

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FILED
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DIVISION OF
ADMINISTRATIVE
HEARINGS

LARRY KRAVITSKY
Petitioner,

vs.

DOAH CASE NO.: 09-2300PL
AGENCY CASE NO.: A61227

FLORIDA DEPARTMENT OF
AGRICULTURE AND CONSUMER
SERVICES,

Respondent.

FINAL ORDER

THIS CAUSE, arising under the Structural Pest Control Act, Chapter 482, Florida Statutes, came before the Commissioner of Agriculture of the State of Florida for consideration and final agency action after entry of a Recommended Order by The Honorable Larry J. Sartin, Administrative Law Judge (ALJ). 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 Recommended Order relates in pertinent part at page two (2):

On or about April 8, 2009, Respondent, the Department of Agriculture and Consumer Services, Bureau of Entomology and Pest Control, issued Administrative Complaint # A61227, BEPC Case # 09-0850, RE: Amended Notice of Denial of Application for Pest Control Employee-Identification Card for Larry Kravitsky Submitted on March 16, 2009.¹ Petitioner's application was

¹ On pages 2 and 6 of the Recommended Order, the ALJ erroneously notes the date of Mr. Kravitsky's application for a pest control employee-identification card as January 6, 2009. Respondent's April 8, 2009 "Amended Notice of Denial of Application For Pest Control Employee-Identification Card For Larry Kravitsky Submitted January 6, 2009," erroneously listed the date of application as January 6, 2009, when in fact the application was submitted March 16, 2009 as the record reflects through Respondent's April 29, 2009, Amendment to Amended Notice of Denial of Application. These erroneous dates are deemed clerical errors which are corrected *sua sponte* in this Final Order and are replaced with the proper date of March 16, 2009.

denied because of alleged wrongdoing which was the subject of an Administrative Complaint and Settlement Agreement, Notice to Cease and Desist, BEPC Case Number 06-1951, Administrative Complaint Number A47018. The latter Administrative Complaint was the subject of DOAH Case No. 07-5600PL, a case also assigned to the undersigned.

On or about April 10, 2009, Petitioner disputed the facts upon which the Administrative Complaint in this case is based and requested a formal administrative hearing pursuant to Sections 120.569, and 120.57(1), Florida Statutes (2008). On April 29, 2009, the matter was filed by Respondent with the Division of Administrative Hearings requesting that an administrative law judge be assigned to conduct the formal hearing requested by Respondent. The matter was designated DOAH Case No. 09-2300 and was assigned to the undersigned.

In response to an Initial Order entered in this case, Respondent filed Respondent's Response to Initial Order and Motion to Consolidate. In this pleading, Respondent requested that this case be consolidated with DOAH Case No. 07-5600PL. Respondent pointed out in its Motion that the denial of Petitioner's application for the issuance of a pest control employee-identification card in this case is predicated on the alleged wrongdoing in DOAH Case No. 07-5600PL and, therefore, the two cases should be consolidated. Petitioner filed Petitioner's Objection to Respondent's Motion to Consolidate. A motion hearing was conducted by telephone to resolve the issue.

During the motion hearing, both parties agreed that the outcome of this case is dependent upon the decision in DOAH Case No. 07-5600PL. It was agreed, however, that it would be easier for the parties to address the issues raised in this case if the parties knew the outcome of DOAH Case No. 07-5600PL. It was also agreed that there was no need for an evidentiary hearing in this case. Therefore, it was ordered that the Motion to Consolidate would be denied, that no hearing would be held in this case, and that the parties would have 30 days from the entry of the Recommended Order in DOAH Case No. 07-5600PL to file proposed recommended orders and/or written argument in this case. These decisions were memorialized in two Orders entered June 5, 2009.

The Recommended Order in DOAH Case No. 07-5600PL was entered on June 2, 2009. Respondent filed Respondent's Proposed Recommended Order in this case on July 1, 2009. Petitioner has not filed a proposed order or written argument.

The ALJ entered his Recommended Order, in this case, on August 10, 2009. On August 25, 2009, the time to file exceptions to the Recommended Order expired. No exceptions were filed in this case.

The record consists of all notices, pleadings, motions, intermediate rulings, evidence admitted and matters officially recognized, the transcript of the proceedings, proposed findings and exceptions, stipulations of the parties and the Recommended Order of the ALJ.

With the minor clerical corrections noted above, the Recommended Order is attached and incorporated herein, as Exhibit 1.

II. FINDINGS OF FACT

1. The Commissioner of Agriculture adopts the findings of fact made by the ALJ in his Recommended Order, attached hereto.

III. CONCLUSIONS OF LAW

2. The Commissioner of Agriculture adopts the conclusions of law made by the ALJ in his Recommended Order, attached hereto.

Accordingly, it is thereupon

ORDERED AND ADJUDGED:

A. The Commissioner of Agriculture adopts the recommendation of the ALJ set forth in his Recommended Order attached hereto.

B. Petitioner, Larry Kravitsky's application for a pest control employee-identification card is denied, due to his violation of Section 482.165, Florida Statutes (2006) and Florida Administrative Code Rule 5E-14.106(6) (2006) as found in DOAH Case No. 07-7600PL.

NOTICE OF RIGHT TO APPEAL

Any party to these proceedings adversely affected by this Final Order is entitled to seek review of this Final Order pursuant to Section 120.68, Florida Statutes (2004) and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings must be initiated by filing a petition or notice of appeal with the Agency Clerk, Room 509, Mayo Building, Tallahassee, Florida 32399-0800, and a copy of the same with the appropriate District Court of Appeal within thirty (30) days of the filing of this Final Order with the Agency Clerk.

DONE AND ORDERED this 10th day of September, 2009.

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 10th day of September, 2009.



Agency Clerk

Copies to: LARRY KRAVITSKY by certified mail. Return receipt requested.