

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	11/30/2009
File #	2009-09852

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF HOTELS AND RESTAURANTS

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,
DIVISION OF HOTELS AND
RESTAURANTS,

Petitioner,

v.

DOAH CASE NO.: 08-4981
H&R CASE NO.: 2008-047239
LICENSE NO.: 23-30809

FOOD FOR YOUR MOOD,

Respondent.

2009 DEC -2 A 10:52
 DIVISION OF
 ADMINISTRATIVE
 HEARINGS
FILED

FINAL ORDER

The Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation (the Division), after consideration of the complete record of this case on file with the Division, enters this Final Order.

1. On August 22, 2008, the Department issued an Administrative Complaint attached hereto as exhibit "A."

2. On January 15, 2009, a hearing in this cause was held before the Honorable Errol Powell, Administrative Law Judge, Division of Administrative Hearings.

3. On May 6, 2009, the Honorable Errol Powell issued a Recommended Order, a copy of which is attached as Exhibit "B." The Statement of the Issues, Preliminary Statement, Findings of Fact, Conclusions of Law, and Recommendation contained in the

Certified Article Number
7160 3901 9848 5678 1256
SENDERS RECORD

Recommended Order are hereby adopted *in toto* and incorporated herein by reference.

Based upon the foregoing, and being otherwise fully advised in the premises it is, hereby ORDERED that: for Respondent's violations of Section 509, Florida Statutes, and/or the rules promulgated thereto the following penalty is imposed:

1. Respondent shall pay a fine in the amount of \$1,000.00, due and payable to the Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011, within thirty (30) calendar days of the date this Order is filed with the agency clerk.

2. This Final Order shall become effective on the date of filing with the Agency Clerk.

DONE AND ORDERED this 1 day of November, 2009.



Bill L. Veach, Director
Department of Business and
Professional Regulation
Division of Hotels and Restaurants
1940 North Monroe Street
Tallahassee, Florida 32399-1015

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

Unless expressly waived, any party substantially affected by this final order may seek judicial review by filing an original Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, and a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal within thirty (30) days rendition of this order, in accordance with Rule 9.110, Fla. R. App. P., and Section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via Certified U.S. Mail to Food For Your Mood, c/o Nicole Moxey, 16650 Northwest 27th Avenue, Miami, Florida 33050; by regular U.S. Mail to the Honorable Errol Powell, Administrative Law Judge, Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by hand delivery to Charles F. Tunnickliff, Chief Professions Attorney, Department of Business and Professional Regulations, 1940 North Monroe Street, Tallahassee, Florida 32399-2202, this 30th day of November, 2009.



For the Division of Hotels
and Restaurants

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

Unless expressly waived, any party substantially affected by this final order may seek judicial review by filing an original Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, and a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal within thirty (30) days rendition of this order, in accordance with Rule 9.110, Fla. R. App. P., and Section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was furnished by U. S. mail to D'Hut, c/o D'Hut Inc., 2141 W. Colonial Drive, Orlando, Florida 32804, on this _____ day of _____, 2009.

For the Division of Hotels
and Restaurants

7160 3901 9848 5678 1256

TO:

NICOLE MOXEY
FOOD FOR YOUR MOOD
16343 NW 17 CT
PEMBROKE PINES, FLORIDA 33028

SENDER: Dept of Business & Prof Regulation
Division of Hotels & Restaurants

REFERENCE: License No 2330809
License Type 2010
Case No. 2008047239

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service

**Receipt for
Certified Mail**

No Insurance Coverage Provided
Do Not Use for International Mail

POSTMARK OR DATE

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF HOTELS AND RESTAURANTS

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION

Petitioner,

vs.

FOOD FOR YOUR MOOD
Respondent.

License No. 2330809
License Type 2010
Case No. 2008047239

ADMINISTRATIVE COMPLAINT

The DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF HOTELS AND RESTAURANTS, ("Petitioner"), files this Administrative Complaint against FOOD FOR YOUR MOOD, ("Respondent"), and says:

1. Petitioner is the state agency charged with regulating the operation of public lodging establishments and public food service establishments, pursuant to Section 20.165 and Chapter 509, Florida Statutes.
2. Respondent is, and has been at all times material hereto, licensed by or subject to the jurisdiction of the Division of Hotels and Restaurants. The respondent's business address of record is 16650 NW 27 AVE, OPA-LOCKA, FLORIDA 33054. The mailing address of record is FOOD FOR YOUR MOOD, at 16343 NW 17 CT, PEMBROKE PINES, FLORIDA 33028.
3. Inspection of this establishment conducted pursuant to Sec. 509.032, Florida Statutes, revealed violations of the provisions of Chapter 509, Florida Statutes, and / or the rules promulgated thereto governing operation of the establishment. The violation(s) found and applicable law are described in Exhibit "A," attached hereto and incorporated herein by reference. Inspection documents are attached as Exhibit "B", incorporated herein by reference.

WHEREFORE, Petitioner respectfully requests entry of an Order imposing one or more of the following penalties: administrative fine not to exceed \$1,000 per offense; mandatory attendance at Respondent's expense at an educational program sponsored by the Department's Hospitality Education Program; suspension, revocation, or refusal of a license issued pursuant to this Chapter, and/or any other relief authorized by Chapter 509, Florida Statutes, or the rules promulgated thereto.

Signed August 22, 2008

S.D. Kallas

Shannie Kallas, District Manager
By delegation of the Director, or designee
Division of Hotels & Restaurants
Department of Business & Professional Regulation

COUNSEL FOR THE DEPARTMENT:

Charles F. Tunnicliff, Lead Attorney
Florida Bar No. 0153831
Department of Business & Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-1007

CERTIFICATE OF SERVICE

BY CERTIFIED U.S. MAIL, ARTICLE NUMBER: 7160 3901 9849 9961 1380

I HEREBY CERTIFY that a true and correct copy of the foregoing ADMINISTRATIVE COMPLAINT has been hand served by me on this _____ day of _____, 2008.

Inspector's Signature

Title

Received by: _____

Operator's Signature

Title

Case Number: 2008047239 File Number: 188029
License Number: 2330809 2010
FOOD FOR YOUR MOOD

District Number: 01
Form revised 07.07.07

EXHIBIT A

Exhibit A

License Number: 2330809
License Type: 2010 PERMANENT FOOD SERVICE
Case Number: 2008047239

"FC" as cited herein references specific provisions of the Food Code, Recommendations of the United States Public Health Service, Food and Drug Administration, incorporated by Chapter 61C, Florida Administrative Code. "NFPA" as cited herein references specific provisions of the National Fire Protection Association Life Safety Code, incorporated by reference at Chapter 4A-3, "Fire Prevention, General Provisions", Florida Administrative Code, and 61C-1.004(5), Florida Administrative Code.

"**" denotes a critical violation.

It is alleged that on August 22, 2008, the licensee was in violation of Florida Statute 509(FS) and/or the Rules of the Division of Hotels and Restaurants, Florida Administrative Code (FAC), in the following particulars. Copy(s) of the report(s) for the above referenced inspection(s) are attached hereto and incorporated by reference as Exhibit B.

* 1. 35A-05-1 6-501.111 FC:: CONTROLLING PESTS. THE PRESENCE OF INSECTS, RODENTS, AND OTHER PESTS SHALL BE CONTROLLED TO MINIMIZE THEIR PRESENCE ON THE PREMISES BY: (A) ROUTINELY INSPECTING INCOMING SHIPMENTS OF FOOD AND SUPPLIES; (B) ROUTINELY INSPECTING THE PREMISES FOR EVIDENCE OF PESTS; (C) USING METHODS, IF PESTS ARE FOUND, SUCH AS TRAPPING DEVICES OR OTHER MEANS OF PEST CONTROL AS SPECIFIED UNDER SECTIONS 7-202.12, 7-206.12, AND 7-206.13; AND (D) ELIMINATING HARBORAGE CONDITIONS.

OBSERVED 30 PLUS LIVE ROACHES BEHIND THE REACH-IN COOLER IN THE KITCHEN AREA AND 20 PLUS DEAD ROACHES IN THE KITCHEN AREA BEHIND THE REACH-IN COOLER.



FOLLOW-UP INSPECTION REQUIRED
 Inspector recommended operations stop until violations corrected.

**FOOD SERVICE INSPECTION REPORT
 LEGAL NOTICE**

Failure to comply with this Notice may initiate an administrative complaint that may result in suspension or revocation of your license and fines.

08/22/08 11:18 AM Inspection Date and Time	Routine	2330809	SEAT
NICOLE MOXEY Owner Name	Inspection Reason	License Number	
FOOD FOR YOUR MOOD Business Name	EMERGENCY ORDER of suspension of lic	9544508272	
10 Number of Units	Inspection Result	Area Code/Telephone Number	
16650 NW 27 AVE Address / City / State / Zip / etc.	08/23/2008 08:00 AM Callback Date/Time	10/01/08 License Expiration	
		OPA-LOCKA, 33054	

Item 03: Food Temperatures rice, cook line, 180 Degrees F. beans, prep area, 80 Degrees F. ox tails, prep area, 49 Degrees F. beans, reach in cooler, 41 Degrees F ham, prep area, 40 Degrees F fish, reach in cooler, 41 Degrees F.	Item 53a: Cert. Food Managers Manager Name: NICOLE MOXEY Certification Date: 12/14/07 Certified by: Thompson Prometrics	Item 20: Warewashing Sanitization Sanitizer Type: Not Set Up found at concentration of 0 PPM.	Item 45: Fire Extinguishers and Fire Suppression Systems Dates A Hood Suppression type Fire Extinguisher, found in/at kitchen has a certification date of 08/05/08 A Class K type Fire Extinguisher, found in/at kitchen has a certification date of 08/08
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NOTE: Items marked above with an asterisk (*) indicate a violation

Inspector's Comments

No Boiler On Site

I acknowledge receipt of this inspection form and comments.

08-22-08		
Date	Signature of Recipient	Inspector Signature
Recipient: NICOLE MOXEY		For further information please contact:
Title OPERATOR		Kevon Pierre
Phone: 305-623-9490		8240 NW 52 Terrace Suite 101 Miami, Florida 33166
		850-487-1395

STATUS	SOURCE	STATUS	PHF TEMPERATURE CONTROL
In	*01a Approved source	In	*03a Cold food at proper temperatures during storage, display, service,
In	*01b Wholesome, sound condition		
In	*02 Original container; properly labeled, date marking	In	*03b Hot food at proper temperature
N/A	*02-11 Consumer advisory on raw/undercooked oysters	In	*03c Foods properly cooked/reheated
N/A	*02-13 Consumer advisory on raw/undercooked animal	In	*03d Foods properly cooled
			*04 Facilities to maintain product temperature
			*05 Thermometers provided and conspicuously placed
		Out	*06 Potentially hazardous foods properly thawed

Violations marked with an asterisk are critical violations. Items marked IN are in compliance. Items Marked OUT are violations. Specific details of violation are listed on subsequent pages. Items marked N/A are Not Applicable. Items Marked as N/O are Not Observed, and were not being conducted at the time of inspection.
 DBPR Form HR 5022-016



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF HOTELS AND RESTAURANTS
www.myflorida.com/dbpr

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License Number
SEAT 2330809
Business Name
FOOD FOR YOUR MOOD
Inspection Date
08/22/08 11:18 AM

**FOOD SERVICE INSPECTION REPORT
LEGAL NOTICE**

Failure to comply with this Notice may initiate an administrative complaint that may result in suspension or revocation of your license and fines.

STATUS	PHF TEMPERATURE CONTROL	STATUS	GARBAGE AND REFUSE DISPOSAL
In	*07 Unwrapped or potentially hazardous food not re-served		33 Containers covered, adequate number, insect and rodent proof, emptied at proper intervals, clean
Out	*08a Food protection during storage, preparation, display, service, transportation		34 Outside storage area clean, enclosure properly constructed
In	*08b Cross-contamination, equipment, personnel, storage		
	*08c Potential for cross-contamination; storage practices; damaged food segregated	STATUS	INSECT AND RODENT CONTROL
Out	*09 Foods handled with minimum contact	Out	*35a Presence of insects/rodents Animals prohibited
	10 In use food dispensing utensils properly stored		*35b Outer openings protected from insects, rodent proof
STATUS	PERSONNEL	STATUS	FLOORS, WALLS, CEILINGS
In	*11 Personnel with infections restricted		36 Floors properly constructed, clean, drained, covered
In	*12a Hands washed and clean, good hygienic practices (observed), alternative operating plan	Out	37 Walls, ceilings, and attached equipment, constructed, clean
In	*12b Proper hygienic practices, eating/drinking/smoking (evidence)		38 Lighting provided as required. Fixtures shielded
	13 Clean clothes, hair restraints		39 Rooms and equipment - vented as required
		STATUS	OTHER AREAS
STATUS	FOOD EQUIPMENT AND UTENSILS		40 Employee lockers provided and used, clean
Out	14 Food contact surfaces designed, constructed, maintained, installed, located	In	*41a Toxic items properly stored
	15 Non-food contact surfaces designed, constructed, maintained, installed, located	In	*41b Toxic items labeled and used properly
	*16 Dishwashing facilities designed, constructed, operated 1. Wash 2. Rinse 3. Sanitize		42 Premises maintained, free of litter, unnecessary articles. Cleaning and maintenance equipment properly stored. Kitchen restricted to authorized personnel
	*17 Thermometers, gauges, test kits provided		43 Complete separation from living/sleeping area, laundry
	18 Pre-flushed, scraped, soaked	STATUS	SAFETY
	19 Wash, rinse water clean, proper temperature		*45 Fire extinguishers - proper and sufficient
	*20a Sanitizing concentration		*46 Exting system - adequate, good repair
	*20b Sanitizing temperature		*47 Electrical wiring - adequate, good repair
	21 Wiping cloths clean, used properly, stored		*48 Gas appliances - properly installed, maintained
Out	*22 Food contact surfaces of equipment and utensils clean		*49 Flammable/combustible materials - properly stored
	23 Non-food contact surfaces clean	STATUS	GENERAL
	24 Storage/handling of clean equipment, utensils		*50 Current license properly displayed
STATUS	SINGLE SERVICE ARTICLES		51 Other conditions sanitary and safe operation
	25 Service items properly stored, handled, dispensed		*52 False/misleading statements published or advertised relating to food/beverage
	26 Single service articles not re-used	In	*53a Food management certification valid
STATUS	WATER AND SEWAGE/PLUMBING	In	*53b Employee training validation
	*27 Water source safe, hot and cold under pressure		54 Florida Clean Indoor Air Act
	*28 Sewage and waste water disposed properly		55 Automatic Gratuity Notice
	29 Plumbing installed and maintained		56 Copy of Chapter 509, Florida Statutes, available
	*30 Cross-connection, back siphonage, backflow	STATUS	GENERAL
STATUS	TOILET AND HANDWASHING FACILITIES		57 Hospitality Education Program Information provided
	*31 Toilet and handwashing facilities, number, convenient, designed, installed		
Out	*32 Restrooms with self-closing doors, fixtures operate properly, facility clean, supplied with handsoap, disposable towels or hand drying devices, tissue, covered waste		Total Number of COS Violations. Total Number of Repeat Violations:

Violations marked with an asterisk are critical violations. Items marked IN are in compliance. Items Marked OUT are violations. Specific details of violation are listed on subsequent pages. Items marked N/A are Not Applicable. Items Marked as N/O are Not Observed, and were not being conducted at the time of inspection.



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FOOD SERVICE INSPECTION REPORT
LEGAL NOTICE

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License Number
SEAT 2330809
Business Name
FOOD FOR YOUR MOOD
Inspection Date
08/22/08 11:18 AM

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Violation(s):

37-13-1:Observed hole in ceiling

22-22-1:Observed encrusted material on can opener.

22-19-1:Observed interior of microwave soiled.

14-37-1:Observed cutting board grooved/pitted and no longer cleanable.

37-04-1:Observed wall soiled with accumulated black debris in dishwashing area.

09-01-1:Observed potentially hazardous food thawed in an improper manner

35A-05-1:Observed roach activity as evidenced by live roaches found 30 PLUS LIVE ROACHES BEHIND REACH IN COOLER IN KITCHEN AREA

35A-03-1:Observed dead roaches on premises. 20 PLUS DEAD ROACHES IN KITCHEN AREA BEHIND REACH IN COOLER

09-05-1:Observed improper use of bowl/plastic food container or other container with no handle used to dispense food that is not ready-to-eat.

08A-29-1:Observed uncovered food in holding unit/dry storage area. ham ,chicken and fish not covered in reach in cooler

32-16-1:Hand wash sink lacking proper hand drying provisions.

32-17-1:Handwashing cleanser lacking at handwashing lavatory.