

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Tara Ashlock
Date	2/24/2017
File #	2017-01465

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

Petitioner,

DBPR CASE NO. 2016-047960

v.

MICHAEL A. KLINGBEIL,

Respondent.

STIPULATION AND CONSENT ORDER

The State of Florida, Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering (“Division”) and Michael A. Klingbeil (“Respondent”) hereby stipulate and agree to the following terms and issuance of this Consent Order.

1. At all times material hereto, Respondent held a pari-mutuel wagering professional individual occupational license, having been issued license number 10927670-1021 by the Division.

2. This Stipulation and Consent Order is to be entered in resolution of the two-count Administrative Complaint filed in DBPR case number 2016-047960. Count I alleges that on October 14, 2016, Respondent violated section 550.2415(6)(a), Florida Statutes by failing to treat the racing greyhound “BC Diablo Sam” humanely on October 14, 2016. Count II alleges that on October 14, 2016, Respondent violated Rule 61D-6.004(2)(a) by possessing a prohibited needle within his kennel.

3. This Stipulation and Consent Order was entered into in consideration of Respondent’s lack of disciplinary history and Division Investigator Michael McCarthy’s confirmation

that the Respondent did not race the greyhound "BC Diablo Sam" on the day Respondent had concerns for the greyhound's health and ultimately found the greyhound deceased. As such, Count I will be voluntarily dismissed by the Division as part of this settlement.

STIPULATION

WHEREAS the parties desire to resolve this matter, the following terms are stipulated:

4. The Division has jurisdiction over this matter and the parties.

5. The Division is authorized by Section 120.57, Florida Statutes, to resolve administrative proceedings by Consent Order.

6. Each party has entered into the terms of this Consent Order voluntarily. Respondent is aware that she is entitled to the advice of counsel. Respondent has sought the advice of counsel. Respondent acknowledges that the Division has not made any promise nor has it in any other way encouraged Respondent to enter into this Consent Order without the advice of counsel.

7. This Consent Order is enforceable under Section 120.69 and Chapter 550, Florida Statutes, as final agency action.

8. 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.

9. Respondent and the Division acknowledge and agree that this Consent Order and contained stipulation constitute the Final Order of the Division respecting the matters set forth above and that further administrative and judicial review is hereby waived by both parties.

10. Respondent and the Division fully understand that this Consent Order will in no way preclude additional proceedings by the Division against Respondent for acts or omissions not specifically set forth herein.

11. Respondent neither admits nor denies committing the violations set forth in this Consent Order. This Consent Order and the violations addressed hereby will not be considered in aggravation of any future disciplinary proceedings involving Respondent.

12. DISMISSAL OF COUNT: Petitioner hereby dismisses Count I as alleged in the Administrative Complaint, a copy of which is attached hereto as "Exhibit 1."

13. FINE: Respondent agrees to, and shall pay to the Division, the sum of **two hundred dollars (\$200.00)** to be paid at the time Respondent submits an executed copy of this Consent Order. Said payment shall be in the form of a cashier's check or certified check made payable to Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering and mailed to the attention of Gauge D. Campbell at 2601 Blair Stone Rd., Tallahassee, FL 32399-1035. The Division's adoption of this Consent Order constitutes acknowledgement of receipt of payment of the above amount.

14. It is expressly understood that this Stipulation 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 it by Respondent may be used as evidence against Respondent in any proceeding.

15. Upon the Division's adoption of this Consent Order, Respondent expressly waives all further procedural steps, including all rights to seek judicial review of this Consent Order and the matters addressed hereby. Upon the Division's adoption of this Consent Order, Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this proceeding.

16. This Stipulation and Consent Order is executed by both parties for the purpose of avoiding further administrative action with respect to the matters addressed hereby. In this re-

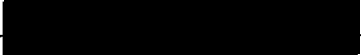
gard, Respondent authorizes the Director to review and examine all materials concerning Respondent prior to or in conjunction with consideration of the Stipulation. Should this Stipulation not be accepted by the Director, it is agreed that presentation to and consideration of this Consent Order and other documents and matters by the Director shall not unfairly or illegally prejudice the Director or the Respondent from further participation, consideration, or resolution of these proceedings.

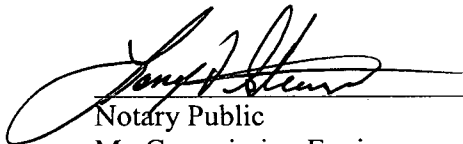
Respondent, MICHAEL A. KLINGBEIL, hereby agrees and consents to the terms and conditions of this Stipulation and Consent Order this 14 day of February, 2017.



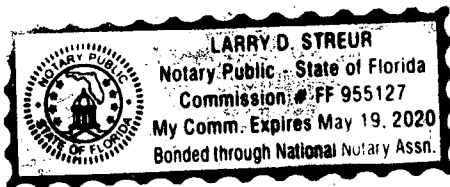
Michael A. Klingbeil
Respondent

STATE OF Florida,
COUNTY OF Pinellas

Sworn to (or affirmed) and subscribed before me this 14 day of February, 2017, by Michael A. Klingbeil, who is personally known to me or who produced the following as identification: ARIZONA DRIVER LICENSE 



Notary Public
My Commission Expires:



APPROVED for legal sufficiency this 22nd day of February, 2017.

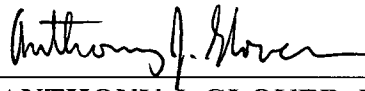


WILLIAM D. HALL
Chief Attorney
Division of Pari-Mutuel Wagering
Department of Business & Professional
Regulation

IT IS HEREBY ORDERED THAT:

The foregoing Consent Order shall constitute the agreed resolution of this matter and the Final Order of the Division in DBPR Case. No. 2016-047960 once it is filed with the Agency Clerk.

DONE AND ORDERED this 22 day of February, 2017, in Tallahassee, Florida.



ANTHONY J. GLOVER, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business & Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-1035

(CERTIFICATE OF SERVICE ON NEXT PAGE)

CERTIFICATE OF SERVICE

I hereby certify this 24th day of February, 2017, that a true copy of the foregoing has been furnished by regular U.S. mail to:

MICHAEL A. KLINGBEIL
P.O. BOX 55964
ST. PETERSBURG, FL 33732

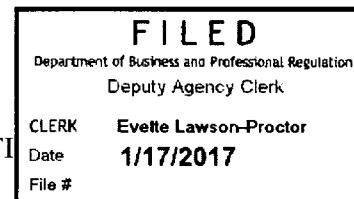


AGENCY CLERK'S OFFICE
Department of Business & Professional Regulation

Copies to:

Charles Dewrell, Assistant General Counsel
<Charles.Dewrell@myfloridalicense.com>

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION



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

Petitioner,

v.

DBPR Case No. 2016-047960

MICHAEL A. KLINGBEIL,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Petitioner”) files this Administrative Complaint against MICHAEL A. KLINGBEIL (“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 pari-mutuel individual occupational license, number 10927670-1021, issued by the Division.
3. At all times material hereto, Respondent was working as a licensed trainer at Derby Lane and was the trainer of record for a racing greyhound named “BC Diablo Sam.”
4. Derby Lane is a facility operated by a permitholder authorized to conduct pari-mutuel wagering in this state under Chapter 550, Florida Statutes.
5. On October 19, 2016, Respondent was interviewed by a Department investigator wherein Respondent recalled becoming concerned for the health of “BC Diablo Sam” after

finding the greyhound looking lethargic, drawn, and dehydrated prior to the greyhound's scheduled races on October 14, 2016.

6. Respondent advised that, due to his concern for the greyhound, he retrieved and administered one bag of a sterile re-hydrating solution, "Lactated Ringers," to "BC Diablo Sam" subcutaneously (under the skin).

7. Respondent admitted to having a hypodermic needle in his kennel, which would have been required to administer the re-hydrating treatment subcutaneously as described by Respondent.

8. Subsequent to administering the re-hydrating treatment, Respondent allowed "BC Diablo Sam" to participate in the remainder of his scheduled races on October 14, 2016.

9. Respondent also provided that arrangements were in place for "BC Diablo Sam" to be taken directly to Gregory Veterinary Clinic immediately after the greyhound finished racing for the night; however, Respondent found "BC Diablo Sam" deceased in his crate shortly after the the last race concluded on October 14, 2016.

10. Section 550.2415(6)(a) states that "It is the intent of the Legislature that animals that participate in races in this state on which pari-mutuel wagering is conducted and animals that are bred and trained in this state for racing be treated humanely, both on and off racetracks, throughout the lives of the animals."

11. Rule 61D-6.004(2)(a), Florida Administrative Code, provides in relevant part that "No licensee within the grounds of a racing permitholder where racing animals are lodged or kept shall have in or upon the premises which that person occupies or has the right to occupy, or in that licensee's personal property or effects, the following...any hypodermic needle, injectable vial, syringe capable of accepting a hypodermic needle..."

COUNT ONE

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

13. Based on the foregoing, Respondent violated section 550.2415(6)(a), Florida Statutes by failing to treat "BC Diablo Sam" humanely on October 14, 2016.

COUNT TWO

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

2. Based upon the foregoing, Respondent violated section Rule 61D-6.004(2)(a) by possessing a hypodermic needle within his kennel on October 14, 2016.

WHEREFORE, Petitioner respectfully requests the Division enter an Order imposing any and all relief that the Division is authorized to impose pursuant to chapters 550, Florida Statutes, and/or the rules promulgated thereunder.

Signed this 11th day of January, 2017.

MATILDE MILLER, Interim Secretary
Department of Business and
Professional Regulation

/s/ Charles Dewrell, Esq.

Charles Dewrell, Esq.
Assistant General Counsel
Florida Bar No. 102579
Office of the General Counsel
Division of Pari-Mutuel Wagering
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-2202
Telephone: (850) 717-1768
Facsimile: (850) 921-1311

NOTICE OF RIGHTS

Please be advised that mediation under section 120.573, Florida Statutes, is not available for administrative disputes involving this type of agency action.

Please be advised that Respondent has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas and *subpoenas duces tecum* issued on his or her behalf if a hearing is requested. Any request for an administrative proceeding to challenge or contest the charges contained in the administrative complaint must conform to Rule 28-106.2015, Florida Administrative Code. Rule 28-106.111, Florida Administrative Code, provides in part that if Respondent fails to request a hearing within 21 days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged.