On May 10, 2018, 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 6, 2018, the Petitioner presented the issues raised in the Administrative Complaint and cited Respondent's Election of Rights which was executed on or about May 10, 2018. 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 entered 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, Respondent also held a slot machine "combo" professional individual license, number 8809076-1055, issued by the Division.

6. At all times material, Respondent was employed as the Slot Manager at Hialeah Park Racing and Casino.

7. On or about January 6, 2017, through January 25, 2017, Respondent altered and/or created fraudulent Players Club Accounts, to allow individuals not associ-

ated with those accounts, to use Hialeah Park Players Club Black VIP cards for free play at Calder Casino.

8. On or about January 25, 2017, Respondent was terminated and permanently excluded from Hialeah Park and Casino.

9. During the Informal Hearing on June 6, 2018, Respondent apologized for his "mistake" and being involved with the scheme which involved creating cards and allowing patrons access to free play incentives at Calder Casino. Respondent testified that he has been working in the pari-mutuel ("casino") industry for some time now and his pari-mutuel wagering license is his only means to financially support his daughter.

#### CONCLUSIONS OF LAW

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

11. 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, sleight-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.

12. Respondent is subject to discipline for violating section 551.109(3), Florida Statutes, by virtue of 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 6, 2017 through January 25, 2017.



13. 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.

14. Respondent is subject to discipline for violating section 551.109(5), Florida Statutes, by virtue of altering and/or creating fraudulent Players Club accounts while employed as the Slot Manager at Hialeah Park Racing and Casino, on or about January 6, 2017, through January 25, 2017.

15. 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...”

16. Based on the forgoing, Respondent is subject to exclusion from all pari-mutuel facilities within the state due to his termination and permanent exclusion from Hialeah Park and Casino, on January 25, 2017.

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

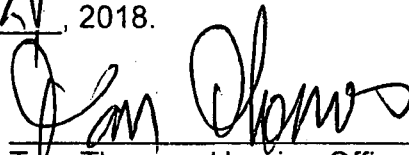
#### RECOMMENDATION

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:

(1) REVOKING Respondent’s slot machine “combo” professional individual license, number 8809076-1055, and;

(2) EXCLUDING Respondent from all pari-mutuel facilities in the State of Florida.

Respectfully submitted this 9<sup>th</sup> day of July, 2018.

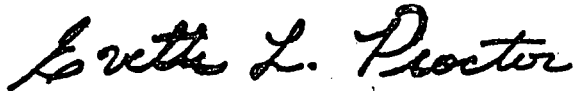


Tom Thomas, Hearing Officer  
Office of the General Counsel  
Department of Business and  
Professional Regulation

CERTIFICATE OF SERVICE

I hereby certify this 10 day of July, 2018, that a true copy of the foregoing has been provided by regular U.S. Mail to:

LUIS MANUEL CARTY  
P.O. BOX 2362  
HALLANDALE, FLORIDA 33008



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.

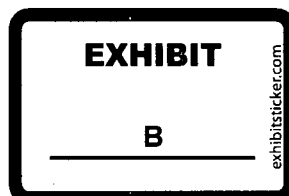
## Matthews, Deborah

---

**From:** Luis Carty <luisarty@yahoo.com>  
**Sent:** Wednesday, July 25, 2018 4:15 PM  
**To:** Matthews, Deborah  
**Subject:** DBPR CASE NO. 2017-008496

To whom it may concern.

Mrs. Matthews I do not agree with the charges been filed against me. On count # 1 I was not truing to win any monies for me or for anyone else , the Card was issued for valet parking only. On count # 2 I did not create any fraudulent accounts. I would like to get another hearing , also if I need to get witnesses i can provide them at such time.



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. 2017-008496

v.

LUIS MANUEL CARTY,

Respondent.

\_\_\_\_\_ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Luis Manuel Carty (“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 Machine “Combo” Professional Individual Occupational License, number 8809076-1055, issued by the Division.
3. At all times material, Respondent was employed as the slot manager at Hialeah Park Racing and Casino.
4. On or about January 6, 2017 through January 25, 2017, Respondent altered and/or created fraudulent Players Club Accounts to allow individuals not associated with those accounts to use Hialeah Park Players Club Black VIP Cards for free play at Calder Casino.
5. On or about January 25, 2017, Respondent was terminated and permanently excluded from Hialeah Park and Casino.

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, sleight-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 6, 2017 through January 25, 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 altering and/or creating fraudulent Players Club Accounts while employed as the slot manager at Hialeah Park Racing and Casino on or about January 6, 2017 through January 25, 2017.

COUNT III

12. Petitioner hereby re-alleges and incorporates the allegations contained within paragraphs one through five, 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 5th 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.