

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SELINA BREW and TODAY'S
KIDS DAYCARE CENTER, INC.

CASE NO. 04-1644
04-3002

Dmk
closed

Petitioner,

RENDITION NO. DCF-05-012-FO

AP

v.

DEPARTMENT OF CHILDREN AND
FAMILY SERVICES

FILED

JUN 06 2005

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2005 JUN -8 P 2:39

Respondent.

_____ /

DCF Department Clerk

AMENDED¹ FINAL ORDER

THIS CAUSE is before me on the Recommended Order of Daniel M. Kilbride, Administrative Law Judge, Division of Administrative Hearing, dated October 5, 2004. Although afforded the opportunity to submit exceptions to the Recommended Order, neither party elected to do so.

Having considered the Recommended Order, the pertinent parts of Chapter 65C-22, Florida Administrative Code, and sections 402.206 through 402.319, Florida Statutes (2004), it is hereby ordered that the Findings of Facts and Conclusions of Law of the administrative law judge be and are hereby approved and adopted, with the exception of the conclusion in paragraph 21 that the Department's burden of proof with regard to denial of license renewal is clear and convincing evidence. That conclusion is inconsistent with the decision in Department of Banking and Finance v. Osborne Stern & Co., 670 So. 2d 932

¹ The administrative complaints in these consolidated cases named Selina Brew and Today's Kids Daycare Center. The Recommended Order found as fact that the administrative proceeding in these cases is a licensing action against Today's Kids Daycare Center. The Final Order in this case was erroneously styled as Selena Brew v. Department of Children and Families. This Amended Final Order corrects that clerical error.

932 (Fla. 1996)². It is further ordered that the administrative fine or penalty imposed against Respondent is \$200.00, payable as required by law. It is further ordered that Respondent's license is suspended for a period of one (1) month, followed by the issuance of a provisional license, effective the date of receipt of this Order by Respondent.

DONE AND ORDERED at Tallahassee, Leon County, Florida, on this 1 day of June , 2005.


Don Winstead, Deputy Secretary
Department of Children and Family Services

Copies of this Final Order are being furnished to:

Daniel M. Kilbride
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

Beryl Thompson-McClary
Department of Children and Family Services
400 West Robinson Street, Suite S-1106
Orlando, FL 32801

Today's Kids Daycare Center and
Selina Brew
c/o Barry R. Nager, Esquire
PMB 211
5703 Red Bug Lake Road
Winter Springs, FL 32708

Circe Zamora, Esquire
1801 East Colonial Drive, Suite 108
Orlando, FL 32803

NOTICE OF RIGHT TO APPEAL

A party who is adversely affected by this final order is entitled to judicial review. To initiate judicial review, the party seeking it must file one copy of a "Notice of Appeal" with the Agency Clerk. The party seeking judicial review must also file another copy of the "Notice of Appeal," accompanied by the filing fee required by law, with the First District Court of Appeal in Tallahassee, Florida, or with the District Court of Appeal in the district where the

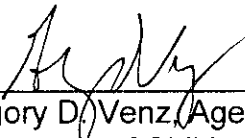
² Coke v. Department of Children and Family Services, 704 So. 2d 726 (Fla. 5th DCA 1998) does not mandate the conclusion in paragraph 21 of the Recommended Order. As the Coke court expressly stated, the issue was conceded, and not litigated, in that case. The court did not, therefore, consider the issue on the merits.

Appeal,” accompanied by the filing fee required by law, with the First District Court of Appeal in Tallahassee, Florida, or with the District Court of Appeal in the district where the party resides. The Notices must be filed within thirty (30) days of the rendition of this final order.³

³ The date of the “rendition” of this Final Order is the date that is stamped on its first page. The Notices of Appeal must be received on or before the thirtieth day after that date.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and copy of the foregoing FINAL ORDER has been sent by U.S. Mail or by hand delivery to each of the persons named above on this 6 day of June, 2005.



Gregory D. Venz, Agency Clerk
Department of Children and Family Services
1317 Winewood Blvd. Bldg. 2 Room 204Z
Tallahassee, FL 32399-0700