

STATE OF FLORIDA
FLORIDA GAMING CONTROL COMMISSION

FLORIDA GAMING CONTROL COMMISSION,
DIVISION OF PARI-MUTUEL WAGERING

Petitioner,
v.

FGCC Case No.: 2024-060053

OMAR GUTIERREZ,

Respondent.

_____ /

FINAL ORDER

This matter appeared before the Florida Gaming Control Commission at a duly-noticed public meeting on July 8, 2025, for final agency action pursuant to sections 120.569 and 120.57(2), Florida Statutes. After a complete review of the records in this matter, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

The Findings of Fact contained in the Corrected Recommended Order are hereby adopted as the Findings of Fact of the Commission.

CONCLUSIONS OF LAW

The Conclusions of Law contained in the Corrected Recommended Order are hereby adopted as the Conclusions of Law of the Commission.

ORDERED and ADJUDGED:

1. The hearing officer's Corrected Recommended Order is adopted in full.
2. Respondent is **PERMANENTLY EXCLUDED** from all pari-mutuel facilities in the state of Florida.

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

DONE AND ORDERED this 15th day of July, 2025.

FLORIDA GAMING CONTROL COMMISSION



CLERK OF THE COMMISSION

On Behalf of

Julie I. Brown, Vice-Chair

Charles Drago, Commissioner

John D'Aquila, Commissioner

Tina Repp, Commissioner

NOTICE OF RIGHT TO APPEAL

Any party to this proceeding has the right to seek its judicial review under section 120.68, Florida Statutes, by the filing of an original notice of appeal pursuant to rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Commission, 4070 Esplanade Way, Suite 250, Tallahassee, Florida 32399 (Email: clerk@fgcc.fl.gov), and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate Florida district court of appeal. The notice of appeal must be filed (received) by the Clerk of the Commission within thirty (30) days after the date this Order is filed with the Clerk of the Commission.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of JULY, 2025, a true and correct copy of this Final Order has been sent via U.S. Mail to:

Omar Gutierrez
4021 Mindi Avenue
Naples, Florida 34112
OmarJaredGutierrez@gmail.com



CLERK OF THE COMMISSION
Florida Gaming Control Commission

CC: Ebonie Lanier

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

EXHIBIT

1

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

Petitioner,

v.

FGCC Case No.: 2024-060053

OMAR GUTIERREZ,

Respondent.

CORRECTED HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Renee Harkins, designated Hearing Officer for the Florida Gaming Control Commission ("Commission"), on May 21, 2025, in Tallahassee, Florida, in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes, for consideration of the Commission's Administrative Complaint filed against Omar Gutierrez, ("Respondent"), in FGCC Case Number 2024-060053 ("Administrative Complaint"). Respondent appeared *pro se*. The Commission was represented by Justin Hundersmarck, Senior Attorney, and the hearing was held telephonically.

PROCEDURAL HISTORY

1. On or about December 17, 2024, the Commission filed an Administrative Complaint against Respondent, alleging that Respondent was a patron of and was ejected and excluded from Bonita-Ft. Myers Corp Wholly Subsidiary of Southwest Florida Enterprises, Inc., d/b/a Bonita Springs Poker Room ("Bonita Springs"). The Administrative Complaint sought to exclude Respondent from all licensed pari-mutuel wagering facilities in the State of Florida due to Respondent's ejection and exclusion from Bonita Springs.

2. On or about March 20, 2025, the Commission received an Election of Rights form from Respondent requesting a telephonic hearing in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes.

3. An informal hearing was scheduled for May 21, 2025.

The May 21, 2025, Informal Hearing

4. At the informal hearing held on May 21, 2025, the Commission presented the issues raised in its Administrative Complaint. The Hearing Officer granted the Commission's motion to accept the Findings of Fact in the Administrative Complaint as the undisputed facts in the case and admitted the investigative packet into the record.

5. The investigative packet that was admitted into the record contained an Investigative Report detailing the activity that led to the permanent ejection and exclusion of Respondent from Bonita Springs.

6. At the informal hearing, Respondent testified that he initiated a confrontation in the parking lot against a long-time acquaintance over an unpaid debt. He testified that the other party stabbed him with a knife. Respondent remained hospitalized for weeks due to his injuries. Respondent stated he was not charged with any crime in the incident.

7. Respondent testified that he no longer sells narcotics and plays a lot of poker. He stated that he does not want to be banned from any facilities because of this incident. Respondent testified that he does not own a firearm and that his conduct would not be an issue in the future.

FINDINGS OF FACT

8. Petitioner is the state agency charged with regulating pari-mutuel wagering and cardroom operations pursuant to chapters 550 and 849, Florida Statutes.

9. At all times material hereto, Bonita Springs was a facility operated by a permitholder authorized by the Commission to conduct pari-mutuel wagering and cardroom operations in the State of Florida.

10. On or about September 28, 2024, the Respondent was a patron of, and was ejected and permanently excluded from Bonita Springs.

CONCLUSIONS OF LAW

11. The Hearing Officer has jurisdiction over this matter and the parties pursuant to section 120.57(2), Florida Statutes.

12. The Commission has jurisdiction over this matter pursuant to chapters 120, 550, and 849, Florida Statutes.

13. At all times material hereto, Bonita Springs was a facility operated by a permitholder authorized to conduct pari-mutuel wagering and cardroom operations in the State of Florida.

Section 550.0251(6), Florida Statutes, provides in relevant part:

In addition to the power to exclude certain persons from any pari-mutuel facility in this state, the commission may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the commission. The commission may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been excluded from any pari-mutuel facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state.

(Emphasis supplied.)

14. Pursuant to the statutes, Respondent's ejection and exclusion from one facility is enough to trigger an exclusion of the person from all pari-mutuel facilities in the State of Florida.

15. Respondent is subject to permanent exclusion from all licensed pari-mutuel wagering facilities in the State of Florida based on Respondent's ejection and permanent exclusion from Bonita Springs on or about September 28, 2024.

16. Respondent's testimony neither mitigates that Respondent was ejected and excluded from Bonita Springs nor precludes the Commission from permanently excluding Respondent from all licensed pari-mutuel facilities in the State of Florida.

There is competent substantial evidence to support the conclusions of law.

RECOMMENDED ORDER

Based upon the Findings of Fact and Conclusions of Law, it is hereby recommended that the Florida Gaming Control Commission issue an Order permanently excluding Respondent from all licensed pari-mutuel wagering facilities in the State of Florida.

This Hearing Officer's Recommended Order in FGCC Case Number 2024-060053 is submitted this 27th day of June 2025.

/s/ Renee Harkins
Renee Harkins, Hearing Officer
Florida Gaming Control Commission

CERTIFICATE OF SERVICE

I hereby certify that this 27th of June 2025, that a true copy of the foregoing "Hearing Officer's Recommended Order" has been provided by email to:

Justin Hundersmarck
Counsel for Petitioner
Justin.Hundersmarck@flgaming.gov

Omar Gutierrez
4021 Mindi Avenue
Naples, Florida 34112
OmarJaredGutierrez@gmail.com



CLERK OF THE COMMISSION
Florida Gaming Control Commission