

Final Order No. BPR-2008-07311 Date: **8-28-08**
FILED

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

By

Brendan M. Nichol

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

FILED
2008 SEP -2 P 12:06
DIVISION OF ADMINISTRATIVE HEARINGS

Latino Grande, Inc.

PETITIONER

vs.

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

CASE NO. 2007-068011
DOAH NO. 08-0495
SERIES: 4COP

Big Pig, Inc.

CASE NOS. 2007-068653
2007-068656
2007-068662

vs.

DOAH NOS. 08-0496
08-0497
08-0498

SERIES: 4COP

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

RESPONDENT

FINAL ORDER

This matter comes before me for final Agency Order.

The issue before me is whether Respondent should exclude four entries in the quota drawing for alcoholic beverage licenses (license quota drawings) pursuant to Subsection 561.19(2)(d), Florida Statutes (2007) and Florida Administrative Code Rules 61A-1.006(8) and 61A-5.0105(8).

PRELIMINARY STATEMENT

1. By letters dated November 1, 2007, Respondent proposed to reject four applications for entries into the quota license drawing.
2. Respondent filed a timely requested an administrative hearing to challenge each of the four proposed rejections and the Respondent referred the matter to the Division of Administrative Hearings (DOAH) for a formal hearing.
3. A formal hearing was conducted by Administrative Law Judge Daniel Manry on April 3, 2008.
4. A Recommended Order was issued by the Administrative Law Judge on July 3, 2008.
5. On July 31, 2008, Division Director Hill entered a Final Order which stated that neither party had filed exceptions to the Recommended Order.
6. On August 7, 2008, the Division received a letter from Petitioner indicating that the Petitioner had indeed filed exceptions to the Recommended Order and served them on the Department on July 17, 2008. In fact, unbeknownst to the Director, the Department filed a Response to Petitioner' Exceptions to Recommended Order on July 28, 2008. Unfortunately, neither of the documents was received by the Director. On August 15, 2008, the Interim Division Director Jerry Geier, entered an Order Setting Aside the Final Order entered on July 31, 2008, to allow him the opportunity to take the aforementioned documents into consideration prior to entering the Final Order in this matter.

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. All exceptions are thus rejected.

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.

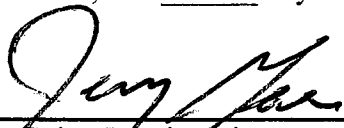
ORDER

Having fully considered the complete record of this case, the Recommended Order of the Administrative Law Judge, Petitioner's Exceptions and Respondent's Response to Petitioner's Exceptions to Recommended Order, I hereby adopt the Recommended Order and reject all exceptions.

It is ORDERED that the applications filed on behalf of Latino Grande, Inc. and Big Pig, Inc. will be excluded from the quota license drawing.

DONE and ORDERED at Tallahassee, Florida, this 07 day of August, 2008.





Jerry Geier, Interim 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

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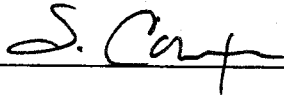
Jed Berman, Esq.

Infantino and Berman

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