

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND )  
PROFESSIONAL REGULATION, )  
DIVISION OF ALCOHOLIC BEVERAGES )  
AND TOBACCO, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 02-0562  
 )  
MANOS, INC., d/b/a SEA PORT, )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Administrative Law Judge (ALJ) Daniel Manry conducted the administrative hearing of this case on April 4, 2002, in Titusville, Florida, on behalf of the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Chad D. Heckman, Esquire  
Department of Business and  
Professional Regulation  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, Florida 32399-2202

For Respondent: (No Appearance)

STATEMENT OF THE ISSUE

The issue presented is whether Respondent violated the Final Order of Petitioner by failing to pay \$1,250 to Petitioner on or before the expiration of 30 days after the entry of the Final Order.

PRELIMINARY STATEMENT

Petitioner seeks enforcement of a Final Order previously entered against Respondent. Respondent timely requested an administrative hearing.

At the hearing, Petitioner presented the testimony of one witness and submitted three exhibits for admission in evidence. Respondent did not appear and did not otherwise submit any evidence in the proceeding.

The identity of the witness and exhibits, and the rulings regarding each, are set forth in the record of the hearing. Neither party requested a transcript of the hearing. Petitioner timely filed its Proposed Recommended Order ("PRO") on May 10, 2002. Respondent did not file a PRO.

FINDINGS OF FACT

1. Petitioner is the state agency responsible for regulating the sale of alcoholic beverages. Respondent is licensed to sell alcoholic beverages pursuant to license number 15-02311, Series 4COP SRX. The licensed premises are located at 680 George J. King Boulevard, Port Canaveral, Florida, 32920.

2. On October 2, 2000, Petitioner entered a Final Order that required Respondent to pay an administrative fine of \$1,250 within 30 days of the date of entry of the order. Respondent appealed the Final Order to the First District Court of Appeal. The First District Court of Appeal upheld the Final Order. Respondent failed to pay any portion of the administrative fine.

CONCLUSIONS OF LAW

3. DOAH has jurisdiction over the subject matter and parties. Section 120.569 and 120.57, Florida Statutes (2001). DOAH provided the parties with adequate notice of the administrative hearing. (All section references are to Florida Statutes (2001) unless otherwise stated.)

4. Petitioner has the burden of proof in this proceeding. Petitioner must show by clear and convincing evidence that Respondent committed the acts alleged in the Administrative Action and the reasonableness of any penalty to be imposed. Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987). Petitioner satisfied its burden of proof.

5. Section 561.29(1) provides, in relevant part, that Petitioner may revoke Respondent's license upon a showing of:

(k) Failure by the holder of any license issued under the Beverage Law to comply with a stipulation, consent order, or final order.

6. Florida Administrative Code Rule 61A-2.022(8) provides:

Licensees or permittees who violate the accepted stipulation agreement or final order shall be issued a new administrative action under the same case number for failing to comply with the stipulation or final order which will be considered a separate violation of state law and the penalty for the violation will double.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that Petitioner enter a Final Order finding Respondent guilty of violating Section 561.29; imposing an administrative fine of \$2,500, pursuant to Rule 61A-2.022(8); and permanently revoking alcoholic beverage license number 15-02311, Series 4COP SRX.

DONE AND ENTERED this 24th day of May, 2002, in Tallahassee, Leon County, Florida.

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DANIEL MANRY  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 24th day of May, 2002.

COPIES FURNISHED:

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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 should be filed with the agency that will issue the final order in this case.