

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND )  
PROFESSIONAL REGULATION, )  
DIVISION OF ALCOHOLIC BEVERAGES )  
AND TOBACCO, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 08-4896  
 )  
PALLADIUM WEST CORP., d/b/a )  
41 WEST RESTAURANT, )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

This cause came on for formal hearing before Harry L. Hooper, Administrative Law Judge with the Division of Administrative Hearings, on November 18, 2008, in Fort Myers, Florida.

APPEARANCES

For Petitioner: Michael John Wheeler, Esquire  
Department of Business and  
Professional Regulation  
Northwood Center, Suite 40  
1940 North Monroe Street  
Tallahassee, Florida 32399-2202

For Respondent: No appearance

STATEMENT OF THE ISSUE

The issue is whether Respondent violated the Beverage Law.

PRELIMINARY STATEMENT

Petitioner, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco (Division), issued an Administrative Action with regard to Respondent Palladium West Corporation (Palladium) on April 3, 2008. The Administrative Action listed sanctions that might be applied to the license of Palladium for violations of Subsection 561.17(1), Florida Statutes (2007), within Subsection 561.29(1)(a), Florida Statutes; Subsection 561.20(2)(a)4., Florida Statutes (2007), within Subsection 561.29(1)(a), Florida Statutes; and Florida Administrative Code Rule 61A-3.0141(3)(d) within Subsection 561.29(1)(a), Florida Statutes.

Palladium, through its agent Leonid Brenman, on July 20, 2008, demanded a hearing. The Division forwarded the complaint and allied papers to the Division of Administrative Hearings and it was set for hearing in Fort Myers, Florida, on November 18, 2008. Palladium was duly notified. At the appointed time and place, no one representing Palladium appeared. The Division, through counsel, appeared.

FINDINGS OF FACT

1. The Division is the state agency charged with supervising businesses licensed under the Beverage Law.
2. Palladium of 1110 Seawane Drive, Hewlett, New York, has a consumption on the premises license issued by the Division for

operations at 41 West Restaurant and Lounge in Bradenton, Florida.

3. Palladium, through its failure to pursue its demand, has admitted that no disputed facts exist with regard to the Administrative Action.

CONCLUSIONS OF LAW

4. The Division of Administrative Hearings has jurisdiction over the subject matter of and the parties to this proceeding. § 120.57(1), Fla. Stat.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Division take jurisdiction of the matter and enter such final order as it deems appropriate.

DONE AND ENTERED this 19th day of November, 2008, in Tallahassee, Leon County, Florida.



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HARRY L. HOOPER  
Administrative Law Judge  
Division of Administrative Hearings  
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1230 Apalachee Parkway  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 19th day of November, 2008.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.