

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	9/26/2018
File #	2018-08025

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

Petitioner,

DBPR Case No. 2018-011153

vs.

NELSON ARMAS PACHECO,

Respondent.

FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner” or “Division”), hereby enters this Final Order against Nelson Armas Pacheco (“Respondent”) and states as follows:

1. An Administrative Complaint was filed in this case alleging that Respondent is subject to discipline under rule 61D-11.005(4), Florida Administrative Code (2017), and section 550.0251(6), Florida Statutes (2017), on July 27, 2018 (“the Administrative Complaint”). A true and correct copy of the Administrative Complaint is attached hereto as Exhibit “A” and incorporated by reference.

2. The Administrative Complaint, an Election of Rights Form, Explanation of Rights, and a cover letter were served upon Respondent by the United States Postal Service on August 3, 2018. A true and correct copy of the United States Postal Service webpage indicating thus is attached hereto as Exhibit “B” and incorporated by reference.

3. The Election of Rights form, Explanation of Rights, and cover letter informed Respondent that a written response to the Administrative Complaint, including the request for a hearing, was due within the twenty-one (21) days of actual service to dispute the allegations contained therein. See § 120.569(1), Fla. Stat., and Fla. Admin. Code R. 28-106.111.

4. Petitioner informed Respondent that failure to timely file a response to the Administrative Complaint would be deemed a waiver of right to a hearing or resolution in this matter.

5. To date, Respondent has not submitted an Election of Rights Form or otherwise provided a response to the Administrative Complaint filed and served in this action.

Upon consideration of the facts and conclusions of law delineated in the Administrative Complaint, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as findings of fact by the Division.

2. The conclusions of law alleged and set forth in the Administrative Complaint are approved, adopted, and incorporated herein by reference as the conclusions of law by the Division.

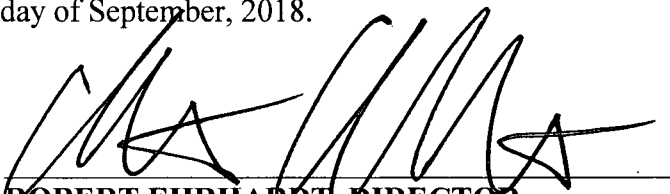
3. There is competent substantial evidence to support the findings of fact and conclusions of law by the Division.

(SPACE INTENTIONALLY LEFT BLANK)

THEREFORE, IT IS HEREBY **ORDERED AND ADJUDGED:**

1. Respondent is PERMANENTLY EXCLUDED from all licensed pari-mutuel facilities in the State of Florida.
2. This Final Order shall become effective upon its filing with the Agency Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 25 day of September, 2018.



ROBERT EHRHARDT, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-1035
(850) 717-1768

NOTICE OF RIGHT TO APPEAL

Unless expressly waived, any party substantially affected by this Final Order may seek judicial review by filing an original Notice of Appeal with the Agency Clerk of the Department of Business and Professional Regulation at 2601 Blair Stone Road, Tallahassee, Florida 32399, (AGC.Filing@myfloridalicense.com), and a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal within thirty days rendition of this Order, in accordance with Fla. R. App. P. 9.110, and section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

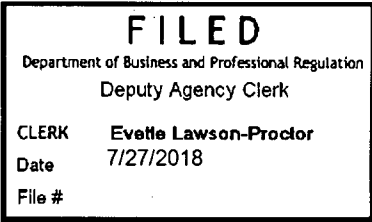
I HEREBY CERTIFY that a true and correct copy of the foregoing "Final Order" has been sent by regular United States Mail on this 26th day of September, 2018 to:

Nelson Armas Pacheco
469 N.W. 45th Street
Fort Lauderdale, Florida 33309

Brandon M. Nichols

AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

Cc:
Deborah Matthews, AAIL OGC/PMW
Glenda Ricks, Chief of Operations/PMW



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,

vs.

DBPR Case No. 2018-011153

NELSON ARMAS PACHECO,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner” or “Division”), files this Administrative Complaint against Nelson Armas Pacheco (“Respondent”) and alleges:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering and cardroom operations pursuant to Chapter 550 and Section 849.086, Florida Statutes.
2. At all times material hereto, Respondent was a patron of Hialeah Park Racing and Casino (“Hialeah Park”).
3. At all times material hereto, Hialeah Park is a facility operated by a permit holder authorized to conduct pari-mutuel wagering and operate a cardroom in this state by the Petitioner in accordance with Chapter 550 and Section 849.086, Florida Statutes.
4. On or about February 21, 2018, Respondent was observed marking and attempting to mark poker cards.

5. On or about February 23, 2018, Respondent was permanently trespassed from Hialeah Park.

6. Rule 61D-11.005(4), Florida Administrative Code (2018), provides that:

No person shall, either directly or indirectly: (a) [e]mploy or attempt to employ any device, scheme, or artifice to defraud any participant in a game or the cardroom operator. (b) Engage in any act, practice, or course of operation that would constitute a fraud or deceit upon any participant in a game or the cardroom operator. (c) Engage in any act, practice, or course of operation with the intent of cheating any participant or the cardroom operator.

7. Section 550.0251(6), Florida Statutes, authorizes the Petitioner to exclude certain individuals from pari-mutuel facilities, stating:

In addition to the power to exclude certain persons from any 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 governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state (emphasis supplied).

COUNT I

8. Petitioner hereby realleges and incorporates the allegations contained within paragraphs one through seven as though fully set forth herein.

9. Based on the foregoing, Respondent is subject to discipline for his violation of Rule 61D-11.005(4), Florida Administrative Code, by marking and attempting to mark poker cards at Hialeah Park on or about February 21, 2018.

COUNT II

10. Petitioner hereby realleges and incorporates the allegations contained within paragraphs one through seven as though fully set forth herein.

11. Based on the foregoing, Respondent is subject to exclusion from all licensed pari-mutuel facilities in this state based upon his trespass from Hialeah Park issued on or about February 23, 2018.

WHEREFORE, Petitioner respectfully requests the Division Director enter an Order permanently excluding Respondent from all licensed pari-mutuel facilities in the state along with any other remedy provided by Chapter 550, and/or Section 849.086, and/or the rules promulgated thereunder.

This Administrative Complaint for DBPR Case No. 2018-011153 is signed this 20th day of July, 2018.

/s/ James A. Lewis
JAMES A. LEWIS
Assistant General Counsel
Florida Bar No. 1002349
James.Lewis@MyFloridaLicense.com

/s/ Louis Trombetta
LOUIS TROMBETTA
Chief Attorney
Florida Bar No. 0108119
Louis.Trombetta@MyFloridaLicense.com

Office of the General Counsel
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road, Mail Stop N21
Tallahassee, Florida 32399-2202
Telephone: (850)-717-1585
Facsimile: (850) 921-1311

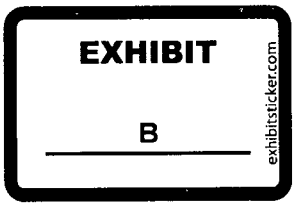
NOTICE OF RIGHTS TO REQUEST A HEARING

Pursuant to Sections 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(4), 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.

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Postage \$	MAILED Postmark Here 7/27/18
Certified Fee	
Return Receipt Fee (Endorsement Required)	
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Total Postage	
Sent To	Nelson Armas Pacheco
Street, Apt. 1 or PO Box #	469 N.W. 45 th Street
City, State, ZIP	Fort Lauderdale, Florida 33309
	AC 2018-011153 OGC/4 th Floor/DM
PS Form 3800, August 2006 See Reverse for Instructions	



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Delivered

August 3, 2018 at 12:30 pm
Delivered, Left with Individual
FORT LAUDERDALE, FL 33309

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*NOTE: Black and white (grayscale) images show the outside, front of letter-sized envelopes and mailpieces that are processed through USPS automated equipment.