

1-27-05

Final Order No. BPR-2005-01302 Date: **3-14-05**
FILED

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

By: *Sarah Wachman*

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

FILED
2005 MAR 17 A 11:27
DIVISION OF
ADMINISTRATIVE
HEARINGS
AT
CASE NO. 2004-030568
DOAH NO. 04-3166
LICENSE NO. 16-13705
SERIES: 2APS
PMH
CWS

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

vs.

Cebatien and Marc Dierestil
d/b/a Food Mart No. 2

RESPONDENT

FINAL ORDER

This matter comes before me for final Agency Order.

The issue before me is as follows: (a) whether Respondent violated Sections 562.02, 210.18(1), 210.15(1)(h) and 561.29(1)(a), Florida Statutes, as alleged in the administrative action dated June 22, 2004, and if so, what penalty, if any, should be imposed.

PRELIMINARY STATEMENT

1. On June 22, 2004, 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 Patricia Hart Malono on November 1, 2004.
4. A Recommended Order was issued by the administrative law judge on January 27, 2005.
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, the Recommended Order of the administrative law judge, I hereby adopt the Recommended Order of the administrative law judge.

It is ORDERED that Respondent Count I of the administrative action is hereby dismissed. Respondent should be ordered to an administrative fine in the amount of \$1,500.00 and excise taxes in the amount of \$32.88. Payment must be received by April 11, 2005, and should be submitted to the District Office located at 5080 Coconut Creek Parkway, Suite C, Box #10, Margate, Florida 33063-3942.

DONE and ORDERED at Tallahassee, Florida, this 9th day of March, 2005.



Pat Wilson Farmer

PAT WILSON FARMER, 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. A transcript of the informal hearing may be obtained upon written request received no later than 60 days from the rendition date of this Order.

Mail Certification: This Final Order was sent by Certified Mail

7001 2510 0006 1126 3201to:

Cebastien Dierestil

Marc Dierestil

2519 North Andrews Avenue

Wilton Manors, Florida 33311

By: *Rosalind G. Dieldo*

Mail Date: *March 15, 2005*

Additional copies mailed to:

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