

NOV 22 10:10 PM '10

Trailer Estates

From: Scott Rudacille <srudacille@kirkpinkerton.com>
Sent: Monday, November 22, 2010 1:29 PM
To: Martha Brauer
Cc: TJ Office Manager
Subject: FW: Order of Closure
Attachments: Order of Closure.PDF; _Certification_.htm


Martha, attached is the Order of Disclosure in the DBPR kitchen fiasco. I have a related matter I need to discuss with you when you have a chance, no time urgency though.

Scott


Scott E. Rudacille, Esq.
Kirk-Pinkerton, P.A.
1301 6th Avenue West, Suite 102
Bradenton, Florida 34205
(941) 364-2446
(941) 744-9691 (fax)
srudacille@kirkpinkerton.com
Board Certified in City, County and Local Government Law

From: Cheryl Lycans
Sent: Monday, November 22, 2010 1:17 PM
To: Scott Rudacille
Subject: Order of Closure

Cheryl

 KIRK PINKERTON ATTORNEYS AT LAW	
Cheryl A. Lycans <i>Legal Assistant</i>	
First Bank Financial Center 1301 6th Avenue West Suite 102 Bradenton, FL 34205	Office: 941.744.2288 Direct: 941.364.2440 Fax: 941.364.2490 E-mail: clycans@kirkpinkerton.com Website: www.kirkpinkerton.com

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NOV 22 2010 PM 02:10

FILED	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	11/17/2010
File #	2010-10756

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF HOTELS AND RESTAURANTS**

KIRK PINKERTON, P.A.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION,
DIVISION OF HOTELS AND RESTAURANTS,**

NOV 22 2010

Bradenton, FL

Petitioner,

v.

CASE NO.	2010-035076
LICENSE NO.	99-00000
LICENSE TYPE:	2010

TRAILER ESTATES PARK & REC SNACK BAR,

Respondent.

_____ /

ORDER OF CLOSURE

The Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation, after consideration of all records and other evidence regarding this case on file with the Division, makes the following determination.

FINDINGS OF FACT

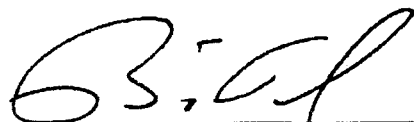
1. The Division is the State agency charged with enforcing Chapter 509, Florida Statutes.
2. On July 16, 2010, the Division issued an Administrative Complaint in the above named case. The Complaint advised the Respondent of his right to request a formal hearing or an informal proceeding pursuant to Chapter 120, Florida Statutes.
3. Although the evidence was sufficient for issuance of an administrative complaint, after a review of the current circumstances and facts surrounding the case, the Division elects not to pursue further legal action.

CONCLUSIONS OF LAW

The Division is the State agency charged by statute to administer and enforce compliance with Chapter 509, Florida Statutes, and the administrative rules promulgated there under. The Division has jurisdiction over the parties and the subject matter of this proceeding, pursuant to Section 120.57, Florida Statutes.

ORDER

Based on all records and other evidence regarding this case on file with the Division and the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that this file be CLOSED.



BILL L. VEACH, DIRECTOR
Division of Hotels and Restaurants
1940 North Monroe Street
Tallahassee, Florida 32399-1011
(850) 488-1133

070001022400

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

Pursuant to Section 120.68, Florida Statutes and Rule 9.110, Florida Rules of Appellate Procedure, any substantially affected party may appeal this final order by filing a Notice of Appeal with the clerk of this Agency and the District Court of Appeals, accompanied by the appropriate filing fees within 30 days of the date of this Final Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order of Closure has been furnished by Regular U.S. Mail to: Trailer Estates Park & Rec Snack Bar, c/o Scott Rudacille, Esq., Kirk Pinkerton, P.A., 1301 6th Avenue, Suite 401, Bradenton, FL 34205, and by inter-office mail to Marc Drexler, Chief Attorney for Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202, this 17th day of November, 2010.

AGENCY CLERKS OFFICE

By: Brandon M. Nichols
Brandon Nichols, Deputy Clerk

NOV 22 2010 10:02:00

State of Florida
Department of Business and Professional Regulation
Division of Hotels and Restaurants

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION
Petitioner,

vs.

TRAILER ESTATES PARK & REC SNACK BAR License Number. 9900000
Respondent. License Type 2010
Case Number 2010035076

Administrative Complaint

The DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, DIVISION OF HOTELS AND RESTAURANTS, ("Petitioner"), files this Administrative Complaint against TRAILER ESTATES PARK & REC SNACK BAR, ("Respondent"), and says:

1. Petitioner is the state agency charged with regulating the operation of public lodging establishments and public food service establishments, pursuant to Section 20.165 and Chapter 509, Florida Statutes.
2. Respondent is, and has been at all times material hereto, licensed by or subject to the jurisdiction of the Division of Hotels and Restaurants. The respondent's business address of record is 1903 69 AVE W, BRADENTON, FLORIDA 34207. The mailing address of record is TRAILER ESTATES PARK & REC SNACK BAR, at 1903 69 AVE W, BRADENTON, FLORIDA 34207.
3. Inspection of this establishment conducted pursuant to Sec. 509.032, Florida Statutes, revealed violations of the provisions of Chapter 509, Florida Statutes, and / or the rules promulgated thereto governing operation of the establishment. The violation(s) found and applicable law are described in Exhibit "A," attached hereto and incorporated herein by reference. Inspection documents are attached as Exhibit "B", incorporated herein by reference.

WHEREFORE, Petitioner respectfully requests entry of an Order imposing one or more of the following penalties: administrative fine not to exceed \$1,000 per offense, suspension, revocation, or refusal of a license issued pursuant to this Chapter, and/or any other relief authorized by Chapter 509, Florida Statutes, or the rules promulgated thereto.

Signed July 16, 2010

Claudia Fields, Deputy District Manager
By delegation of the Director, or designee
Division of Hotels & Restaurants
Department of Business & Professional Regulation

COUNSEL FOR THE DEPARTMENT:
Marc Drexler, Lead Attorney
Florida Bar No. 0487058
Department of Business & Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-2202

Certificate of Service

BY CERTIFIED U.S. MAIL, ARTICLE NUMBER: 7160 3901 9845 5467 1699

I HEREBY CERTIFY that a true and correct copy of the foregoing ADMINISTRATIVE COMPLAINT has been hand served by me on this _____ day of _____, 2010.

Inspector's Signature

Title

Received by: _____

Operator's Signature

Title

04/22/2010 10:02:03

Exhibit A

License Number: NO LIC
License Type: 2010 PERMANENT FOOD SERVICE
Case Number: 2010035076

"FC" as cited herein references specific provisions of the Food Code, Recommendations of the United States Public Health Service, Food and Drug Administration, incorporated by Chapter 61C, Florida Administrative Code. "NFPA" as cited herein references specific provisions of the National Fire Protection Association Life Safety Code, incorporated by reference at Chapter 4A-3, "Fire Prevention, General Provisions", Florida Administrative Code, and 61C-1.004(5), Florida Administrative Code.

** denotes a critical violation.

It is alleged that on February 5, 2010, April 8, 2010, July 1, 2010 the licensee was in violation of Florida Statute 509(FS) and/or the Rules of the Division of Hotels and Restaurants, Florida Administrative Code (FAC), in the following particulars. Copy(s) of the report(s) for the above referenced inspection(s) are attached hereto and incorporated by reference as Exhibit B.

* 1. 50-08-1 509.241(2) FS:: (2) APPLICATION FOR LICENSE. EACH PERSON WHO PLANS TO OPEN A PUBLIC FOOD SERVICE ESTABLISHMENT SHALL APPLY FOR AND RECEIVE A LICENSE FROM THE DIVISION PRIOR TO THE COMMENCEMENT OF OPERATION.
OPERATING A PUBLIC FOOD SERVICE ESTABLISHMENT OPERATING WITHOUT REQUIRED LICENSE PER CHAPTER 509.FLORIDA STATUES. OBSERVED GRILLED PORK CHOPS AND POTATOES BEING PREPARED AND SERVED TO 50 CUSTOMERS.

2. 51-16-1 61C-1.002(6)(C)(1) FAC:: (1) THE OPERATOR OF EACH PUBLIC FOOD SERVICE ESTABLISHMENT TO BE NEWLY CONSTRUCTED, REMODELED, CONVERTED, OR REOPENED SHALL SUBMIT PROPERLY PREPARED FACILITY PLANS AND SPECIFICATIONS TO THE DIVISION FOR REVIEW AND APPROVAL IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 509, FS, AND RULE CHAPTERS 61C-1 AND 61C-4, FAC. SUCH PLANS MUST BE APPROVED BY THE DIVISION PRIOR TO CONSTRUCTION, REMODELING, CONVERSION, SCHEDULING OF AN OPENING INSPECTION AND LICENSING.

OPERATING A NEW PUBLIC FOOD SERVICE ESTABLISHMENT, PREPARING AND SERVING PORK CHOPS, POTATOES AND BEVERAGES TO 50 CUSTOMERS (PUBLIC) WITHOUT SUBMITTING AND OBTAINING APPROVAL FOR FOOD SERVICE PLANS FROM THE DIVISION OF HOTELS AND RESTAURANTS.

* 3. 53B-08-1 509.049 FS: FOOD SERVICE EMPLOYEE TRAINING. THE DIVISION SHALL ADOPT, BY RULE, MINIMUM FOOD SAFETY PROTECTION STANDARDS FOR THE TRAINING OF ALL FOOD SERVICE EMPLOYEES WHO ARE RESPONSIBLE FOR THE STORAGE, PREPARATION, DISPLAY, OR SERVING OF FOODS TO THE PUBLIC IN ESTABLISHMENTS REGULATED UNDER THIS CHAPTER. THESE STANDARDS SHALL NOT INCLUDE AN EXAMINATION, BUT SHALL PROVIDE FOR A FOOD SAFETY TRAINING CERTIFICATE PROGRAM FOR FOOD SERVICE EMPLOYEES TO BE ADMINISTERED BY A PRIVATE NONPROFIT PROVIDER CHOSEN BY THE DIVISION. ANY FOOD SAFETY TRAINING PROGRAM ESTABLISHED AND ADMINISTERED TO FOOD HANDLER EMPLOYEES PRIOR TO THE EFFECTIVE DATE OF THIS ACT SHALL BE SUBMITTED BY THE OPERATOR TO THE DIVISION FOR ITS REVIEW AND APPROVAL. IT SHALL BE THE DUTY OF THE LICENSEE OF THE PUBLIC FOOD SERVICE ESTABLISHMENT TO PROVIDE TRAINING IN ACCORDANCE WITH THE DESCRIBED RULE TO ALL EMPLOYEES UNDER THE LICENSEE'S SUPERVISION OR CONTROL. THE LICENSEE MAY DESIGNATE A CERTIFIED FOOD SERVICE MANAGER TO PERFORM THIS FUNCTION AS AN AGENT OF THE LICENSEE. FOOD SERVICE EMPLOYEES MUST RECEIVE CERTIFICATION PURSUANT TO THIS SECTION BY JANUARY 1, 2001. FOOD SERVICE EMPLOYEES HIRED AFTER NOVEMBER 1, 2000, MUST RECEIVE CERTIFICATION WITHIN 60 DAYS AFTER EMPLOYMENT. CERTIFICATION PURSUANT TO THIS SECTION SHALL REMAIN VALID FOR 3 YEARS.
NO PROOF UPON REQUEST OF FOOD HANDLER TRAINING FOR FOOD EMPLOYEES (REQUIRED WITHIN 60 DAYS OF HIRE).