

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/14/2011
File #	2011-04791

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

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

vs.

Discount Zone, Inc.
d/b/a Lakeland Discount Beverage
RESPONDENT

CASE NO. 2010-031208
DOAH CASE NO. 10-9281
LICENSE NO. 63-03779
SERIES: 2APS

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 cigarettes, and if so, the amount that is currently due and owing.

PRELIMINARY STATEMENT

1. On July 14, 2010, the Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco ("Division"), issued an administrative action against Respondent.
2. On August 2, 2010, Respondent filed a timely request for hearing, citing disputed issues of fact.
3. The matter was forwarded to the Division of Administrative Hearings and assigned to Administrative Law Judge R. Bruce McKibben.
4. Administrative Law Judge McKibben conducted a formal hearing on February 2, 2011.
5. Administrative Law Judge McKibben issued a Recommended Order on May 12, 2011.

6. Neither party filed exceptions to the Recommended Order.

FINDINGS OF FACT

7. 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.

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

CONCLUSIONS OF LAW

9. 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.

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

11. 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 Recommended Order.

It is ORDERED that Respondent pay a cigarette surcharge liability in the amount of \$35,886.00. Respondent has already submitted surcharges in the amount of \$7,815.83, to the Division. The outstanding liability owed to the Division is \$28,070.17. Payment must be submitted to the Division on or before August 29, 2011, and must be submitted to the ABT District Enforcement Office

located at 1313 Tampa Street, Park Trammel Building, #702, Tampa, Florida 33602.

DONE and ORDERED at Tallahassee, Florida, this 6 day of July, 2011.



John R. Powell

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*.

I HERBY CERTIFY that a true and correct copy of the foregoing has been mailed by regular US mail to:
Peter C. Pappas, Esquire
4798 New Broad Street, Suite 210
Orlando, FL 32814

By: *Amarda Abbott* Mail Date: _____

Additional copies mailed to:

Tampa District Enforcement/Licensing Office

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Tallahassee, FL 32399-0792

R. Bruce McKibben
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060