

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date **6/3/2010**
File # **2010-04916**

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

FILED
2010 JUN - 9 A 11:23
DIVISION OF ADMINISTRATIVE HEARINGS

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

vs.

Hub Bar, Inc.
d/b/a **Hub (The)**

RESPONDENT

CASE NO. 2007-004973
DOAH CASE NO. 09-6512
LICENSE NO. 39-00951
SERIES: 4COP

FINAL ORDER

This matter comes before me for final Agency Order.

The issue before me is whether Respondent failed to pay tax surcharges, penalties, and interest owed on the sale of alcoholic beverages, and if so, the amount that is currently due and owing.

PRELIMINARY STATEMENT

1. On April 24, 2007, the Petitioner issued an administrative action against Respondent.
2. Respondent filed a timely request for hearing, citing disputed issues of fact and the matter was forwarded to the Division of Administrative Hearings.
3. A Formal Hearing was conducted by Administrative Law Judge R. Bruce McKibben on February 11, 2010.
4. A Recommended Order was issued by the Judge McKibben on April 15, 2010.
5. Neither party filed exceptions to the Recommended Order.

FINDINGS OF FACT

6. 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.

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

CONCLUSIONS OF LAW

8. 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.

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

10. This Final Order is entered after a review of the complete record.

ORDER


Having fully considered the complete record of this case and the Recommended Order of the Administrative Law Judge, I hereby adopt the Findings of Fact and Conclusions of Law in the Recommended Order, however, the penalty calculation is adjusted to correctly reflect the imposition of the guideline penalty designated for a first offense of Section 561 501, Florida Statutes, as provided in Rule 61A-2.022, Florida Administrative Code. The Recommended Order provides for the payment of surcharge principal in the amount of \$16,646.78; interest in the amount of \$88.02; and penalties in the amount of \$11,630.98; for a total surcharge liability of \$28,365.78. However, the penalty guideline provides that if corrective action is taken and the Respondent is current with surcharge reports, which the Recommended Order provides that he is, then the imposed penalty should be reduced to 25% of the surcharge principal amount which is \$4,161.69. The Recommended Order incorrectly designates the

\$4,161.69 as a civil penalty to be imposed in addition to the full amount of the original surcharge penalty. The guideline penalty does not provide that an additional civil penalty be imposed for a first offense and in fact, the civil penalty imposed for a second offense is only \$250.00.

It is ORDERED that Respondent pay surcharge principal in the amount of \$16,646.78; penalties in the amount of \$4,161.69; and interest in the amount of \$88.02; for a total liability of \$20,896.49. Payment in full is required on or before July 30, 2010 and should be submitted to the District Enforcement Office located at 1313 Tampa Street, Park Trammel Building, #702, Tampa, Florida 33602. Failure to fully comply with the terms of this Final Order will result in the initiation of proceedings to revoke the license as provided in Section 561.29(1)(k), Florida Statutes.

DONE and ORDERED at Tallahassee, Florida, this 13 day of May, 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 0002 7911 4359 to:

Hub Bar, Inc.

719 North Franklin Street

Tampa, FL 33602

By: Amanda Abbott

Mail Date: 6/8/2010

Additional copies mailed to:

District Enforcement/Licensing Office

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✓
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