

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.: 2019-017313

LYNNWARD MCCLYDE,

Respondent.

_____ /

FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), issues this Final Order against Lynnward McClyde (“Respondent”) and states as follows:

1. An Administrative Complaint was filed in this case on July 22, 2019, alleging that Respondent violated section 550.0251(6), Florida Statutes. A copy of the Administrative Complaint is attached hereto as “Exhibit 1”.
2. The Administrative Complaint, Election of Rights form, an Explanation of Rights, and a cover letter were served on Respondent via certified mail on October 8, 2019.
3. Proof of service is attached hereto as “Exhibit 2” and incorporated by reference.
4. The Election of Rights form, Explanation of Rights, and cover letter informed Respondent that a written response to the Administrative Complaint, including the right to request a hearing, was due within 21 days of actual service of the Administrative Complaint. See section 120.569(1), Florida Statutes, and Rule 28-106.111, *Florida Administrative Code*.

5. Petitioner informed Respondent that the failure to file a timely response to the Administrative Complaint shall be deemed a waiver of the right to a hearing.

6. Respondent has not filed a timely response to the Administrative Complaint.

7. Respondent has not submitted any evidence or made any allegations that would support the application of the doctrine of equitable tolling.

Having considered the Administrative Complaint, the proof of service, and being otherwise fully advised in the premises, it is hereby

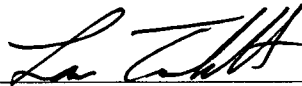
ORDERED and ADJUDGED:

8. The allegations of fact and the conclusions of law in the Administrative Complaint are adopted in their entirety herein.

9. Respondent is PERMANENTLY EXCLUDED from all pari-mutuel facilities in the State of Florida.

10. This Final Order is effective on the date it is filed with the Agency Clerk of the Department of Business and Professional Regulation.

DONE and ORDERED this 21 day of November, 2019.



LOUIS TROMBETTA, DIRECTOR

Division of Pari-Mutuel Wagering

Department of Business and

Professional Regulation

2601 Blair Stone Road

Tallahassee, Florida 32399-1035

Telephone: (850) 488-9130

NOTICE OF RIGHT TO APPEAL

Any party to this proceeding has the right to seek its judicial review under section 120.68, Florida Statutes, by the filing of an original notice of appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Agency Clerk, 2601 Blair Stone Road, Tallahassee, Florida 32399-2202 (Email: AGC.Filing@myfloridalicense.com), and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate Florida district court of appeal. The notice of appeal must be filed (received) in the Office of the Agency Clerk within thirty (30) days after the date this Order is filed with the Clerk.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Final Order on Waiver was furnished by U.S. Mail on 26th day of November, 2019 to:

Lynnward McClyde
BOP Register #17948-104
FDC Miami, Federal Detention Center
P.O. Box 019120
Miami, Florida 33101

Brandon M. Nichols

AGENCY CLERK'S OFFICE

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,
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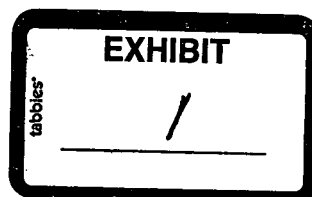
LYNNWARD MCCLYDE,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner"), files this Administrative Complaint against Lynnward McClyde ("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's address was reported as 9400 N.W. 29th Court, Miami, Florida 33147.
3. At all times material hereto, Magic City Casino was a facility operated by a permitholder authorized to conduct pari-mutuel wagering in the State of Florida.
4. On or about January 15, 2019, Respondent was ejected and permanently excluded from Magic City Casino.



COUNT I

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

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 is subject to permanent exclusion from all licensed slot machine and pari-mutuel facilities in the State of Florida based on his ejection from Magic City Casino on or about January 15, 2019.

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(s) 550 and 551, Florida Statutes, and/or the rules promulgated thereunder.

This Administrative Complaint for DBPR Case Number 2019-017313 is signed this 19th day of July, 2019.

/s/ Jason Holman
JASON HOLMAN
Senior Attorney
Florida Bar No. 105238
Jason.Holman@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
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Facsimile: (850) 921-1311

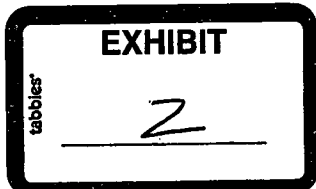
NOTICE OF RIGHTS TO REQUEST A HEARING

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.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X <i>[Signature]</i></p> <p>B. Received by (Printed Name) _____</p> <p>C. Date of Delivery _____</p>
<p>1. Article Addressed to:</p> <p>Lynnward McClyde Register No.: 17948-104 FDC Miami, Federal Detention Center P.O. Box 019120 Miami, Florida 33101</p>  <p>9590 9402 5122 9092 9044 05</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If YES, enter delivery address below: _____</p> <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Mail Restricted Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p>7019 0140 0000 6235 6064</p>	<p>Postmark: FLAGLER COUNTY POST OFFICE, MIAMI, FL 33101, AUG 08 2019</p>
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt</p>	



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