

7-31-03

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Final Order No. BPR-2003-03341 Date: 11-19-03
FILED

Department of Business and P
Division of Alcoholic Beve:
Northwood C
1940 North Monr
Tallahassee, Florida 32399-1020

Department of Business and Professional Regulation
AGENCY CLERK
Sarah Wachman, Agency Clerk

By: Brandon M. Nichols

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

vs.)

Keen & Keen, Inc.)
d/b/a Kabuki Japanese Steakhouse)
RESPONDENT)

DBPR CASE NO. 2002318850

DOAH CASE NO. 03-0381

LICENSE NO. 55-00306

SERIES: 2COP

PMR-CWS

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FILED
ADMINISTRATIVE
HEARINGS

FINAL ORDER

This matter comes before me for final Agency Action.

The issue before me is whether and to what extent Respondent's alcoholic beverage license is subject to penalties pursuant to Sections 561.29 and 562.11, Florida Statutes, and Rule 61A-2.022, Florida Administrative Code. Whether this Alcoholic Beverage License is subject to suspension pursuant to Section 561.29, Florida Statutes.

PRELIMINARY STATEMENT

1. On November 4, 2002, the Division filed a one-count Administrative Action (DBPR case number 2002-318850) against Respondent. The Division charged Respondent with having violated Section 562.11(1)(a), Florida Statutes, by selling, serving, or giving an alcoholic beverage on the licensed premises to a person under the age of twenty-one years.

2. Respondent filed a timely request for hearing, citing disputed issues of fact.
3. The case was referred to DOAH on February 3, 2003.
4. A formal hearing was conducted by Administrative Law Judge P. Michael Ruff

on May 20, 2003.

5. A Recommended Order was issued by the Administrative Law Judge on July 31, 2003.

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 Finding 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, the Recommended Order of the Administrative Law Judge, and Petitioner's Exceptions to the Recommended Order, I hereby recommend a penalty of five hundred dollars, and a three-day license suspension.

It is ORDERED that license number 55-00306 is hereby ordered to pay a five hundred dollar civil penalty and serve a three day license suspension.

DONE and ORDERED at Tallahassee, Florida, this 14 day of November, 2003.





Jack Tuttle, 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 this *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 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 to:

Kabuki Japanese Steakhouse and Restaurant
1766 South 8th Street
Fernandina Beach, Duval, Florida 32034

By: _____ Mail Date: _____

Additional copies mailed to:

Gary Baker, Esquire
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Jacksonville District Enforcement/Licensing Office

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