

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date **2/16/2010**
File # **2010-00965**

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

FILED
2010 FEB 19 A 10:10
DIVISION OF
ADMINISTRATIVE
HEARINGS

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

vs.

Urban Hospitality Ventures, Inc.
d/b/a DeCossey's Restaurant and Lounge
RESPONDENT

CASE NO. 2008-007612
DOAH NO. 09-4146
LICENSE NO. 63-05489
SERIES: 4COP/SRX

FINAL ORDER

This matter comes before me for final Agency Order.

The issue before me is whether the allegations of the Administrative Action are correct, and if so, what penalty should be imposed.

PRELIMINARY STATEMENT

1. On October 10, 2009, the Division issued an administrative action against Respondent.
2. Respondent timely filed a request for hearing, citing disputed issues of fact and the matter was forwarded to the Division of Administrative Hearings to be scheduled for a formal hearing.
3. A formal hearing was conducted on December 1, 2009, by Administrative Law Judge William F. Quattlebaum.
4. Administrative Law Judge Quattlebaum issued a Recommended Order on January 27, 2010.

5. Exceptions to the Recommended Order were received from Respondent on or about February 8, 2010.

6. Respondent stated that he found exception to paragraph eight of the Findings of Fact. Respondent proposed that the finding was inaccurate and stated that any inference or conclusion drawn from the finding was erroneous. Additionally, Respondent stated that he did submit detailed, monthly accounts of his purchases and sales and further refuted the findings in paragraph eight. In closing, Respondent stated that he believes that he did meet the standard for his required sales percentages.

7. Section 120.57(2)(k), Florida Statutes, states in part:

...The agency shall allow each party 15 days in which to submit written exceptions to the recommended order. The final order shall include an explicit ruling on each exception, but an agency need not rule on any exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record.

9. Upon review, Respondent's exception does not conform to the requirements of Section 120.57(2), Florida Statutes, as Respondent did not include appropriate and specific citations to the record to support his stated exception.

10. Section 120.57(2) (f), Florida Statutes, states in part:

The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction. When rejecting or modifying such conclusion of law or interpretation or administrative rule, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law or interpretation of administrative rule and must make a finding that its substituted conclusion of law or interpretation of administrative rule is as or more reasonable than that which was rejected or modified. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. The agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended

penalty, but may not reduce or increase it without a review of the complete review of the record and without stating with particularity its reasons therefore in the order, by citing to the record in justifying the action.

FINDINGS OF FACT

12. 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.

13. Respondent's exception to paragraph eight of the Findings of Fact is rejected as Respondent's statements are not supported by any competent, substantial evidence in the record. Further Respondent's exception does not comply with the requirements of Section 120.57(2), Florida Statutes

14. The Division hereby adopts and incorporates by reference the Findings of Fact as set forth in the Recommended Order.

CONCLUSIONS OF LAW

15. 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. The exceptions are thus rejected.

16. The Division hereby adopts and incorporates by reference the Conclusions of Law as set forth in the Recommended Order.

17. 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 and the exceptions filed, I hereby adopt the Recommended Order of the Administrative Law Judge and reject all exceptions.

It is ORDERED that alcoholic beverage license number 63-05489 held by Urban Hospitality Ventures, Inc. d/b/a DeCosey's Restaurant and Lounge is hereby REVOKED effective March 12, 2010.

DONE and ORDERED at Tallahassee, Florida, this 11 day of February, 2010.





JOHN R. POWELL, 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

7006 3450 0003 0935 4508 to:

Robert DeCosey
Urban Hospitality Ventures, Inc. d/b/a
DeCosey's Restaurant and Lounge
2349 Lake Debra Drive, No. 617
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By: _____



Mail Date: _____

2/17/10

Additional copies mailed to:

District Enforcement/Licensing Office

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