

**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.: 2020-026849

OBERLUIS PERURENA CRUZ,

Respondent.

_____ /

FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (hereinafter "Petitioner"), issues this Final Order against Oberluis Perurena Cruz, (hereinafter "Respondent") as follows:

1. An Administrative Complaint was filed in this case on December 17, 2020, alleging that Respondent violated section 550.0251(6) and 551.112, Florida Statutes. A copy of the Administrative Complaint is attached hereto as Exhibit "1" and incorporated by reference.
2. The Administrative Complaint, Election of Rights form, an Explanation of Rights, and a cover letter were served on Respondent via certified U.S. mail on January 11, 2021. Proof of service is attached hereto as Exhibit "2" and incorporated by reference.
3. 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*.

4. 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.

5. Respondent has not filed a timely response to the Administrative Complaint. 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 service of the Administrative Complaint with Election of Rights form, Explanation of Rights, and cover letter on Respondent along with Respondent's failure to respond, and being otherwise fully advised in the premises, it is hereby

ORDERED and ADJUDGED:

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

7. Respondent is hereby **PERMANENTLY EXCLUDED** from all pari-mutuel facilities within the state of Florida.

8. This Final Order is effective on the date it is filed with the Agency Clerk of the Department of Business and Professional Regulation, as indicated on the first page of this Order.

This Final Order in DBPR Case Number 2020-026849 is DONE and ORDERED this 10 day of February, 2021.



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

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 on this 12th day of February, 2021, a true and correct copy of this Final Order has been sent via U.S. Mail to:

Oberluis Perurena Cruz,
175 East 5th Street
Hialeah, Florida 33010

Brandon M. Nichols

AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

CC: Linda Turnage

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evelle Lawson-Proctor**
Date **12/17/2020**
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.: 2020-026849

v.

OBERLUIS PERURENA CRUZ,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Oberluis Perurena Cruz (“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 849, Florida Statutes.
2. At all times material hereto, Respondent’s address was reported as 175 East 5th Street, Hialeah, Florida 33010.
3. At all times material hereto, Casino Miami LLC was a facility operated by a permitholder authorized to conduct pari-mutuel wagering, slot machines, and cardroom operations in the State of Florida.
4. On or about March 10, 2020, Respondent was a patron of Casino Miami LLC.
5. On or about March 10, 2020, Respondent was ejected and excluded from Casino Miami LLC.
6. Section 550.0251(6), Florida Statutes, provides in relevant part:

EXHIBIT
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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 Casino Miami LLC on or about March 10, 2020.

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 2020-026849 is signed this 16th day of December 2020.

/s/ Emily A. Leiva

Emily A. Leiva
Assistant General Counsel
Florida Bar Number: 1025200
Department of Business and Professional Regulation
Office of the General Counsel
Division of Pari-Mutuel Wagering
2601 Blair Stone Road
Tallahassee, Florida 32399-1035
Telephone: (850) 717-1128
Facsimile: (850) 921-1311
Primary: Emily.Leiva@MyFloridaLicense.com
Secondary: Linda.Turnage@MyFloridaLicense.com

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.

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Delivered to Agent

January 11, 2021 at 12:12 pm
Delivered to Agent for Final Delivery
HIALEAH, FL 33010

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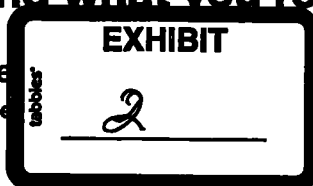
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12/18/2020

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Oberluis Perurena Cruz
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2020-026849 PMW