

FILED

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DIVISION OF ADMINISTRATIVE HEARINGS

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

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

Final Order No. BPR-2006-07006 Date: 9-25-06
FILED

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

By: Brandon M. Nishols

Petitioner,

vs.

DBPR Case No. 2005033377
2005033379
2005036766
2005038762

THOMAS M. DUDLEY, SR.,

Respondent.

06-0737PL

CCA
CLOS

FINAL ORDER

The State of Florida, Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (Division), hereby enters this Final Order for the above styled matter. On June 27, 2006, the Division received a Recommended Order from the Honorable Charles C. Adams, Administrative Law Judge of the Division of Administrative Hearings. The Recommended Order for DOAH Case No. 06-0737PL is attached to this Final Order and incorporated by reference herein. No exceptions have been filed to the Recommended Order.

FINDINGS OF FACT

The Findings of Fact contained in the Recommended Order are hereby adopted as the findings of the Division.

CONCLUSIONS OF LAW

The Conclusions of Law contained in the Recommended Order are hereby adopted by the Division.

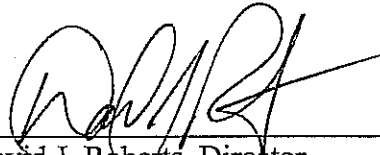
ORDER

Based upon the Findings of Fact and Conclusions of Law adopted from the Recommended Order of the Division of Administrative Hearings, it is hereby:

ORDERED:

The Respondent's pari-mutuel occupational license, license number 1102016-1021, is hereby REVOKED, all purses must be returned from races at issue, and Respondent is FINED \$5,000.00.

DONE AND ORDERED this 25TH day of SEPTEMBER 2006.



David J. Roberts, Director
Division of Pari-Mutuel Wagering
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1035
(850) 488-9130


NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

Unless expressly waived, any party substantially affected by this final order may seek judicial review by filing an original Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, and a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal within thirty (30)

days rendition of this order, in accordance with Rule 9.110, Fla. R. App. P., and section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing, with attachment, has been provided via U.S. Certified Mail to Thomas M. Dudley, 327 Northeast 434th Street, Old Town, Florida 32680, this 25th day of September, 2006.


Sarah Wachman, Agency Clerk
Department of Business and Professional
Regulation

Copies furnished to:

Office of Operations
Licensing Section
Office of Investigations

The Honorable Charles C. Adams, Division of Administrative Hearings

S. Thomas Peavey Hoffer, Assistant General Counsel

General Manager, Pensacola Greyhound Track, Inc.
Chief Inspector, Pensacola Greyhound Track, Inc.
Judges/Stewards, Pensacola Greyhound Track, Inc.

National Greyhound Association
P.O. Box 543
Abilene, KS 67410

Florida Kennels, Inc.
7218 West 4th Avenue
Hialeah, FL 33014

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

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

Petitioner,

vs.

THOMAS M. DUDLEY, SR.

Respondent.

Final Order No. BPR-2005-03464 Date: 6/24/05
FILED

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

By: Sarah Wachman

Case No. 2005033377
2005033379

ORDER OF SUMMARY SUSPENSION

David J. Roberts, Director of the Division of Pari-Mutuel Wagering (Division), hereby enters this Order of Summary Suspension, of the occupational license of Respondent, Thomas M. Dudley, Sr. Respondent holds a pari-mutuel wagering occupational license number 1102016-1021, and his address of record is P.O. Box 425, Lillian, Alabama 36549. The Division has jurisdiction of this matter pursuant to Chapter 550, Florida Statutes. This Order of Summary Suspension of Respondent's license to practice as a greyhound trainer in the State of Florida is supported by the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Section 550.2415(3)(b), Florida Statutes, states, "[t]he division, notwithstanding the provisions of Chapter 120, may summarily suspend the license of an occupational licensee responsible under this section or division rule for the condition of a race animal if division laboratory reports the presence of an impermissible substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run."

2. At all times material hereto, Respondent held a pari-mutuel wagering occupational license, number 1102016-1021, issued by the Division.

3. Rule 61D-6.002(1), Florida Administrative Code, provides, "[t]he trainer of record shall be responsible for and be the absolute insurer of the condition of the horses . . . he/she enters to race."

4. Respondent was the trainer of record and the absolute insurer of the condition of greyhounds that tested positive for the substance Benzoylcegonine as referenced in the attached Administrative Complaint.

5. On June 24, 2005, the Division, through its Chief Attorney, issued a two-count Administrative Complaint against the Respondent alleging violations of Section 550.2415(1)(a), Florida Statutes. Each count of the Administrative Complaint sets forth a violation for a greyhound that has produced a urine samples which the University of Florida Racing Laboratory has determined to contain Benzoylcegonine, a metabolite of Cocaine. The Administrative Complaint sets forth aggravating circumstances in this matter. The Administrative Complaint is attached to this Order and its allegations are incorporated by reference as though fully stated herein.

6. Benzoylcegonine and its metabolites are impermissible substances, which were carried in the bodies of the greyhounds referenced in each of the two counts of the Administrative Complaint.

CONCLUSIONS OF LAW

1. The Division of Pari-Mutuel Wagering has jurisdiction over this matter pursuant to Section 550.2415(3)(b), Florida Statutes.

2. Section 550.2415(1)(c), Florida Statutes, which provides, "[t]he finding of a prohibited substance in a race-day specimen constitutes prima facie evidence that the substance was administered and was carried in the body of the animal while participating in the race."

3. Based on the foregoing Findings of Fact, the Division concludes that Respondent has violated Section 550.2415(1)(a), Florida Statutes, which provides, "[t]he racing of an animal with any drug, medication, stimulant, depressant, hypnotic, local anesthetic, or drug-masking agent is prohibited. It is a violation of this section for a person to administer or cause to be administered any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent to an animal which will result in a positive test for such substance based on samples taken from the animal immediately prior to or immediately after the racing of that animal."

WHEREFORE, in accordance with Section 550.2415(3)(b), Florida Statutes, it is

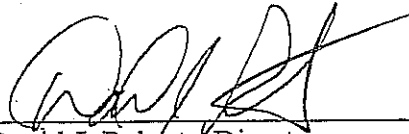
THEREFORE ORDERED that:

1. Occupational license number 1102016-1021 issued to Respondent is
SUSPENDED.

2. Respondent shall be denied access to the grounds of all pari-mutuel facilities in the State of Florida, for which an occupational license is required pursuant to Section 550.105(4), Florida Statutes.

3. A proceeding seeking formal revocation, suspension, imposition of a fine, requiring full or partial return of the purses, sweepstakes, and trophies of the races at issue, or imposition of any combination of such penalties against the license of Respondent will be promptly instituted and acted upon in compliance with Section 120.60, Florida Statutes, and this Order shall be filed in accordance with Section 120.569, Florida Statutes.

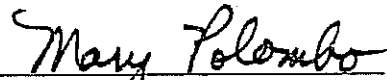
DONE AND ORDERED this 24th day of JUNE, 2005.



David J. Roberts, Director
Division of Pari-Mutuel Wagering
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1035
(850) 488-9130

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ORDER OF SUMMARY SUSPENSION has been furnished by Request for Personal Service to Investigator Jim Barnes and by Certified U.S. Mail to Thomas M. Dudley, Sr., PO Box 425, Lillian, Alabama 36549, this 24th day of June, 2005.



Mary Polombo
Division Clerk

STPH