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DIVISION OF ADMINISTRATIVE HEARINGS

STATE OF FLORIDA, DEPARTMENT OF REVENUE
TALLAHASSEE, FLORIDA

DOR 2011-002 – FOF

FILED

Department of Revenue – Agency Clerk

Date Filed: 4-25-2011

By: Sarah Wachman

DEPARTMENT OF REVENUE)
)
Petitioner,)
)
vs.)
)
ABKEY NO. 1 LIMITED,)
)
Respondent.)
_____)

DOAH CASE NO. 10-2836
DOR CASE NO. 11-01-FOF

FINAL ORDER

This cause came before me, as Executive Director of the Florida Department of Revenue (“Department”), for the purpose of issuing a Final Order. The Administrative Law Judge assigned by the Division of Administrative Hearings submitted a Recommended Order to the Department. A copy of that Recommended Order, issued on February 18, 2011, by Administrative Law Judge Errol H. Powell, is attached to this order and incorporated to the extent described herein. Petitioner, Abkey No 1 Limited, filed exceptions to the Recommended Order. The Department has jurisdiction of this cause.

STATEMENT OF THE ISSUE

The issue is whether Respondent’s Certificate of Registration should be revoked.

RULINGS ON PETITIONER’S EXCEPTIONS

On March 7, 2011, Petitioner filed numerous exceptions commenting on and disputing various referenced paragraphs within the Preliminary Statement and Findings of Fact contained in the Recommended Order. The exceptions provide alternative statements purported to be facts, which the Petitioner suggests should replace or alter the cited paragraphs in the Recommended Order for adoption in the Final Order. Although the exceptions do provide references to specific paragraphs in the Recommended Order, the exceptions do not cite to the record. Eleven total exhibits were admitted into evidence, ten exhibits of the Petitioner and one exhibit of the Respondent. A transcript of the hearing was not ordered.

Section 120.57(1)(k), Fla. Stat., states in part:

... The final order shall include an explicit ruling on each exception, but 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.

Since Respondent's exceptions do not include appropriate and specific citations to the record in accordance with Section 120.57(1)(k), Fla. Stat., the exceptions are therefore denied.

PRELIMINARY STATEMENT

The Department adopts and incorporates in this Final Order the Preliminary Statement contained in the Recommended Order as if fully set forth herein.

FINDINGS OF FACT

The Department adopts and incorporates in this Final Order the Findings of Fact contained in the Recommended Order as if fully set forth herein.


CONCLUSIONS OF LAW

The Department adopts and incorporates in this Final Order the Conclusions of Law contained in the Recommended Order as if fully set forth herein.

Based on the foregoing, it is,

ORDERED that the Respondent's Certificate of Registration No. 23-8012096448-9 is revoked.

DONE AND ENTERED in Tallahassee, Leon County, Florida this 25th day of April, 2011.

STATE OF FLORIDA
DEPARTMENT OF REVENUE


LISA VICKERS
EXECUTIVE DIRECTOR

CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing Final Order has been filed in the official records of the Department of Revenue, this 25th day of April, 2011.


SARAH WACHMAN
AGENCY CLERK

Any party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, Fla. Stat., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of the General Counsel, Post Office Box 6668, Tallahassee, Florida 32314-6668, and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the Clerk of the Department.

Attachment: Administrative Law Judge's Recommended Order

Copies furnished to:

Errol H. Powell
Administrative Law Judge
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