

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.: 2018-059848

v.

ROLANDO FRANCISCO ABALLI,

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 October 24, 2019, Alison A. 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.

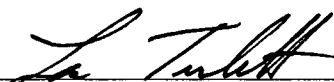
ORDER

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 and slot machine 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 21 day of November, 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 that a true and correct copy of the foregoing "Final Order" has been provided by U.S. mail this 26th day of November, 2019, to:

Rolando Francisco Aballi
1655 West 44th Place, #326
Hialeah, Florida 33012

Brandon M. Nichols

AGENCY CLERK'S OFFICE

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	10/28/2019
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.: 2018-059848

DOAH Case No.: 19-3426

v.

RONALDO FRANCISCO ABALLI,

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 on October 2, 2019, in Tallahassee, Florida, in accordance with the provisions of section 120.57(2), Florida Statutes, for consideration of the three-count Administrative Complaint filed May 15, 2019 against Rolando Francisco Aballi ("Respondent"). The Division of Pari-Mutuel Wagering ("Division") was represented by Jason Holman, Assistant General Counsel. Petitioner failed to appear after the undersigned Hearing Officer attempted to telephone Respondent three different times during the time frame listed on the applicable Notice of Hearing; to wit: 9:06 a.m., 9:12 a.m., and 9:28 a.m. As a result, the informal hearing was conducted without an agent of Respondent present.

PROCEDURAL HISTORY

1. On May 15, 2019, the Division filed an Administrative Complaint against Respondent. The Administrative Complaint alleged that:

- a. On or about June 11, 2017, Respondent conspired with, solicited, aided, abetted, counseled, hired, or procured another person to knowingly exclude, or take any action in an attempt to exclude, anything of value from the deposit, counting, collection or computation of revenues from slot machine activity, in violation of Rule 61D-14.090, *Florida Administrative Code*;
 - b. Respondent was excluded from Casino Miami Jai Alai ("Casino Miami") on June 26, 2018 and Respondent was subject to permanent exclusion from all licensed slot machine facilities in the State of Florida based on his permanent exclusion from Casino Miami on June 26, 2018; and
 - c. Respondent was excluded from Casino Miami Jai Alai ("Casino Miami") on June 26, 2018 and Respondent was subject to permanent exclusion from all licensed pari-mutuel facilities in the State of Florida based on his permanent exclusion from Casino Miami on June 26, 2018.
2. The Division received Petitioner's first Election of Rights form on June 10, 2019 wherein Petitioner requested a formal hearing pursuant to section 120.569(2) and 120.57(1), Florida Statutes.
 3. On or about June 25, 2019, Petitioner sent the case to the Department of Administrative Hearings ("DOAH") for a formal administrative hearing.
 4. On July 5, 2019, DOAH issued its Notice of Hearing by Video Teleconference setting a formal hearing for August 20, 2019 at 9:00 a.m.
 5. Three days later, on July 8, 2019, Petitioner issued interlocking written discovery to the Respondent, including the Request for Admissions. Responses were due on or about August 12, 2019.

6. On August 13, 2019, Petitioner filed a Renewed Emergency Motion for Order to Show Cause and a Motion for Continuance of Final Hearing, arguing that Respondent had failed to respond to discovery and as such, that the final hearing must be continued.

7. On August 14, 2019, DOAH entered an Order Compelling Responses to Discovery. The Court ordered as follows:

- a. Each matter for which admission was requested is recognized as admitted pursuant to Florida Rule of Civil Procedure 1.370;
- b. Respondent shall respond in writing to all remaining discovery requests (Interrogatories and Requests for Production of documents);
- c. Respondent may file a motion to withdraw admissions containing a full and complete response to each matter addressed in Petitioner's Request for Admission on or before August 26, 2019;
- d. The final hearing of this matter currently set for August 20, 2019, is continued. On or before August 26, 2019, the parties shall confer and provide the undersigned with mutually convenient dates for final hearing prior to November 25, 2019; and
- e. Failure of Respondent to timely comply with this Order will result in a determination that Respondent waived any defenses to the allegations of the Administrative Complaint and a recommendation for the imposition of remedies requested by Petitioner identified in the Administrative Complaint, including, but not limited to, the revocation of excluding Respondent from all licensed pari-mutuel and slot machine facilities in Florida.

8. As a result of the DOAH Order dated August 14, 2019, the following facts were deemed admitted:

- a. At all times material to this case, Respondent was a patron of Casino Miami;
- b. At all times material to this case, Casino Miami was a facility operated by a permit holder authorized to conduct pari-mutuel wagering, operate slot machines, and a cardroom in the State of Florida;
- c. On or about June 11, 2017 Respondent was permanently excluded from Casino Miami Jai-Alai (Casino Miami);
- d. Respondent possesses no evidence to suggest that he was improperly identified;
- e. Irrespective of the underlying circumstances resulting in Respondent being excluded from Casino Miami Jai-Alai (Casino Miami), Respondent was, in fact, excluded or otherwise told to leave Casino Miami Jai-Alai (Casino Miami);
- f. Respondent possesses no witnesses who can attest to the circumstances resulting in Respondent's exclusion from Casino Miami Jai-Alai (Casino Miami);
- g. Respondent possesses no tangible evidence suggesting that he was not excluded from Casino Miami Jai-Alai (Casino Miami);
- h. Section 550.0251(6), Florida Statutes, authorizes the Division of Pari-Mutuel Wagering to exclude patrons from all licensed pari-mutuel facilities who have been excluded from any licensed pari-mutuel facility in the State of Florida; and
- i. The documents [attached to the Interlocking Discovery request] contain a materially accurate summary of events accounting for the circumstances for which Respondent was excluded from Casino Miami Jai-Alai (Casino Miami).

9. As a result of the admissions, there no longer were material facts in dispute. On September 4, 2019, Petitioner filed a Motion to Relinquish Jurisdiction, and DOAH relinquished jurisdiction on September 5, 2019.

10. On September 6, 2019, Petitioner set an informal hearing for October 2, 2019, and notified Respondent of the same.

11. At the informal hearing on October 2, 2019, the Division presented the issues raised in its Administrative Complaint and cited the procedural history of the matter. The undersigned Hearing Officer accepted the Division's Motion to Relinquish Jurisdiction and Order Relinquishing Jurisdiction (both filed at DOAH) into the record. The undersigned also admitted the Administrative Complaint and Investigative Report as the undisputed facts in the case.

12. Although three attempts were made to contact Respondent on the date of the informal hearing, Respondent did not appear at the informal hearing.

FINDINGS OF FACT

13. At all material times, Respondent was a patron of Casino Miami.

14. On or about June 11, 2017, Respondent conspired with, solicited, aided, abetted, counseled, hired or procured another person to knowingly exclude, or take any action in an attempt to exclude, anything of value from the deposit, counting, collection or computation of revenues from slot machine activity.

15. On or about June 26, 2018, Respondent was ejected and permanently excluded from Casino Miami.

CONCLUSIONS OF LAW

16. The undersigned Hearing Officer has the jurisdiction to hear this case pursuant to section 120.57(2), Florida Statutes.

17. Petitioner is the state agency charged with regulating pari-mutuel wagering, slot machines, and cardroom operations pursuant to chapters 550 and 551, Florida Statutes.

18. At all times material hereto, Casino Miami was a facility operated by a permitholder authorized to conduct pari-mutuel wagering and operate slot machines in the State of Florida.

19. Section 551.109(3), Florida Statutes, imposes criminal liability on an individual for tampering with a slot machine, providing:

Any person who knowingly excludes, or takes any action in an attempt to exclude, anything of value from the deposit, counting, collection, or computation of revenues from slot machine activity, or any person who by trick, sleight-of-hand performance, a fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof or reduces or attempts to reduce a losing wager in connection with slot machine gaming commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

20. Rule 61D-14.090, *Florida Administrative Code*, provides “[n]o person shall conspire with, solicit, aid, abet, counsel, hire, or procure any other person or 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.”

21. 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(3), Florida Statutes, or by committing such an act on his own at Casino Miami on or about June 11, 2017.

22. 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).

23. 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).

24. 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 on June 26, 2018.

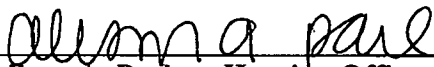
[RECOMMENDATION ON FOLLOWING PAGE]

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 Ronaldo Francisco Aballi from all pari-mutuel facilities and slot machine facilities in the State of Florida.

Respectfully submitted this 24th day of October 2019.


Alison A. Parker, Hearing Officer
Department of Business and
Professional Regulation

CERTIFICATE OF SERVICE

I hereby certify this 28 day of October 2019 that a true copy of the foregoing has been furnished by mail to:

Rolando Francisco Aballi
1655 West 44th Place, #326
Hialeah, Florida 33012


AGENCY CLERK'S OFFICE

cc:

Alison A. Parker, Informal Hearing Officer
Jason Holman, 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,

vs.

DBPR Case No. 2018-059848.

ROLANDO FRANCISCO ABALLI,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Rolando Francisco Aballi (“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 (“Casino Miami”).
3. At all times material hereto, Casino Miami was a facility operated by a permitholder authorized to conduct pari-mutuel wagering and operate slot machines in the State of Florida.
4. At all times hereto, Respondent’s address was reported as 1330 West 26th Place, Apartment 11, Hialeah, Florida 33010.

5. On or about June 11, 2017, Respondent conspired with, solicited, aided, abetted, counseled, hired, or procured another person to knowingly exclude, or take any action in an attempt to exclude, anything of value from the deposit, counting, collection, or computation of revenues from slot machine activity.

6. On or about June 26, 2018, Respondent was ejected and permanently excluded from Casino Miami.

COUNT I

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

8. Section 551.109(3), Florida Statutes, imposes criminal liability on an individual for tampering with a slot machine, providing:

Any person who knowingly excludes, or takes any action in an attempt to exclude, anything of value from the deposit, counting, collection, or computation of revenues from slot machine activity, or any person who by trick, sleight-of-hand performance, a fraud or fraudulent scheme, or device wins or attempts to win, for himself or herself or for another, money or property or a combination thereof or reduces or attempts to reduce a losing wager in connection with slot machine gaming commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

9. Rule 61D-14.090, *Florida Administrative Code*, provides “[n]o person shall conspire with, solicit, aid, abet, counsel, hire, or procure any other person or 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.”

10. 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(3), Florida Statutes, or by committing such an act on his own at Casino Miami on or about June 11, 2017.

COUNT II

11. Petitioner realleges and incorporates the allegations contained within paragraphs one, three, and six as though fully set forth herein.

12. 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).

13. 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 on or about June 26, 2018.

COUNT III

14. Petitioner realleges and incorporates the allegations contained within paragraphs one, three, and six as though fully set forth herein.

15. 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).

16. 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 on or about June 26, 2018.

WHEREFORE, Petitioner respectfully requests the Division Director 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, and 849, Florida Statutes, and/or the rules promulgated thereunder.

This Administrative Complaint for DBPR Case Number 2018-059848 is signed this 14th day of May, 2019.

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

/s/ James A. Lewis
JAMES A. LEWIS
Deputy Chief Attorney
Florida Bar No. 1002349
James.Lewis@MyFloridaLicense.com

Office of the General Counsel
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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 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. Please be advised that mediation is not available in this proceeding.

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