

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND)
PROFESSIONAL REGULATION, DIVISION)
OF PARI-MUTUEL WAGERING,)
)
Petitioner,)
)
vs.) Case No. 98-3677
)
BOBBIE J. MANNING,)
)
Respondent.)
_____)

RECOMMENDED ORDER

On December 15, 1998, a formal administrative hearing in this case was held in Tampa, Florida, before William F. Quattlebaum, Administrative Law Judge, Division of Administrative Hearings. The hearing was conducted by videoconference from Tallahassee, Florida.

APPEARANCES

For Petitioner: Susan C. Felker-Little, Esquire
Department of Business
and Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-1007

For Respondent: No appearance

STATEMENT OF THE ISSUE

The issue in the case is whether the allegations of the Administrative Complaint are true, and if so, what penalty should be imposed.

PRELIMINARY STATEMENT

By Administrative Complaint dated July 1, 1998, the Department of Business and Professional Regulation, Division of Pari-mutuel Wagering (Petitioner) alleges that Bobbie J. Manning (Respondent) allowed a patron at Tampa Jai-Alai to obtain betting tickets without paying for them, a violation of the Petitioner's Administrative Rules. The Respondent disputed the allegations and requested a formal administrative hearing. The Petitioner forwarded the matter to the Division of Administrative Hearings, which scheduled and conducted the hearing.

At the hearing, the Petitioner presented the testimony of two witnesses and had one exhibit admitted into evidence. The Respondent presented no witnesses and did not appear at the hearing.

No hearing transcript was filed. The Petitioner filed a Proposed Recommended Order.

FINDINGS OF FACT

1. The Petitioner is the agency charged with regulating the pari-mutuel wagering industry in Florida, including persons licensed under Chapter 550, Florida Statutes.

2. At all times material to this case, the Respondent was licensed as a cardroom employee occupational license number 1395921-1181, issued by the Petitioner.

3. On May 20, 1998, the Respondent was working as a teller in the cardroom at Tampa Jai-Alai.

4. The evidence establishes that on May 20, 1998, the

Respondent provided wagering tickets to a patron of the facility without obtaining cash or a cash voucher in exchange for the tickets.

CONCLUSIONS OF LAW

5. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Section 120.57(1), Florida Statutes.

6. The Petitioner has the burden of proving by clear and convincing evidence the allegations against the Respondent. Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987). In this case, the burden has been met.

7. Rule 61D-7.020(5)(b), Florida Administrative Code, requires that all pari-mutuel wagering ticket sales be for cash or cash equivalent. A cash equivalent includes a cash voucher.

8. The evidence in this case establishes that on May 20, 1998, the Respondent provided wagering tickets without obtaining cash or a cash equivalent, such as a voucher, in exchange for the tickets.

9. Rule 61D-7.020(6), Florida Administrative Code, provides that the "duty of the licensed pari-mutuel tellers shall not be compromised" The provision of wagering tickets to a patron without the receipt of payment compromises the duties of the teller.

10. Rule 61D-7.020(6), Florida Administrative Code, also provides that the teller ". . . shall not at any time serve as an agent or an employee of a patron with respect to pari-mutuel wagering" The Petitioner asserts that the Respondent has likewise violated this section of the rule; however, the evidence

is insufficient to establish the reason for the Respondent's

actions and fails to indicate that she was employed by or an agent of the patron to whom she provided the tickets.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is recommended that the Department of Business and Professional Regulation enter a Final Order revoking the cardroom employee license number 1395921-1181 of Bobbie J. Manning.

DONE AND ENTERED this 27th day of January, 1999, in Tallahassee, Leon County, Florida.

WILLIAM F. QUATTLEBAUM
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 27th day of January, 1999.

COPIES FURNISHED:

Susan C. Felker-Little, Esquire
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0750

Bobbie J. Manning
3007 Spillers Avenue
Tampa, Florida 33619

Deborah R. Miller, Director
Division of Pari-Mutuel Wagering
Department of Business and

Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0792

Lynda L. Goodgame, General Counsel
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-0792

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order must be filed with the agency that will issue the Final Order in this case.