

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/23/2019
File #	2019-00464

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.

DBPR CASE NO. 2018-026720

NAPOLEON ROMAN, JR.,

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 January 2, 2019, Tom Thomas, 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

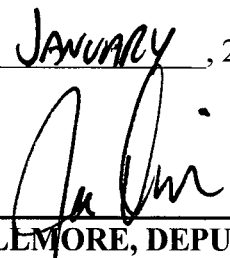
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

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 be PERMANENTLY EXCLUDED from all licensed pari-mutuel wagering 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 22 day of JANUARY, 2019, in Tallahassee, Florida.



JOE DILMORE, DEPUTY DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-1035

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

A party who is adversely affected by this Final Order 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.

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 Roman Napoleon, Jr., 2456 Lincoln Street, Apt. 9, Hollywood, Florida 33020, this 23rd day of January, 2019.

Brandon M. Nichols

Agency Clerk's Office

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	1/3/2019
File #	

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

Petitioner,

DBPR Case No. 2018-026720

vs.

NAPOLEON ROMAN, JR.,

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 ("Petitioner" or "Division"), on December 5, 2018, in Tallahassee, Florida, in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes (2018), for consideration of the Division's Administrative Complaint filed against Roman Napoleon, Jr. ("Respondent"), in DBPR Case No. 2018-026720. The Division was represented by Louis Trombetta, Chief Attorney. Respondent appeared *pro se* by telephone. Both sides were allowed to present witnesses, offer items into evidence, and otherwise fully participate in the hearing.

PRELIMINARY STATEMENT

1. On July 27, 2018, Petitioner filed a two-count Administrative Complaint against the Respondent, alleging that Respondent was subject to discipline under rule 61D-11.005(4), Florida Administrative Code (2017), and section 550.0251(6), Florida

Statutes (2017), by (1) attempting to redeem five counterfeit poker chips for cash, and (2) being ejected from Gulfstream Park for same ("Administrative Complaint").

2. On or about August 22, 2018, Respondent executed his Election of Rights, indicating he disputed certain material facts alleged in the Administrative Complaint and requesting a hearing pursuant to sections 120.569 and 120.57(1), Florida Statutes.

3. On or about September 7, 2018, the Division referred the above-styled matter to the Division of Administrative Hearings ("DOAH"), for the assignment of an administrative law judge to conduct an administrative hearing.

4. On November 1, 2018, based on Respondent's answers furnished in discovery, Petitioner filed its Notice of Voluntary Dismissal with DOAH, which dropped Count I of the Administrative Complaint. Consequently, the Division filed an Unopposed Motion to Relinquish Jurisdiction, and the Administrative Law Judge relinquished jurisdiction on November 2, 2018, for the Division to conduct a hearing pursuant to section 120.57(2), Florida Statutes ("informal hearing").

5. At the informal hearing convened on December 5, 2018, Petitioner presented the issues raised in the Administrative Complaint and cited the Respondent's signed Election of Rights, answers to discovery indicated supra, and the Administrative Law Judge's Order Relinquishing Jurisdiction. The Hearing Officer granted the Petitioner's motion to accept the findings of fact in the Administrative Complaint as the undisputed facts in the case, save for the facts concerning Count I, and admitted the Division's investigative file into evidence. Respondent then presented his case.

FINDINGS OF FACT

1. At all times material to the Administrative Complaint, Petitioner is the state agency charged with the enforcement of Florida's laws controlling pari-mutuel wagering and cardroom operations, under chapter 550 and section 849.086, Florida Statutes.

2. At all times material hereto the Administrative Complaint, Respondent was located at Gulfstream Park.

3. At all times material to the Administrative Complaint, Gulfstream Park is a facility operated by a permit holder authorized to conduct pari-mutuel wagering and operate a cardroom in the State of Florida.

4. On or about May 15, 2018, Respondent was ejected from Gulfstream Park.

5. The evidence adduced at the Division's informal hearing convened on December 5, 2018, established that Respondent should be subject to permanent exclusion from all licensed pari-mutuel facilities in the State of Florida.

6. There is competent substantial evidence to support the foregoing findings of fact.

CONCLUSIONS OF LAW

7. Section 550.0251(6), Florida Statutes, authorizes the Division to permanently exclude any person subject to ejection from any licensed pari-mutuel facility in this state, providing in full:

In addition to the power to exclude certain persons from any pari-mutuel facility in this 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. The division may authorize any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon a finding that the attendance of such person at pari-mutuel facilities would not be adverse to the public interest or to the integrity of the sport or industry; however, this subsection shall not be construed to abrogate the common-law right of a pari-mutuel permitholder to exclude absolutely a patron in this state.

(Emphasis supplied).

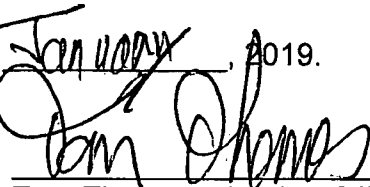
8. Based on the foregoing, the Division may permissibly exclude Respondent from all pari-mutuel facilities in this state based on his exclusion from Gulfstream Park.

9. 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:
PERMANENTLY EXCLUDING Respondent from all licensed pari-mutuel wagering facilities in the State of Florida.

Respectfully submitted this 2nd day of January, 2019.



Tom Thomas, Hearing Officer
Office of the General Counsel
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

CERTIFICATE OF SERVICE

I hereby certify this 3 day of January, 2019, that a true copy of the foregoing has been provided by regular U.S. Mail to:

Roman Napoleon, Jr.
2456 Lincoln Street, Apt. 9
Hollywood, Florida 33020


AGENCY CLERK'S OFFICE

cc: Tom Thomas, Informal Hearing Officer
Louis Trombetta, Chief Attorney

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
DIVISION OF ADMINISTRATIVE HEARINGS

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

Petitioner,

Case No. 18-4706PL

vs.

NAPOLEON ROMAN, JR.,

Respondent.

ORDER CLOSING FILE AND RELINQUISHING JURISDICTION

Petitioner's Unopposed Motion to Relinquish Jurisdiction was filed on November 1, 2018. The motion advises that through discovery Respondent admitted all material facts, except for facts concerning Count I of the Administrative Complaint, which has now been dismissed. The motion asserts there remain no outstanding disputed issues of material fact and requests that the case be relinquished back to the Division of Pari-Mutuel Wagering so that a section 120.57(2), Florida Statutes, hearing may be conducted. The motion indicates that Respondent does not object. It is, therefore,

ORDERED that:

1. Petitioner's Unopposed Motion to Relinquish Jurisdiction is GRANTED.
2. The final hearing scheduled for November 15, 2018, is canceled.
3. The file of the Division of Administrative Hearings is closed. Jurisdiction is relinquished to the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering.

DONE AND ORDERED this 2nd day of November, 2018, in Tallahassee, Leon County, Florida.

F. Scott Boyd

F. SCOTT BOYD
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 2nd day of November, 2018.

COPIES FURNISHED:

James A. Lewis, Esquire
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399
(eServed)

Napoleon Roman
Apartment 9
2456 Lincoln Street
Hollywood, Florida 33020
(eServed)

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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

Petitioner,

vs.

DOAH CASE NO.: 18-4706PL

NAPOLEON ROMAN, JR.,

Respondent.

PETITIONER'S NOTICE OF VOLUNTARY DISMISSAL OF COUNT I OF THE
ADMINISTRATIVE COMPLAINT

COMES NOW, the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, by and through the undersigned counsel, hereby respectfully gives notice on the 1st day of November, 2018, that it is voluntarily dismissing Count I of the Administrative Complaint filed in this matter.

Respectfully submitted by:

/s/ James A. Lewis

JAMES A. LEWIS
Assistant General Counsel
Florida Bar No. 1002349
James.Lewis@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) 717-1768
Facsimile: (850) 921-1311

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. 2018-026720

NAPOLEON ROMAN, JR.,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”) files this Administrative Complaint against Napoleon Roman, Jr. (“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 located at Gulfstream Park.
3. At all times material hereto, Gulfstream Park is a facility operated by a permitholder authorized, by Petitioner, to conduct pari-mutuel wagering and operate a cardroom in the state of Florida.
4. On or about May 15, 2018, Respondent attempted to redeem five (5) counterfeit poker chips for cash at Gulfstream Park.
5. On or about May 15, 2018, Respondent was ejected from Gulfstream Park.
6. Rule 61D-11.005(4), Florida Administrative Code (2017), 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, for attempting to redeem five (5) counterfeit poker chips for cash at Gulfstream Park on or about May 15, 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 on his ejection from Gulfstream Park on or about May 15, 2018.

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

This Administrative Complaint for DBPR Case No. 2018-026720 is signed this 23rd 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 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.