

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.: 2021-015959

BARRY GOLDMAN,
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 July 30, 2021, Alison A. Parker, Hearing Officer for the Department, issued the Recommended Order in this matter. The 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 hereby PERMANENTLY EXCLUDED from all licensed 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 2021-015959 is DONE AND ORDERED this 27 day of August, 2021, 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 30th day of August 2021, that a true and correct copy of the foregoing Final Order has been sent via U.S. Mail to:

Barry Goldman
1030 South West 11th Street, Apt. 1
Hallandale, Florida 33009

Brandon M. Nichols

AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

CC: Ebonie Lanier

FILED	
Department of Business and Professional Regulation AGENCY CLERK	
CLERK	Ronda L Bryan
Date	7/30/2021
File #	

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

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BARRY GOLDMAN,

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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 June 2, 2021, in Tallahassee, Florida, in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes. This informal hearing was conducted for consideration of the Division's Administrative Complaint filed against Barry Goldman ("Respondent"), in DBPR Case Number 2021-015959 ("Administrative Complaint"). The Division of Pari-Mutuel Wagering ("Division" or "Petitioner") was represented by Emily A. Leiva, Assistant General Counsel. Respondent appeared *pro se* and the hearing was held by video conference call. Both sides were permitted to present witnesses, proffer items into evidence, and otherwise fully participate in the hearing.

FINDINGS OF FACT

Procedural History

1. On April 19, 2021, the Division filed an Administrative Complaint against Respondent alleging that on September 15, 2020, Respondent was permanently excluded from

Big Easy Casino (the "Casino") and that he is subject to exclusion from all licensed pari-mutuel facilities in the State of Florida.

2. On May 5, 2021, Respondent requested an informal hearing pursuant to section 120.57(2), Florida Statutes.

3. Shortly thereafter, Petitioner scheduled the informal hearing for June 2, 2021.

4. On May 13, 2021, Petitioner provided Respondent with proper notice of the aforementioned informal hearing via a Notice of Hearing, sent via U.S. mail.

5. Prior to the informal hearing, Respondent provide a panoply of character witness letters.

The Events that Led to Respondent's Exclusion

6. At all times pertinent to the allegations contained herein, Respondent was a patron of the Casino.

7. On approximately September 15, 2020, Respondent was ejected and permanently excluded from the Casino.

8. On approximately March 5, 2021, Respondent approached a Division staff member, Shaida Horard, Slot Operation Specialist, working in the Casino's poker room.

9. During this conversation, Respondent relayed that he believed he had been unjustly excluded from the facility.¹

10. Following their conversation, Ms. Horard notified Division employee William Smith, Investigation Specialist II of Respondent's complaint², which catalyzed the Division's investigation and the resulting Administrative Complaint referenced above.

¹ Division's Investigative Report, p.1.

² Division's Investigative Report, Exhibit 1, p.1.

The Informal Hearing – June 2, 2021

11. The informal hearing occurred on June 2, 2021 (“informal hearing”).
12. The aforementioned character witness letters from Respondent were moved into evidence, without objection from Petitioner.
13. At the informal hearing, the Division presented the issues raised in its Administrative Complaint. The undersigned Hearing Officer granted the Division’s motion to accept the Findings of Fact in the Administrative Complaint as the undisputed facts in the case, and accepted the investigative report into the record.
14. During the informal hearing, Respondent testified regarding his exclusion:
 - a. He stated that prior to receipt of the investigative report, Respondent was unclear about the reason behind his exclusion from Big Easy Casino, heard several rumors regarding the actual reason, and proffered multiple possible explanations;
 - b. He posits that he was excluded by the Casino due to a personal vendetta that the Casino had against him for making complaints;
 - c. Respondent emphasized that he values casino patronage because it serves as his primary source of socializing, so he does not wish to be barred from other casinos; and
 - d. He does not deny that he was excluded from the Casino.
15. Also during the informal hearing, Respondent testified regarding the alleged home poker games:
 - a. Respondent clarified that he had previously hosted monthly “no charge” poker games at his house, which ceased three years ago;

- b. Respondent specified that the home poker games consisted of no rake, pot, or winnings;
- c. Currently, Respondent stated he currently lives in a condominium so he no longer has the physical space to house these games, so they take place at someone else's house;
- d. He stated the home games tend to be so popular that some acquaintances will ask him to let him know if there are any openings; and
- e. Respondent stated that he would occasionally solicit participants from the Casino when one of the usual home poker players was sick, infirm or otherwise unavailable.

16. Section 849.08, Florida Statutes, states “[w]hoever plays or engages in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.”

CONCLUSIONS OF LAW

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

18. The Division has jurisdiction over the subject matter and the Parties pursuant to Chapter 120, Florida Statutes.

19. At all times material, the Casino was a facility operated by a permitholder authorized to conduct pari-mutuel wagering, cardroom, and slot machine operations in the State of Florida.

20. 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 added).

21. Respondent is subject to exclusion from all licensed pari-mutuel facilities in the State of Florida based on his ejection and permanent exclusion from Big Easy Casino on September 15, 2020. *See* § 550.0251(6), Fla. Stat.

22. Respondent's testimony neither mitigates the fact that Respondent was permanently excluded from the Casino, nor precludes the Division from permanently excluding Respondent from all licensed pari-mutuel facilities in the State of Florida. *See Id.*

23. Additionally, nothing in the record contradicts the assertion that Mr. Horard has hosted home poker games in the past, solicited home poker game participants, or attended home poker games at other residences.

24. Notably, Respondent spoke with Ms. Horard at the Casino, he was in violation of his facility exclusion.

25. There is competent substantial evidence to support the conclusions of law.

[RECOMMENDATION ON FOLLOWING PAGE]

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law, it is hereby requested that the Division enter a Final Order excluding Respondent from all pari-mutuel facilities in the State of Florida.

Respectfully submitted this 28th day of July 2021.


Alison A. Parker, Hearing Officer
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

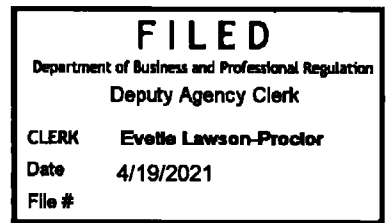
CERTIFICATE OF SERVICE

I hereby certify this 30th day of July 2021 that a true copy of the foregoing "Hearing Officer's Recommended Order" has been provided by mail to:

Mr. Barry Goldman
1030 SW 11th Street, Apt. 1
Hallandale Beach, Florida 33009


AGENCY-CLERK'S OFFICE

cc:
Emily Leiva, Assistant General Counsel
Ebonie Lanier, AAIH
Chelsie Durden, AAIH
Alison A. Parker, Hearing Officer



STATE OF FLORIDA
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DIVISION OF PARI-MUTUEL WAGERING

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BARRY GOLDMAN,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Barry Goldman (“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 1030 S.W. 11th Street, Apt. 1, Hallandale Beach, Florida 33009.
3. At all times material hereto, Big Easy Casino 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 September 15, 2020, Respondent was a patron of Big Easy Casino.
5. On or about September 15, 2020, Respondent was ejected and permanently excluded from Big Easy Casino.
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 exclusion from all licensed pari-mutuel wagering facilities in the State of Florida based on his ejection from Big Easy Casino on or about September 15, 2020.

WHEREFORE, Petitioner respectfully requests the Division Director enter an Order 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 2021-015959 is signed this 12th day of April 2021.

/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 32399-2202
Telephone: (850) 717-1783
Facsimile: (850) 921-1311
Primary: Emily.Leiva@MyFloridaLicense.com
Secondary: Ebonie.Lanier@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.