

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.: 2018-044706

BRIAN FERNANDO VASQUEZ-LAGOS,

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 July 9, 2019, 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 is **PERMANENTLY EXCLUDED** from all 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 30 day of July, 2019, in Tallahassee, Florida.



LOUIS TROMBETTA, 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 this 31st day of July 2019, that a true and correct copy of the foregoing Final Order has been provided by regular U.S. mail to:

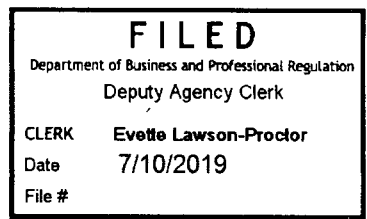
Brian Fernando Vasquez-Lagos
3800 Northwest 2nd Terrace
Miami, Florida 33126

Brandon M. Nichols

AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

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.



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. 2018-044706

v.

BRIAN FERNANDO VASQUEZ LAGOS,

Respondent.

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Alison A. Parker, designated Hearing Officer for the Department of Business and Professional Regulation, Alison Parker, on June 5, 2019, in Tallahassee, Florida, in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes, for consideration of the Administrative Complaint filed against Brian Fernando Vasquez Lagos ("Respondent") in DBPR Case Number 2018-044706. The Division of Pari-Mutuel Wagering ("Petitioner") was represented by Christina L. Roberts, under the supervision of James A. Lewis, Deputy Chief Attorney. Respondent appeared *pro se* by telephone. Both sides were allowed to call witnesses, provide testimony, proffer items into evidence, and otherwise fully participate in the hearing.

CASE HISTORY

1. On September 17, 2018, Petitioner filed a three-count Administrative Complaint against Respondent, alleging that Respondent violated section 551.109(4), Florida Statutes, by manipulating slot machine activity

("Administrative Complaint"). Additionally, the Administrative Complaint alleged that Respondent was subject to exclusion from all pari-mutuel facilities in the State of Florida under sections 551.112 and 550.0251(6), Florida Statutes.

2. In response, Respondent submitted an Election of Rights form on October 16, 2018, in which he indicated that he disputed the allegations of material fact specified in the Administrative Complaint and that he desired a formal hearing pursuant to sections 120.569(2) and 120.57(1), Florida Statutes.
3. Respondent sent an Amended Election of Rights form on November 10, 2018 ("Amended Election of Rights"), as the previous form failed to specify what material facts were in dispute. The Amended Election of Rights disputed any involvement in manipulating slot machine activity.
4. On January 11, 2019, this matter was forwarded to the Division of Administrative Hearings ("DOAH"), codified as DOAH Case Number 19-0203.
5. On March 15, 2019 DOAH entered an Order Closing the File and Relinquishing Jurisdiction to Petitioner based on Respondent's failure to respond to Petitioner's discovery request. See Fla. R. Civ. P. 1.370 (failure to deny a party's Requests for Admissions deems them admitted upon order of the presiding officer).
6. At the informal hearing on June 5, 2019, Petitioner raised the issues charged in the Administrative Complaint and cited the Respondent's Election of Rights submitted on March 20, 2019, and the Order

Relinquishing Jurisdiction rendered by the Administrative Law Judge of DOAH. The undersigned Hearing Officer granted the Petitioner's motion to accept the findings of fact in the Administrative Complaint as the undisputed facts in the case.

FINDINGS OF FACT

7. At all times material to the Administrative Complaint, Respondent was a patron of Casino Miami Jai Alai.
8. At all times material hereto, Casino Miami Jai Alai was facility operated by a permitholder authorized to conduct pari-mutuel wagering and operate slot machines in the State of Florida.
9. On or about June 11, 2017, Respondent manipulated or attempted to manipulate the outcome, payoff, or operation of a slot machine by physical tampering.
10. On or about June 13, 2017, Respondent was ejected and permanently excluded from Casino Miami Jai Alai.
11. On September 17, 2018, Petitioner filed the Administrative Complaint.
12. On October 16, 2018, Respondent submitted an Election of Rights form indicating that he disputed the allegations of material fact specified in the Administrative Complaint and that he desired a formal hearing pursuant to sections 120.569(2) and 120.57(1), Florida Statutes.
13. Respondent sent an Amended Election of Rights form on November 10, 2018 ("Amended Election of Rights"), as the previous form failed to specify what material facts were in dispute. The Amended Election of Rights disputed any involvement in manipulating slot machine activity.

14. On January 11, 2019, this matter was forwarded to the Division of Administrative Hearings ("DOAH"), codified as DOAH Case Number 19-0203.
15. On March 15, 2019 DOAH entered an Order Closing the File and Relinquishing Jurisdiction to Petitioner based on Respondent's failure to respond to Petitioner's discovery request. See Fla. R. Civ. P. 1.370 (failure to deny a party's Requests for Admissions deems them admitted upon order of the presiding officer).
16. At the informal hearing, Respondent testified regarding the material facts that led to his exclusion, stating that he felt like he was in the "wrong place at the wrong time" and were close to many people at Casino Miami Jai Alai since he was there four or five times weekly.
17. There is competent substantial evidence to support the foregoing findings of fact.

CONCLUSIONS OF LAW

18. The undersigned Hearing Officer has the jurisdiction to hear this matter pursuant to section 120.57(2), Florida Statutes.
19. The Department of Business and Professional Regulation has jurisdiction over this matter pursuant to chapters 120 and 550, Florida Statutes.
20. Section 551.109(4), Florida Statutes (2017), imposes criminal liability on an individual for tampering with a slot machine, providing:

Any person who manipulates or attempts to manipulate the outcome, payoff, or operation of a slot machine by physical tampering or by use of any object, instrument, or device, whether mechanical, electrical, magnetic, or involving other

means, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

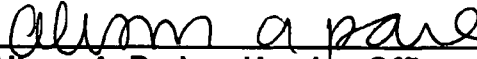
21. Rule 61D-14.090, Florida Administrative Code, provides "[n]o person shall conspire with, solicit, aid, abet, counsel, hire, or procure any other persons to engage in a violation of Chapter 551, F.S., or Chapter 61D-14, F.A.C., nor shall he or she commit any such act on his or her own."
22. Section 550.0251(6), Florida Statutes, provides:

In addition to the power to exclude certain persons from any pari-mutuel 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.
23. Section 551.112, Florida Statutes, provides that Petitioner may exclude any person from all slot machine facilities in this state "who has been excluded from any facility of a slot machine licensee or gaming facility..."
24. The evidence adduced at the informal hearing provides Respondent should be permanently excluded from all licensed pari-mutuel and slot machine facilities in the State of Florida.
25. There is competent substantial evidence to support the foregoing 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:
EXCLUDING Respondent from all pari-mutuel wagering facilities in the State of Florida.

Respectfully submitted this 9th day of July 2019.


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

CERTIFICATE OF SERVICE

I hereby certify this 10 day of July 2019 that a true copy of the foregoing has
been furnished by regular U.S. mail to:

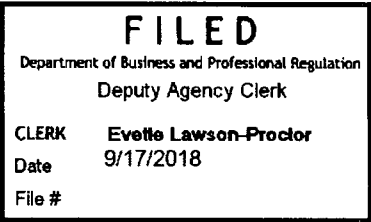
Brian Fernando Vasquez Lagos
3800 Northwest 2nd Terrace
Miami, FL 33126


AGENCY CLERK'S OFFICE

Cc:
Alison A. Parker, Informal Hearing Officer
James Lewis, Deputy Chief Attorney
Christina L. Roberts, Law Clerk

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,

vs.

DBPR Case No. 2018-044706

BRIAN FERNANDO VASQUEZ LAGOS,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner” or “Division”), files this Administrative Complaint against Brian Fernando Vasquez Lagos (“Respondent”) and alleges:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering, slot machines, and cardroom operations pursuant to chapters 550, 551, and section 849.086, Florida Statutes.
2. At all times material hereto, Respondent was a patron of Casino Miami Jai Alai.
3. At all times material hereto, Casino Miami Jai Alai was facility operated by a permitholder authorized to conduct pari-mutuel wagering, operate slot machines, and a cardroom in the State of Florida.
4. On or about June 11, 2017, Respondent manipulated or attempted to manipulate the outcome, payoff, or operation of a slot machine by physical tampering.

5. On or about June 13, 2017, Respondent was ejected and permanently excluded from Casino Miami Jai Alai.

COUNT I

6. Petitioner realleges and incorporates the allegations contained within paragraphs one through five as though fully set forth herein.

7. Section 551.109(4), Florida Statutes (2017), imposes criminal liability on an individual for tampering with a slot machine, providing:

Any person who manipulates or attempts to manipulate the outcome, payoff, or operation of a slot machine by physical tampering or by use of any object, instrument, or device, whether mechanical, electrical, magnetic, or involving other means, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

8. Rule 61D-14.090, Florida Administrative Code (2017), provides “[n]o person shall conspire with, solicit, aid, abet, counsel, hire, or procure any other persons to engage in a violation of Chapter 551, F.S., or Chapter 61D-14, F.A.C., nor shall he or she commit any such act on his or her own.” (Emphasis supplied).

9. Based on the foregoing, Respondent violated rule 61D-14.090, Florida Administrative Code, by conspiring with, soliciting, aiding, abetting, counseling, hiring, or procuring any person to engage in a violation of section 551.109(4), Florida Statutes, or by committing such an act on his own at Casino Miami Jai Alai on or about June 11, 2017.

COUNT II

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

11. Section 551.112, Florida Statutes, provides:

In addition to the power to exclude certain persons from any facility of a slot machine licensee in this state, the division may exclude any person from any facility of a slot machine licensee 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 facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state or who has been excluded from any facility of a slot machine licensee or gaming facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over the gaming in such other state. This section does not abrogate the common law right of a slot machine licensee to exclude a patron absolutely in this state.

(Emphasis supplied).

12. Based on the foregoing, Respondent is subject to permanent exclusion from all licensed slot machine facilities in the State of Florida based on his ejection from Casino Miami Jai Alai on June 13, 2017.

COUNT III

13. Petitioner realleges and incorporates the allegations contained within paragraphs one through five as though fully set forth herein.

14. Section 550.0251(6), Florida Statutes, provides in relevant part:

In addition to the power to exclude certain persons from any pari-mutuel 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).

15. Based on the foregoing, Respondent is subject to permanent exclusion from all licensed pari-mutuel facilities in the State of Florida based on his permanent exclusion from Casino Miami Jai Alai on June 13, 2017.

WHEREFORE, Petitioner respectfully requests the Division enter an Order permanently excluding Respondent from all licensed pari-mutuel and slot machine facilities in the State of Florida along with any other remedy provided by chapters 550, 551, Florida Statutes, and/or the rules promulgated thereunder.

This Administrative Complaint for DBPR Case No. 2018-044706 is signed this 17th day of September, 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.