

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	9/23/2014
File #	2014-07250

JEFFERSON COUNTY KENNEL CLUB, INC.,

Petitioner,

DBPR CASE NOS. 2014007596
2014031564

v.

DEPARTMENT OF BUSINESS &
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,

Respondent

DEPARTMENT OF BUSINESS &
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,

Petitioner,

DBPR CASE NOS. 2014011900
2014012798

v.

JEFFERSON COUNTY KENNEL CLUB, INC.,

Respondent

CONSENT ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (Division), and the Jefferson County Kennel Club, Inc. (JCKC), hereby stipulate and agree to the following terms and issuance of this Consent Order:

1. At all times material hereto, Respondent held a greyhound pari-mutuel permit, number 0000146-1001, and a cardroom license, number 0000146-1002, issued by the Division.
2. This Consent Order is entered in resolution of the Division's pending administrative cases with JCKC involving the denial of JCKC's requests to amend its 2013-14 & 2014-15 per-

formance dates licenses (DBPR Nos. 2014007596 & 2014031564) and JCKC's failure to conduct its scheduled 2013-14 & 2014-15 performances (DBPR Nos. 2014011900 & 2014012798).

STIPULATION

3. The Division has jurisdiction over this matter and the parties.
4. The Division is authorized by Section 120.57, Florida Statutes, to resolve administrative proceedings by Consent Order.
5. Each party has entered into the terms of this Consent Order voluntarily with full advice of counsel.
6. This Consent Order is enforceable under Section 120.69, Section 849.086, and Chapter 550, Florida Statutes, as final agency action.
7. Each party shall bear its own costs and legal fees related to this matter, and no financial claim shall be made against the Division in this action.
8. JCKC and the Division acknowledge and agree that this Consent Order and contained stipulation constitute the Final Order of the Division respecting the matter set forth above, that no fines will be imposed on JCKC as a result of the facts leading up to this Consent Order, and that further administrative and judicial review is hereby waived by both parties.
9. In resolution of this matter, JCKC retains its Chapter 550 pari-mutuel permit but agrees to the suspension of that permit for the purpose of applying for as performance dates (Sections 550.0115 & .01215) and cardroom (Section 849.086) licenses until the 2017-18 license year (commencing July 1, 2017, and running through June 30, 2018), as well as that it will not apply for a performance dates or cardroom license prior to the time it may do so for the 2017-18 year.
10. This Consent Order shall be without prejudice to and have no effect on any application JCKC may make for 2017-18 performance dates and cardroom licenses, or thereafter. However, JCKC and the Division acknowledge and agree that this Consent Order and contained

stipulation constitute the Final Order of the Division respecting this matter and that further administrative and judicial review is hereby waived by both parties. It is also understood that this Order in no way precludes additional proceedings by the Division against JCKC for acts or omissions not specifically set forth herein.

11. This Consent Order does not prohibit JCKC from selling its Chapter 550 pari-mutuel permit at any time to a third party if such third party is unconnected in any way, either directly or indirectly, with JCKC and the sale is approved by the Division in accordance with Section 550.1815, Florida Statutes.

12. If JCKC does make an approved sale its Chapter 550 permit to a third party as authorized in ¶ 11 above, such third party may apply, as appropriate, for its Chapter 550 pari-mutuel performance dates and Section 849.086 cardroom licenses for the 2016-17 license year despite JCKC's suspension barring it from applying for such until the 2017-18 licensing year.

13. It is expressly understood that this Stipulation / Consent Order is subject to the approval of the Director of the Division of Pari-Mutuel Wagering (Director). In this regard, the Stipulation shall have no force and effect unless this Consent Order, incorporating the terms of this Stipulation, is signed by both parties. Should this Consent Order be rejected, no statement made in furtherance of this stipulation by JCKC may be used as direct evidence against the JCKC in any proceeding except as impeachment.

14. Upon the Division's adoption of this Consent Order, JCKC expressly waives all further procedural steps, including all rights to judicial review, as well as the right to seek any attorney's fees or costs from the Division in connection with this proceeding.

15. This Consent Order is executed by both parties for the purpose of avoiding further administrative action with respect to this cause. In this regard, JCKC authorizes the Director to review and examine all materials concerning JCKC prior to or in conjunction with consideration of

the Stipulation. Should this joint Stipulation not be accepted by the Director, it is agreed that presentation to and consideration of this Consent Order and other documents and matters by the Director shall not unfairly or illegally prejudice the Director from further participation, consideration, or resolution of these proceedings.

16. WHEREFORE, IT IS STIPULATED AND AGREED that JCKC's permit to apply for performance dates (Sections 550.0115 & .01215) and cardroom (Section 849.086) licenses shall be and is hereby suspended until the 2017-18 licensing year, but that JCKC may at any time sell its Chapter 550 pari-mutuel permit to a third party unconnected, either directly or indirectly, with JCKC and that any such third party would be able to apply for performance dates and cardroom licenses for the 2016-17 license.

APPROVED this 22nd day of September, 2014.



JONATHAN R. ZACHEM
Florida Bar No. 83617
Chief Attorney
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-2202

ORDER

IT IS HEREBY ORDERED THAT

The foregoing paragraphs one (1) through sixteen (16) of this Stipulation / Consent Order shall constitute the agreed resolution of this matter and the Final Order of the Division in Case Nos. 2014007596, 2014031564, 2014011900, & 2014012798 once filed with the Agency Clerk.

DONE AND ORDERED this 22nd day of September, 2014

in Tallahassee, Florida:



LEON M. BIEGALSKI, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-1035

CERTIFICATE OF SERVICE

I hereby certify this ^{23rd} ~~22nd~~ ^{Bmw} day of September, 2014, that a true copy of

the foregoing "Order" has been served by email upon:

JEFFERSON COUNTY KENNEL CLUB
c/o Council L. "Luther" Pickels
<lpickes@centurylink.net>
Post Office Box 400
825 East Dogwood Street
Monticello, Florida 32345-0400
(850) 544-2209



AGENCY CLERK'S OFFICE
Department of Business & Professional Regulation

Copies to:

Jonathan R. Zachem, Chief Attorney
Charles T. "Chip" Collette, Assistant General Counsel

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

FILED	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
CLERK	Evette Lawson-Proctor
Date	9/8/2014
File #	

DEPARTMENT OF BUSINESS &
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,

DBPR CASE NOS. 2014011900

Petitioner,

(AND)

v.

2014012798

JEFFERSON COUNTY KENNEL CLUB, INC.,

Respondent.

NOTICE OF SCRIVENER'S ERROR

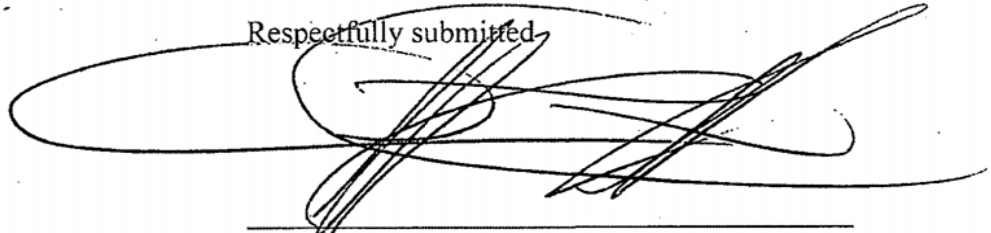
On August 13, 2014, the Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering (Division), served the Administrative Complaint in this matter. That Administrative Complaint contained scrivener's error in ¶ 13 by including the phrase "either pre- or post-strike" in its second line. That phrase was a typographical error and should not have been included in the Administrative Complaint in this cause.

Accordingly, ¶ 13 of the Administrative Complaint should read as follows:

13. Respondent's failure to conduct any of the performances scheduled by its 2013-14 performance dates license violated Section 849.086(5)(b)'s "90 percent" requirement and effected a *de facto* amendment of Respondent's annual operating dates license within the meaning of Rule 61D-11.007(1).

WHEREFORE, the Division hereby provides this "Notice of Scrivener's Error" to correct the Administrative Complaint in this cause as described above.

Respectfully submitted



CHARLES T. "CHIP" COLLETTE

Florida Bar I.D. No. 126657

Assistant General Counsel

chip.collette@myfloridalicense.com

(850) 717-1194 / FAX 921-1311

JONATHAN R. ZACHEM

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Division of Pari-Mutuel Wagering

1940 North Monroe Street, Suite 40

Tallahassee, Florida 32399-2202

Attorneys for Division of Pari-Mutuel Wagering

CERTIFICATE OF SERVICE

We hereby certify this 4th day of September, 2014, that a true copy of the foregoing

"Notice of Scrivener's Error" has been served by email upon:

FRED R. DUDLEY, ESQ.

<dudley@mylicenselaw.com>

Dudley, Sellers & Healy, P.L.

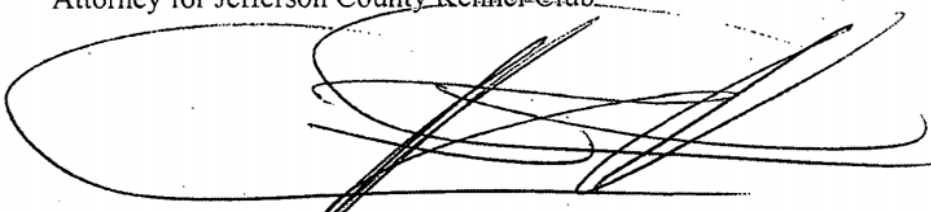
SunTrust Financial Center

3522 Thomasville Road, Suite 301

Tallahassee, Florida 32309-3488

(850) 294-3471

Attorney for Jefferson County Kennel-Club



CHARLES T. "CHIP" COLLETTE

JONATHAN R. ZACHEM

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	8/13/2014
File #	

DEPARTMENT OF BUSINESS &
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,

Petitioner,

DBPR CASE NOS. 2014011900

(AND)

v.

2014012798

JEFFERSON COUNTY KENNEL CLUB, INC.,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (Division) files this Administrative Complaint against Jefferson County Kennel Club, Inc. (Respondent), and alleges as follows:

1. The Division is the state agency charged with regulating pari-mutuel and cardroom operations pursuant to Chapter 550 and Section 849.086, Florida Statutes.
2. At all times material hereto, Respondent held a greyhound pari-mutuel permit, number 0000146-1001, and a cardroom license, number 0000146-1002, issued by the Division.
3. On June 26, 2013, the Division issued Respondent its 2013-14 performance dates license for 218 performances commencing on March 14, 2014, and concluding June 30, 2014.
4. Respondent did not conduct a single one of those 218 performances scheduled in its 2013-14 performance dates license.
5. On December 17, 2013, Respondent applied for its 2014-15 performance dates license to conduct 226 performances starting July 1, 2014, and ending November 8, 2014. On March 14, 2014, the Division issued Respondent its 2014-15 performance dates license for those 226 performances.

6. On June 12, 2014, Respondent wrote the Division requesting amendment of its 2014-15 performance dates license by closing "100 percent for the 2014/2015 season" with its license therefore "inactive for this period." The Division has not yet acted on Respondent's letter, but nevertheless commencing July 1, 2014, and continuing through the date of this administrative complaint Respondent has conducted none of its scheduled 2014-15 performances.

7. Section 550.01215(3), Florida Statutes, requires that "[e]ach permitholder shall operate all performances at the date and time specified in its license."

8. Section 550.01215(4), Florida Statutes, provides in relevant part:

(4) In the event that a permitholder fails to operate all performances specified on its license at the date and time specified, the division shall hold a hearing to determine whether to fine or suspend the permitholder's license Financial hardship to the permitholder shall not, in and of itself, constitute just cause for failure to operate all performances on the dates and at the times specified.

9. Section 550.0251(10), Florida Statutes, provides in relevant part that the Division "may suspend or revoke a permit [or] pari-mutuel license ... for a violation under this chapter."

10. Section 849.086(5)(b), Florida Statutes, provides in relevant part:

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. In order for a cardroom license to be renewed the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year. ...

11. Respondent is required to conduct a minimum of 217 performances each year in order to retain its cardroom license under Section 849.086(5)(b), Florida Statutes.

12. Rule 61D-11.007(1), Florida Administrative Code (F.A.C.), provides:

(1) If a pari-mutuel permitholder amends its annual operating dates license and such amended license does not satisfy the renewal application requirements of Section 849.086(5)(b), F.S., the cardroom license will become void upon the issuance of the amended annual operating dates license.

13. Respondent's failure to conduct any of the performances scheduled by its 2013-14 performance dates license, either pre- or post-strike, violated Section 849.086(5)(b)'s "90 percent" requirement and effected a *de facto* amendment of Respondent's annual operating dates license within the meaning of Rule 61D-11.007(1).

14. Section 849.086(4)(d), Florida Statutes, authorizes the Division to "[s]uspend or revoke any license or permit, after hearing, for any violation of the provisions of this section [§ 849.086] or the administrative rules adopted pursuant thereto," and Section 849.086(14)(a), Florida Statutes, similarly authorizes the Division to "suspend or revoke any license" for failure "to comply with the provisions of this section or any rules adopted pursuant thereto."

COUNT I

15. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(9) above.

16. By failing to conduct its 118 remaining 2013-14 performances or any of its current 2014-15 performances, Respondent has violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to having its current 2014-15 performance dates license suspended or revoked pursuant to Sections 550.01215(4) and/or 550.0251(10), Florida Statutes.

COUNT II

17. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(14) above.

18. By failing to conduct its 118 remaining 2013-14 performances or any of its current 2014-15 performances, Respondent has violated Section 849.086(5)(b), Florida Statutes, and Rule 61D-11.007(1), F.A.C., by failing "to conduct at least 90 percent of the total number of live performances" it conducted "during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto" (i.e., 217 performances), and

is subject to having its cardroom license suspended or revoked pursuant to Sections 849.086(4)(d) & 849.086(14)(a), Florida Statutes.

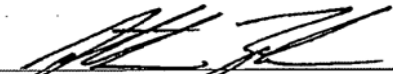
WHEREFORE, Petitioner respectfully requests the Division enter a Final Order:

(A) Suspending or revoking Respondent's current 2014-15 performance dates pari-mutuel license pursuant to Sections 550.01215(4) and/or 550.0251(10), Florida Statutes;

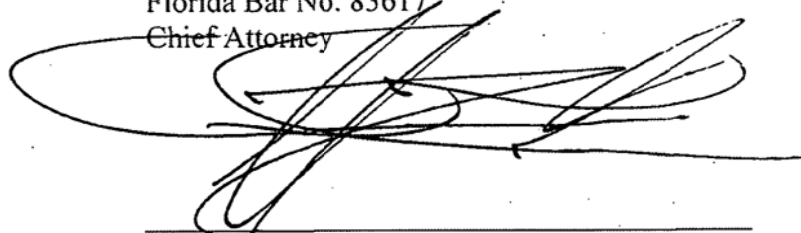
(B) Suspending or revoking Respondent's current 2014-15 cardroom license pursuant to Sections 849.086(4)(d) and/or 849.086(14)(a), Florida Statutes, as well as Rule 61D-11.007(1), F.A.C.; and

(C) Suspending or revoking Respondent's Chapter 550 pari-mutuel permit (number 0000146-1001) pursuant to Section 550.0251(10), Florida Statutes.

Signed this 13th day of August, 2014.



JONATHAN R. LACHEM
Florida Bar No. 83617
Chief Attorney



CHARLES T. "CHIP" COLLETTE
Florida Bar No. 126657
Assistant General Counsel

Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
1940 North Monroe Street, Suite 40
Tallahassee, Florida 32399-2202

CERTIFICATE OF SERVICE

We hereby certify this 13th day of August, 2014, that true copy of the foregoing "Administrative Complaint," together with "Notice of Rights," has been served by email upon the following:

FRED R. DUDLEY, ESQ.
<dudley@mylicenselaw.com>
Dudley, Sellers & Healy, P.L.
SunTrust Financial Center
3522 Thomasville Road, Suite 301
Tallahassee, Florida 32309-3488
(850) 294-3471
Attorney for Jefferson County Kennel Club



JONATHAN R. ZACHEM
CHARLES T. "CHIP" COLLETTE

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

**DEPARTMENT OF BUSINESS &
PROFESSIONAL REGULATION, DIVISION
OF PARI-MUTUEL WAGERING,**

DBPR CASE NOS. 2014011900

Petitioner,

(AND)

v.

2014012798

JEFFERSON COUNTY KENNEL CLUB, INC.,

Respondent.

NOTICE OF RIGHTS

In order to obtain an administrative hearing with respect to the "Administrative Complaint" served with this notice, you must, within 21 days of your receipt of the administrative complaint and this notice, file a petition or request for an administrative hearing with: Agency Clerk, Department of Business & Professional Regulation; 1940 North Monroe Street, Tallahassee, Florida 32399 {email: OGCAgencyClerk@myfloridalicense.com}.

In this regard, please be advised that pursuant to Rule 28-106.2015(5), Florida Administrative Code (F.A.C.), all requests for hearing must, at a minimum, include:

(a) The name, address, any e-mail address, telephone number, and facsimile number, if any, of the respondent, if the respondent is not represented by an attorney or qualified representative.

(b) The name, address, e-mail address, telephone number, and facsimile number of the attorney or qualified representative of the respondent, if any, upon whom service of pleadings and other papers shall be made.

(c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.

(d) A statement of when the respondent received notice of the administrative complaint.

(e) A statement including the file number to the administrative complaint.

If you timely file a petition or request for hearing and do not dispute the material facts in the administrative complaint, you will be granted a hearing not involving disputed issues of material fact (an informal administrative hearing) pursuant to Section 120.57(2), Florida Statutes, before the agency's designated hearing officer. If you dispute the material facts in the administrative complaint, you must specifically identify those material facts which you dispute.