

STATE OF FLORIDA
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	11/16/2011
File #	2011-08032

DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,
DIVISION OF ALCOHOLIC
BEVERAGES AND TOBACCO,

2011 NOV 18 A 11: 16

DIVISION OF
ADMINISTRATIVE
HEARINGS

11-9216

Petitioner,

DABT CASE NO.: 2009-001396

v.

LICENSE NO.: 23-02630, 4COP/SR

NATIONAL DELI CORPORATION
d/b/a EPICURE GOURMET MARKET & CAFE

Respondent.

CONSENT ORDER

The Petitioner, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco ("Division") and National Deli Corporation ("Respondent"), pursuant to the consent proceedings authorized by Section 120.57(4), Florida Statutes, stipulate and agree to the following facts:

1. Respondent is the holder of alcoholic beverage license number 23-02630, 4COP/SR, for the licensed premises known as Epicure Gourmet Market & Cafe, located in Sunny Isles Beach, Florida.
2. After investigation and inquiry, the Division filed charges against Respondent for a violation of Section 561.20(2), Florida Statutes (1953), within Section 561.20(5), Florida Statutes (2008).
3. The Division and Respondent desire to resolve all pending legal matters between them and waive any administrative or judicial proceedings which might otherwise be available to them.

THEREFORE, the Division and Respondent stipulate and agree to resolution of the dispute between them based on the following understandings and on the following terms:

1. The Division has jurisdiction over this matter pursuant to Section 561.02, Florida Statutes.
2. Respondent hereby waives all causes of action, civil or otherwise, against the Division

and its employees, and the Division hereby waives all administrative causes of action against Respondent and its employees arising out of the facts and circumstances that were the subject of the charges filed in the above-referenced case.

3. Respondent neither admits nor denies the allegations contained in the Administrative Action.

4. Nothing stated in this Consent Order shall be construed to constitute an admission or finding of guilt with respect to any alleged violations of Florida law.

5. The Division fully adopts the Recommended Order issued in DOAH case number 10-009216.

6. The Division reaffirms its approval of Respondent's application for licensure filed with the Division on or about September 25, 2008, and does release and discharge Respondent from any and all causes of action or controversies in connection therewith. However, nothing herein prevents the Division from pursuing charges against Respondent for any future violations of law that may be discovered.

7. Respondent hereby waives any and all claims for attorney's fees and costs against the Division and its employees arising from or relating to this action including, but not limited to, claims under Section 57.111, Florida Statutes.

8. The parties hereby stipulate and agree that the Administrative Action in the above entitled matter shall be dismissed with prejudice and without costs to any party hereto.

9. Respondent agrees to reimburse the Division for any and all expenses incurred by the Division to enforce the provisions of this agreement should the Respondent breach the terms of this Consent Order.

10. Failure to fully comply with the terms of this Consent Order will result in the initiation of proceedings to revoke Respondent's license pursuant to Section 561.29(1)(k), Florida Statutes.

11. This Consent Order shall be binding upon the parties, their successors, assigns, and legal representatives.

12. This Consent Order embodies the whole agreement of the parties. There are no promises, terms, conditions, or allegations other than those contained herein or in an attachment hereto, and this document with attachments shall supersede all previous communications, representations, and/or agreements, whether written or verbal, between the parties hereto.

13. The Consent Order may be modified only in writing executed by all parties.

14. Judicial Review of a final agency action is available under Section 120.68, Florida Statutes, and the Florida Rules of Appellate Procedure, provided a Notice of Appeal is filed with the Division and the appropriate District Court of Appeal, accompanied by the appropriate filing fee within 30 days after a consent order is rendered.

15. However, Respondent acknowledges and agrees that this Consent Order constitutes the Final Order of the Division with respect to the matters set forth above and Respondent waives its right to Judicial Review of all matters related to the above-captioned action.

16. Each party shall bear its own legal costs and attorney fees and no financial claim shall be made against the Division pertaining to this action.

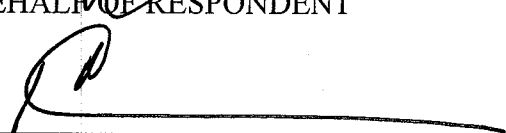
RESPONDENT, by and through its duly authorized representative, hereby agrees and consents to the terms and issuance of the foregoing Consent Order this 14th day of November, 2011.



Jason Starkman
ON BEHALF OF RESPONDENT

Authorized Representative


TITLE



Louis J. Terminello, Esq.
Attorney for the Respondent
Terminello & Terminello, PA

DONE and ORDERED in Tallahassee, Florida this 16 day of November, 2011.





Robert Allen Douglas, Director
Division of Alcoholic Beverages & Tobacco

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Consent Order has been provided via U.S. Mail to Louis J. Terminello, Terminello & Terminello, P.A., 2700 S.W. 37th Avenue, Miami, Florida 33133 on this 17th day of November 2011.



Agency Clerk's Office

Certified Mail # 7006 3450 00030927 4077

cc: Agency Clerk
Thomas J. Morton, Assistant General Counsel
ABT Miami District Office - Enforcement

Stuart M. Lerner
Administrative Law Judge
Division of Administrative Hearings