

7-2-02

Final Order No. BPR-2002-02591 Date:

FILED

7-25-02

Department of Business and Professional Regulation

AGENCY CLERK

Sarah Wachman, Agency Clerk

By:

*Brandon M. Nichols*

02 AUG -1 AM 11:22

**Department of Business and Professional Regulation  
Division of Alcoholic Beverages and Tobacco  
Northwood Centre  
1940 North Monroe Street  
Tallahassee, Florida 32399-1020**

AT

Department of Business and Professional Regulation  
Division of Alcoholic Beverages and Tobacco  
*PETITIONER*

vs.

**Craig D. Kemp and Elise L. Kemp**  
d/b/a Cedar Food Mart  
*RESPONDENT*

02-1113

SFD-CWS

DOAH CASE NO. 02-113  
DABT CASE NO. AX 26 010781  
LICENSE NO. 26-07398  
SERIES: 2APS

**FINAL ORDER**

This matter comes before me for final Agency Order.

The issue before me is whether and to what extent Respondent's alcoholic beverage license is subject to penalties pursuant to Sections 210.18, 210.15(1)(h), 561.14(3) and 561.29(1), Florida Statutes, and Rule 61A-2.022, Florida Administrative Code. Whether this Alcoholic Beverage License is subject to revocation pursuant to Section 561.29, Florida Statutes.

**PRELIMINARY STATEMENT**

1. On September 4, 2001, the Division issued an administrative action against Respondent.
2. Respondent filed a timely request for hearing, citing disputed issues of fact.
3. A formal hearing was conducted by Administrative Law Judge Stephen F. Dean, Division of Administrative Hearings, on May 21, 2002.
4. A Recommended Order was issued by the administrative law judge on July 2, 2002.

5. Neither party filed Exceptions to the Recommended Order.

**FINDINGS OF FACT**

6. A thorough review of the entire record of this matter reveals that the Findings of Fact contained in the Recommended Order are based on competent, substantial evidence and that the proceedings on which the findings were based complied with the essential requirements of the law.

7. The Division hereby adopts and incorporates by reference the Findings of Fact as set forth in the Recommended Order.

**CONCLUSIONS OF LAW**

8. A thorough review of the entire record in this matter indicates that the Conclusions of Law contained in the Recommended Order are reasonable and correct interpretations of the law based on the Findings of Fact.

9. The Division hereby adopts and incorporates by reference the Conclusions of Law as set forth in the Recommended Order.

10. This Final Order is entered after a review of the complete record.

**ORDER**

Having fully considered the complete record of this case and the Recommended Order, I hereby adopt the Recommended Order of the administrative law judge.

It is ORDERED that Petitioner pay a civil penalty in the amount of \$250 for violation of Section 210.18(1), Florida Statutes, and pay a civil penalty in the amount of \$250 for violation of Section 210.15(1)(h), Florida Statutes. The \$500 payment must be received by August 30, 2002, and may be made at the Enforcement Office located at 7960 Arlington Expressway, Suite 600, Jacksonville, Florida 32211-7470. It is further ORDERED that the Count 3 of the administrative action alleging violations of Section 561.14(3), Florida Statutes, is hereby dismissed. Petitioner shall destroy the seized cigarettes.

DONE and ORDERED, this 22<sup>nd</sup> day of July, 2002.



*[Handwritten Signature]*  
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RICHARD E. TURNER, Director  
Division of Alcoholic Beverages and Tobacco

This Order of the Director of the Division of Alcoholic Beverages and Tobacco will become final unless judicial review is initiated within 30 days of the date of rendition. The rendition date is the date the Order is filed by the Agency Indexing Clerk. Judicial review may be commenced by filing an original Notice of Appeal with the Clerk of the Division of Alcoholic Beverages and Tobacco and a copy, accompanied by filing fees prescribed by law, with the appropriate District Court of Appeal, pursuant to Section 120.68, Florida Statutes and Rule 9.110, F.R.A.P.

Mail Certification: This Final Order was sent by Certified Mail  
7000 0600 0021 6794 6729 to:  
Craig Kemp  
Elise Kemp  
8716 Lone Star Road  
Jacksonville, Florida 32211

By: *Rosalind L. Fields* Mail Date: *July 29, 2002*

*Additional copies mailed to:*

District Enforcement/Licensing Office  
Stephen F. Dean, Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
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