

STATE OF FLORIDA
FLORIDA GAMING CONTROL COMMISSION

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

Petitioner,

v.

FGCC Case No.: 2023-050182

JOSE MANUEL MARTINEZ DE OSABA,

Respondent.

_____ /

FINAL ORDER

This matter appeared before the Florida Gaming Control Commission at a duly-noticed public meeting on October 2, 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 July 16, 2024, alleging that Respondent is subject to exclusion from all licensed pari-mutuel facilities and all facilities of a slot machine licensee in the state of Florida pursuant to sections 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 mail. 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 Complaint, including the right to request a hearing, was due within 21 days of actual service of the Complaints. *See* § 120.569(1), Fla. Stat., and Fla. Admin. Code R. 28-106.111 .

4. Petitioner informed 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 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:

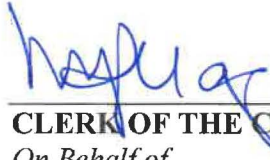
6. The allegations of fact and the conclusions of law in the Administrative Complaint are adopted in their entirety herein.

7. Respondent is hereby **PERMANENTLY EXCLUDED** from all pari-mutuel facilities and all facilities of a slot machine licensee within the state of Florida.

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

DONE AND ORDERED this 3RD day of OCTOBER, 2024.

FLORIDA GAMING CONTROL COMMISSION



CLERK OF THE COMMISSION

On Behalf of

Julie I. Brown, Vice-Chair

Charles Drago, Commissioner

John D'Aquila, Commissioner

Tina Repp, Commissioner

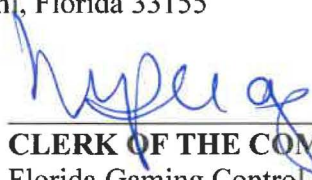
NOTICE OF RIGHT TO APPEAL

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 3RD day of OCTOBER, 2024, a true and correct copy of this Final Order has been sent via USPS mail to:

Jose Manuel Martinez De Osaba
4350 Southwest 84th Avenue
Miami, Florida 33155



CLERK OF THE COMMISSION
Florida Gaming Control Commission

CC: Ebonie Lanier

STATE OF FLORIDA
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ADMINISTRATIVE COMPLAINT

The Florida Gaming Control Commission, Division of Pari-Mutuel Wagering (“Petitioner”), files this Administrative Complaint against Jose Manuel Martinez De Osaba (“Respondent”), and alleges:

1. Petitioner is the state agency charged with regulating pari-mutuel, slot machine, and cardroom operations pursuant to chapters 550, 551, and 849, Florida Statutes.
2. At all times material hereto, Respondent’s address was reported as 4350 Southwest 84th Avenue, Miami, FL 33155.
3. At all times material hereto, Casino Miami, LLC (“Casino Miami”) was a facility operated by a permitholder authorized by the Commission to conduct pari-mutuel wagering, cardroom operations, and slot operations in the state of Florida.
4. On or about July 25, 2023, Respondent was a patron of Casino Miami.
5. On or about August 3, 2023, Respondent was permanently excluded from Casino Miami.

6. Respondent was permanently excluded for the reasons alleged in Exhibit A.
7. 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 added).

8. 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 commission 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 commission. The commission 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 added).

9. Based on the foregoing, Respondent is subject to exclusion from all licensed pari-mutuel wagering facilities and any facility of a slot machine licensee in the state of Florida under sections 550.0251(6) and 551.112, Florida Statutes, based on his ejection from Casino Miami on or about August 3, 2023.

WHEREFORE, Petitioner respectfully requests the Florida Gaming Control Commission 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, in accordance with sections 550.0251(6) and 551.112, Florida Statutes, along with any other remedy provided by chapters 550 and 551 and/or the rules promulgated thereunder.

This Administrative Complaint for FGCC Case Number 2023-050182 is signed this 15th day of July, 2024.

/s/ Emily A. Alvarado

Emily A. Alvarado
Chief Attorney
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Florida Gaming Control Commission
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Division of Pari-Mutuel Wagering
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Tallahassee, Florida 32399-2202
Telephone: (850) 794-8066
Facsimile: +1 (850) 536-8709
Primary: Emily.Alvarado@flagaming.gov
Secondary: Ebonie.Lanier@flgaming.gov

NOTICE OF RIGHT 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.