

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/11/2019
File #	2019-02095

JEMCO ENTERPRISES, INC. d/b/a,
PAYLESS TOBACCO SOURCE,

Petitioner,

vs.

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Respondent.

DBPR CASE NO. 2017-043377
DOAH CASE NO. 18-3853

FINAL ORDER

The Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, (Department or Respondent), hereby enters this Final Order against Jemco Enterprises, Inc. d/b/a Payless Tobacco Source (Petitioner) for the above-styled matter. This cause came before the Department for the purpose of considering the Recommended Order issued by Administrative Law Judge Cathy Sellers (Judge Sellers) on February 14, 2019, in the Division of Administrative Hearings (DOAH) case number 18-3853, a copy of which is attached as Exhibit "A" and incorporated herein by reference.

PRELIMINARY STATEMENT

On April 27, 2017, the Department notified Petitioner that an audit covering the period of July 1, 2016, through October 31, 2016, revealed a tax deficiency of \$5,582.73, interest in the amount of \$144.43, and a penalty of \$558.27. Petitioner requested an assessment conference, which was held on June 19, 2017, resulting in a Notice of Decision and Final Audit Assessment (Final Assessment) issued on June 22, 2017, and attached hereto as Exhibit "B." The Final

Assessment stated that Petitioner owed a total of \$6,285.43, which included \$5,582.73 in taxes, \$144.43 in interest, and a \$558.27 penalty. Petitioner timely requested an administrative hearing. The Request for Administrative Hearing is attached hereto as Exhibit "C." The matter was referred to DOAH on July 20, 2018. On September 26, 2018, Judge Sellers presided over the formal hearing. The Recommended Order, issued on February 14, 2019, recommended that the Department enter a Final Order imposing \$6285.43 in taxes, interest, and penalty on Petitioner. Neither party filed exceptions in this matter.

After careful review of the complete record in this matter, including consideration of the transcript, exhibits, and Recommended Order, the Department makes the following findings and conclusions:

FINDINGS OF FACT

1. The Findings of Fact set forth in the Recommended Order are based on competent substantial evidence.
2. Accordingly, the Findings of Fact set forth in the Recommended Order are approved, adopted, and incorporated by reference as the Findings of Fact of the Department.

CONCLUSIONS OF LAW

1. The Conclusions of Law contained in the Recommended Order are reasonable and correct interpretations of the law based on the Findings of Fact.
2. Accordingly, the Conclusions of Law as set forth in the Recommended Order are approved, adopted, and incorporated by reference as the Conclusions of Law of the Department.

ORDER

Having fully considered the complete record of this case, including the transcript, exhibits, and Recommended Order, and based upon the foregoing Findings of Fact and Conclusions of Law, I hereby adopt the Recommended Order.

It is ORDERED that Petitioner remit to the Department a total \$6,285.43 for taxes, interest, and penalty within thirty days of this Final Order. This Final Order shall become effective upon the date of filing with the Agency Clerk of the Department of Business and Professional Regulation.

DONE and ORDERED at Tallahassee, Florida, this 7th day of March, 2019.



RSW

Sterling Whisenhunt, Acting Director
Division of Alcoholic Beverages and Tobacco

NOTICE OF RIGHT TO JUDICIAL REVIEW

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. Review Proceedings are governed by Rules 9.110 and 9.190, *Florida Rules of Appellate Procedure*. Such proceedings may be commenced by filing one copy of a *Notice of Appeal* with the Department of Business and Professional Regulation, Attn: Ronda L. Bryan, Agency Clerk, 2601 Blair Stone Road, Tallahassee, Florida 32399 and a Second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal in the Florida Appellate District where the Party resides.

Respondent may petition the Director to amend this Final Order pursuant to Rule 61A-2.022(10), *Florida Administrative Code*. Petitions filed shall not stay any effective dates in this Order unless the Director authorizes the stay or amendment requested in the Petition.

I HERBY CERTIFY that a true and correct copy of the foregoing has been mailed by regular US mail to:

Bernard Hershewsky
Mario Solis
Jemco Enterprises, Inc.
11521 Southwest 98th Street
Miami, FL 33176

By: Brandon M. Nichols Mail Date: March 11, 2019

Additional copies to:

District Enforcement/Auditing Office

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Cathy M. Sellers
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