

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	3/8/2019
File #	2019-02088

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

Petitioner,

DBPR CASE No. 2018-047787

v.

SANTIAGO ARGELIO HERNANDEZ,

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 February 13, 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

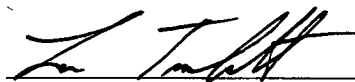
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

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 facilities within the state of Florida, as a result of his permanent exclusion from Hialeah Park on August 13, 2018, and by virtue of violating Rule 61D-14-054(4), *Florida Administrative Code*.
- 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 5 day of March, 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

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 this 8th day of March, 2019, that a true and correct copy of the foregoing Final Order has been provided by regular U.S. mail to:

Santiago Argelio Hernandez
1475 West 46th Street, Apt. 520
Hialeah, Florida 33012

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	2/14/2019
File #	

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

Petitioner,

DBPR Case No. 2018-047787

v.

SANTIAGO ARGELIO HERNANDEZ,

Respondent.

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Alison A. Parker, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner" or "Division"), on January 9, 2019, in Tallahassee, Florida, in accordance with the provisions of section 120.57(2), Florida Statutes, for consideration of the Division's Administrative Complaint filed against Santiago Argelio Hernandez ("Respondent"). Petitioner was represented by Jett Baumann, Esquire. Respondent appeared *pro se* via telephone. Both sides were allowed to call witnesses, offer testimony, proffer evidence, and otherwise fully participate in the hearing.

PRELIMINARY STATEMENT

1. On October 25, 2018, Petitioner filed a two-count Administrative Complaint against Respondent.
2. On or around November 7, 2018, Respondent submitted an Election of Rights form wherein the Respondent requested an informal hearing pursuant to section

120.57(2), Florida Statutes. In doing so, Respondent did not dispute the material facts contained in the Administrative Complaint filed on October 25, 2018.

3. At the informal hearing on January 9, 2019, Petitioner presented the violations alleged in the Administrative Complaint and cited the Respondent's Election of Rights form. 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. Respondent's exhibits were accepted into evidence as an omnibus exhibit, which included several letters.

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 to the Administrative Complaint, Respondent held a Slot Combo Professional License, number 10954567-1055, issued by the Division.

6. At all times material, Respondent was employed as a security guard at Hialeah Park, a licensed pari-mutuel wagering and slot machine facility in the State of Florida.

7. On August 3, 2018, and August 9, 2018, Respondent accessed Hialeah Park's surveillance system archives and downloaded surveillance files onto an external drive, which Respondent subsequently removed from Hialeah Park's facility.

8. Respondent testified during the hearing that he was attempting to obtain information regarding a co-worker who had allegedly harassed him within the workplace. However, Respondent was not authorized to review, download, remove, or delete the aforementioned security surveillance files.

9. On August 13, 2018, Hialeah Park terminated Respondent's employment and permanently excluded him from Hialeah Park's facilities after reviewing video surveillance of Respondent's actions.

CONCLUSIONS OF LAW

10. The Division has jurisdiction over this matter pursuant to chapters 120, 551, and 550, Florida Statutes.

11. The undersigned Hearing Officer has jurisdiction to hear the informal hearing, pursuant to section 120.57(2), Florida Statutes.

12. Rule 61D-14.054(4), Florida Administrative Code, provides that "access to the surveillance system, surveillance system plan, and any related information, shall be limited to surveillance employees, the division, and FDLE."

13. Respondent violated Rule 61D-14.054(4), Florida Administrative Code, by accessing Hialeah Park's surveillance system archives, removing, and subsequently deleting surveillance system files on August 3, 2018, and August 9, 2018.

14. Section 550.0251(6), Florida Statutes, provides that the Division may exclude any person from 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" or "any person who has been excluded from any pari-mutuel facility[.]"

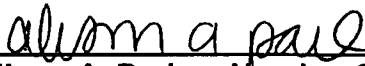
15. Respondent is subject to exclusion from pari-mutuel facilities within the state by virtue of violating Rule 61D-14.054(4), Florida Administrative Code, and his exclusion from Hialeah Park.

16. 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 pari-mutuel facilities
within the state as a result of his permanent exclusion from Hialeah Park on August 13,
2018, and by virtue of violating Rule 61D-14-054(4), Florida Administrative Code.

Respectfully submitted this 13th day of February 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 14 day of February 2019 that a true copy of the foregoing
has been furnished by regular U.S. mail to:

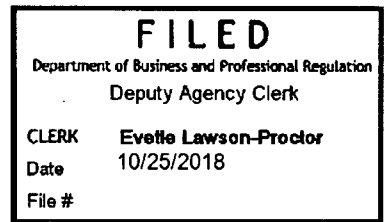
SANTIAGO ARGELIO HERNANDEZ
1475 WEST 46TH STREET, APT. 520
HIALEAH, FLORIDA 33012


AGENCY CLERK'S OFFICE

Cc:
Alison A. Parker, Informal Hearing Officer
Jett Baumann, Assistant General Counsel

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,

v.

DBPR Case No. 2018-047787

SANTIAGO ARGELIO HERNANDEZ,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner” or “Division”), files this Administrative Complaint against Santiago Argelio Hernandez (“Respondent”), and alleges as follows:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to chapter 550, Florida Statutes, (2018).
2. At all times material, Respondent held a Slot Combo Professional License, number 10954567-1055, issued by the Division.
3. At all times material, Respondent was employed as a security guard at Hialeah Park Casino, a licensed pari-mutuel wagering and slot machine facility in the State of Florida.
4. On or about August 3, 2018, and August 9, 2018, Respondent accessed Hialeah Park’s surveillance system archives and downloaded surveillance files on an external drive which Respondent subsequently removed from Hialeah Park’s facility.
5. Respondent was not authorized to review, download, remove, or delete the aforementioned security surveillance files.

6. On or about August 13, 2018, Hialeah Park terminated Respondent's employment and permanently excluded him from Hialeah Park's facilities after reviewing video surveillance of Respondent's actions.

COUNT I

7. Petitioner hereby re-alleges and incorporates the allegations contained within paragraphs one through six, as though fully set forth herein.

8. Rule 61D-14-054(4), *Florida Administrative Code*, provides that "access to the surveillance system, surveillance system plan, and any related information, shall be limited to surveillance employees, the division, and FDLE."

9. As a security guard, Respondent was not a surveillance employee.

10. Respondent violated Rule 61D-14-054(4), *Florida Administrative Code*, by accessing Hialeah Park's surveillance system archives, removing, and subsequently deleting surveillance system files on or about August 3, 2018, and August 9, 2018.

COUNT II

11. Petitioner hereby re-alleges and incorporates the allegations contained within paragraphs one through six, as though fully set forth herein.

12. Section 550.0251(6), Florida Statutes, provides that the Division may exclude any person from 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" or "any person who has been excluded from any pari-mutuel facility..."

13. Respondent is subject to exclusion from pari-mutuel facilities within the state by virtue of violating Rule 61D-14-054(4), *Florida Administrative Code*.

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.

This administrative complaint in case number 2018-047787 signed this 24th day of October, 2018.

/s/ Jett Baumann
JETT BAUMANN
Assistant General Counsel
Florida Bar No. 122159
Jett.Baumann@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
Tallahassee, Florida 32399-2202
Telephone: (850)-717-1585
Facsimile: (850) 921-1311

NOTICE OF RIGHTS TO REQUEST A HEARING

Pursuant to section 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, *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.