

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.: 2022-010542

DAMIAN ALBERTO DE REBOLEDO,

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 June 28, 2022, 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

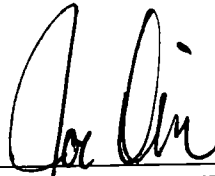
The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

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 pari-mutuel facilities and all facilities of a slot machine licensee within 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 2022-010542 is DONE AND ORDERED this 28 day of JUNE, 2022, in Tallahassee, Florida.



JOE DILLMORE, 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 29th day of June 2022, that a true and correct copy of the foregoing Final Order has been sent via U.S. Mail to:

Damian Alberto De Reboledo
14028 Southwest 67th Terrace
Miami, Florida 33183



AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

cc: Ebonie Lanier

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

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Petitioner,

DBPR Case No.: 2022-010542

v.

DAMIAN ALBERTO DE REBOLEDO,

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 June 15, 2022, and reconvened on June 24, 2022, in Tallahassee, Florida, in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes, for consideration of the Division's Administrative Complaint filed against Mr. Damian Alberto De Reboledo ("Respondent"), in DBPR Case Number 2022-010542 ("Administrative Complaint"). The Division of Pari-Mutuel Wagering ("Division") was represented by Emily A. Alvarado, Deputy Chief Attorney. Respondent appeared *pro se* and the hearing was held telephonically. Both sides were permitted to present witnesses, proffer items into evidence, and otherwise fully participate in the hearing.

PROCEDURAL HISTORY

1. On March 16, 2022, the Division filed an Administrative Complaint against Respondent alleging that on February 18, 2022, Respondent, a casino patron, was ejected and

excluded from Magic City Casino and that he is subject to exclusion from all licensed pari-mutuel facilities and all facilities of a slot machine licensee in the State of Florida.

2. On May 10 2022, Respondent requested a formal hearing pursuant to section 120.57(1), Florida Statutes, along with a letter explaining the reason for the exclusion.

3. Subsequently, the Division issued a deficiency letter to Respondent notifying him that he had not specifically disputed material facts and requesting that he cure this deficiency by submitting an amended Election of Rights form.

4. On June 1, 2022, the Division received an amended Election of Rights form from Respondent, who then requested an informal hearing pursuant to section 120.57(2), Florida Statutes.

The First Informal Hearing – June 15, 2022

5. The first informal hearing transpired as scheduled on June 15, 2022.

6. During this hearing, the Division presented the issues raised in its Administrative Complaint. The Division successfully moved the undersigned to accept the Findings of Fact in the Administrative Complaint as the undisputed facts in the case. Additionally, the investigative report was accepted into the record.

7. During the hearing, Respondent explained the incident that lead to his exclusion at Magic City Casino on February 18, 2022:

- a. Respondent stated that he was playing poker in the Magic City Casino cardroom and lost a few hands in a row;
- b. Respondent testified that he was frustrated that he continued to lose;
- c. He stated that he grabbed a chip from the table and forcefully pushed it towards the dealer. This chip hit the dealer's hand;

- d. Respondent testified that he did not mean to hit the dealer and that he understands how he acted was wrong;
 - e. After this incident occurred, he was escorted to the security office and told that he would be excluded for thirty (30) days.
8. Magic City Casino reviewed the surveillance footage and decided to permanently exclude Respondent.
9. Respondent testified that he returned to Magic City Casino 30 days after the original exclusion. While at the casino, he was told by Magic City Casino staff that he has been permanently excluded from the property.
10. On June 22, 2022, Respondent requested to reconvene the informal hearing in order to present a witness.
11. The informal hearing was scheduled, by agreement of all parties, to reconvene on June 24, 2022 at 10:30 a.m.

The Second Informal Hearing – June 24, 2022

12. The reconvened hearing transpired as scheduled on June 24, 2022.
13. At the hearing, Respondent presented a witness, Adam Wally (“Mr. Wally”).
14. Mr. Wally testified that he was playing at the poker table at Magic City Casino with Respondent seated to this left on February 18, 2022.
15. He testified that he had won a high hand and Respondent was visibly frustrated that he had lost.
16. He further testified that in response to losing the hand, Respondent threw the chip in the middle of the poker table. He stated he saw the chip hit the dealer’s hand.

17. When asked if he believed this to be appropriate behavior at a poker table, Mr. Wally responded that he did not think it was appropriate to throw chips.

18. Mr. Wally testified that he did not think it was Respondent's intention to hit the dealer and when asked if he knew Respondent's intent, he stated he did not.

19. When asked if the poker dealer is seated in the middle of the table, he responded yes.

20. Mr. Wally was asked if he saw Respondent apologize for hitting the dealer's hand, he responded no.

21. Respondent testified that he was unaware at the time that he hit the poker dealer's hand. He stated that after returning from the security office to pick up his chips, he asked Mr. Wally if the chip hit the dealer, to which he responded that it had.

22. Respondent testified that he did not apologize to the dealer because by the time he became aware that he had hit the dealer, the dealer was no longer at the table.

23. When asked how he knew Respondent, Mr. Wally stated that they met at Magic City Casino poker room and they have known each other for about 18 months.

FINDINGS OF FACT

24. At all times pertinent to the allegations contained herein, Respondent was a patron at Magic City Casino.

25. On February 18, 2022, Respondent was ejected and excluded from Magic City Casino.

CONCLUSIONS OF LAW

26. The undersigned Hearing Officer has jurisdiction to hear this cause pursuant to 120.57(2), Florida Statutes.

27. The Division has jurisdiction over this matter pursuant to Chapters 120, 550, and 551, Florida Statutes.

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

29. 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).

30. 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).

31. Respondent is subject to exclusion from all licensed pari-mutuel facilities and all facilities of a slot machine licensee in the State of Florida based on his ejection and permanent exclusion from Magic City Casino on February 18, 2022. *See* § 550.0251(6), and § 551.112 Fla. Stat.

32. Mr. Adam Wally testified credibly regarding what he witnessed on February 18, 2022.

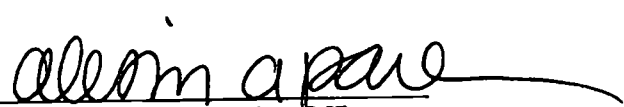
33. However, Mr. Wally's testimony neither mitigates the fact that Respondent was permanently excluded from Magic City Casino, nor precludes the Division from excluding Respondent from all licensed pari-mutuel facilities and all facilities of a slot machine licensee in the State of Florida. *See Id.* This is also true for Respondent's own testimony.

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

RECOMMENDATION

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

Respectfully submitted this 27th day of June 2022.


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

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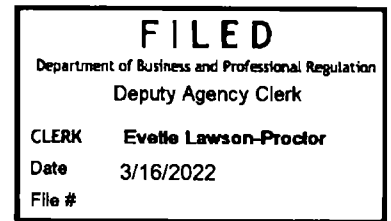
CERTIFICATE OF SERVICE

I hereby certify this 28 day of June 2022 that a true copy of the foregoing Hearing Officer's Recommended Order has been provided by mail to:

Damian Alberto De Reboledo
14028 Southwest 67th Terrace
Miami, Florida 33183


AGENCY CLERK'S OFFICE

Cc: Alison A. Parker, Hearing Officer
Emily A. Alvarado, Deputy Chief Attorney



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DAMIAN ALBERTO DE REBOLEDO,

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 Damien Alberto De Reboledo ("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 14020 Southwest 67th Terrace Miami, Florida 33183.
3. At all times material hereto, Magic City 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 February 18, 2022, Respondent was a patron of Magic City Casino.
5. On or about February 18, 2022, Respondent was ejected and permanently excluded from Magic City 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 Sections 550.0251(6) and 551.112, Florida Statutes and is subject to exclusion from all licensed pari-mutuel wagering facilities and any facility of a slot machine licensee in the State of Florida based on his ejection from Magic City Casino on or about February 18, 2022.

WHEREFORE, Petitioner respectfully requests the Division Director enter an Order excluding Respondent from all licensed pari-mutuel wagering facilities and any facility of a slot machine licensee 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 2022-010542 is signed this 15th day of March 2022.

/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: Fbonie.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.