

STATE OF FLORIDA
FLORIDA GAMING CONTROL COMMISSION

FLORIDA GAMING CONTROL COMMISSION,
DIVISION OF PARI-MUTUEL WAGERING,

Petitioner,

v.

FGCC Case No.: 2023-055750

FRANK C. HURLBERT,

Respondent.

_____ /

FINAL ORDER

This matter appeared before the Florida Gaming Control Commission at a duly-noticed public meeting on March 6, 2024, for final agency action pursuant to sections 120.569 and 120.57(2), Florida Statutes. After a complete review of the record in this matter, the Commission makes the following findings of fact and conclusions of law:

1. An Administrative Complaint was filed in this case on December 18, 2023, alleging that (i) Respondent is subject to exclusion from all licensed pari-mutuel facilities in the state of Florida pursuant to section 550.0251(6), and (ii) Respondent is subject to the suspension or revocation of his occupational license, pursuant to section 849.086(14)(a), Florida Statutes. A copy of the Administrative Complaint is attached hereto, marked as Exhibit A, and incorporated herein.

2. Respondent was served with the Administrative Complaint, Election of Rights form, an explanation of rights and cover letter via Certified Mail on December 26, 2023. Proof of service is attached hereto, marked as Exhibit B, and incorporated herein.

3. The Election of Rights form, explanation of rights, and cover letter notified 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* § 120.569(1), Fla. Stat., and Fla. Admin. Code. R. 28-106.111.

4. Petitioner notified Respondent that the failure to file a timely response to the Administrative Complaint would be deemed a waiver of the right to a hearing.

5. Respondent failed to file a timely response to the Administrative Complaint, and 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:

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

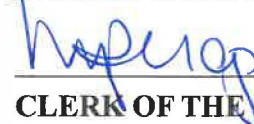
2. Respondent is hereby **PERMANENTLY EXCLUDED** from all pari-mutuel facilities within the state of Florida.

3. Respondent's Cardroom Employee Occupational License, number 8268733, is hereby **REVOKED**.

This Final Order shall take effect upon being filed with the Clerk of the Commission.

DONE AND ORDERED this 4th day of April, 2024.

FLORIDA GAMING CONTROL COMMISSION



CLERK OF THE COMMISSION

On Behalf of

Julie Brown, Vice-Chair

John D' Aquila, Commissioner

Charles Drago, Commissioner

Tina Repp, Commissioner

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 Clerk of the Commission, 4070 Esplanade Way, Tallahassee, Florida 32399 (Email: clerk@flgaming.gov), 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) by the Clerk of the Commission within thirty (30) days after the date this Order is filed with the Clerk of the Commission.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of April, 2024, a true and correct copy of this Final Order has been sent via U.S. Mail to:

Frank C. Hurlbert
452 Southwest Curry Street
Port St. Lucie, Florida 34983



CLERK OF THE COMMISSION
Florida Gaming Control Commission

CC: Ebonie Lanier

STATE OF FLORIDA
FLORIDA GAMING CONTROL COMMISSION
DIVISION OF PARI-MUTUEL WAGERING

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ADMINISTRATIVE COMPLAINT

1. The Florida Gaming Control Commission, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Frank C. Hurlbert (“Respondent”), and alleges:

2. 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.

3. At all times material hereto, Respondent held a Cardroom Employee Occupational License, number 8268733, issued pursuant to section 849.086(6), Florida Statutes.

4. At all times material hereto, Melbourne Greyhound Park, LLC was a facility operated by a permit holder authorized to conduct pari-mutuel wagering and cardroom operations in the state of Florida pursuant to chapters 550 and 849, Florida Statutes.

5. Respondent was employed as a poker dealer at Melbourne Greyhound Park, LLC.

6. On or about September 22, 2023, Respondent was observed via surveillance footage stealing chips from the players during live poker games.



7. On September 29, 2023, Respondent was terminated from his employment as a poker dealer at Melbourne Greyhound Park, LLC.

COUNT I

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

9. Rule 75-11.005(4), Florida Administrative Code, provides, in pertinent part, that “[n]o person shall, either directly or indirectly (a) [e]mploy or attempt to employ any device, scheme, or artifice to defraud any participant in a game or the cardroom operator.”

10. Section 849.086(14)(a), Florida Statutes, provides that:

The commission may deny a license or the renewal thereof, or may suspend or revoke any license, when the applicant has: violated or failed to comply with the provisions of this section or any rules adopted pursuant thereto; knowingly caused, aided, abetted, or conspired with another to cause any person to violate this section or any rules adopted pursuant thereto; or obtained a license or permit by fraud, misrepresentation, or concealment; or if the holder of such license or permit is no longer eligible under this section.

11. Based on the foregoing, Respondent violated rule 75-11.005(4), Florida Administrative Code, by employing a device, scheme, or artifice to defraud the participants of games and is therefore subject to suspension or revocation of her occupational license.

COUNT II

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

13. 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 this state, the commission 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 commission. The commission 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).

14. Based on the foregoing, Respondent is subject to exclusion from all licensed pari-mutuel wagering facilities in the state of Florida based on his termination for theft from Melbourne Greyhound Park, LLC on September 29, 2023.

WHEREFORE, Petitioner respectfully requests the Florida Gaming Control Commission enter an Order revoking or suspending Respondent's Occupational License and excluding Respondent from all licensed pari-mutuel wagering facilities in the state of Florida, along with any other remedy provided by chapters 550 and 849 Florida Statutes, and/or the rules promulgated thereunder.

This Administrative Complaint for FGCC Case Number 2023-055750 is signed this 12th day of December 2023.

/s/Emily A. Alvarado

Emily A. Alvarado
Deputy Chief Attorney
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Division of Pari-Mutuel Wagering
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Tallahassee, Florida 32399-2202
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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.