



Florida Department of Agriculture and Consumer Services
CHARLES H. BRONSON, Commissioner
The Capitol • Tallahassee, FL 32399-0800

Please Respond to:
Division of Licensing
Post Office Box 3168
Tallahassee, FL 32315-3168
Phone No.: (850) 245-5506
Fax No.: (850) 245-5502

October 20, 2010

Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

FILED
10 OCT 20 PM 1:45
DIVISION OF
ADMINISTRATIVE
HEARINGS

Re: Kavin P. Buxton v. Department of Agriculture and Consumer Services, Division of Licensing
DOAH Case No. 10-2197 & 10-2198
DOACS Case No. CD200808613

Dear Clerk:

Attached for filing are the following documents:

1. Agency Final Order
2. Kavin Buxton's Exceptions
3. DOACS Response to Exceptions

If you have any questions please do not hesitate to contact me at 245-5506.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia Borden".

Cynthia Borden
Agency Clerk

Attachments



Florida Agriculture and Forest Products
Over \$100 Billion for Florida's Economy

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

KAVIN P. BUXTON,
PETITIONER,

V.

DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES,
DIVISION OF LICENSING,
RESPONDENT.

FILED
OCT 14 2010

10 OCT 20 PM 1:45

FILED

Cynthia Borden

Clerk
Division of Licensing
Department of Agriculture
and Consumer Services

CASE NO.: CD200808613
G 9402513
2703671

FINAL ORDER

This cause was referred to the Division of Administrative Hearings where the assigned Administrative Law Judge (ALJ) R. Bruce McKibben, conducted a formal administrative hearing. At issue in this case is whether the Buxton Group, Incorporated, and Kavin P. Buxton (hereinafter jointly referred to as Respondent) committed fraud, deceit, negligence, or misconduct, and, if so, whether the Department of Agriculture and Consumer Services, Division of Licensing (the "Department") may deny the issuance of or revoke various licenses held by Respondent; and whether administrative denial of Respondent's existing Class "G" license is warranted. The Recommended Order dated September 10, 2010, is attached to this Final Order and incorporated herein by reference.

RULING ON EXCEPTIONS

The Respondent filed six exceptions to the Recommended Order and the Petitioner filed a response to Respondent's exceptions.

In Respondent's exceptions 1, 2, and 4, Respondent makes various statements regarding the administrative hearing but the statements did not identify the disputed portion of the recommend order by page number or paragraph, nor did the statements identify the legal basis for the exceptions or include appropriate and specific citations to the record.

As put forth by the Petitioner in its response to Respondent's exceptions, pursuant to s. 120.57 (1)(k), F.S., an agency need not rule on an 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.

In its exception 3, Respondent states that item number 12 in the Recommended Order stipulates the violation of the Constitutional Right to Counsel before questioning.

As put forth by the Petitioner, assuming that Respondent was referring to numbered paragraph 12 in the Findings of Fact of the Recommended Order, numbered paragraph 12 in the Findings of Fact of the Recommended Order makes no statement regarding a stipulation of the Constitutional Right to Counsel before questioning. Therefore, Petitioner was unable to respond to this exception based on the Respondent's failure to identify the legal basis for the exception and his failure to include appropriate and specific citations to the record as required in s. 120.57 (1)(k), F.S.

In its exception 5, Respondent makes reference to item number 9.

As put forth by the Petitioner, assuming Respondent was referring to numbered paragraph 9 in the Findings of Fact of the Recommended Order, Petitioner was unable to respond to this exception based on the Respondent's failure to identify the legal basis for the exception and his failure to include appropriate and specific citations to the record as required in s. 120.57 (1)(k), F.S.

Respondent's exception 6 also makes reference to item number 9.

As put forth by the Petitioner, assuming Respondent is referring to numbered paragraph 9 in the Findings of Fact of the Recommended Order, Petitioner was unable to respond to this exception based on the Respondent's failure to identify the legal basis for the exception and his failure to include appropriate and specific citations to the record as required in s. 120.57 (1)(k), F.S.

Based on these findings, the Department denies Respondent's exceptions to the Recommended Order.

FINDINGS OF FACT

The Department adopts the findings of fact set forth in the Recommended Order.

CONCLUSIONS OF LAW

The Department adopts the conclusions of law set forth in the Recommended Order.

ORDERED AND ADJUDGED

Based on the foregoing, the Department denies Respondent's licensure application for License No. G 9402513.

DONE AND ORDERED at Tallahassee, Florida, this 14th day of October 2010.

Approved on 10/13/2010
(Name-ConstanceNCrawford)
(Title-ConstanceNCrawford)

Constance N. Crawford, Director
Division of Licensing

NOTICE OF RIGHTS

This Order constitutes final agency action. Any party who is adversely affected by the Order may seek judicial review under Section 120.68, Florida Statutes. Such proceedings are commenced by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Deputy Clerk of the Department of Agriculture and Consumer Services, Division of Licensing, P.O. Box 3168, Tallahassee, Florida 32315-3168; and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the First District Court of Appeal, or with the District Court of Appeal in the appellate district where the party resides. The Notice of Appeal must be filed within 30 days of the date this Order is filed with the Deputy Clerk of the Division.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Final Order was sent by U.S. Mail this 14th day of October 2010 to Kavin P. Buxton, Post Office Box 13644, St. Petersburg, Florida 33733.



Tracy Sumner
Assistant General Counsel
Department of Agriculture and Consumer
Services, Division of Licensing
Post Office Box 3168
Tallahassee, FL 32315-3168

(850) 245-5506

Filed with Agency Clerk

FO/10