

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FILED

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FLORIDA DEPARTMENT OF
AGRICULTURE AND CONSUMER
SERVICES

DIVISION OF
ADMINISTRATIVE
HEARINGS

Petitioner,

vs.

AGENCY CASE NO. A40733
DOAH CASE NO. 06-1925

ROYAL FUN TIME, INC.

Respondent.

FINAL ORDER

THIS CAUSE arising under the provisions of Florida Statutes, Chapter 616, Part II, came before the Commissioner of Agriculture of the State of Florida for consideration and final agency action. The Commissioner of Agriculture, as head of the Department of Agriculture and Consumer Services, has jurisdiction over the subject matter and the parties thereto.

I. BACKGROUND

The Petitioner issued an Administrative Complaint against the Respondent dated February 3, 2006 charging Respondent Royal Fun Time, Inc. (Royal Fun Time) with violating Florida Statutes, Subsection 616.242 (19) (a) 1.b, by operating an amusement ride in a manner or circumstances that presents a risk of serious injury to patrons. The matter was referred to the Division of Administrative Hearings and thereafter heard before The Honorable Susan Harrell, Administrative Law Judge (ALJ) at a hearing held on July 12, 2006. The transcript of the proceedings was filed on August 8, 2006. The

ALJ entered a Recommended Order on August 22, 2006. As stated by the Administrative Law Judge:

“The Department has established by clear and convincing evidence that Royal Fun Time did violate Subsection 616.242 (19) (a) 1.b, Florida Statutes. Mr. Gayhart did not ensure that all patrons were in their seats with the lap bars in place before starting the ride. While Mr. Gayhart may not have been able to see all the patrons because of a blind spot, Royal Fun Time was aware of the blind spot and did not take measures to correct the problem.”

The record consists of all notices, pleadings, motions, intermediate rulings, evidence admitted and matters officially recognized, the transcript of the proceedings, proposed findings, stipulations of the parties, and the Recommended Order of the ALJ. The Respondent did not file any exceptions to the Recommended Order.

The Recommended Order recommending the entry of a Final Order assessing a fine of \$1,000.00 for violation of Florida Statutes, Subsection 616.242 (19) (a) 1.b., is attached and incorporated herein, as Exhibit “A”.

II. FINDINGS OF FACT

1. The Commissioner of Agriculture adopts the findings of fact set forth in the attached Recommended Order of the Administrative Law Judge (ALJ)

III. CONCLUSIONS OF LAW

2. The ALJ’s conclusion that the Respondent violated Florida Statutes, Subsection 616.242 (19) (a) 1.b, is supported by competent, substantial evidence and meets the essential requirements of the law.

3. After a full review of the record, the Commissioner of Agriculture adopts the Conclusions of Law made by the ALJ in her Recommended Order attached hereto.

Accordingly, it is thereupon

ORDERED AND ADJUDGED:

A. The Commissioner of Agriculture adopts the recommendations of the ALJ set forth in her recommended order attached.

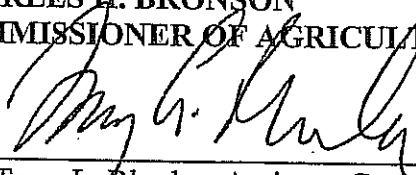
B. Respondent, Royal Fun Time, Inc., has violated Florida Statutes, Subsection 616.242 (19) (a) 1.b and shall pay an administrative fine in the amount of \$1,000.00.

NOTICE OF RIGHT TO APPEAL

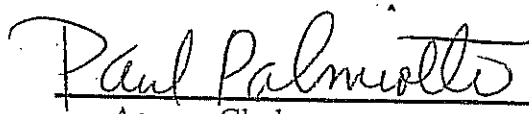

Any party to these proceedings adversely affected by this Final Order is entitled to seek review of this order pursuant to Section 120.68, Fla. Stat. (2002), and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings must be initiated by filing a petition for review or notice of appeal with the Agency Clerk of the Florida Department of Agriculture, Room 509 Mayo Building, Tallahassee, Florida 32399-0800. A copy of the petition for review or notice of appeal, accompanied by the filing fees prescribed by law must also be filed with the appropriate District Court of Appeal within thirty (30) days of the date this Order was filed with the Agency Clerk.

DONE AND ORDERED this 12th day of October, 2006.

**CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE**

BY: 
Terry L. Rhodes, Assistant Commissioner
Florida Department of Agriculture
and Consumer Services

Filed with the Agency Clerk this 12 day of October, 2006.


Agency Clerk 

Copies to: Royal Fun Time, Inc, Respondent
State of Florida, Division of Administrative Hearings