

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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

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

Petitioner,

v.

Case No. 2013-018873

RICHMOND ENTERTAINMENT, INC.,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner") files this Administrative Complaint against Richmond Entertainment, Inc. ("Respondent") and alleges:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes.
2. At all times material hereto, Respondent held a jai alai pari-mutuel permit, number 0000282-1000, and a jai alai license, number 0000282-1001, issued by the Division.
3. On or about April 26, 2013, Respondent hosted a live session jai alai series of performances.
4. The official program for the performances listed, among others, Nile Brower and Charles "Chaz" Brower as judges.

5. Nile Brower and Charles "Chaz" Brower participated, as players or substitutes, in every game for all six matinees performed.

6. Nile Brower and Charles "Chaz" Brower would alternate with a third individual as the judge for each game.

7. Rule 61D-2.020(7), Florida Administrative Code, states in relevant part "[n]o jai alai judge shall be under contract as an active player in a fronton in which that judge officiates."

8. Respondent violated Rule 61D-2.020(7), Florida Administrative Code, by having judges that are under contract as active players in the fronton that they are officiating.

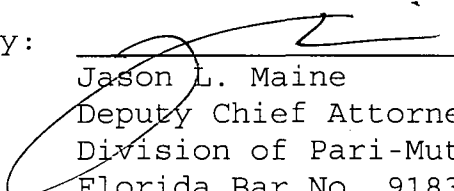
WHEREFORE, Petitioner respectfully requests the Division enter an Order imposing any or all penalties delineated within Section 550.0251, Florida Statutes, and/or any other relief that the Division is authorized to impose pursuant to Chapter 550, Florida Statutes, and/or the rules promulgated thereunder.

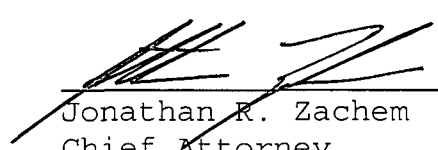
<signature page to follow>

Signed this 13 day of August, 2014.

KEN LAWSON, Secretary
Department of Business and
Professional Regulation

By:


Jason L. Maine
Deputy Chief Attorney
Division of Pari-Mutuel Wagering
Florida Bar No. 91833
Department of Business and
Professional Regulation
1940 N. Monroe Street, Ste. 40
Tallahassee, FL 32399-2202
(850)488-0062 Telephone
(850)921-1311 Facsimile


Jonathan R. Zachem
Chief Attorney
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Florida Bar No. 0083617
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STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION

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

Petitioner,

CASE No. 2013-018873

v.

RICHMOND ENTERTAINMENT, 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.

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

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

Petitioner,

v.

JEFFERSON COUNTY KENNEL CLUB, INC.,

Respondent.

DBPR CASE NOS. 2014011900

(AND)

2014012798

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.

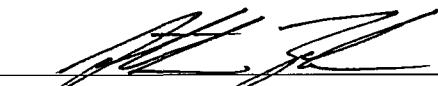
WHEREFORE, Petitioner respectfully requests the Division enter a Final Order:

(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;

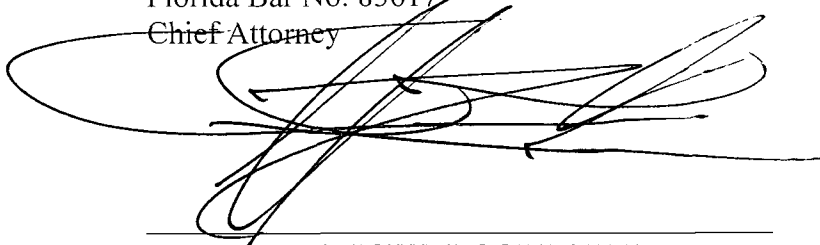
(B) Suspending or revoking Respondent's current 2014-15 cardroom license pursuant to Sections 849.086(4)(d) and/or 849.086(14)(a), Florida Statutes, as well as Rule 61D-11.007(1), F.A.C.; and

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

Signed this 13~~th~~ day of August, 2014.



JONATHAN R. ZACHEM
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.

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

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

Petitioner,

DBPR CASE NOS. 2014012511

v.

(AND)

2014012794

RICHMOND ENTERTAINMENT, INC.
(d/b/a Hamilton Jai Alai & Poker),

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (Division) files this Administrative Complaint against Richmond Entertainment, Inc. (d/b/a Hamilton Jai Alai & Poker) (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 jai alai pari-mutuel permit, number 0000282-1001, and a cardroom license, number 0000282-1002, issued by the Division.
3. On March 15, 2013, the Division issued Respondent its 2013-14 performance dates license for 225 performances commencing February 3 and ending June 11, 2014.
4. Respondent did not conduct any of its February and March 2014 jai alai performances as scheduled in its 2013-14 performance dates license – those being the 42 performances (6 a day for 7 consecutive days) scheduled for February 3 through February 9, 2014, and the 42 performances (6 a day for 7 consecutive days) scheduled for March 3 through March 9, 2014 – a total of 84 performances in all.

5. Prior to its next scheduled 42 jai alai performances (April 7 through April 13, 2014), sometime in the last week of March or the first week of April, Respondent advised Division investigator Chuck Taylor that its jai alai players were going on strike and it would not be able to conduct its upcoming scheduled performances.

6. When investigator Taylor visited Respondent's pari-mutuel facility on April 3, 2014, there was no indication Respondent's jai alai players were on strike. However, when investigator Taylor revisited the facility on April 10, 2014, there were "ON STRIKE" signs posted outside the facility, and Respondent had conducted none of its scheduled jai alai performances.

7. As of May 22, 2014, Respondent had conducted none of its scheduled 2013-14 jai alai performances, and by email of that date advised Division licensing administrator Jamie Pouncey that "[o]ur players are still on strike."

8. By the conclusion of its 2013-14 performance year on June 30, 2014, Respondent had conducted not a single one of the 225 jai alai performances scheduled in its 2013-14 performance dates license, either those for February and March 2014 prior to the strike or those for April through June 2014 after the strike.

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

10. 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 unless such failure was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. 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. [EMPHASIS ADDED.]

11. Respondent's failure to conduct its February and March 2014 performances was prior to its jai alai players going on strike in April 2014, and thus by failing to conduct those 84

February and March 2014 performances Respondent is in violation of Section 550.01215(4), Florida Statutes.

12. Section 550.0251(10), Florida Statutes, provides in relevant part

(10) The division may impose an administrative fine for a violation under this chapter of not more than \$1,000 for each count or separate offense, except as otherwise provided in this chapter, and may suspend or revoke a permit, a pari-mutuel license, or an occupational license for a violation under this chapter. ...

13. 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. ...

14. Respondent is required to conduct a minimum of 225 performances each year in order to retain its cardroom license under Section 849.086(5)(b), Florida Statutes.

15. 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.

16. 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).

17. 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

18. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

19. By failing to conduct any of its scheduled performances on Monday, February 3, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT II

20. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

21. By failing to conduct any of its scheduled performances on Tuesday, February 4, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT III

22. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

23. By failing to conduct any of its scheduled performances on Wednesday, February 5, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT IV

24. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

25. By failing to conduct any of its scheduled performances on Thursday, February 6, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT V

26. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

27. By failing to conduct any of its scheduled performances on Friday, February 7, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT VI

28. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

29. By failing to conduct any of its scheduled performances on Saturday, February 8, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT VII

30. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

31. By failing to conduct any of its scheduled performances on Sunday, February 9, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT VIII

32. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

33. By failing to conduct any of its scheduled performances on Monday, March 3, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT IX

34. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

35. By failing to conduct any of its scheduled performances on Tuesday, March 4, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT X

36. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

37. By failing to conduct any of its scheduled performances on Wednesday, March 5, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT XI

38. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

39. By failing to conduct any of its scheduled performances on Thursday, March 6, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT XII

40. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

41. By failing to conduct any of its scheduled performances on Friday, March 7, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT XIII

42. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

43. By failing to conduct any of its scheduled performances on Saturday, March 8, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT XIV

44. The Division hereby realleges and incorporates herein as if fully set forth the allegations made in paragraphs (1)-(12) above.

45. By failing to conduct any of its scheduled performances on Sunday, March 9, 2014, Respondent violated Sections 550.01215(3) & (4), Florida Statutes, and is subject to a \$1,000 administrative fine pursuant to Section 550.0251(10), Florida Statutes.

COUNT XV

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

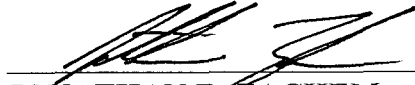
47. By failing to conduct any of its 225 scheduled 2013-14 performances, Respondent has violated Section 849.086(5)(b), Florida Statutes, and Rule 61D-11.007(1), F.A.C., by failing “to conduct at least 90 percent of the total number of live performances” it conducted “during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto” (i.e., 225 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:

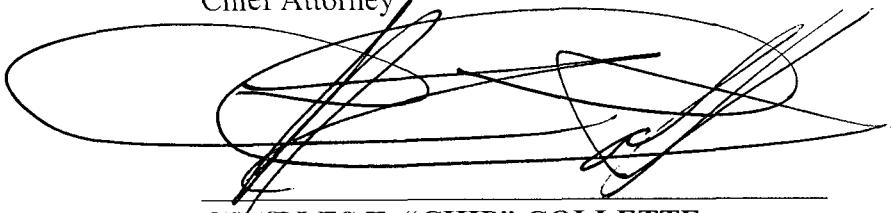
(A) Imposing a total administrative fine of \$14,000 on Respondent pursuant to Section 550.0251(10), Florida Statutes, \$1,000 for each of COUNTS I-XIV for the 14 days in February and March 2014 where Respondent failed to conduct any of its scheduled performances; and

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

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:

RICHARD E. GENTRY, ESQ.

<rgentry@comcast.net>

2305 Braeburn Circle

Tallahassee, Florida 32309-3003

(850) 251-1837

Attorney for Richmond Entertainment



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,**

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2014012794

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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.

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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

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

Petitioner,

v.

Case No. 2014-026021

HAMILTON DOWNS HORSETRACK, LLC.

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner") files this Administrative Complaint against Hamilton Downs Horsetrack, LLC. ("Respondent") and alleges:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes.

2. At all times material hereto, Respondent held a Quarter Horse Racing pari-mutuel permit, number 0000547-1000, and a Permitholder Annual License & Operating Day license, number 0000547-1001, issued by the Division.

3. On or about March 15, 2013, License 0000-54-1001 was issued to Respondent authorizing them to perform 20 regular performances between June 18, 2014 until June 22, 2014 at a rate of 4 performances a day.

4. On or about June 18, 2014 through June 22, 2014, Respondent conducted a Quarter Horse racing meet.

5. A horse race is a contest of speed between horses on an approved course. *Fla. Quarter Horse Racing Ass'n v. Dep't of Bus. & Prof. Reg., Div. of Pari-Mutuel Wagering*, 2013 WL 1942349 (Fla. Div. of Admin Hrgs., May 6, 2013), *aff'd sub nom, Fla. Quarter Horse Track Ass'n v. State, Dep't of Bus. & Prof. Reg., Div. of Pari-Mutuel Wagering*, 133 So. 3d 1118 (Fla. 1st DCA 2014) (per curiam)

6. The performances by Respondent from June 18, 2014 through June 22, 2014 do not qualify as horse races.

7. During the Division's investigation of this meet it was learned that the totalisator machine was unable to print reports.

8. The betting window was not numbered.

9. The win odds were not cycling in 90 second or less intervals and the post times were not being displayed.

10. On or about June 18, 2014, during performance 1 of matinee 1, race 2, both horses were owned by Amie Peacock.

11. On or about June 18, 2014, the official program listed the following competing horses as owned by Stardust Ranch, LLC: Business Official (tattoo #929), Cutter With a Twist (tattoo #943), Dun It Precious Gal (tattoo #755), Heaven's Trick (tattoo

#428), Precious N Fritz (tattoo #117), and Skippers Gold Tupelo (tattoo # 523).

12. Stardust Ranch, LLC, is not a licensed owner with the Division.

13. Jockeys did not use a whip during the "races," but no notification was made over the public address system.

COUNT ONE

14. Petitioner realleges and incorporates the allegations set forth in paragraphs one through thirteen as though fully set forth herein.

15. Section 550.01215(3), Florida Statutes (2013), requires that "[e]ach permitholder shall operate all performances at the date and time specified in its license."

16. Section 550.01215(4), Florida Statutes (2013), provides in relevant part that "[i]n 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...[f]inancial hardship to permitholder shall not, in and of itself, constitute just cause for failure to operate all performances on the dates and at the times specified."

17. Section 550.0251(10), Florida Statutes (2013), provides in relevant part that the Division "may suspend or

revoke a permit [or] pari-mutuel license...for a violation under this chapter."

18. Based on the foregoing, Respondent violated Section 550.01215(3), Florida Statutes (2013), by failing to make 20 performances between June 18, 2014 and June 22, 2014 at a rate of four performances per day.

COUNT TWO

19. Petitioner realleges and incorporates the allegations set forth in paragraphs one through thirteen as though fully set forth herein.

20. Rule 61D-7.024(2)(a), Florida Administrative Code (2013), states "[e]ach totalisator company shall have a tote control console, and a printer where the console activity is recorded."

21. Based on the foregoing, Respondent violated Rule 61D-7.024(2)(a), Florida Administrative Code (2013), by not having a printer where the console activity is recorded.

COUNT THREE

22. Petitioner realleges and incorporates the allegations set forth in paragraphs one through thirteen as though fully set forth herein.

23. Rule 61D-7.021(1), Florida Administrative Code (2013), states "[e]ach window, patron operated terminal, or portable terminal shall be numbered and the number shall be visible to

the public and shall correspond to the internal numbering on all applicable totalisator reports."

24. Based on the foregoing, Respondent violated Rule 61D-7.021(1), Florida Administrative Code (2013), by not numbering the betting terminal.

COUNT FOUR

25. Petitioner realleges and incorporates the allegations set forth in paragraphs one through thirteen as though fully set forth herein.

26. Rule 61D-7.024(3), Florida Administrative Code (2013), states:

Each pari-mutuel facility shall have a results field board or electronic display device in plain view of patrons. The following shall be shown on the board or display device:

- (a) The odds on the Win Pool wagering. Odds cycle shall not be more than 90 seconds commencing after the previous race or game is declared official, and the "posting" of the next current race;
- (b) Minutes to post

27. Based on the foregoing, Respondent violated Rule 61D-7.024(3), Florida Administrative Code (2013), by not displaying the win odds on the electronic display in 90 second or less cycles and by not showing the minutes to post.

COUNT FIVE

28. Petitioner realleges and incorporates the allegations set forth in paragraphs one through thirteen as though fully set

forth herein.

29. Rule 61D-2.009, Florida Administrative Code (2013) states:

(2) Any animal whose owner or owners do not possess an occupational license shall be ineligible to participate in any race in this state.

30. Based on the foregoing, Respondent violated Rule 61D-2.009(2), Florida Administrative Code (2013), by allowing an unlicensed owner to enter racing animals into scheduled pari-mutuel races.

COUNT SIX

31. Petitioner realleges and incorporates the allegations set forth in paragraphs one through thirteen as though fully set forth herein.

32. Rule 61D-2.022(2), Florida Administrative Code (2013), states "[i]n all races where a jockey or driver participates without a whip, an announcement of such fact shall be made over the public address system."

33. Based on the foregoing, Respondent violated Rule 61D-2.022(2), Florida Administrative Code (2013), by not announcing over the public address system that all jockeys were participating without a whip.

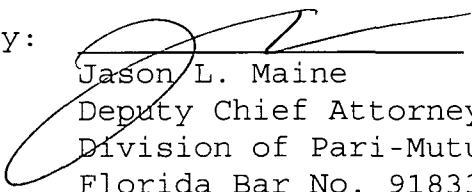
WHEREFORE, Petitioner respectfully requests the Division enter an Order imposing any or all penalties delineated within Section 550.0251, Florida Statutes, and/or any other relief that the Division is authorized to impose pursuant to Chapter 550, Florida Statutes, and/or the rules promulgated thereunder.

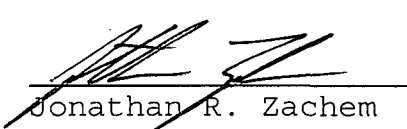
<signature page to follow>

Signed this 13 day of August, 2014.

KEN LAWSON, Secretary
Department of Business and
Professional Regulation

By:


Jason L. Maine
Deputy Chief Attorney
Division of Pari-Mutuel Wagering
Florida Bar No. 91833
Department of Business and
Professional Regulation
1940 N. Monroe Street, Ste. 40
Tallahassee, FL 32399-2202
(850)488-0062 Telephone
(850)921-1311 Facsimile


Jonathan R. Zachem
Chief Attorney
Division of Pari-Mutuel Wagering
Florida Bar No. 0083617
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STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION

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

Petitioner,

CASE No. 2014-026021

v.

HAMILTON DOWNS HORSETRACK, LLC,

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.

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**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 NO. 2014028713

v.

**SOUTH MARION REAL ESTATE
HOLDINGS, LLC,**

Respondent,

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Division"), files this Administrative Complaint against SOUTH MARION REAL ESTATE HOLDINGS, LLC ("OXFORD DOWNS"), and alleges as follows:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering, pursuant to Chapter 550, Florida Statutes.
2. At all times material hereto, Respondent held a pari-mutuel facility permit, number 0000545-1000, and a Permitholder Annual License & Operating Day License, number 0000545-1001, issued by the Division on April 22, 2014.
3. On or about July 1, 2014 through July 10, 2014, Respondent conducted a Quarter Horse racing meet.
4. During the Division's investigation of this meet, Respondent failed to disclose the purse for each race in its conditions book and in its Racing Program.

5. Respondent failed to publish the State of Florida pari-mutuel rules and statutes in the official program.
6. Respondent failed to post the State of Florida pari-mutuel rules and statutes conspicuously throughout its facility.
7. Respondent identified Rebecca J. Mendola as the owner of certain horses racing during the aforementioned OXFORD DOWNS meet dates.
8. Rebecca J. Mendola is the spouse of Anthony Mendola, who was listed as both a Steward and Mutuels Manager in the racing program.
9. At all times material hereto, Terry E. Oliver was the Director of Racing at OXFORD DOWNS.
10. Mr. Oliver could produce no Division license or application for same for OXFORD DOWNS outrider Ms. Natalie Alonso, who worked one performance (8 races).

COUNT ONE

11. Petitioner realleges and incorporates the allegations set forth in paragraphs one through ten as if fully set forth herein.
12. Rule 61D-8.005(8), Florida Administrative Code, requires,

The purse for each race and the Florida Owners' Awards, where applicable, shall be disclosed in the conditions book and the daily racing program. Each permitholder shall also disclose the distribution formula for each race's purse: for example, 60% to the first finisher, 20% to the second finisher, 15% to the third finisher, and the remaining 5% divided equally among all other finishers. Where the permitholder elects to have only one distribution formula applicable throughout the performance, the uniform application shall be disclosed.

(a) Where the purse is announced as a minimum guaranteed or as "purse added", the permitholder shall disclose to the division the source of any additional amounts and, if applicable, the total to be added to the announced purse.

(b) The announced purses and awards shall be considered contractually binding on both the permitholder and the contestants in the race.

(c) The conditions book and the daily racing program shall disclose the fees to be

collected for races in which nomination, entry and starting fees are applicable. If the total collected cannot be included in the racing program, such information will be provided daily to the pari-mutuel wagering specialist on site.

13. Based on the foregoing, Respondent violated Rule 61D-0.005(8), Florida Administrative Code, by not disclosing the purse for each race in its conditions book and in its racing program. Division Exhibit A, Racing Program, is attached.

COUNT TWO

14. Petitioner realleges and incorporates the allegations set forth in paragraphs one through ten as if fully set forth herein.
15. Rule 61D-7.020(3), Florida Administrative Code, requires,

All permitholders shall inform the patrons through the official program or shall post conspicuously throughout the facility the location and availability of the State of Florida pari-mutuel rules and statutes for their examination. Each permitholder shall provide a current version of the pari-mutuel rules and statutes for patron examination at a convenient location on the permitholder's premises.

16. Based on the foregoing, Respondent violated Rule 61D-7.020(3), Florida Administrative Code, by not publishing the State of Florida pari-mutuel rules and statutes in the official program or by posting them conspicuously throughout the facility.

COUNT THREE

17. Petitioner realleges and incorporates the allegations set forth in paragraphs one through ten as if fully set forth herein.
18. Rule 61D-2.020(3), Florida Administrative Code, states “[n]o racing official shall have or maintain an ownership interest, direct or indirect, in any racing animal participating at any licensed meeting where he works or officiates.

19. Based on the foregoing, Respondent violated Rule 61D-2.020(3), Florida Administrative Code, by allowing a racing official to maintain an ownership, directly or indirectly, in a racing animal participating at a licensed meet where the racing official works or officiates.

COUNT FOUR

20. Petitioner realleges and incorporates the allegations set forth in paragraphs one through ten as if fully set forth herein.

21. Rule 61D-2.023, Florida Administrative Code, prohibits,

(1) A permitholder shall ensure that:

(h) Access to the backside where racing animals are kept is restricted to occupational licensees or other persons authorized pursuant to Rule 61D-5.005, F.A.C.

22. Based on the foregoing, Respondent violated Rule 61D-2.023(1)(h), Florida Administrative Code, by allowing an unlicensed individual access to the backside where racing animals are kept.

WHEREFORE, Petitioner respectfully requests the Division enter an Order imposing any or all penalties delineated within Section 550.0251, Florida Statutes, and/or any other relief that the Division is authorized to impose pursuant to Chapter 550, Florida Statutes, and/or the rules promulgated thereunder.

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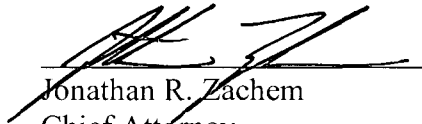
Signed this 13th day of August, 2014.

KEN LAWSON, Secretary
Department of Business and
Professional Regulation

By:



Richard McNelis
Assistant General Counsel
Division of Pari-Mutuel Wagering
Florida Bar No. 0990485
Department of Business and
Professional Regulation
1940 N. Monroe Street, Ste. 40
Tallahassee, FL 32399-2202
(850)488-0062 Telephone
(850)921-1311 Facsimile



Jonathan R. Zachem
Chief Attorney
Division of Pari-Mutuel Wagering
Florida Bar No. 0083617
Department of Business and
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**STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING**

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

Petitioner,

DBPR CASE NO. 2014028713

v.

**SOUTH MARION REAL ESTATE
HOLDINGS, LLC,**

Respondent,

NOTICE OF RIGHTS

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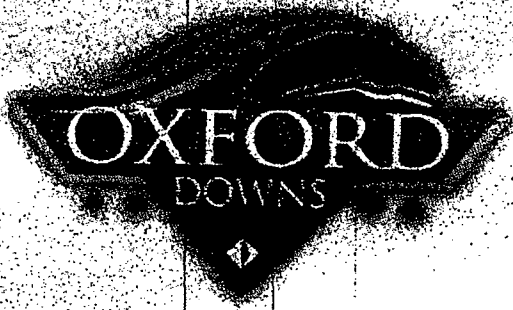
In this regard, please be advised that pursuant to Rule 28-106.2015(5), Florida Administrative Code (F.A.C.), all requests for hearing must, at a minimum, include:

(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.



OFFICIALS
Oxford Downs
6290 SE 177th Place
Summerfield, FL 34491

BOARD OD DIRECTORS

Anthony Mendola Message

STATE OFFICIALS

Charlie Miranda State Steward
Hope Hedrick Detention Barn Supervisor
Dr. David Skand State Veterinarian

Central Florida Horsemen's Association Inc.
P.O. Box 757
Oxford, FL 34484

RACING OFFICIALS

Terry Oliver Director of Racing

Anthony Mendola Steward
Joshua Mendola *TRACY Wessner* Steward
Anthony Mendola Mutuels Manager
Cote Erwin Paddock Judge
Eddy Schwartz Chief of Security
Terry Oliver Chart Writer
Carl Oliver, DVM *Robert McDaniel* Track Veterinarian
Terry Oliver Horse Identifier

STATE OF FLORIDA

The Honorable Rick Scott Governor

DBPR

Ken Lawson Secretary

DIVISION OF PARI-MUTUEL WAGERING

Leon N. Bieganski Director

NOTICE

Bookmaking by any person on the grounds or property of a racetrack or fronton is expressly prohibited by Florida law. Any conduct suggesting bookmaking activity will immediately be reported to a law enforcement agency. Any person convicted of bookmaking on a racetrack or fronton shall be guilty of a felony.

Any person who has been convicted of bookmaking in Florida or any other state of America cannot attend a racetrack or fronton in Florida. Any convicted bookmaker who visits a racetrack or fronton shall upon conviction be guilty of a misdemeanor of the first degree. Any convicted bookmaker observed on the grounds or property of a racetrack or fronton will immediately be reported to a law enforcement agency. For additional information contact the Division of Pari-Mutuel Wagering, 1940 N. Monroe St., Tallahassee, FL 32303, (904) 933-8130.

GENERAL INFORMATION

Admission Prices - \$10.00
Transfer of Ownership - Ownership of horses and other racing items and accessories may be transferred by a contract or bill of sale, and all transfers within a track must be 18 or older to wager.

Ownership - No official at Oxford Downs owns or races horses at a racetrack.

Lost Tickets - Florida State Racing Rules state in order for association to pay winning tickets, actual ticket or identifiable portion of ticket may be attached.

Minimum Age - Must be 18 or older to wager or to cash a ticket. A are not allowed in wagering areas.

Mutilated Tickets - Claims for mutilated tickets must be made at a window.

Odds - Odds are calculated by computer and change automatically progress of betting.

Photo Finish - Photo Finish Camera is located in the judges stand of the Photo Finish will be posted at the wagering terminal following race where the Stewards have called for one in their determining the outcome.

Previous Day's Tickets - Tickets from previous days racing may be at any window at any time during performance.

Program Accuracy - Every effort is made to assure complete accurate racing program. However Oxford Downs is not responsible for any therein.

Rules - Racing and Pari-mutuel rules are available for review in Star Office or Racing Office in the clubhouse.

Scratches - Scratches are posted and announced. If, while wagering program, the horse should be scratched by judges, tickets purchased on horse are refundable at their purchase value, such amount being set from pool. However, horses will not be excused by judges after the race.

Smoke Free - This is a smoke free facility.

Winning Tickets - All winning Pari-Mutuel tickets must be cashed later than one year from date of issuance as required by Florida State.

Large Winning Payouts - Winning payouts of \$5,000.00 or more will result in a maximum of \$5,000.00 cash and the remainder in the form of check.

W-2G Duplicate Copies - All copies of W-2Gs made by the Oxford Downs staff will carry a charge of \$5.00 per W-2G. Cash must be paid in advance before the copies can be made.

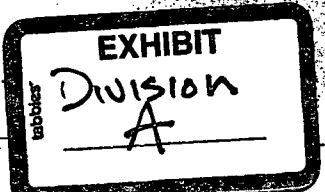


EXHIBIT # 2

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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

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

Petitioner,

v.

Case No. 2014-029873

RICHMOND ENTERTAINMENT, INC.,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner") files this Administrative Complaint against Richmond Entertainment, Inc. ("Respondent") and alleges:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering pursuant to Chapter 550, Florida Statutes and cardrooms pursuant to Section 849.086, Florida Statutes.

2. At all times material hereto, Respondent held a Jai Alai par-mutuel permit, number 0000282-1000, and a cardroom license 0000282-1002, issued by the Division.

3. On or about December 18, 2013, Respondent applied for an Annual License to Operate a Cardroom. This application indicated that Respondent would operate one table.

4. Section 849.086(5)(d), Florida Statutes (2013), provides in relevant part "[t]he annual cardroom license fee for

each facility shall be \$1,000 for each table to be operated at the cardroom."

5. Respondent paid the Division \$1,000 in a check for the December 18, 2013 application.

6. On or about March 14, 2014, the Division issued Cardroom Operating License number CR282 for 2014-2015 to Respondent with a maximum of one card table.

7. On or about June 11, 2014, Respondent submitted a Cardroom License Amendment Request to the Division in order to operate an additional two tables.

8. Respondent issued check 4566 to the Division for \$2,000 for the June 9, 2014 Amendment request.

9. Check 4566 was returned due to "not sufficient funds."

10. On July 28, 2014, Respondent was observed operating more than one card table.

11. Section 849.086(5), Florida Statutes (2013), states "[n]o person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section."

12. Rule 61D-11.007(3), Florida Administrative Code, provides "[n]o license application, amendment to an application, or amendment to request additional cardroom tables shall be effective until the division has received payment of cardroom table fees, inspected and approved the surveillance requirements

for compliance with Rule 61D-11.025, Florida Administrative Code, and the division has issued a license or amended license to operate a cardroom."

13. Respondent has violated Section 849.086(5), Florida Statutes (2013), by operating more than one cardroom table when they only have a valid license to operate one table.

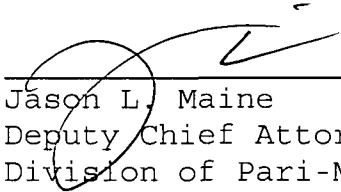
WHEREFORE, Petitioner respectfully requests the Division enter an Order imposing a suspension or revocation of Respondent' license or permit in accordance with Section 849.086(4)(d), Florida Statutes (2013).

<signature page to follow>


Signed this 13th day of August, 2014.

KEN LAWSON, Secretary
Department of Business and
Professional Regulation

By:



Jason L. Maine
Deputy Chief Attorney
Division of Pari-Mutuel Wagering
Florida Bar No. 91833
Department of Business and
Professional Regulation
1940 N. Monroe Street, Ste. 40
Tallahassee, FL 32399-2202
(850)488-0062 Telephone
(850)921-1311 Facsimile



Jonathan R. Zachem
Chief Attorney
Division of Pari-Mutuel Wagering
Florida Bar No. 0083617
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STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION

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

Petitioner,

CASE No. 2014-029873

v.

RICHMOND ENTERTAINMENT, INC.,

Respondent,

NOTICE OF RIGHTS

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(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.

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**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/13/2014
File #	2014-05998

WEST FLAGLER ASSOCIATES, LTD.
(d/b/a Magic City Jai Alai),

Petitioner,

v.

DBPR CASE No. 2014007603

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

Respondent,
_____ /

FINAL ORDER DISMISSING CASE AS MOOT

The Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering (Division), hereby enters this Final Order dismissing this informal § 120.57(2) proceeding as moot.

On February 20, 2014, West Flagler Associates, Ltd. (Magic City), requested an amendment of its 2013-14 performance dates license to delete 58 performances – all of Magic City’s matinee and evening performances from May 1 through June 30, 2014. On March 14, 2014, the Division denied this request as not being “minor” within the meaning of § 550.01215(3), Florida Statutes. Thereafter, Magic City timely requested an administrative hearing, and its counsel requested a meeting with Division personnel. Following meetings with Magic City’s counsel, the Division entered an “Order Referring Case for Informal Hearing” (copy of “Order” hereto attached as Exhibit “A”).

However, Magic City’s 2013-14 performance dates license expired June 30, 2014, and Magic City did not apply for a 2014-15 performance dates license. It thus holds no current pari-mutuel license. See 8/4/14 “Memo to the File” by Division Licensing Administrator, Jamie Pouncey (copy hereto attached as Exhibit “B”). Consequently, there is no action that can be tak-


en on Magic City's performance dates license since its previous license expired June 30, 2014, and it holds no current 2014-15 license.

In short, this matter is moot for "[a] case is 'moot' ... when the issues have ceased to exist," *Carlin v. State*, 939 So. 2d 245, 247 (Fla. 1st DCA 2006) 247 (quoting *Merkle v. Guardianship of Jacoby*, 912 So. 2d 595, 600 (Fla. 2d DCA 2005) (in turn quoting *Godwin v. State*, 593 So. 2d 211, 212 (Fla. 1992)). *Accord, A.G. v. Dep't of Children & Family Servs.*, 932 So. 2d 311, 313 (Fla. 2nd DCA 2006). Stated another way, "[a] case becomes moot ... where, by a change of circumstances prior to ... decision, an intervening event makes it impossible ... to grant ... any effectual relief," *Carlin*, 939 So. 2d at 247 (quoting *Montgomery v. Dep't of Health & Rehab. Servs.*, 468 So. 2d 1014, 1016-17 (Fla. 1st DCA 1985)). *Accord, A.G.*, 932 So. 2d at 313. With no performance dates license, "the issues have ceased to exist" for Magic City.

WHEREFORE, it is hereby ORDERED and ADJUDGED that this case shall be and is hereby DISMISSED as MOOT.

This Final Order shall become effective on the date filed with the Agency Clerk.

DONE AND ORDERED this 15th day of August, 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

NOTICE OF RIGHT TO APPEAL

Any party to this proceeding has the right to seek its judicial review under § 120.68, Florida Statutes, by the filing of an original notice of appeal pursuant to Rules 9.110 and 9.190, Florida

da Rules of Appellate Procedure, with the Agency Clerk, 1940 North Monroe Street, Tallahassee, Florida 32399-2202 (email: ogcagencyclerk@myfloridalicense.com), **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) in the Office of the Agency Clerk within thirty (30) days after the date this Order is filed with the Clerk.

CERTIFICATE OF SERVICE

I hereby certify this 13th day of August, 2014, that a true copy of the foregoing "Final Order" has been served by email and/or hand delivery upon:

JOHN M. LOCKWOOD, ESQ.
<john@lockwoodlawfirm.com>
John M. Lockwood, P.A.
106 East College Avenue, Suite 801
Tallahassee, Florida 32301-7748
(850) 727-5009


JONATHAN R. ZACHEM
Chief Attorney
Division of Pari-Mutuel Wagering

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/30/2014
File #	

WEST FLAGLER ASSOCIATES, LTD.
(d/b/a Magic City Jai Alai),

Petitioner,

v.

DBPR CASE NO. 2014007603

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

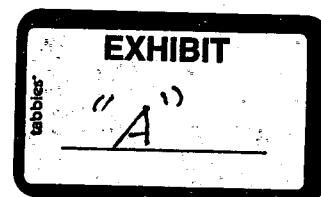
Respondent,

ORDER REFERRING CASE FOR INFORMAL HEARING

The Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering (Division), hereby enters this Order referring the above styled matter to a hearing officer to be appointed by the Department of Business & Professional Regulation to conduct a § 120.57(2) informal hearing.

Specifically, on February 20, 2014, West Flagler Associates, Ltd. (Magic City), requested an amendment of its 2013-14 performance dates license to delete 58 performances – all of Magic City's matinee and evening performances from May 1 through June 30, 2014. On March 14, 2014, the Division denied this request as not being "minor" within the meaning of § 550.01215(3), Florida Statutes. Thereafter, Magic City timely requested an administrative hearing. These are the only facts material to this proceeding, and they are not in dispute.

Thus, notwithstanding any request to the contrary, this matter must and shall be set for a § 120.57(2) informal hearing because "even when a party specifically requests a formal hearing, an agency may conclude that no dispute of material fact has been demonstrated and proceed informally," *Cambras v. Dep't of Bus. & Prof. Reg.*, 6 So. 3d 668, 670 (Fla. 5th DCA 2009) (quot-



ing *Weiss v. Dep't of Bus. & Prof. Reg.*, 677 So. 2d 98, 99 (Fla. 5th DCA 1996) (“... when no material facts are in dispute, an agency is not required to hold a formal hearing”), and *Village Saloon, Inc. v. Div. of Alcoholic Beverages & Tobacco, Dep't of Bus. & Prof. Reg.*, 463 So. 2d 278, 285 (Fla. 1st DCA 1984) (“[w]hen material facts are not in dispute, an agency is not required to grant a formal proceeding, even though requested by the party, and is free to insist that the matter be handled by informal proceeding”). *Accord, Nicolitz v. Bd. of Opticianry*, 609 So. 2d 92, 93-94 (Fla. 1st DCA 1992) (cited by the 5th DCA in *Cambras*):

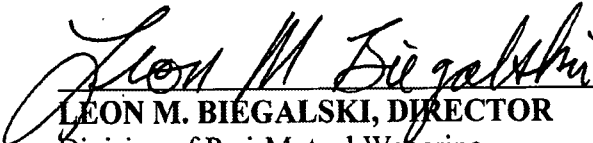
When a party seeks a formal hearing in accordance with section 120.57(1), an agency may conclude that no dispute of material fact has been demonstrated, refuse to refer the matter to DOAH, and proceed informally. If the agency's decision regarding the need for formal proceedings was incorrect, the error can be corrected on appeal from final order.

Accord, Rosenzweig v. Dep't of Transportation, 979 So. 2d 1050, 1055-56 (Fla. 1st DCA 2008)

(quoting *Weiss*).

Accordingly, by this order the Division requests the Department of Business & Professional Regulation appoint a hearing officer to conduct a § 120.57(2) informal hearing in this matter. Said hearing officer shall coordinate with the parties as to a convenient time and date for such hearing and, thereafter, shall issue a proposed final order for review and consideration by the Division's Director in due course.

DONE AND ORDERED this 29th day of July, 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 30th day of July, 2014, that a true copy of the foregoing "Order of

Referral" has been served by email and/or hand delivery upon:

JOHN M. LOCKWOOD, ESQ.

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AGENCY CLERK'S OFFICE


Department of Business & Professional Regulation

Ken Lawson, Secretary

Rick Scott, Governor

MEMORANDUM

TO: **MEMO FOR THE FILE**
Division of Pari-Mutuel Wagering

FROM: **Jamie Pouncey, Licensing Administrator** 

SUBJECT: **West Flagler Associates, Ltd., d/b/a Magic City Jai-Alai**

DATE: **August 4, 2014**

Florida Statute Section 550.01215 states each permitholder shall annually, during the period between December 15 and January 4, file in writing with the division its application for a license to conduct performances and operate a cardroom during the next fiscal year. Magic City, license number 283, did not submit an application for 2014/2015 operating dates, nor did they submit an application for a cardroom license. Therefore, Magic City is not licensed to conduct performances or operate a cardroom during the 2014/2015 fiscal year.

/jp

