

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 5/15/2009
File # 2009-03697

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,

vs.

PITTSBURGH PETE'S,

Respondent.

DOAH CASE NO.: 08-5414
H&R CASE NO.: 2004-043070
LICENSE NO.: 62-15373

FILED
2009 MAY 18 AM 11:40
DIVISION OF
ADMINISTRATIVE
HEARINGS

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 24, 2004, the Department issued an Administrative Complaint attached hereto as exhibit "A."

2. On January 23, 2009, a hearing in this cause was held before the Honorable William F. Quattlebaum, Administrative Law Judge, Division of Administrative Hearings.

3. On March 3, 2009, Honorable William F. Quattlebaum 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

Certified Article Number
7160 3901 9848 1639 5950
SENDERS RECORD

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

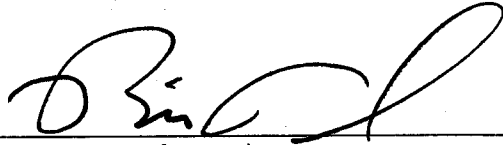
Based upon the foregoing, and being otherwise fully advised in the premises it is, hereby **ORDERED** that for Respondent's violations of Chapter 509, Florida Statutes, and/or the rules promulgated thereto the following penalty is imposed:

1. Respondent shall pay a fine in the amount of five hundred dollars (**\$500.00**), 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. Respondent will attend a Hospitality Education Program Workshop (HEP) on food service or lodging sanitation and safety within ninety (90) days of the filing of the Final Order incorporating this stipulation with the Department's agency clerk. The Hospitality Education Administrator will provide verification that Respondent has taken the class. Respondent agrees to an additional \$250.00 fine if the HEP requirement is not completed within 90 days of the Final Order filing.

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

DONE AND ORDERED this 14 day of April, 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, Return Receipt Requested, to Pittsburgh Pete's c/o Herbert Newman, 10801 Starkey Road. No. 11, Largo, Florida 33777; by regular U.S. Mail to the Honorable William F. Quattlebaum, Administrative Law Judge, Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by hand delivery to Charles F. Tunnicliff, Chief Professions Attorney, Department of Business and Professional Regulations, 1940 North Monroe Street, Tallahassee, Florida 32399-2202, this 15th day of may, 2009.



For the Division of Hotels & Restaurants

7160 3901 9848 1639 5950

TO:

PITTSBURGH PETE'S PUB INC
PITTSBURGH PETE'S
10801 STARKEY RD
LARGO, FLORIDA 33773

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

REFERENCE: License No. 6215373
License Type 2010
Case No. 2004043070

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.

PITTSBURGH PETE'S

Respondent.

License No. 6215373

License Type 2010 Permanent Food Service

Case No. 2004043070


ADMINISTRATIVE COMPLAINT

The DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF HOTELS AND RESTAURANTS, ("Petitioner"), files this Administrative Complaint against PITTSBURGH PETE'S, ("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 10801 STARKEY RD, LARGO, FLORIDA 33773. The mailing address of record is PITTSBURGH PETE'S, at 10801 STARKEY RD, LARGO, FLORIDA 33773.
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 25, 2004


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

COUNSEL FOR THE DEPARTMENT:

Charles F. Tunncliff, 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: 7160-3901-9848-3954-3178

I HEREBY CERTIFY that a true and correct copy of the foregoing ADMINISTRATIVE COMPLAINT has been hand served by me on this _____ day of _____, 2004.

Inspector's Signature

Title

Received by: _____

Operator's Signature

Title

Case Number: 2004043070
License Type: 2010 Permanent Food Service
License Number: 6215373

EXHIBIT A

Form revised 7/27/04
District Number: 03
PITTSBURGH PETE'S

License Number: 6215373
License Type: 2010 PERMANENT FOOD SERVICE
Case Number: 2004043070

Exhibit A

"FC" as cited herein references specific provisions of the 1999 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.

It is alleged that on July 21, 2004 and August 23, 2004, 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. 53A-01 509.039 FS & 61C-4.023(1) FAC ALL MANAGERS EMPLOYED BY A FOOD SERVICE ESTABLISHMENT MUST HAVE PASSED [THE FOOD SERVICE MANAGER] TEST AND RECEIVED A CERTIFICATE ATTESTING THERETO. MANAGERS HAVE A PERIOD OF 90 DAYS AFTER EMPLOYMENT TO PASS THE REQUIRED TEST. ALL MANAGERS WHO ARE RESPONSIBLE FOR THE STORAGE, PREPARATION, DISPLAY, AND SERVING OF FOODS TO THE PUBLIC SHALL HAVE PASSED A CERTIFICATION TEST APPROVED BY THE DIVISION DEMONSTRATING A BASIC KNOWLEDGE OF FOOD PROTECTION PRACTICES AS ADOPTED IN THIS CHAPTER. THOSE MANAGERS WHO SUCCESSFULLY PASS AN APPROVED CERTIFICATION EXAMINATION SHALL BE ISSUED A CERTIFICATE BY THE CERTIFYING ORGANIZATION, WHICH IS VALID FOR A PERIOD OF FIVE YEARS FROM THE DATE OF ISSUANCE.

MANAGER LACKING PROOF OF FOOD MANAGER CERTIFICATION. NO MANAGER CERTIFIED AT THIS LOCATION.

* 2. 53B-01 509.049 FS FOOD SERVICE EMPLOYEE TRAINING. THE DIVISION SHALL ADOPT, BY RULE, MINIMUM FOOD SAFETY PROTECTION STANDARDS FOR THE TRAINING OF ALL FOOD SERVICE EMPLOYEES WHO ARE RESPONSIBLE FOR THE STORAGE, PREPARATION, DISPLAY, OR SERVING OF FOODS TO THE PUBLIC IN ESTABLISHMENTS REGULATED UNDER THIS CHAPTER. THESE STANDARDS SHALL NOT INCLUDE AN EXAMINATION, BUT SHALL PROVIDE FOR A FOOD SAFETY TRAINING CERTIFICATE PROGRAM FOR FOOD SERVICE EMPLOYEES TO BE ADMINISTERED BY A PRIVATE NONPROFIT PROVIDER CHOSEN BY THE DIVISION. ANY FOOD SAFETY TRAINING PROGRAM ESTABLISHED AND ADMINISTERED TO FOOD HANDLER EMPLOYEES PRIOR TO THE EFFECTIVE DATE OF THIS ACT SHALL BE SUBMITTED BY THE OPERATOR TO THE DIVISION FOR ITS REVIEW AND APPROVAL. IT SHALL BE THE DUTY OF THE LICENSEE OF THE PUBLIC FOOD SERVICE ESTABLISHMENT TO PROVIDE TRAINING IN ACCORDANCE WITH THE DESCRIBED RULE TO ALL EMPLOYEES UNDER THE LICENSEE'S SUPERVISION OR CONTROL. THE LICENSEE MAY DESIGNATE A CERTIFIED FOOD SERVICE MANAGER TO PERFORM THIS FUNCTION AS AN AGENT OF THE LICENSEE. FOOD SERVICE EMPLOYEES MUST RECEIVE CERTIFICATION PURSUANT TO THIS SECTION BY JANUARY 1, 2001. FOOD SERVICE EMPLOYEES HIRED AFTER NOVEMBER 1, 2000, MUST RECEIVE CERTIFICATION WITHIN 60 DAYS AFTER EMPLOYMENT. CERTIFICATION PURSUANT TO THIS SECTION SHALL REMAIN VALID FOR 3 YEARS.

NO PROOF OF REQUIRED EMPLOYEE TRAINING.



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

CALLBACK 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.

<u>8/23/04 11:54:53 AM</u>	<u>Warning</u>	<u>SEA6215373</u>	<u>SEAT</u>
<u>Callback Inspection Date and Time</u>	<u>Inspection Reason</u>	<u>License Number</u>	
<u>PITTSBURGH PETE'S PUB INC</u>	<div style="border: 1px solid black; padding: 2px;">ADMINISTRATIVE COMPLAINT recommended.</div>	<u>Area Code/Telephone Number</u>	
<u>Owner Name</u>			
<u>PITTSBURG PETES</u>	<u>Inspection Result</u>	<u>07/21/2004</u>	
<u>Business Name</u>	<u>Requested Callback Date/Time</u>	<u>Initial Warning Date</u>	
<u>46</u>			
<u>Number of Units</u>	<u>10801 STARKEY RD</u>	<u>LARGO FL 33773</u>	
<u>Address / City / State / Zip / etc.</u>			

Comments

The following item(s) have been recommended for Administrative Complaint:

Violation: 53A-01

Observed manager lacking proof of Food Manager Certification. This violation must be corrected by : 8/23/04.

Violation: 53B-01

Observed no proof of required employee training. This violation must be corrected by : 8/23/04.

The following item(s) are in compliance:

Herbert Newman

Jim Olsen

08/23/04 12:04 PM

Date

Signature of Recipient

Recipient: herbert newman

Title: owner

Phone: 727 397 4900

Inspector Signature

For further information please contact:

Jim Olsen 3725 W.

Sanitation and Safety Specialist

Grace St, Suite 520 Tampa Florida

850.487.1395



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

CALLBACK INSPECTION REPORT

LEGAL NOTICE

Page 2
License Number
SEAT SEA6215373
Business Name
PITTSBURG PETES
Inspection Date
8/23/04 11:54:53 AM

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

Violation: 03A-03

Observed potentially hazardous food cold held at greater than 41 F.cold cuts in deli style cooler 45/48

Violation: 12B-01

Observed employee in a restricted area drinking from an open beverage container.

Violation: 22-06

Observed buildup of slime-like substance in the interior of ice machine.

Violation: 23-02

Observed residue build-up on nonfood-contact surface.on inside of conveyer type toaster

Violation: 37-02

Observed ceiling soiled with accumulated dust.near prep area

Violation: 45-30

Observed lack of inspection report from licensed equipment dealer on premise.hood surpression system report

Violation: 56-01

Observed copy of Florida Statute 509 not available in the establishment.



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

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.

7/21/04 11:33:34 AM Routine 6215373 SEAT
Inspection Date and Time Inspection Reason License Number
PITTSBURGH PETE'S PUB INC
Owner Name WARNING: Violations in the operation of your establishment must be corrected by:
PITTSBURG PETES Inspection Result Area Code/Telephone Number
Business Name 46 08/23/2004 08:00 AM 2/1/05
Number of Units Callback Date/Time License Expiration
10801 STARKEY RD LARGO FL 33773
Address / City / State / Zip / etc.

Table with 4 columns: Item 03: Food Temperatures, Item 53a: Cert. Food Managers, Item 20: Warewashing Sanitization, Item 45: Fire Extinguishers and Fire Suppression Systems Dates. Contains inspection findings for food temperatures, sanitizer levels, and fire extinguisher certification dates.

NOTE: Items marked above with an asterisk (*) indicate a violation

Inspector's Comments

Provided Web Site: www.hospitalityeducation.org.

I acknowledge receipt of this inspection form and comments.

Handwritten signature of Herbert Newman

Handwritten signature of Jim Olsen

07/21/04 12:07 PM

Date/Time Recipient: herbert newman
Title owner
Phone: 727 397 4900

Inspector Signature
For further information please contact:
Jim Olsen
Sanitation and Safety Specialist 3725 W. Grace St, Suite 520
Tampa Florida
850.487.1395

Table with 4 columns: STATUS, SOURCE, STATUS, PHF TEMPERATURE CONTROL. Lists compliance status for various food safety items like approved sources, food conditions, and temperature controls.

Violations marked with an asterisk are critical violations. Items marked YES are in compliance. Items Marked NO 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



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

Page 2
License Number
SEAT 6215373

FOOD SERVICE INSPECTION REPORT
LEGAL NOTICE

Inspection Date
7/21/04 11:33:34 AM

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
Yes	*07 Unwrapped or potentially hazardous food not re-served	Yes	33 Containers covered, adequate number, insect and rodent proof, emptied at proper intervals, clean
Yes	*08a Food protection during storage, preparation, display, service, transportation	Yes	34 Outside storage area clean, enclosure properly constructed
Yes	*08b Cross-contamination, equipment, personnel, storage		
Yes	*08c Potential for cross-contamination; storage practices; damaged food segregated	STATUS	INSECT AND RODENT CONTROL
Yes	09 Foods handled with minimum contact	Yes	*35a Presence of insects/rodents. Animals prohibited
Yes	10 In use food dispensing utensils properly stored	Yes	*35b Outer openings protected from insects, rodent proof
STATUS	PERSONNEL	STATUS	FLOORS, WALLS, CEILINGS
Yes	*11 Personnel with infections restricted	Yes	36 Floors properly constructed, clean, drained, coved
Yes	*12a Hands washed and clean, good hygienic practices (observed), alternative operating plan	No	37 Walls, ceilings, and attached equipment, constructed, clean
No	*12b Proper hygienic practices, eating/drinking/smoking (evidence)	Yes	38 Lighting provided as required. Fixtures shielded
Yes	13 Clean clothes, hair restraints	Yes	39 Rooms and equipment - vented as required
STATUS	FOOD EQUIPMENT AND UTENSILS	STATUS	OTHER AREAS
Yes	14 Food contact surfaces designed, constructed, maintained, installed, located	Yes	40 Employee lockers provided and used, clean
Yes	15 Non-food contact surfaces designed, constructed, maintained, installed, located	Yes	*41a Toxic items properly stored
Yes	16 Dishwashing facilities designed, constructed, operated 1. Wash 2. Rinse 3. Sanitize	Yes	*41b Toxic items labeled and used properly
Yes	17 Thermometers, gauges, test kits provided	Yes	42 Premises maintained, free of litter, unnecessary articles. Cleaning and maintenance equipment properly stored. Kitchen restricted to authorized personnel
Yes	18 Pre-flushed, scraped, soaked	Yes	43 Complete separation from living/sleeping area, laundry
Yes	19 Wash, rinse water clean, proper temperature	Yes	44 Clean and soiled linen segregated and properly stored
Yes	*20a Sanitizing concentration	STATUS	SAFETY
Yes	*20b Sanitizing temperature	No	*45 Fire extinguishers - proper and sufficient
Yes	21 Wiping cloths clean, used properly, stored	Yes	*46 Exiting system - adequate, good repair
No	22 Food contact surfaces of equipment and utensils clean	Yes	*47 Electrical wiring - adequate, good repair
No	23 Non-food contact surfaces clean	Yes	*48 Gas appliances - properly installed, maintained
Yes	24 Storage/handling of clean equipment, utensils	Yes	*49 Flammable/combustible materials - properly stored
STATUS	SINGLE SERVICE ARTICLES	STATUS	GENERAL
Yes	25 Service items properly stored, handled, dispensed	Yes	*50 Current license properly displayed
Yes	26 Single service articles not re-used	Yes	51 Other conditions sanitary and safe operation
STATUS	WATER AND SEWAGE/PLUMBING	Yes	*52 False/misleading statements published or advertised relating to food/beverage
Yes	*27 Water source safe, hot and cold under pressure	No	*53a Food management certification valid
Yes	*28 Sewage and waste water disposed properly	No	*53b Employee training validation
Yes	29 Plumbing installed and maintained	Yes	54 Florida Clean Indoor Air Act
Yes	*30 Cross-connection, back siphonage, backflow	Yes	55 Automatic Gratuity Notice
STATUS	TOILET AND HANDWASHING FACILITIES	No	56 Copy of Chapter 509, Florida Statutes, available
Yes	*31 Toilet and handwashing facilities, number, convenient, designed, installed	STATUS	GENERAL
Yes	32 Restrooms with self-closing doors, fixtures operate properly, facility clean, supplied with handsoap, disposable towels or hand drying devices, tissue, covered waste	Yes	57 Hospitality Education Program Information provided
		Yes	58 Smoke Free
			Total Number of COS Violations: 0
			Total Number of Repeat Violations: 0

Violations marked with an asterisk are critical violations. Items marked YES are in compliance. Items-Marked NO 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



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

Page 3
License Number
SEAT 6215373
Inspection Date
7/21/04 11:33:34 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.

Warning(s):

53A-01 - Observed manager lacking proof of Food Manager Certification. This violation must be corrected by : 8/23/04.

53B-01 - Observed no proof of required employee training. This violation must be corrected by : 8/23/04.

Violation(s):

03A-03 - Observed potentially hazardous food cold held at greater than 41 F.cold cuts in deli style cooler 45/48

12B-01 - Observed employee in a restricted area drinking from an open beverage container.

22-06 - Observed buildup of slime-like substance in the interior of ice machine.

23-02 - Observed residue build-up on nonfood-contact surface.on inside of conveyer type toaster

37-02 - Observed ceiling soiled with accumulated dust.near prep area

45-30 - Observed lack of inspection report from licensed equipment dealer on premise.hood surpression system report

56-01 - Observed copy of Florida Statute 509 not available in the establishment.