

<b>FILED</b>	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/10/2020
File #	2020-00323

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.: 2018-057832

CHARLES MACKENDY ST. CYR,

Respondent.

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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 December 11, 2019, Thomas J. Izzo, 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 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.

This Final Order in DBPR Case Number 2018-057832 is DONE AND ORDERED this 7<sup>th</sup> day of January, 2020, in Tallahassee, Florida.



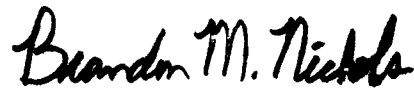
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**LOUIS TROMBETTA, DIRECTOR**  
Division of Pari-Mutuel Wagering  
Department of Business and Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-1035

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 10<sup>th</sup> day of January, 2020, that a true and correct copy of the foregoing Final Order has been provided by U.S. mail to:

**Charles Mackendy St. Cyr**  
c/o Scott A. Mersky, Esquire  
120 South Olive Avenue, Suite 401  
West Palm Beach, Florida 33401



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**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**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	<b>Evette Lawson-Proctor</b>
Date	12/13/2019
File #	

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

Petitioner,

**DBPR CASE No.: 2018-057832**

v.

**CHARLES MACKENDY ST. CYR,**

Respondent.

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**HEARING OFFICER'S RECOMMENDED ORDER**

**THIS MATTER** came before Thomas J. Izzo, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (hereinafter "Division" or "Petitioner"), on November 6, 2019, in Tallahassee, Florida, in accordance with the provisions of section 120.57(2), of the Florida Statutes, for consideration of the Division's Administrative Complaint against Respondent, Charles Mackendy St. Cyr (hereinafter "Respondent") filed on June 7, 2019, in DBPR Case Number 2018-057832. The Petitioner was represented by Jason Holman, Assistant General Counsel. Respondent and his represented counsel, Scott A. Mersky, Esq., appeared telephonically.

**PRELIMINARY STATEMENT**

1. On June 7, 2019, the Division filed an Administrative Complaint against Respondent in DBPR Case Number 2018-057832. The Administrative Complaint alleged that Respondent was permanently excluded from Fort Pierce Jai-Alai & Poker (hereinafter "Fort Pierce Poker") on June 28, 2018, and that Respondent was subject to permanent exclusion from all licensed pari-mutuel facilities in the State of Florida, based on his permanent exclusion from Fort Pierce Poker on June 28, 2018.

2. The Division received Respondent's Election of Rights form on or about July 31, 2019, wherein Respondent requested a formal hearing pursuant to sections 120.569(2)(a) and 120.57(1), Florida Statutes. In his Election of Rights, Respondent disputed the allegations contained in paragraph 8 of the Administrative Complaint.

3. On or about August 13, 2019, the Division received Respondent's Amended Election of Rights form (hereafter "Amended EOR"), wherein Respondent requested a formal hearing pursuant to sections 120.569(2)(a) and 120.57(1), Florida Statutes, and disputed that he was ejected and permanently ejected from Fort Pierce Poker.

4. On or about September 11, 2019, the Division received Respondent's Second Amended Election of Rights form (hereafter "2<sup>nd</sup> Amended EOR"), wherein Respondent requested an informal hearing pursuant to section 120.57(2), Florida Statutes.

5. On November 6, 2019, an informal hearing was conducted, during which time the Hearing Officer granted Petitioner's Motion to accept the finding of facts in the Administrative Complaint as the undisputed facts of the case, and accepted the Administrative Complaint and investigative file as exhibits, all of which were admitted into evidence. Respondent testified on his own behalf, presented testimony of his wife, Katrina St. Cyr, and Julieta Degen; and offered two bank records as exhibits, all of which was admitted into evidence.

6. Both Petitioner and Respondent submitted its respective Proposed Recommended Orders on the agreed-upon date.

7. References to any statutes or administrative rules relate to the applicable versions in full force and effect at the time when the alleged offenses occurred, unless otherwise noted herein.

### FINDINGS OF FACT

8. Petitioner is the state agency responsible for and charged with regulating and enforcing Florida's pari-mutuel laws, including the regulation of all pari-mutuel wagering activities and cardroom operations in Florida pursuant to chapter 550 and section 849.086, Florida Statutes.

9. At all times material to this case, Respondent was a patron of Isle Casino.

10. At all times material to this case, Fort Pierce Poker was a facility operated by a permit holder authorized to conduct pari-mutuel wagering and to operate a cardroom in the State of Florida.

11. At all times material to this case, Respondent held a Cardroom Employee Occupational License, number 10401608-1012, issued by the Division.

12. Respondent testified that he was employed as a poker dealer at the Palm Beach Kennel Club, a licensed pari-mutuel facility in this State, for approximately five years.

13. Respondent testified that as a poker dealer at another licensed pari-mutuel facility, that he is familiar with the subject of exclusion of patrons from a pari-mutuel facility, and that an individual who has been issued an exclusion from a licensed pari-mutuel facility is not permitted future entry into the facility.

14. Respondent testified that he was ejected and received a permanent exclusion from Fort Pierce Poker on June 28, 2018. Respondent also testified signing a document contained in the investigate report that was entered into evidence titled, "Fort Pierce Poker's Exclusion Statement" dated June 28, 2018.

15. The Exclusion Statement concluded that Respondent has been permanently excluded from Fort Pierce Poker, which made him a candidate for exclusion from all pari-mutuel facilities in the State of Florida.

16. Respondent testified that although the Exclusion Statement banned him permanently from the facility, he believed the exclusion was only for a period of six months and that it was a self-exclusion.

17. When asked why Fort Pierce Poker permanently excluded him from their facility on the date in question, Respondent testified that the action taken by the facility was the result of a poker dealer of the facility who had a personal vendetta against him. Respondent brought no evidence or witnesses to support his contention.

### CONCLUSIONS OF LAW

18. Pursuant to Chapters 120 and 550, Florida Statutes, the Division has jurisdiction over the subject matter of this proceeding and the parties in this present matter.

19. At all times material to this case, Fort Pierce Poker was a facility operated by a permit holder authorized to conduct pari-mutuel wagering and cardroom operations in the State of Florida.

20. Section 550.0251(6), Florida Statutes, provides, in relevant part, "...the division may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person was a licensee, a violation of this chapter or the rules of the division. The division may exclude from any pari-mutuel facility in this state any person who has been ejected from a pari-mutuel facility in this state..."

21. Based upon the above-quoted statute and his permanent exclusion from Fort Pierce Poker on June 28, 2018, Respondent is subject to permanent exclusion from all licensed pari-mutuel facilities in the State of Florida.

22. In order to exclude an individual from all licensed pari-mutuel facilities in the State of Florida, the Division must prove that the individual has been ejected from a pari-mutuel facility in this state.

23. The undisputed evidence supports that Fort Pierce Poker ejected Respondent and permanently banned him from the facility on June 28, 2018.

24. As a result, Respondent is subject to exclusion from all licensed pari-mutuel facilities in the State of Florida. The action proposed to be taken by the Division is appropriate under the facts presented here.

25. On the merits, there is competent substantial evidence to support the conclusions of law herein.

**RECOMMENDATION**

**WHEREFORE**, based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby **RECOMMENDED** that the Division of Pari-Mutuel Wagering issue a final order permanently excluding Respondent, Charles Mackendy St. Cyr, from all pari-mutuel facilities in the State of Florida.

**RESPECTFULLY SUBMITTED** on this 11<sup>TH</sup> day of December, 2019.



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**Thomas J. Izzo, Hearing Officer**  
Office of the General Counsel  
Department of Business and Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-2202

*[Space Intentionally Left Blank; See Following Page for Certificate of Service and Notice of Right to Submit Exceptions]*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY on this 13 day of December, 2019, that a true and correct copy of the foregoing "Recommended Order" has been furnished by U.S. Mail and Electronic Mail to:

**Charles Mackendy St. Cyr**  
**c/o Scott A. Mersky, Esq.**  
120 South Olive Avenue, Suite 401  
West Palm Beach, Florida 33401-5533  
[samerskypa@aol.com](mailto:samerskypa@aol.com)

  
**AGENCY CLERK'S OFFICE**  
Department of Business & Professional Regulation

**Copies Furnished To:**

Thomas J. Izzo, Hearing Officer  
Keneidra Williams, AIII OGC  
Jason Holman, Assistant General Counsel

**NOTICE OF RIGHT TO SUBMIT EXCEPTIONS**

All parties to this proceeding have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering who will issue the Final Order in this case.

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	<b>Evelle Lawson-Proctor</b>
Date	6/7/2019
File #	

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.: 2018-057832

v.

CHARLES MACKENDY ST CYR,

Respondent.

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ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner"), files this Administrative Complaint against Charles MacKendy St Cyr ("Respondent") and alleges as follows:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering, slot machines, and cardroom operations pursuant to chapters 550 and 551, Florida Statutes.
2. At all times material, Fort Pierce Jai-Alai & Poker was a facility operated by a permitholder authorized to conduct pari-mutuel wagering and cardroom operations in the State of Florida.
3. At all times material, Respondent held a Cardroom Employee Occupational License, number 10401608-1012, issued by Petitioner.
4. At all times pertinent to the allegations contained herein, Respondent was patron at Fort Pierce Jai-Alai & Poker.
5. On or about June 28, 2018, Respondent was ejected and permanently excluded from Fort Pierce Jai-Alai & Poker.

6. 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).

7. 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).

8. Based on the foregoing, Respondent violated section 550.0251(6) and 551.112, Florida Statutes, and is subject to permanent exclusion from all licensed pari-mutuel wagering facilities in the State of Florida based on his ejection from Fort Pierce Jai-Alai & Poker on or about June 28, 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 chapters 550 and 551, Florida Statutes, and/or the rules promulgated thereunder.

This Administrative Complaint for DBPR Case Number 2018-057832 is signed this 6th day of June, 2019.

/s/ Jett Baumann  
**JETT BAUMANN**  
Assistant General Counsel  
Florida Bar No. 122159  
Jett.Baumann@MyFloridaLicense.com

/s/ Megan S. Silver  
**MEGAN S. SILVER**  
Chief Attorney  
Florida Bar No. 115518  
Megan.Silver@MyFloridaLicense.com

Office of the General Counsel  
Division of Pari-Mutuel Wagering  
Department of Business and Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-1035  
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, *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.

Mediation under section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.