



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

service ★ courtesy ★ integrity ★ accountability

COMMISSION MEETING

August 25, 2009

Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78731

*José Cuevas, Jr., Presiding Officer
Midland*

*Steven M. Weinberg, MD, JD, Member
Colleyville*

*Melinda Fredricks, Member
Conroe*

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AGENDA

REGULAR COMMISSION MEETING

9:30 a.m. – August 25, 2009

5806 Mesa Drive
Austin, Texas 78731



TABC

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José Cuevas, Jr.
Presiding Officer-Midland

Steven M. Weinberg, MD, JD
Member-Colleyville

Melinda S. Fredricks
Member-Conroe

Alan Steen
Administrator

Tuesday, August 25, 2009 – 9:30 a.m.

AGENDA

1. Call to Order	José Cuevas, Jr.
2. Approval of Commission Meeting Minutes of July 28, 2009	José Cuevas, Jr.
3. Approval of Third-Year Renewal of Up to Five One-Year Renewals for Internal Audit Contracted Services with Russell Gregorczyk	Charlie Kerr
4. Approval of Internal Audit of the Accounting System and Accounting Internal Controls	Russell Gregorczyk
5. Approval of Proposed Internal Audit Plan for FY 2010	Russell Gregorczyk
6. Legislative Tracking System Update	Carolyn Beck
7. 2009 Administrator's Conference Update	Jennifer Micallef
8. Enforcement Inspections Summary	Joel Moreno
9. Use of Force Summary	Joel Moreno
10. Rainbow Lounge Completed Investigation	Andy Pena
11. Public Comment	José Cuevas, Jr.
12. Executive Session to Consult with Legal Counsel Regarding Pending and Anticipated Litigation Against the Agency and to Discuss the Duties, Responsibilities, and Evaluation of the Administrator (Govt. Code §551.071, §551.074)	José Cuevas, Jr.
13. Next Meeting Dates for 2009: Tuesday, October 27, 2009 Tuesday, November 24, 2009	José Cuevas, Jr.
14. Approval of 2010 Meeting Dates: January 26 July 27 February 23 August 24 April 27, 2010 October 26 May 25, 2010 November 23	José Cuevas, Jr.
15. Adjourn	José Cuevas, Jr.

MINUTES

REGULAR COMMISSION MEETING

9:30 a.m. – August 25, 2009

5806 Mesa Drive
Austin, Texas 78731



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

service ★ courtesy ★ integrity ★ accountability

COMMISSION MEETING MINUTES

August 25, 2009

The Commissioners of the Texas Alcoholic Beverage Commission (TABC) met in Regular Session on Tuesday, August 25, 2009 at the Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Suite 185, Austin, Texas.

PRESIDING

OFFICER:

José Cuevas, Jr.

COMMISSIONERS

PRESENT:

Melinda Fredricks

Steven M. Weinberg, MD, JD

STAFF PRESENT:

Alan Steen, Administrator

Christopher Aller, TABC Agent

Joan Bates, Deputy General Counsel, Legal

Carolyn Beck, Public Information Officer, Executive

Lou Bright, General Counsel, Legal Services

Sherry Cook, Assistant Administrator

Loretta Doty, Director, Human Resources Division

Diana Gonzalez, Director of Tax Division/Education and
Prevention

Kathy Gersbach, Executive Assistant, Executive

Amy Harrison, Director, Licensing Division

Amy Igo, Legal Division

Tanya Jimenez, Administrative Assistant, Executive

Renee Johnston, Executive Assistant, Executive

Dexter K. Jones, Assistant Chief of Field Services

Jo Ann Joseph, Assistant Director, Licensing Division

Charlie Kerr, Director, Business Services Division

Richard Maness, Information Resources Division

Jennifer Micallef, Training Division

Joel Moreno, Chief of Field Operations

Earl Pearson, Chief of Staff

Andy Pena, Director, Office of Professional Responsibility

Gloria Darden Reed, Executive Assistant, Executive
Rod Venner, Assistant Chief of Enforcement, Enforcement
Division
Jay Webster, Director, Information Resources Division

GUESTS

PRESENT:

Tiffany Aller
Trish Bode
M L Calcote, Republic National Distributing
Rick Donley, President, The Beer Alliance
Bill Dufour, Attorney
Manuel Villela, KTVT-TV Photojournalist
Aaron Wische, KTVT-TV Producer
Randy Yarbrough, Wholesale Beer Distributors of Texas

CALL TO ORDER

The meeting of the Texas Alcoholic Beverage Commission was called to order at 9:45 a.m. by Presiding Officer José Cuevas.

APPROVAL OF COMMISSION MEETING MINUTES OF JULY 28, 2009

Presiding Officer José Cuevas called for approval of the Commission meeting minutes of July 28, 2009. Commissioner Steven Weinberg so moved to approve the minutes as written and Commissioner Melinda Fredricks seconded. The motion carried.

APPROVAL OF THIRD-YEAR RENEWAL OF UP TO FIVE ONE-YEAR RENEWALS FOR INTERNAL AUDIT CONTRACTED SERVICES WITH RUSSELL GREGORCZYK

Presiding Officer José Cuevas called upon Charlie Kerr, Director of Business Services to discuss the process in the renewal for internal audit contracted services with Russell Gregorczyk. Director Kerr stated that the Agency has a five-year contract with Mr. Gregorczyk, which may be approved on a yearly basis. Therefore, at the beginning of each fiscal year, an approval of the contract is requested from the Commissioners.

Commissioner Fredricks quizzed Director Kerr on changes and/or additions to the audit plan. Director Kerr clarified that the approval sought was not approving the plan, but it was approving another year to the contract with Jansen and Gregorczyk Certified Public Accountants as the Agency's Internal Auditor.

Commissioner Fredricks motion, "I move that the Commission approve the third-year renewal for internal audit contracted services with Russell Gregorczyk." Commissioner Weinberg seconded. The motion carried.

APPROVAL OF INTERNAL AUDIT OF THE ACCOUNTING SYSTEM AND ACCOUNTING INTERNAL CONTROLS

Presiding Officer Cuevas read the next agenda item and called upon Russell Gregorczyk, TABC's contracted Internal Auditor, to discuss the approval of the Internal Audit of the Accounting System and Accounting Internal Controls.

Mr. Gregorczyk thanked the Commissioners for approval to conduct internal audits for the Agency for another year. For the record, he stated that the completed audit is required under the Texas Internal Audit Act. Periodically, the accounting system audit is conducted every three to four years looking at the internal accounting controls.

In his report, Mr. Gregorczyk summarized the primary purposes of the audit, that being to evaluate the adequacy of the accounting system to provide financial information for decision-making and reporting, the adequacy of internal controls over the agency accounting functions and the effectiveness and efficiency of operating procedures.

The scope of internal audit work included review, analysis, and/or testing of the following areas: accounting system structure; processing of purchase vouchers, travel vouchers, journal vouchers and deposit vouchers; petty cash account and purchase of evidence funds accounts, operating budget reports and other financial reports provided to management; reports sent to external entities; payroll processing; the annual financial report, and accounting policies and procedures.
(Attachment 1)

Mr. Gregorczyk outlined some key audit observations:

- TABC's accounting system is adequately structured to comply with the agency's Appropriation Bill. The agency uses the Uniform Statewide Accounting System (USAS) as its primary accounting system. The Business Services Division effectively uses a series of Program Cost Accounts (PCAs) and index numbers within the USAS to track and report all revenues and expenditures associated with the agency's Appropriation Bill.
- The Business Services Division (BSD) has effective procedures and adequate internal controls for processing purchase vouchers and interagency transaction vouchers. Most vouchers are processed in accordance with the Prompt Payment Act requirements.

- The Business Services Division (BSD) has effective procedures and strong internal controls for processing revenues received by the agency through the License Ease (LE) system. From September 1, 2008 through April 30, 2009, the BSD processed over \$53 million in revenues and all funds were deposited within three working days as required by the Comptroller's Office.
- The Fiscal Services Department has appropriate management approval and adequate supporting documentation for all journal vouchers.
- There are adequate procedures for the accounting for all purchase of evidence and petty cash funds maintained outside the State Treasury, but changes could be made to strengthen the internal controls over these funds.

Commissioner Weinberg asked Mr. Gregorczyk to explain what is meant by the purchase of evidence. Mr. Gregorczyk deferred to Chief Moreno for the explanation.

Chief Moreno stated the purchase of evidence is done during a minor sting. During a minor sting, an alcohol purchase made by a customer who is a minor using agency funds and documented by a TABC agent conducting the sting.

There were significant recommendations outlined by Mr. Gregorczyk:

- If it appears that purchase of evidence expenditures may exceed \$50,000 in FY 2010 or FY 2011, the Business Services Director may need to obtain the concurrence of the Legislative Budget Board and Comptroller's Office based on the legislative intent to increase the amount up to \$62,000. The next Legislative Appropriations Request should request a change in Rider 6 to reflect the correct amount.
- The Fiscal Services (FSD) and Purchasing departments should develop a process to ensure that vendor invoices are paid timely when issues regarding the paperwork necessary to approve and make payments.
- At the beginning of each fiscal year, Purchasing should provide new purchase order numbers and update the amount of funds available for ongoing purchases that span fiscal years.
- Purchasing should use purchase order amendments to change the purchase orders terms that affect payment processing and purchase change notices for changing all other purchase order terms.
- Human Resources and Fiscal Services should ensure that all required information on the personnel actions is completed before the forms are submitted to payroll for processing.

- Fiscal Services and Human Resources should use a consistent procedure for payment of overtime to agents regardless of the source of funds that will be used to pay the overtime. All payroll actions should be initiated with a PAF with the overtime detail sheet used as supporting documentation.

Commissioner Fredricks motioned to approve the Internal Audit of the Accounting System and Accounting Internal Controls. Commissioner Weinberg seconded. The motion carried.

APPROVAL OF PROPOSED INTERNAL AUDIT PLAN FOR FY 2010

Mr. Gregorczyk reported that the proposed internal audit plan for FY 2010 included a new feature in the plan called internal audit guidelines. He emphasized that the report includes the internal auditing guidelines and internal audit charter under which the TABC internal audit program will operate. Also noted was information in the report that had not been updated and approved by the Commission in a number of years. Mr. Gregorczyk requests approval by the Commission that will signify approval of the internal audit plan, the internal audit guidelines and the internal audit charter for FY 2010. (Attachment 2)

Mr. Gregorczyk briefed the Commission of the primary purpose of the internal guidelines, internal audit charter and internal auditing standards. He and his auditing firm seek to establish a clear and concise agreement between the TABC Commissioners. He outlined the agreement's purpose, authority, and responsibility of the internal auditing department:

Purpose – Internal Auditing is an independent appraisal activity established to conduct reviews of operations and procedures and to report findings and recommendations to the TABC Administrator and Commission of the Texas Alcoholic Beverage Commission.

Authority – The Internal Auditor reports directly to the TABC Commission. This reporting relationship ensures independence, promotes comprehensive audit coverage and assures adequate consideration of audit recommendations.

The Internal Auditor, in the performance of audits and with stringent accountabilities of safekeeping and confidentiality, will be granted unlimited access to all TABC activities, records, property, and staff members.

The Internal Auditor will have no responsibilities assigned other than those related to developing and implementing the internal audit program for TABC.

Responsibilities – The Internal Auditor is responsible for assessing the various functions and control systems in the TABC and for advising the Administrator and Commission concerning their condition. The fulfillment of this accountability is not confined to but includes:

- Appraising the effectiveness and application of accounting systems and controls, administrative systems and controls, information resources systems and controls, and other major systems and controls, so as to ensure that all the major systems and controls are reviewed on a periodic basis.
- Evaluating the sufficiency of and adherence to TABC plans, policies, and procedures and compliance with all governmental laws and regulations.
- Performing special reviews requested by the Administrator and Commission.
- Conducting appraisals of the economy and efficiency with which resources are employed.
- Coordinating audit planning and scheduling activities with the State Auditor's Office.

Commissioner Weinberg refreshed the Commissioners and Mr. Gregorczyk of his request to have an audit performed on the Commissioners. He asked if modifications could be made to the plan to include an audit on the Commissioners. Mr. Gregorczyk answered in the affirmative, but asked if he could continue the discussion on internal audit plan and its guidelines.

Mr. Gregorczyk continued his report and asked the Commissioners to view page 19 of Exhibit 5, Texas Alcoholic Beverage Commission Audit Risk Ranking and Internal Audit History. He stated that the Texas Internal Auditing Act requires certain audits to be performed on a periodic basis. The audits required include audits of the agency's accounting systems and controls, administrative systems and controls, electronic data processing systems and controls, and other major systems and controls. Within these audits, there are five general types of audits required by the ***Standards for the Professional Practice of Internal Auditing*** that include reliability and integrity of information, compliance with policies, plans, procedures, laws, and regulations, safeguarding of assets, economical and efficient use of resources, and accomplishment of established objectives and goals for operations and programs.

The Fiscal Year 2010 Internal Audit Plan will focus on the Licensing Division (Field Office License Processing and Headquarters Operations) and the Enforcement Division (Field and Headquarters Operations).

The audit of the License Division, Field Office License Processing will focus on the effectiveness and efficiency of the field offices in processing license applications to sell alcoholic beverages. The audit of the Licensing Division, Headquarters Operations will evaluate compliance with laws and regulations and the effectiveness and efficiency of operating procedures within the Licensing Division.

The audit of the Enforcement Division, Field Operations will focus on evaluating the effectiveness and efficiency of functions performed by Field Operations within the Enforcement Division. The Headquarters' Operations in the Enforcement Division will focus on evaluating the effectiveness and efficiency of functions such as hiring officers, training, enforcement activities, and management of field office personnel; evaluating the reliability and integrity of performance measure reporting and management reporting by the division; and evaluating compliance with applicable laws and regulations.

At the conclusion of his report, Mr. Gregorczyk suggested tabling the audit plan until the next Commission meeting in October. He stated this would give the Commissioners sufficient time to explore the scope of the audit work to be performed and it would give him time to modify the proposal to include the additional audit.

The Commissioners did not take any action in the approval of the Proposed Internal Audit Plan for FY 2010. It will be brought before the Commission on October 27, 2009.

LEGISLATIVE TRACKING SYSTEM UPDATE

Presiding Officer Cuevas called upon Carolyn Beck, Public Information Officer, to present the Legislative Tracking System Update. The 81st Legislative Session has concluded, Ms. Beck's report updated the Commissioners in using software, purchased by TABC, to track the legislative bills that would have an impact on the Agency. (Attachment 3)

Presiding Officer Cuevas complimented Ms. Beck, Administrator Steen and the Executive Management Staff for their hard work during the last legislative session.

2009 ADMINISTRATOR'S CONFERENCE UPDATE

Presiding Officer Cuevas called upon Jennifer Micallef in the Training Division for her presentation on 2009 Administrator's Conference Update.

The Administrator's Conference was held July 20th through July 22nd at the JJ Pickle Center. Ms. Micallef's powerpoint presentation highlighted each conference day's

activities. She reported that the overall consensus from those in attendance at the conference was very positive. (Attachment 4)

Commissioner Weinberg asked if Agency employee attendance varies from day to day at the conference or does it remain the same throughout the conference. Ms. Micallef answered in the affirmative. She explained that the attendance is derived from the Agency statewide management groups. The management groups will rotate the employee in their offices that will enable participation within the various offices with heavy emphasis on field operations employee participation.

Commissioner Fredricks commended Ms. Micallef and her team for well organized conference. She enjoyed interacting with the Agency employees.

Presiding Officer Cuevas offered his compliments to Ms. Micallef. He recognized that at this conference the employees are networking and working together as a team. And the members of the industry are collaborating and benefiting from an open-line of communication and partnership with the Agency personnel.

Presiding Officer Cuevas asked Ms. Micallef on how the Agency can continue to build from this conference's enthusiasm and energy experience and not lose it? Ms. Micallef responded through various meeting such as the management goal updates, and the quarterly meetings that are small in number, but create communication that filters down to the employees in the field. The strategic planning session is another vehicle used to keep our stakeholders and industry members engaged in their participation and ideas.

Presiding Officer Cuevas quizzed Ms. Micallef what can the Commission do to help her between now and the next Administrator's conference? Ms. Micallef stated the next Strategic Planning conference will be in January 2010. She requests the support in resources in order to organize the meeting and ask for the Commissioners' speaking participation at the conference.

ENFORCEMENT INSPECTIONS SUMMARY

Presiding Officer Cuevas called upon Joel Moreno, Chief of Field Operations to speak on the Enforcement Inspections Summary. After welcoming the Commissioners to the meeting, Chief Moreno introduced his powerpoint presentation. (Attachment 5)

First on his presentation highlighting the Agency's service, courtesy, integrity, and accountability was policy. He stated that the Texas Alcoholic Beverage Commission (TABC) conducts inspections to deter and detect violations of the Alcoholic Beverage Code, Commission Rules, and applicable laws and to encourage voluntary compliance on the part of permittees, licensees, their customers, and the general public.

Chief Moreno detailed the types of inspections as well as the most common reasons to conduct an inspection. For clarification, inspections are conducted:

- The need to visit a location that has not yet been inspected during the current fiscal year (Unique List);
- A complaint from another agency or a member of the public alleging unlawful conduct at or around the location (Complaint);
- A history of administrative violations or criminal offenses (Risk-Based Approach);
- A request from a permittee, licensee or property owner for assistance with preventing others from committing alcohol-related violations on the licensee premises (i.e., Cop in Shop);
- Direct observation of suspicious activity or unlawful behavior.

He detailed the procedures for inspections:

- Identify self
- Explain inspection
- Locate the permit or license
- Observe location for violations and offenses
- Take appropriate action
- Leave location

Commissioner Weinberg applauded Chief Moreno for his leadership in changing the stigmatism that had plagued the Enforcement Division in past years. He noted that Chief Moreno's and the Agency's concern for public safety is to be commended.

Commissioner Fredricks complimented Chief Moreno for a good presentation.

USE OF FORCE SUMMARY

Chief Joel Moreno's powerpoint presentation highlighted the Use of Force Policy: (Attachment 6)

- Certified Peace Officers (CPOs) will exercise force prudently for their own protection, in the protection of the life, health, or safety of others, in the protection of property, in the execution of a lawful arrest or search, or as otherwise authorized by the law. CPOs will employ objective reasonableness a standard for appropriate levels of force.
- The use of force in response to a perceived threat of imminent harm from a subject or to affect the seizure of a subject who is resisting or attempting to escape will be consistent with what is objectively reasonable considering the totality of the circumstances known to the officer at the time the force is used.

In concluding his report, Chief Moreno emphasized his belief in the use of the Agency's Guiding Principles mentioning the expectations of ethnical and professional behavior; doing the right thing, not just what we have the right to do; and striving to put responsible people into business and to promote good business practices through integrated partnerships.

Presiding Officer Cuevas recessed the meeting at 11:15 a.m. and called the meeting back to order at 11:24 a.m.

RAINBOW LOUNGE COMPLETED INVESTIGATION

Presiding Officer Cuevas asked Andy Pena, Director of Office of Professional Responsibility, to report on the Rainbow Lounge Completed Investigation.

Director Pena gave a recap of the policies and procedures investigation and an update on the use of force investigation in the Rainbow Lounge Incident as shown in the powerpoint presentation. (Attachment 7)

Presiding Officer Cuevas opened a question and/or from the Commissioners Weinberg and Fredrick to Director Pena.

Commissioner Weinberg asked Director Pena if he was the only one in the department of OPR. Director Pena answered in the affirmative. So he assumes that Director Pena was the primary person who worked on this investigation. Director Pena responded that he had assistance from the Headquarters Special Investigator's Unit and Lieutenant Gene Anderson in the Fort Worth office.

Commissioner Weinberg inquired as to the number of personal interviews he conducted out of the 70 interviews done and how many hours on each interview did he spend? Director Pena answered approximately 30 interviews. He could not give an answer for the number of hours because he bases his time on the total number he interviewed. In his questioning, Commissioner Weinberg tried to determine how many hours were allocated to conduct the interviews. Director Pena explained that this type of investigation has taken some time to complete waiting for the witnesses and employees of the incident to come forward. In order to gain the trust of those willing to interview, a neutral and comfortable location was sought. A church volunteered its building for the interviews.

Presiding Officer Cuevas stated since this investigation involves Management did he feel pressured to come up with a conclusion to the investigation? Director Pena responded, no pressure. Presiding Officer Cuevas further inquired on the location for the interviews. How was this non-threatening location chosen? Director Pena stated that the community had suggested the church as the location for the interviews.

PUBLIC COMMENT

Presiding Officer Cuevas opened the floor for public comment. Agent Christopher Aller was sitting in the audience and was asked if he wanted to address the Commission in this open forum. Agent Aller responded that he could speak before them in the open forum and in Executive Session. Before allowing Agent Aller to speak, Presiding Officer Cuevas and Commissioner Fredrick sought advice from General Counsel Lou Bright in this matter.

General Counsel Bright stated that Agent Aller could speak before the Commission if he chose to do so, but would have to be invited by the Commission to speak in the Executive Session of the meeting. General Counsel Bright had a prior discussion with Agent Aller concerning the procedural context during the meeting.

Agent Aller chose to speak during the open forum. He formally introduced himself and briefed the Commission on his attendance at the meeting. He desired the Commission to know he is not the person portrayed in the media articles and welcome the opportunity to speak with the Commission to clear his name.

PUBLIC COMMENT

Presiding Officer Cuevas opened the floor to public comments. Being no persons commenting, he announced the executive session.

EXECUTIVE SESSION

The regular open session of the Texas Alcoholic Beverage Commission will be recessed at this time, 11:44 a.m., August 25, 2009, and an executive session will be held to consult with Legal Counsel regarding pending and anticipated litigation against the agency and to discuss the duties, responsibilities, and evaluation of the Administrator, pursuant to Texas Government Code, Sections §551.071 and §551.074.

The Texas Alcoholic Beverage Commission has concluded its executive session and is now in open regular session. The date is August 25, 2009, and the time is 12:35 p.m. No final action decision or vote was made in executive session.

Reconvening from the TABC Commission meeting Executive Session to the Open Regular Session, there was a discussion on allegations against Administrator Alan Steen regarding public comments he made during the Rainbow Lounge investigation.

Commissioner Weinberg initiated a motion that the General Counsel and Captain Pena get together regarding the allegations of wrongdoing alleged against Mr. Steen regarding comments made during the investigation.

Presiding Officer Cuevas accepted the motion and asked if there was a second.

Commissioner Fredricks seconded, but stated a second doesn't necessarily mean you agree but allows you to discuss. She wanted that pointed out.

Presiding Officer Cuevas asked for further discussion. Commissioner Fredricks quizzed Commissioner Weinberg, when he said that General Counsel and Captain Pena would get together regarding alleged wrongdoing, what do you mean get together? Commissioner Weinberg responded, he was probably inaccurate and asked for General Counsel to word it correctly.

General Counsel Bright stated that if Commissioner Weinberg was going to issue him an instruction, then he would assume that the instruction would be that Captain Pena and he would consider and chart out some investigatory course in these charges.

Commissioner Weinberg answered in the affirmative. General Counsel Bright asked was that the intention? Commissioner Weinberg stated that is absolutely the intention. That was meant to be fairly broad.

General Counsel Bright stated he would take it as a part of that instruction that individually and he would keep Commissioner Weinberg informed of decisions that Captain Pena and he made along the way and their proposed course of action. Further commenting, General Counsel Bright stated obviously, he can't talk to all three Commissioners...we are asking for decisions, but I would take that as a course of action here. Commissioner Weinberg answered in the affirmative.

General Counsel Bright responded he would take it to Captain Pena and would report whatever the two of them came up with and would report back to the Commissioners at the next meeting on October 27th. General Counsel's commented that he believes he has been appropriately instructed by the Commissioner Weinberg. Commissioner Weinberg answered that is correct.

Presiding Cuevas asked if there was any further discussion. There being none, a vote was taken: Presiding Officer Cuevas voted nay and Commissioners Fredricks and Weinberg voted aye. The motion carried.

NEXT MEETING

Presiding Officer Cuevas announced the next meeting date is scheduled for Tuesday, October 27, 2009 and Tuesday, November 24, 2009. There will not be a meeting in September.

APPROVAL OF 2010 MEETING DATES:

January 26, 2010
February 23, 2010
April 27, 2010
May 25, 2010

July 27, 2010
August 24, 2010
October 26, 2010
November 23, 2010

Commissioner Weinberg motioned to approve the meeting dates in 2010. Commissioner Fredricks seconded. The motion passed.

ADJOURNMENT

Presiding Officer Cuevas called for a motion to adjourn. Commissioner Weinberg so moved and Commissioner Fredricks seconded. The motion carried, and Presiding Officer Cuevas announced that the meeting was adjourned.

Attachment 1

**Approval of Internal Audit of the Accounting
System and Accounting Internal Controls**

**Texas Alcoholic Beverage Commission
Internal Audit of the Accounting System and
Accounting Internal Controls**

Final Report

As Approved by the Commission on

August 25, 2009

As Prepared by
Jansen & Gregorczyk
Certified Public Accountants

**TABC Internal Audit of the Accounting System and Accounting Internal Controls –
Final Report – August 25, 2009**

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**TABC Internal Audit of the Accounting System and Accounting Internal Controls –
Final Report – August 25, 2009**

Jansen & Gregorczyk
Certified Public Accountants

Telephone
(512) 268-0070

P. O. Box 601
Kyle, Tx. 78640

August 25, 2009

Commission Members
Texas Alcoholic Beverage Commission

The following report provides the results and recommendations noted during the internal audit of the Accounting System and Accounting Internal Controls.

The internal audit was conducted in accordance with generally accepted government auditing standards and *Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors.

Signed Copy on File

Jansen & Gregorczyk
Certified Public Accountants

**TABC Internal Audit of the Accounting System and Accounting Internal Controls –
Final Report – August 25, 2009**

EXECUTIVE SUMMARY

Audit Purpose

The primary purposes of the internal audit were to evaluate: the adequacy of the accounting system to provide financial information for decision-making and reporting, the adequacy of internal controls over the agency accounting functions and the effectiveness and efficiency of operating procedures.

Key Audit Observations

- TABC's accounting system is adequately structured to comply with the agency's Appropriation Bill. The agency uses the Uniform Statewide Accounting System (USAS) as its primary accounting system. The Business Services Division effectively uses a series of Program Cost Accounts (PCAs) and index numbers within the USAS to track and report all revenues and expenditures associated with the agency's Appropriation Bill.
- The Business Services Division has effective procedures and adequate internal controls for processing purchase vouchers and interagency transaction vouchers. Most vouchers are processed in accordance with the Prompt Payment Act requirements.
- The Business Services Division has effective procedures and strong internal controls for processing revenues received by the agency through the License Ease (LE) system. From September 1, 2008 through April 30, 2009 the BSD processed over \$53 million in revenues and all funds were deposited within three working days as required by the Comptroller's Office.

- The Fiscal Services Department has appropriate management approval and adequate supporting documentation for all journal vouchers.
- There are adequate procedures for accounting for all purchase of evidence and petty cash funds maintained outside the State Treasury, but changes could be made to strengthen the internal controls over these funds.
- There are internal control weaknesses in the processing of payroll as a result of incomplete information on personnel action forms that are used to document approved payroll actions, lack of a system to track personnel action forms in process and inconsistency in processing similar types of payroll actions.
- Audit testing of payroll did not indicate any unauthorized changes to payroll or incorrect salary payments, however, better documentation is needed to ensure that all payroll changes are appropriate and approved by management.
- The Fiscal Services Department has an effective management reporting system for providing operating budget reports and similar financial reports to management and to the Commission.
- TABC's Annual Financial Report has adequate supporting documentation and an audit trail to the accounting records
- All required reports for external entities are accurate and well-documented, however, not all reports were submitted by the report deadline.

- TABC has procedures covering virtually every aspect of the Fiscal Services Department's operations. The procedures cover all essential areas and provide sufficient detail for staff members to understand and complete specific accounting functions.

**TABC Internal Audit of the Accounting System and Accounting Internal Controls –
Final Report – August 25, 2009**

Significant Recommendations

- If it appears that purchase of evidence expenditures may exceed \$50,000 in FY 2010 or FY 2011, the Business Services Director may need to obtain the concurrence of the Legislative Budget Board and Comptroller's Office based on the legislative intent to increase the amount up to \$62,200. The next Legislative Appropriations Request should request a change in Rider 6 to reflect the correct amount.
 - The Fiscal Services (FSD) and Purchasing departments should develop a process to ensure that vendor invoices are paid timely when issues regarding the paperwork necessary to approve and make payments.
 - At the beginning of each fiscal year, Purchasing should provide new purchase order numbers and update the amount of funds available for ongoing purchases that span fiscal years.
 - Purchasing should use purchase order amendments to change the purchase orders terms that affect payment processing and purchase change notices for changing all other purchase order terms.
 - At least two different individuals should be responsible for approving purchase of evidence requests, certifying the funds availability and signing the checks. Two signatures should be required on purchase of evidence checks.
 - Reconciliations of petty cash and purchase of evidence bank statements with FSD's records and with USAS should be completed within 30 days of the date of the bank statements.
- Human Resources and Fiscal Services should ensure that all required information on the personnel action forms is completed before the forms are submitted to payroll for processing.
 - A system should be developed to track personnel action forms (PAFs) including assigning sequential numbers to the PAFs throughout a fiscal year.
 - Fiscal Services should develop a spreadsheet reconciliation process to identify all payroll changes between months.
 - Fiscal Services and Human Resources should use a consistent procedure for payment of overtime to agents regardless of the source of funds that will be used to pay the overtime. All payroll actions should be initiated with a PAF with the overtime detail sheet used as supporting documentation.

Management's Response

Management concurs with all recommendations in the report. Employee responsibilities and target dates for completion of all recommendations have been established by management. Some recommendations have already been implemented.

**TABC Internal Audit of the Accounting System and Accounting Internal Controls –
Final Report – August 25, 2009**

**AUDIT PURPOSE
AND SCOPE**

The primary purposes of the internal audit were to evaluate the adequacy of the accounting system to provide financial information for decision-making and reporting, the adequacy of internal controls over the agency accounting functions and the effectiveness and efficiency of operating procedures. The scope of internal audit work included review, analysis, and/or testing of the following areas:

- accounting system structure;
- processing of purchase vouchers, travel vouchers, journal vouchers and deposit vouchers;
- petty cash account and purchase of evidence funds accounts;
- operating budget reports and other financial reports provided to management;
- reports sent to external entities;
- payroll processing;
- the annual financial report; and
- accounting policies and procedures.

Specific audit objectives for each of these audit areas were developed and coordinated with TABC management.

**AUDIT RESULTS AND
RECOMMENDATIONS**

The results and recommendations of the internal audit work are presented in this section for each of the ten audit objectives that were established and coordinated with TABC management.

***Audit Objective 1:** Determine if the accounting system is adequately structured to comply with the agency's Appropriation Bill and if adequate controls have been established within the accounting system to ensure compliance with all legislative requirements and restrictions regarding the agency's spending authority.*

TABC's accounting system is adequately structured to comply with the agency's Appropriation Bill. The agency uses the Uniform Statewide Accounting System (USAS) as its primary accounting system. The Business Services Division effectively uses a series of Program Cost Accounts (PCAs) and index numbers within the USAS to track and report all revenues and expenditures associated with the agency's Appropriation Bill. Spreadsheets are also used where necessary to track and report budget and financial information maintained in USAS and to ensure compliance with all Appropriation riders. Adequate controls have been established within the accounting system to ensure compliance with all legislative requirements and restrictions regarding the agency's spending authority.

The minutes from the July 25, 2008 TABC Commission meeting indicate that the FY 2009 operating budget approved by the Commission does not match the operating

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budget finalized by the Business Services Division. This discrepancy is due to adjustments that were made for fund transfers, management decisions to reduce funds appropriated for two bridges that were not scheduled to open in FY 2009, and salary adjustments approved in Article IX of the Appropriations Bill. This revised operating budget was never presented to the Commissioners for a final vote (although the Commissioners do receive current budget information at their meetings throughout the year). A process should be established to document Commission approval of the final operating budget that is completed.

Rider 6 of the Appropriations Bill for Purchase of Evidence restricts the agency to spending not more than \$50,000 each year. The FY 2009 operating budget for purchase of evidence was established at \$62,200; however, expenditures as of May 31, 2009 are less than \$17,000. Staff indicated that although the legislature approved this additional expenditure when sixty new agents were added to the staffing pattern in FY 2006, it was an oversight not to update the rider amount.

Recommendation 1: *Management should request the Commission to clarify the motion to approve the operating budget each year to include authorizing management to make changes that are authorized by the General Appropriations Act. Suggested language might be "The Commission authorizes the Administrator, or his designee, to make transfers among appropriation line items and capital budget items in accordance with the General Appropriations Act as necessary to implement the budget."*

TABC Management Response: Management agrees with finding and has implemented the recommendation as read by Commissioner Weinberg into the record in the July 2009 Commission Meeting.

Responsible employee title: Charlie Kerr, Director
Target date for completion: Implemented 7/28/09.

Recommendation 2: *If it appears that purchase of evidence expenditures may exceed \$50,000 in FY 2010 or FY 2011, the Business Services Director may need to obtain the concurrence of the Legislative Budget Board and Comptroller's Office based on the legislative intent to increase the amount up to \$62,200. The next Legislative Appropriations Request should request a change in Rider 6 to reflect the correct amount.*

TABC Management Response: Management agrees as this was an oversight on the agency's part. The Legislative Budget Board has been made aware of the issue and we will need to make the rider change during the next Appropriations Request.

Responsible employee title: Charlie Kerr, Director
Target date for completion: 8/15/2010.

Audit Objective 2: *Determine if there are adequate internal controls over purchase voucher and interagency transaction processing, if the procedures are effective and efficient, and if purchase and interagency transaction vouchers are being processed in a timely manner.*

The Business Services Division has effective procedures and adequate internal controls for processing purchase vouchers and interagency transaction vouchers. Most vouchers are processed in accordance with the Prompt Payment Act requirements.

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Some opportunities to improve the efficiency of payment processing were noted.

Audit testing of purchase and interagency transaction vouchers indicated all vouchers were accurately paid and had adequate supporting documentation. There was a documented review and approval on the vouchers tested and most were paid timely. Seven of 100 vouchers tested did not have a date received stamp so it was not possible to determine if the voucher was paid in accordance with the Prompt Payment Act. Four vouchers were paid late and interest charges were incurred; however, a relatively small amount of interest charges have been paid in FY 2009, which indicates that vouchers are being paid timely.

Purchase orders that span two fiscal years are not given a new purchase order number for the new fiscal year. Also, these purchase orders are not updated to exclude goods or services that were received in the prior year. Two situations were noted during the audit as a result of not issuing new purchase order numbers and ineffective coordination between Purchasing and Fiscal Services. In one instance a vendor's monthly invoices were not paid for six months because accounts payable did not have the appropriate purchase order information from Purchasing. The other incident also involved delayed payments to a vendor where Purchasing and Fiscal Services did not coordinate timely to resolve the problem. Better coordination is needed to ensure that all valid vendor invoices are paid timely. Providing a new purchase order number and updating the amount of funds available in the new fiscal year would save time for the accounts payable staff in processing invoices for these types of multi-year purchases.

Purchasing uses both amendments and purchases order change notices to communicate changes in purchase orders, but there is no consistent procedure for determining whether to use a change notice or an amendment. Using only amendments for changes that affect the payment terms (amount, fiscal year, etc.) would simplify accounts payable processing.

Recommendation 3: *The Fiscal Services and Purchasing departments should develop a process to ensure that vendor invoices are paid timely when issues regarding the paperwork necessary to approve and make payments.*

TABC Management Response: Fiscal Services will continue to work with the Purchasing Department to ensure that invoices are paid in a timely manner by developing processes to gather supporting documentation more timely. Invoices are now being logged in with payment due dates listed as well as the receiving area assisting in gathering field and headquarters receiving reports to expedite the payment process.

Responsible employee title: Charlie Kerr, Director
Target date for completion: Implemented 8/1/2009

Recommendation 4: *Purchasing should implement the following change to improve the efficiency of processing invoices by accounts payable:*

a. *At the beginning of each fiscal year, Purchasing should provide new purchase order numbers and update the amount of funds available for ongoing purchases that span fiscal years.*

b. *Purchasing should use purchase order amendments to change the purchase orders terms that affect payment processing and*

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purchase change notices for changing all other purchase order terms.

Responsible employee title: Charlie Kerr, Director
Target date for completion: 9/1/2009

TABC Management Response: In response to Recommendation 4, to improve efficiencies and assist in the payment processing, the TABC Purchasing Department agrees with the recommendation:

- a. Beginning with FY 2010, the TABC Purchasing Department shall implement a new purchase order number for all contracts and indicate the previous contract purchase order number(s) and renewal terms for reference and retention, as well as the funding for current, past and future fiscal years.
- b. Effective immediately, the TABC Purchasing Department shall ensure amendments shall be utilized to change the purchase orders internally with no negative impact on the vendor for payment(s). Amendment shall only be utilized to make changes to existing contracts, which have been competitively bid, where the purchase order has not been sent to the vendor. The Purchase Order Change Notice (POCN) form is designed for specific uses. It shall not be used if the issuance of a new purchase order would achieve the requested action in a more efficient and economical manner. When freight is required, the TABC Purchasing Department shall insert a declaration in the purchase order to allow for estimated freight charges. The purchase order will allow an amount “not to exceed”, so the vendor will not over inflate the charges. Any amount over the estimated freight charge indicated shall require added funding and a POCN.

***Audit Objective 3:** Determine if there are adequate internal controls over the processing of all revenues received by the agency, if the procedures are effective and efficient, and if deposits are being processed in accordance with required state time frames.*

The Business Services Division has effective procedures and strong internal controls for processing revenues received by the agency through the License Ease (LE) system. From September 1, 2008 through April 30, 2009 the BSD processed over \$53 million in revenues and all funds were deposited within three working days as required by the Comptroller’s Office. Actual cash received is counted and recorded in the Cash Receipts Log by two people. Deposit vouchers are reconciled with the LE Reports and Register before the deposits are released in USAS. A procedure is in place that clearly deals with the flow of documents, including both checks and cash, received from the agency’s mailroom to the revenue area for all transactions recorded in the License Ease system. The procedure identifies the person or position responsible for almost every step in the process, but does not include references to the other Fiscal Services Department systems used to complete the deposit of revenue, including a reference to the License Ease system, the Crystal View Reports and the USAS procedures. It also doesn’t include making a copy of the release screen in USAS as supporting documentation to indicate the date of the deposit.

The Business Services Division also processes certain other miscellaneous

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revenues that are not entered into the License Ease system. These deposits are only a very small percentage of total revenues processed (less than \$5,000 of the \$53 million in year-to-date FY 2009 revenues deposited). These miscellaneous revenues are not always deposited within three working days and there are some gaps in the procedures for processing these miscellaneous revenues. There is a procedure for special cash deposits that identifies the documents received from various sources that are not entered into the License Ease system. This procedure only identifies some of the tasks involved, and does not identify the staff members responsible for each task. The procedure also does not identify the spreadsheet that is used to reconcile activity for each deposit, nor does it call for making a copy of the release screen in USAS to provide supporting documentation for the date of deposit of funds.

Of the ten miscellaneous deposits tested, some were not deposited within the three working days, or it was not possible to determine if the funds were deposited timely because there was no date stamp on the documents. Four of the ten deposits did not include the date of approval by the supervisor. None of the deposits had copies of USAS release screens as part of the supporting documentation, which would have indicated the date entered into USAS. All ten deposits had copies of deposit slips stamped as received by the Comptroller's Office and all had supporting documentation concerning the source of the revenue.

Recommendation 5: *The FSD should ensure that all non-LE documents are processed and deposited in the State Treasury within the required three working days. For problem documents that need to be returned*

for further information, the reason should be recorded and the document date stamped a second time when received again by FSD. The document and funds should be processed and deposited within three working days of final acceptance of the document.

TABC Management Response: The Fiscal Services Department will ensure that all non-LE documents received in the division are date stamped when received and with subsequent dates as recommended.

Responsible employee title: Charlie Kerr, Director
Target date for completion: 8/1/2009

See also Recommendation 15.

Audit Objective 4: *Determine if there is appropriate management approval and supporting documentation for all revenue and expenditure journal vouchers.*

Journal vouchers are used for a variety of reasons such as transferring funds from one fiscal year to another, transferring from one fund to another or from one appropriation to another, recording or revising budget amounts, and correcting transactions previously entered. Because journal vouchers can be used to correct payments that have already been approved and processed by management, it is important to have adequate supporting documentation and management approval for all journal entries. The Fiscal Services Department has appropriate management approval and adequate supporting documentation for all journal vouchers.

Recommendations: None.

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Audit Objective 5: Determine if there are adequate internal controls and effective and efficient procedures for accounting for all purchase of evidence and petty cash funds maintained outside the State Treasury.

There are adequate procedures for accounting for all purchase of evidence and petty cash funds maintained outside the State Treasury, but changes could be made to strengthen the internal controls over these funds.

The Fiscal Services Department has written procedures for accounting for all purchase of evidence and petty cash funds. Procedure No. 080101 for reconciling petty cash adequately addresses all steps including where reconciliations are filed. Procedure No. 080105 for reconciling purchase of evidence requests does not include the requirement to enter bank charges into USAS nor does it include the requirement to reconcile the bank statements and checking account with USAS Comptroller Object Code 07295 and Agency Object Code 6440 every month. There was a difference of \$2,512.95 between the checking account balance for purchase of evidence at the end of April 2009 with the USAS balance at the end of the same period. The Multi-Payee vouchers to recognize bank charges are not prepared monthly which resulted in a timing difference between the balances in the accounts.

There is adequate supporting documentation that tracks all purchase of evidence activity from the five regions to the bank statements and to USAS. Approval of the request for purchase of evidence funds, certification of funds available and signatures on the checks are not always performed by different employees. Petty cash checks are signed by

two employees who have been authorized for signature by the Administrator, but purchase of evidence checks are signed by only one employee, even though the amounts of the purchase of evidence checks are significantly larger than the petty cash checks.

There is adequate separation of duties between the person writing the checks and the persons who reconciles the petty cash and purchase of evidence accounts; however, the monthly bank reconciliations are not performed timely. Only one of the 16 reconciliations reviewed for FY 2009 was processed within 30 days of the end of the prior month.

There were no bank charges on any of the petty cash bank statements. There was a total of \$1,345 in bank charges for the purchase of evidence bank accounts between September 2008 and the end of April 2009. Both accounts are maintained at the Bank of America, so it may be possible to have the fees waived on the purchase of evidence accounts if TABC inquires about this option.

Recommendation 6: At least two different individuals should be responsible for approving purchase of evidence requests, certifying the funds availability and signing the checks. Two signatures should be required on purchase of evidence checks.

TABC Management Response: The Fiscal Services Department will ensure that there are two signatures on the checks and that the individual who certifies the funds as being available is not the same individual who signs the check.

Responsible employee title: Charlie Kerr, Director
Target date for completion: Completed 8/1/09

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***Recommendation 7:** Reconciliations of petty cash and purchase of evidence bank statements with FSD's records and with USAS should be completed within 30 days of the date of the bank statements.*

TABC Management Response: Due to low activity in the purchase of evidence bank accounts, the Fiscal Services Department has been reconciling the bank accounts quarterly for a number of years. Based on this recommendation, fiscal services will begin reconciling bank statements on a monthly basis.

Responsible employee title: Charlie Kerr
Target date for completion: 10/1/2009

***Recommendation 8:** The Fiscal Services Department should inquire as to whether Bank of America will waive the bank charges for the purchase of evidence account as is currently done for the petty cash account.*

TABC Management Response: The Fiscal Services Department has in the past attempted to get the service charges waived on the purchase of evidence account and our request was denied. We will attempt again to have the service charges waived on this account.

Responsible employee title: Charlie Kerr, Director
Target date for completion: 8/31/2009

See also Recommendation 15.

***Audit Objective 6:** Determine if there are adequate internal controls over the processing of payroll, if the procedures are effective and efficient, and if there is appropriate management approval and supporting documentation for all payroll transactions.*

There are internal control weaknesses in the processing of payroll as a result of incomplete information on personnel action forms that are used to document approved payroll actions, lack of a system to track personnel action forms in process and inconsistency in processing similar types of payroll actions. Audit testing of payroll did not indicate any unauthorized changes to payroll or incorrect salary payments, however, better documentation is needed to ensure that all payroll changes are appropriate and approved by management.

A personnel action form (PAF) is used to initiate payroll actions that involve salary changes such as new hires, promotions, merit increases, reclassifications, etc. Audit testing indicated various omissions of information on these forms including in some cases required signatures approving the salary action. We also noted that some similar types of payroll actions are not processed in the same manner. Overtime payments out of General Revenue require an approved PAF; overtime payments made out of grant funds do not require the use of a PAF. There is not a system for tracking PAFs in process. Since PAFs must be routed through multiple divisions for review and approval before the completed, approved form reaches payroll, there is no means of knowing if a PAF has been lost or misplaced.

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There is currently not an effective process for reconciling all payroll changes that are made between pay periods, although staff is working on a spreadsheet-based system to perform this type of reconciliation and to ensure appropriate documentation for all salary changes that were made between pay periods.

Procedures for processing payroll do not have sufficient details of all of the processing steps necessary and staff responsibilities for each step. Payroll processing and payroll procedures need to be revised to address the following issues and omissions:

(1) Human Resources is responsible for completing some portions of the PAFs, while Fiscal Services is responsible for completing other sections such as budget, position and index numbers and signature approvals. Staff in both departments are not consistently documenting that these sections have been reviewed and approved; and,

(2) the payroll processing procedure does not define the three ways that payroll can be changed, i.e., with approved PAFs, with employee generated actions and with changes that automatically occur in the Uniform Statewide Payroll System (USPS) such as longevity pay; and, the supporting documentation for each of these changes is not identified in the procedure;

Recommendation 9: *Human Resources and Fiscal Services should ensure that all required information on the personnel action forms is completed before the forms are submitted to payroll for processing.*

TABC Management Response: The Human Resources Division is updating the Personnel Action Form Guide. The updated instructions will be included in the instructions for the online system.

Responsible employee title: Loretta Doty, Director
Target date for completion: 9/1/2009.

Recommendation 10: *A system should be developed to track personnel action forms including assigning sequential numbers to the PAFs throughout a fiscal year. An Excel spreadsheet could be developed so that departments/individuals could complete a column with the date of approval by each department. This would enable Human Resources and Fiscal Services to track the PAF through the approval process and provide information to payroll on how many approved PAFs there should be for any given month.*

TABC Management Response: In July 2009, the Business Services Division along with the Human Resources Division began utilizing an excel spreadsheet to track PAFs. Numbers are manually assigned designating the Month and Year they were received along with the dates the PAFs were forwarded to Business Services, Human Resources and the Executive Divisions for approval.

Responsible employee title: Charlie Kerr, Director
Target date for completion: Implemented

Recommendation 11: *Fiscal Services should develop a spreadsheet reconciliation process to identify all payroll changes between months. This should be done by division, with supporting documentation for each change maintained by division for easy reference and for review by the Accounting*

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Manager before the final payroll is released for payment.

TABC Management Response: The Fiscal Services Division has already implemented the reconciliation process as recommended.

Responsible employee title: Charlie Kerr, Director
Target date for completion: Implemented

Recommendation 12: *Fiscal Services and Human Resources should use a consistent procedure for payment of overtime to agents regardless of the source of funds that will be used to pay the overtime. All payroll actions should be initiated with a PAF with the overtime detail sheet used as supporting documentation.*

TABC Management Response: The Business Services Division will require a PAF to be submitted before paying any overtime and continue to maintain the supporting documentation.

Responsible employee title: Charlie Kerr, Director
Target date for completion: 9/1/2009

See also Recommendation 15.

Audit Objective 7: *Determine if there is an effective management reporting system for providing operating budget reports and similar financial reports to management and the Commission.*

The Fiscal Services Department has an effective management reporting system for providing operating budget reports and similar financial reports to management and to the Commission. Information in the reports is both readily understandable and comprehensive.

Recommendations: None.

Audit Objective 8: *Determine if the Annual Financial Report has adequate supporting documentation and an audit trail to the accounting records.*

TABC's Annual Financial Report (AFR) has adequate supporting documentation and an audit trail to the accounting records. Financial information in the AFR can be traced to and agrees with the trial balance information in the Uniform Statewide Accounting System.

Recommendations: None.

Audit Objective 9: *Determine if all required reports for external entities are accurate, timely, and well-documented.*

All required reports for external entities are accurate and well-documented, however, not all reports were submitted by the report deadline. Fifteen of 47 reports submitted by the Fiscal Services Department for FY 2008-09 were submitted past the deadline (32%). We were unable to determine from available documentation whether TABC received an extension for filing these reports.

Recommendation 13: *The Fiscal Services Department should establish a master schedule of external reports due dates to ensure that reports are submitted by the established deadline. Automated Budget and Evaluation System of Texas (ABEST) screens that document report due dates and the date when a report has been completed in ABEST should be printed and retained in the relevant report files.*

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TABC Management Response: The Business Services Division will create a master schedule of required reports as well as due dates and date of completion. Additionally, a copy of each completed report will be maintained for supporting documentation.

Responsible employee title: Charlie Kerr, Director
Target date for completion: 10/1/2009

Audit Objective 10: Determine if there are adequately documented and up-to-date accounting policies and procedures.

TABC has procedures covering virtually every aspect of the Fiscal Services Department's operations (183 different procedures were noted during the audit). The procedures cover all essential areas and provide sufficient detail for staff members to understand and complete specific accounting functions. While there is a master schedule of all procedures and the staff member responsible for the procedure and staff indicates all procedures are reviewed at least biannually, there is no documentation maintained to indicate that the procedures are reviewed and updated as appropriate.

As noted in other sections of this report, several omissions were noted in specific procedures. These omissions need to be addressed to ensure that the processing procedures are complete and up-to-date.

Recommendation 14: All procedures should be reviewed and updated at least every two years (an annual review is preferable). Documentation of the review should be indicated in the Table of Contents, even if no changes to the procedure are made.

TABC Management Response: The Business Services Division had conducted a review of all procedures in January 2009 and procedures that needed updated were revised at that time; however, procedures that had no changes were not noted in the Table of Contents. When conducting the annual review of the procedures, BSD will document on the Table of Contents that all procedures were reviewed at that time.

Responsible employee title: Charlie Kerr, Director
Target date for completion: January 31, 2010

Recommendation 15: The following specific procedures should be updated to address omissions identified during the internal audit:

a. Procedures' 190301 and 190303 should be updated to incorporate standard language that applies to all deposits whether they are processed through the License Ease system or are processed manually. Each procedure should document the staff position responsible for each task, the supporting documentation needed and a reference to all systems used to complete the deposit process.

b. Procedure No. 080105 for Reconciling Purchase of Evidence should include the requirement to enter bank charges into USAS in a timely manner and include the requirement to reconcile the bank statements and checking account with USAS Comptroller Object Code 07295 and Agency Object Code 6440 every month.

c. Payroll procedures should be updated and revised to clearly define the types of supporting documentation need to support payroll changes, all processing steps and responsibilities for reviewing and verifying information on the PAF, and a

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requirement that all overtime payments are processed using a PAF.

TABC Management Response: The Business Services Division will update the procedures as recommended.

Responsible employee title: Charlie Kerr, Director
Target date for completion: 10/1/2009

Attachment 2

**Approval of Proposed Internal Audit Plan
for FY 2010**

**Texas Alcoholic Beverage
Commission
Internal Audit Plan
for FY 2010**

For Consideration by the TABC Commissioners

on

August 25, 2009

As Prepared by
Jansen & Gregorczyk
Certified Public Accountants

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August 25, 2009

Commission Members,
Texas Alcoholic Beverage Commission

The following document presents the fiscal year 2010 Internal Audit Plan for consideration and approval by the Commission. In accordance with the Texas Internal Auditing Act, the Commission approves the annual audit plan. Chapter 2102 of the Government Code requires that the internal audit plan include areas identified through risk assessment. This document presents the risk assessment results and the audit plan based on the results of the risk assessment.

This document also includes the internal auditing guidelines and internal audit charter under which the TABC internal audit program will operate. This information has not been included in previous internal audit plans, but was in other documents that have not been updated and approved by the Commission in a number of years. Approval by the Commission signifies approval of the internal audit plan, the internal audit guidelines and the internal audit charter for FY 2010.

Signed Copy on File

Jansen & Gregorczyk
Certified Public Accountants

**SECTION 1:
TEXAS ALCOHOLIC BEVERAGE COMMISSION
INTERNAL AUDITING GUIDELINES**

Certain operating guidelines are necessary for an effective internal auditing program. The purpose of this Section is to establish policies and guidelines to govern internal audits of all operations of the Texas Alcoholic Beverage Commission. The internal audit guidelines are reviewed for compliance with appropriate standards and updated as necessary each fiscal year. These guidelines, as well as the FY 2010 Internal Audit Plan, are approved by the Commission each year.

I. INTERNAL AUDIT CHARTER

The *Standards for the Professional Practice of Internal Auditing* state that the Internal Audit Charter should make clear the purposes of the internal auditing department, specify the unrestricted scope of its work, and declare that auditors are to have no authority or responsibility for the activities they audit.

The Internal Audit Charter is an extremely important document that sets out the statement of purpose, authority, and responsibility for the internal auditing department. It is an agreement between the TABC Commissioners and the TABC Internal Auditor, which establishes the guidelines for an effective internal auditing program.

Although the Internal Audit Charter can include all relevant policies and procedures, a concise document is preferable. A concise document increases the likelihood that all parties will understand the purpose, authority, and responsibility of the internal auditing department. Exhibit 1 presents the TABC Internal Audit Charter.

II. INTERNAL AUDITING STANDARDS

A. The Internal Auditor shall conduct his/her activities in a manner that is consistent with the most recent edition of the *Standards for the Professional Practice of Internal Auditing*, *Certified Internal Auditor Code of Professional Ethics*, and the *Statement of Responsibilities of Internal Auditing*.

B. Sufficient and relevant evidence shall be obtained to afford a reasonable basis for the auditor's findings and recommendations. A written record of the auditor's work shall be retained in the form of working papers.

C. Standards of conduct for the Internal Auditor require that the Internal Auditor shall:

1. be free from personal or external impairments to independence in order that opinions, conclusions, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties.
2. be prudent in the use of information acquired in the course of his/her duties.
3. conduct all activities in accordance with the laws regarding confidentiality.
4. not use any information obtained in an audit for any personal gain nor in a manner, which would be detrimental to the welfare of the TABC, the Commissioners, or TABC employees.

III. INTERNAL AUDITING POLICIES

A. The Internal Auditor shall be responsible for performance audits of the TABC. Performance audit is defined as an independent appraisal activity performed by the Internal Auditor which includes determining whether the entity being reviewed is acquiring, protecting, and using its resources economically and efficiently, identifying the causes of inefficiency or uneconomical practice, and determining whether the entity has complied with laws, riders, rules and regulations.

B. The Commission shall appoint the TABC Internal Auditor.

1. The Internal Auditor shall report directly to the Commissioners.
2. The TABC Administrator shall be responsible for the administrative supervision of the Internal Audit program.
3. The Commission shall ensure the independence of the internal audit function.
4. The Commission shall monitor the internal audit function to assure compliance with the requirements of the Internal Auditing Charter and all Internal Auditing Guidelines and provide guidance to the Internal Auditor on any issues not specifically addressed by the Charter or the Guidelines.
5. The Internal Auditor shall submit to the Commission for approval, the annual audit plan, which shall be based on risk analysis and which shall identify individual audits to be performed during the year.

6. On at least a quarterly basis, the Internal Auditor shall meet with the Commission to present audit reports, discuss the status of implementing the Internal Audit Plan, including exceptions to the timely accomplishment of the plan; the status of management's resolution of audit findings and other significant issues involving the internal audit function.

D. Special audit projects not included in the approved annual audit plan may be authorized by the Commission.

E. The Internal Auditor's activities in reviewing, appraising and reporting established policies, plans and procedures shall not in any way relieve TABC personnel of responsibilities assigned to them.

F. The implementation of, or action taken on, the Internal Auditor's recommendations shall be the duty of the TABC Administrator. The Internal Auditor will perform follow-up audits to determine what corrective action was taken and whether it is achieving the desired results.

IV. INTERNAL AUDITING PROCEDURES

A. The Internal Auditor prior to beginning an audit will inform the Administrator and the appropriate assistant administrators and division directors of the audit and its objectives by conducting an entrance conference.

B. The Internal Auditor will conduct an exit conference with the Administrator and appropriate assistant administrators and division directors, at which time exceptions noted during the course of the audit, will be discussed.

C. The Internal Auditor will independently make a determination on the results of the audit and issue a draft report to the Administrator, or the Administrator's designee for management response. A management response will be made within 14 calendar days of the issuance of the draft report.

D. The Internal Auditor will add the management response to the body of the report and issue a final draft report to the Administrator, and the appropriate assistant administrators and division directors within 14 calendar days of receiving the management response. After approval by the Commission, the final report will be prepared.

E. If, during the course of an audit, the Internal Auditor detects situations or transactions that could be indicative of fraud or other illegal acts, or receives information from external sources alleging such actions, the Internal Auditor will:

1. Provide all pertinent information to the Administrator and members of the Commission.

2. Formally request approval from the Commission to expand audit procedures or perform an investigation.

3. Upon approval, the Internal Auditor will extend audit procedures or perform an investigation to obtain sufficient evidence to determine whether in fact such acts have occurred and, if so, the cause of the problem and the possible effect on the TABC's operations and programs.

4. Provide the Administrator and the Commission a formal report on the results. Upon receipt of evidence of illegality, the Administrator will forward findings to the appropriate legal entity.

**SECTION 2:
TEXAS ALCOHOLIC BEVERAGE COMMISSION RISK ASSESSMENT**

This section presents the results of the TABC Risk Assessment, and establishes the foundation for the Internal Audit Plan presented in the next section.

Purpose

One of the key findings in the State Auditor's Office report, *Statewide Review of Internal Auditing*, was that the scope of internal auditing is often limited in state agencies. The report states, "Because significant financial and operating risks to the agency may be overlooked if the scope of the internal auditors work is limited, we recommend that internal auditors:

- Document, in writing, a risk assessment that considers all the major systems and controls of the agency as part of the audit universe. The audit universe refers to all auditable subjects, activities, units, issues and functions within the organization.
- Identify the risk factors that affect the audit universe and weights that may be applied to the risk factors.
- Establish a method for combining and assigning risk factors and weights to develop a prioritized annual audit work plan.
- Develop an audit plan and work schedule based on the results of the risk assessment.
- Obtain written approval for the plan from the highest level within the organization.
- Implement the plan. Significant deviations from the audit plan should be supported by reasonable, documented explanations.

The purpose of conducting a Risk Assessment for the TABC was to incorporate all these recommended elements in an objective assessment of the agency. This should ensure that the scope of internal audit work at the TABC is not limited and that the Internal Audit Plan for FY 2010 is based on documented, written findings.

Concept of Risk

The concept of risk is fundamental in internal auditing. Given the importance of the concept of risk, it is necessary to define what risk is, describe types of risk and describe how risk was measured in performing the TABC Risk Assessment.

Risk is a measurement of the likelihood that an organization's goals and objectives will not be achieved. Since controls are anything that improve the likelihood that goals and objectives will be achieved, controls and risk are inversely related by definition. Better control means less risk. The Risk Assessment was designed to detect and evaluate the controls in place to reduce different types of risk exposure.

The TABC Risk Assessment was designed to measure different types of "risk exposure" and to assess the controls in place to compensate for different levels of risk. The types of risk exposure, which are relevant to the TABC, are:

- *Financial Exposure*: Financial exposure exists whenever an audit area is susceptible to errors or defalcations that affect the general ledger and financial statements or the integrity and safekeeping of agency assets, regardless of the financial statement impact.

- *Regulatory Exposure*: Regulatory exposure exists whenever an event in an audit area could cause the agency to fail to comply with regulations mandated by state or federal authorities, irrespective of whether financial exposure exists.

- *Information Exposure*: An information exposure exists whenever there is information of a sensitive or confidential nature, which could be altered, destroyed, or misused.

- *Efficiency Exposure*: An efficiency exposure exists whenever agency resources are not being utilized in an effective or efficient manner.

- *Human Resource Exposure*: A human resource exposure exists whenever an area is managing human resources in a way, which is contrary to agency policy.

- *Environmental Exposure*: An environmental exposure exists whenever internal or external factors pose a threat to the stability and efficiency of an audit area. Examples of factors that affect environmental exposure are:

- Recent changes in key personnel
- Changing economic conditions
- Time elapsed since last audit
- Pressures on management to meet objectives
- Past audit findings and quality of internal control

- *Political Exposure*: A political exposure exists whenever an event in an audit area could cause the agency to be subjected to adverse political consequences.

- *Public Service Exposure*: A public service exposure exists whenever an event in an audit area could jeopardize existing public services or new public services.

The TABC Risk Assessment Survey was designed to measure various types of risk ranging from the risk of loss of assets to the risk of adverse publicity due to erroneous information. The survey instrument allows meaningful comparisons among very different activities and types of risk by assigning all potential auditable topics a numeric score.

Methodology

The risk variables utilized for the TABC Risk Assessment combined measures of the various controls and exposure types described in the previous section. Exhibit 2 presents the risk survey instrument utilized. Fifteen risk variables or risk factors were selected to provide a cross-section of overall risk. These fifteen factors were weighted according to their perceived importance, i.e. the higher the weighting, the higher the risk. The risk variables and their weightings are presented in Exhibit 3.

The first step in conducting the Risk Assessment involved defining the potential audit universe. To be in compliance with the Texas Internal Auditing Act, all potential auditable subjects, activities, units, issues and functions were determined. The universe of potential audit topics was developed through material such as the agency's legislative appropriation for FY 2010, previous years' internal audit risk assessments and audit plans, the organizational chart, and agency reports and publications such as the strategic plan.

The second step in the process was to utilize the survey instrument to assess the risk for each potential audit topic. This step was completed by updating the risk variables in the FY 2009 risk assessment.

The third phase of the Risk Assessment involved scoring and ranking the answers to the survey questions. By weighting the values of the different risk indicators, the survey was individualized for the TABC.

The final step in conducting the Risk Assessment was to rank and categorize every potential auditable topic. Based on the average score and the standard deviation of the potential audit universe, the potential auditable topics were categorized as follows:

Maximum Risk	- Over 216
High Risk	- 189 to 216
Average Risk	- 161 to 188
Low Risk	- Below 161

Results

Exhibit 3 presents the results of the Risk Assessment for each potential audit topic. Four potential audit topics are rated as maximum risk and seven are rated as high risk within the agency as follows:

Maximum Risk

- Compliance Division- License Processing
- Licensing Division
- Information Resources Division
- Enforcement Division- Field Operations

High Risk

- Business Services Division- Accounting
- Enforcement Division- Headquarters Operations
- Legal Services Division
- Compliance Division- Field Operations
- Enforcement Division- Licensing Standards Investigators
- Office of Professional Responsibility
- Executive Administration

**SECTION 3:
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2010 INTERNAL AUDIT PLAN**

The Texas Internal Auditing Act requires certain audits to be performed on a periodic basis. Required audits include audits of the agency's accounting systems and controls, administrative systems and controls, electronic data processing systems and controls, and other major systems and controls. In addition, five general types of audits are required by the *Standards for the Professional Practice of Internal Auditing* as follows:

- **Reliability and Integrity of Information** - Internal Auditors should review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.

- **Compliance with Policies, Plans, Procedures, Laws, and Regulations** - Internal auditors should review the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on operations and reports, and should determine whether the organization is in compliance with them.

- **Safeguarding of Assets** - Internal auditors should review the means of safeguarding assets and, and as appropriate verify the existence of such assets.

- **Economical and Efficient Use of Resources** - Internal auditors should appraise the economy and efficiency with which assets are employed.

- **Accomplishment of Established Objectives and Goals for Operations and Programs** - Internal auditors should review operations or programs to ascertain whether results are consistent with established objectives and goals, and whether the operations or programs are being carried out as planned.

The FY 2010 Internal Audit Plan for the TABC is based on the results of the risk assessment presented in the previous section, audits required to be performed on a periodic basis by the Internal Auditing Act and management's input on areas where internal audits would be helpful. For FY 2010, the following topics will be audited:

- Licensing Division- Field Office License Processing (Maximum Risk)
- Licensing Division- HQ Operations (Maximum Risk)
- Enforcement Division- Field Operations (Maximum Risk)
- Enforcement Division- HQ Operations (High Risk)

The audit of the License Division-Field Office License Processing will focus on the effectiveness and efficiency of the field offices in processing license applications to sell alcoholic beverages.

The audit of the Licensing Division- Headquarters Operations will evaluate compliance with laws and regulations and the effectiveness and efficiency of operating procedures within the Licensing Division. The specific scope of audit work will be determined in conjunction with TABC executive management.

The audit of the Enforcement Division – Field Operations will focus on evaluating the effectiveness and efficiency of functions performed by the Enforcement Division-Field Operations. The scope of audit work will be determined in conjunction with TABC executive management. Field offices selected for on-site audit work will be determined with input from TABC executive management.

The audit of the Enforcement Division – Headquarters' Operations will focus on evaluating the effectiveness and efficiency of functions performed by the Enforcement Division Headquarters such as hiring officers, training, enforcement activities, and management of field office personnel; evaluating the reliability and integrity of performance measure reporting and management reporting by the division; and evaluating compliance with applicable laws and regulations.

Follow-up audit reviews will be performed on all audits completed in prior years. The purpose of this work will be to determine the status of implementation of any recommendations made in those audits. In addition to these proposed audits and audit work, the risk assessment will be updated and an audit plan developed for FY 2011.

The proposed time estimates and time frames for the FY 2010 audit work are:

- Audit of Enforcement Division- Headquarters Operations – (October 2009 to November 2008) – 140 hours
- Prepare Annual Internal Audit Report for FY 2008 – 10 hours (October 2009)
- Audit of Enforcement Division-Field Operations – 180 hours (December 2009 to January 2010)
- Follow-up Review of Prior Years' Audit Recommendations- 40 hours (March 2010)
- Audit of Licensing Division- Headquarters Operations – (March 2010 to April 2010) – 160 hours
- Audit of Licensing Division- Field Office License Processing – 180 hours (May 2010 to June 2010)
- Update Risk Assessment and Prepare FY 2011 Audit Plan – 10 hours (August 2010)

The total budgeted time for FY 2010 audit work is 720 hours; total estimated costs are \$64,800, plus travel expenses for fieldwork outside of Austin.

**EXHIBIT 1
TEXAS ALCOHOLIC BEVERAGE COMMISSION
INTERNAL AUDITING CHARTER**

PURPOSE

Internal Auditing is an independent appraisal activity established to conduct reviews of operations and procedures and to report findings and recommendations to the TABC Administrator and Commission of the Texas Alcoholic Beverage Commission.

AUTHORITY

The Internal Auditor reports directly to the TABC Commission. This reporting relationship ensures independence, promotes comprehensive audit coverage and assures adequate consideration of audit recommendations.

The Internal Auditor, in the performance of audits and with stringent accountabilities of safekeeping and confidentiality, will be granted unlimited access to all TABC activities, records, property, and staff members.

The Internal Auditor will have no responsibilities assigned other than those related to developing and implementing the internal audit program for TABC.

RESPONSIBILITIES

The Internal Auditor is responsible for assessing the various functions and control systems in the TABC and for advising the Administrator and Commission concerning their condition. The fulfillment of this accountability is not confined to but includes:

- Appraising the effectiveness and application of accounting systems and controls, administrative systems and controls, information resources systems and controls, and other major systems and controls, so as to ensure that all the major systems and controls are reviewed on a periodic basis.
- Evaluating the sufficiency of and adherence to TABC plans, policies, and procedures and compliance with all governmental laws and regulations.
- Performing special reviews requested by the Administrator and Commission.
- Conducting appraisals of the economy and efficiency with which resources are employed.
- Coordinating audit planning and scheduling activities with the State Auditor's Office.

**EXHIBIT 2
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2010 RISK ASSESSMENT**

1. Annual Dollars Involved

The dollar amount per year of assets, receipts, or disbursements involved in the program or for which the auditable unit is responsible. The auditable unit has responsibility if it identifies, measures, classifies, reports, or monitors the assets, receipts, or disbursements. Dollar amounts can be included in determining the evaluation for more than one auditable unit.

<u>Evaluation</u>	<u>Points</u>
Less than \$500 thousand per year, or not applicable	1
At least \$500 thousand per year but less than \$1 million per year	2
At least \$1 million per year but less than \$5 million per year	3
More than \$5 million per year	4

2. Transaction Volume

The number of transactions for which the auditable unit is responsible. The auditable unit has responsibility if it identifies, measures, classifies, reports, or reconciles the transaction. A transaction can be included in determining the evaluation for more than one auditable unit. Also, some auditable units are responsible for only summary transactions while others are responsible for the detailed transactions that make up the summary transactions.

<u>Evaluation</u>	<u>Points</u>
Less than 1,000 per year, or not applicable	1
Greater than 1,000 but less than 5,000 per year	2
Greater than 5,000 per year	3

3. Safeguarding Assets

Personnel in the auditable unit safeguard assets if they control access to assets. Access to assets includes both direct physical access and indirect access through the preparation and processing of documents that authorize the use or disposition of assets.

<u>Evaluation</u>	<u>Points</u>
No access to assets, or not applicable	1
Limited access to assets	2
Some access to assets	3
Substantial access to assets	4

EXHIBIT 2
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2010 RISK ASSESSMENT

4. Impact of Adverse Publicity

This factor includes those circumstances that increase the adverse impact of errors. An auditable unit's visibility results from several sources, including: 1.) the Commission's or management's interest in the auditable unit's activities; 2.) involvement of outside groups, such as an advocacy group or the Legislature; or 3.) direct interaction with the public or clients.

<u>Evaluation</u>	<u>Points</u>
Little visibility, or not applicable	1
Some visibility	2
High visibility	3

5. Time Since Last Audit or Review

The number of years between the date of the previous audit or review and the date of the risk assessment.

<u>Evaluation</u>	<u>Points</u>
One year or less	1
Over one year but less than three years	2
Three years or more	3

6. Results of Last Audit or Review

Auditor's evaluation of the results of the previous audit or review.

<u>Evaluation</u>	<u>Points</u>
Positive findings or no findings	1
No prior audit or more than three years ago	2
Negative findings	3

7. Operational Changes

Auditor's evaluation of the impact on the auditable unit from changes in its operations, including changes in staff, size, funding, budget, responsibilities, or processing data. Changes include those made within the last year or anticipated to be made in the next year.

<u>Evaluation</u>	<u>Points</u>
Few changes, or not applicable	1
Some changes	2
Extensive changes	3

EXHIBIT 2
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2010 RISK ASSESSMENT

8. Personnel Turnover

In the last 12 months, the number of personnel leaving the auditable unit.

<u>Evaluation</u>	<u>Points</u>
Low turnover (15% or less), or not applicable	1
Average turnover (15% to 25%)	2
High turnover (more than 25%)	3

9. Policies and Procedures

The existence of policies and procedures documenting the auditable unit's activities.

<u>Evaluation</u>	<u>Points</u>
Written procedures current or not applicable	1
Written procedures, but not current	2
No written procedures	3

10. Training

Auditor's evaluation of the auditable unit's staff training, including cross training.

<u>Evaluation</u>	<u>Points</u>
Substantial training, or not applicable	1
Some training	2
Little training	3

11. Work Complexity

Auditor's evaluation of the work needed to complete assignments including amount of time, number of steps, and familiarity with agency laws, policies, and rules.

<u>Evaluation</u>	<u>Points</u>
Low work complexity, or not applicable	1
Medium work complexity	2
High work complexity	3

12. Work Load Fluctuations

Auditor's evaluation of the fluctuations in the auditable unit's workload.

<u>Evaluation</u>	<u>Points</u>
Steady workload, or not applicable	1
Some fluctuations in work load	2
Substantial fluctuation in work load	3

**EXHIBIT 2
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2010 RISK ASSESSMENT**

13. Sensitivity of Data

Auditor's evaluation of the type of data collected, processed, and prepared by the auditable unit.

<u>Evaluation</u>	<u>Points</u>
Little sensitive or confidential data, or not applicable	1
Some sensitive or confidential data	2
Most data sensitive or confidential	3

14. Impact of Inaccurate Data

Auditor's evaluation of the impact of incorrect data processed by the auditable unit or supplied to organizations outside of the agency.

<u>Evaluation</u>	<u>Points</u>
Little data provided outside the agency, or not applicable	1
Some data provided outside the agency	2
Most data provided outside the agency	3

15. Management Review

Auditor's evaluation of the review given by upper management (Administrator, Assistant Administrator, Chief of Enforcement, or Division Director) of the auditable unit's activities.

<u>Evaluation</u>	<u>Points</u>
Frequent or detailed review, or not applicable	1
Some direct review	2
Little direct review	3

**EXHIBIT 3
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2010 RISK ASSESSMENT AND RISK FACTOR WEIGHTINGS**

RISK FACTOR:	Weight	*	Points	=	Score
1. Annual Dollars Involved	7.75	*	4	=	31.00
2. Transaction Volume	5.00	*	3	=	15.00
3. Safeguarding Assets	7.25	*	4	=	29.00
4. Impact of Adverse Publicity	7.50	*	3	=	22.50
5. Time Since Last Audit or Review	5.75	*	3	=	17.25
6. Results of Last Audit or Review	5.00	*	3	=	15.00
7. Operational Changes	6.75	*	3	=	20.25
8. Personnel Turnover	6.50	*	3	=	19.50
9. Policies and Procedures	5.00	*	3	=	15.00
10. Training	5.25	*	3	=	15.75
11. Work Complexity	7.00	*	3	=	21.00
12. Work Load Fluctuations	5.75	*	3	=	17.25
13. Sensitivity of Data	7.75	*	3	=	23.25
14. Impact of Inaccurate Data	7.75	*	3	=	23.25
15. Management Review	<u>5.00</u>	*	<u>3</u>	=	<u>15.00</u>
Maximum Score					300.00

**EXHIBIT 4
TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2010 AUDIT UNIVERSE RISK ANALYSIS WEIGHTED SCORES**

POTENTIAL AUDIT TOPIC	WEIGHTED RISK ASSESSMENT SCORES															RISK SCORE
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
MAXIMUM RISK (ABOVE 216)																
1 LICENSING DIV.- FIELD OFFICE LICENSING PROC.	31	15	15	15	17	10	20	13	10	11	21	12	23	8	15	235
2 LICENSING DIV.- HEADQUARTERS OPERATIONS	31	15	22	15	17	5	20	7	10	5	21	12	23	23	5	231
3 INFORMATION RESOURCES DIVISION	31	15	29	15	12	5	14	7	10	5	21	12	23	23	5	226
4 ENFORCEMENT DIVISION - FIELD OPERATIONS	31	15	22	23	17	10	14	7	5	11	14	12	16	16	10	220
HIGH RISK (189 TO 216)																
5 BUSINESS SERVICES DIVISION-ACCOUNTING	31	15	29	15	6	5	7	7	5	11	21	12	23	23	10	219
6 ENFORCEMENT DIVISION- HQ OPERATIONS	31	5	22	15	17	10	20	13	5	11	21	6	16	16	5	212
7 LEGAL SERVICES DIVISION	16	5	15	23	17	15	14	13	10	5	21	6	23	16	10	207
8 COMPLIANCE DIVISION -FIELD OPERATIONS	31	15	15	15	17	5	14	7	5	5	21	6	23	8	10	196
9 ENFORCEMENT DIVISION- LIC STDS INVEST.	8	5	7	15	17	15	20	7	5	11	21	12	23	16	10	191
10 OFFICE OF PROFESSIONAL RESPONSIBILITY	8	5	15	23	12	10	20	7	15	11	14	17	23	8	5	191
11 EXECUTIVE ADMINISTRATION	31	5	22	15	12	5	14	7	5	5	21	12	16	16	5	188
AVERAGE RISK (161 TO 188)																
12 COMPLIANCE DIVISION -HQ OPERATIONS	31	15	15	15	17	10	14	7	10	11	14	6	8	8	5	184
13 AGENCY-WIDE PLANNING & BUDGETING	31	5	7	23	17	10	7	7	5	11	14	12	8	23	5	183
14 BUSINESS SERVICES DIVISION-SUPPORT SERVICES	23	15	22	15	17	10	7	7	5	11	14	12	8	8	10	182
15 HUMAN RESOURCES DIVISION	16	10	15	8	17	5	7	13	5	11	14	12	23	23	5	182
16 COMPLIANCE DIVISION- MARKETING PRACTICES	8	5	7	23	12	10	14	7	10	11	14	12	16	23	10	179
17 AGENCY-WIDE PROTEST PROCESS	8	5	7	23	12	10	20	7	5	11	7	17	16	16	15	177
18 TAX DIVISION - PORTS OF ENTRY	23	15	29	15	12	5	14	7	5	5	7	12	8	8	10	173
19 TAX DIVISION - HEADQUARTERS OPERATIONS	23	10	22	15	6	5	14	7	5	5	14	12	16	8	10	170
20 ENFORCEMENT DIVISION-TRAINING	8	5	7	23	17	10	14	13	5	5	14	12	16	16	5	168
LOW RISK (BELOW 161)																
21 AGENCY-WIDE TRAINING & STAFF DEVELOPMENT	16	5	15	8	17	15	14	7	5	5	14	12	8	8	5	151
22 AGENCY-WIDE PERFORMANCE MEASURES	8	5	7	15	17	10	7	7	5	5	7	6	8	23	5	135
23 AGENCY-WIDE TRAVEL POLICIES & PROCEDURES	8	5	22	8	6	10	7	7	5	11	7	6	8	8	15	130

AVERAGE SCORE: 188

STANDARD DEVIATION: 27

**EXHIBIT 5
TEXAS ALCOLHOLIC BEVERAGE COMMISSION
AUDIT RISK RANKING AND INTERNAL AUDIT HISTORY**

	POTENTIAL AUDIT TOPIC	RISK SCORE	FY10 PLAN	INTERNAL AUDIT HISTORY									
				FY 09	FY 08	FY 07	FY 06	FY 05	FY 04	FY 03	FY 02	FY 01	
1	LICENSING DIV. -FIELD OFFICE LICENSE PROCESSING	235	X								X		
2	LICENSING DIVISION- HEADQUARTERS OPERATIONS	231	X				X				X		X
3	INFORMATION RESOURCES DIVISION	226				X						X	
4	ENFORCEMENT DIVISION - FIELD OPERATIONS	220	X					X					
5	BUSINESS SERVICES DIVISION - ACCOUNTING	219		X				X					X
6	ENFORCEMENT DIVISION - H/Q OPERATIONS	212	X						X				
7	LEGAL SERVICES DIVISION	207					X						
8	COMPLIANCE DIVISION - FIELD OPERATIONS	196						X					
9	ENFORCEMENT DIV. - LIC. STDS. INVESTIGATORS	191					X						
10	OFFICE OF PROFESSIONAL RESPONSIBILITY	191			X								
11	EXECUTIVE ADMINISTRATION	188			X								
12	COMPLIANCE DIVISION - H/Q OPERATIONS	184									X		
13	AGENCY-WIDE PLANNING & BUDGETING	183								X			
14	BUSINESS SERVICES DIVISION-SUPPORT SERVICES	182							X				
15	HUMAN RESOURCES DIVISION	182					X					X	
16	COMPLIANCE DIVISION MARKETING PRACTICES	179			X								
17	AGENCY-WIDE PROTEST PROCESS	177			X								
18	TAX DIVISION - PORTS OF ENTRY	173				X							X
19	TAX DIVISION- HEADQUARTERS OPERATION	170		X							X		
20	ENFORCEMENT DIVISION-TRAINING	168							X				
21	AGENCY-WIDE TRAINING & STAFF DEVELOPMENT	151							X				
22	AGENCY-WIDE PERFORMANCE MEASURES	135		X									
23	AGENCY-WIDE TRAVEL POLICIES & PROCEDURES	130		X									
24	AGENCY-WIDE SUNSET COMMISSION REC.'S	N/A		X									

Attachment 3

Legislative Tracking System Update

81st Legislative Session Amendments to the Alcoholic Beverage Code

Bill No.	Caption / Section of Code Affected	Effective Date	Rules	Education & Prevention	Permit Application and Instructions	Other Licensing Pubs	Peace Officer's Guide	Info on Website	Agency Policy / Procedures	IT Changes
HB1084	Relating to shipment of wine to ultimate consumers.	9/1/2009			Amy - Licensing 9/1/09			Carolyn - Wine Shipping 9/1/09		
HB1505	Relating to ownership of a license or permit authorizing the sale of alcoholic beverages at a facility owned by a municipality or county. NO ACTION NEEDED	9/1/2009								
HB1974	Relating to distilled spirits samplings by the holder of a distiller's and rectifier's permit.	5/13/2009						Thomas - FAQs and Update MPB 9/15/09		
HB2237	Relating to possession by certain alcoholic beverage permit holders of certain alcoholic beverages for cooking purposes.	9/1/2009	Thomas will set up mtg with industry and Lou will assign a lawyer. 12/31/09 for final rule adoption.			Amy - Interview Guidelines and Retailer's Guide 12/31/09		Thomas - MPB 9/15/09 that gives guidance pending adoption of a rule.		
HB2560	Relating to delinquent payment of an alcoholic beverage retailer's account for liquor. [NOTE: Permit holder will be interpreted to mean entity and officers, not stockholders.]	5/20/2009				Amy - Interview Guidelines 12/31/09. Letter to permitholder s turning in permits - 9/1/09			Amy - New licensing procedures 9/1/09	Jay and Amy - Versa changes - no time estimate - dependent on cost

81st Legislative Session Amendments to the Alcoholic Beverage Code

Bill No.	Caption / Section of Code Affected	Effective Date	Rules	Education & Prevention	Permit Application and Instructions	Other Licensing Pubs	Peace Officer's Guide	Info on Website	Agency Policy / Procedures	IT Changes
HB2594	Relating to the hours for the wholesale delivery or sale of alcoholic beverages.	5/5/2009				Amy - Interview Guidelines and Retailer's Guide 12/31/09		Thomas FAQ's 9/15/09		
HB3413	Relating to the Texas Alcoholic Beverage Commission's authority to regulate certain nonalcoholic beverage business activities.	9/1/2009						Marketing Practice Bulletin - COMPLETE		
HB3829	Relating to the per diem for members of the Texas Alcoholic Beverage Commission. - NO ACTION NEEDED	6/19/2009								
HB4498	Relating to the issues upon which a local option election may be called.	9/1/2009						Carolyn - Local Option Info 10/1/09		
SB328	Relating to the civil and criminal consequences of operating a motor vehicle or a watercraft while intoxicated or under the influence of alcohol.	9/1/2009		Promotional Materials have been updated.			Rod and Carolyn - 12/31/09	Carolyn - 9/1/09		
SB529	Relating to the sale and use of certain alcoholic beverages manufactured by holders of a winery permit. - NO ACTION NEEDED	9/1/2009								

81st Legislative Session Amendments to the Alcoholic Beverage Code

Bill No.	Caption / Section of Code Affected	Effective Date	Rules	Education & Prevention	Permit Application and Instructions	Other Licensing Pubs	Peace Officer's Guide	Info on Website	Agency Policy / Procedures	IT Changes
SB693	Relating to the sale of an alcoholic beverage to a minor.	6/19/2009	Maybe some day to define "governmental agency"	Seller Training Curriculum and Promotional Materials 10/31/09		Letter to Retailers - Carolyn 9-1-09	Rod and Carolyn - 12/31/09	Carolyn - 9-1-09 TABC Today Newsletter COMPLETE		
SB711	Relating to creating a winery festival permit.	9/1/2009	Amy - March 2009 for final rule adoption.		Amy - Licensing 9/1/09				Amy - New licensing procedures 9/1/09	Jay and Amy - Versa LE and ARTS changes 9/1/09.
SB731	Relating to the sale of certain alcoholic beverages to private club registration permit holders.	9/1/2009				Amy - Interview Guidelines - 9/1/09		Thomas - MPB 9/15/09		
SB1016	Relating to the continuation and functions of the Department of Agriculture and the Prescribed Burning Board and the abolition of the Texas-Israel Exchange Fund Board. - NO ACTION NEEDED	9/1/2009								
SB1034	Relating to allowing the governing bodies of certain municipalities to order a local option election relating to the sale of alcoholic beverages.	9/1/2009						Carolyn - Local Option Elections - 9-1-09		
SB1969	Relating to nonsubstantive additions to and correction in enacted codes.... - NO ACTION NEEDED	9/1/2009								

81st Legislative Session Amendments to the Alcoholic Beverage Code

Bill No.	Caption / Section of Code Affected	Effective Date	Rules	Education & Prevention	Permit Application and Instructions	Other Licensing Pubs	Peace Officer's Guide	Info on Website	Agency Policy / Procedures	IT Changes
SB2580	Relating to actions under the Beer Industry Fair Dealing Law.	9/1/2009	Amy will set up mtg with industry. 12/31/09 for final rule adoption.							

Attachment 4

2009 Administrator's Conference Update

Administrator's Conference 2009 JJ Pickle Center

The Numbers

- Day 1- 15 HQ and 58 Field = 93 attendees
- Day 2- 1 Retailer, 7 Licensing Agencies, 5 Industry, 42 Field, 16 HQ = 72 attendees
- Day 3 – 17 HQ and 48 Field = 65 attendees

Monday Highlights

Perceived as most beneficial topics:

1. Budget Status, Alan Steen
2. Internal Communication/Fair Pay/Benefits, Sherry Cook
3. Cowboy Ethics, Jim Owen
4. Opening Remarks/Gold Stars, Chairman Cuevas

Tuesday Highlights

Perceived as most beneficial:

1. Licensing Updates, Amy Harrison
2. Employee Recognition
3. EUDL Presentation, Mindy Carroll
4. Cash Credit Law, Dexter Jones

Wednesday Highlights

Perceived as most valuable:

1. The Art of Thinking Differently, Dan French
2. Executive Team Q & A
3. Opening Remarks, Commissioner Fredricks
4. Goodfellow Air Force Base Collaboration, Sgt. Steve Carnes

Suggestions

- More success stories
- More employee recognition for behind the scenes work
- More regular Executive Team Q & A session across the state
- Move the conference back to a hotel, better seating arrangements and networking areas

Attachment 5

Enforcement Inspections Summary



**Field Operations
Inspections of Licensed Locations**

Joel Moreno, Chief of Field Operations

service * courtesy * integrity * accountability

Authority

Alcoholic Beverage Code §101.04

By accepting a license or permit, the holder consents that the commission, an authorized representative of the commission, or peace officer may enter the licensed premises at any time to conduct an investigation or inspect the premises for the purpose of performing any duty imposed by this code.

service * courtesy * integrity * accountability

Policy

The Texas Alcoholic Beverage Commission (TABC) conducts inspections to deter and detect violations of the Alcoholic Beverage Code, Commission Rules, and applicable laws and to encourage voluntary compliance on the part of permittees, licensees, their customers, and the general public.

service * courtesy * integrity * accountability

Performance Measure

The Legislative Budget Board (LBB) set a Performance Measure for the Texas Alcoholic Beverage Commission (TABC) to inspect 78.5% of retail locations in FY 2009. This Performance Measure will increase to 80% for FY 2010.

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Types of Inspections

- Open Compliance Checks
- Open Violation Checks
- External Surveillance
- Undercover Operations

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Why Conduct Inspections...

Most common reasons to conduct an inspection:

- The need to visit a location that has not yet been inspected during the current fiscal year (Unique List);
- A complaint from another agency or a member of the public alleging unlawful conduct at or around the location (Complaint);
- A history of administrative violations or criminal offenses (Risk-Based Approach);
- A request from a permittee, licensee or property owner for assistance with preventing others from committing alcohol-related violations on the licensed premises (i.e., Cop in Shop); and
- Direct observation of suspicious activity or unlawful behavior.

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Procedures for Inspections

- > Identify self
- > Explain inspection
- > Locate the permit or license
- > Observe location for violations and offenses
- > Take appropriate action
- > Leave location

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Risk-Based Approach

Risk-Based Approach Inspections are conducted at licensed locations that have been the site of public safety violations in the past 12-months. These locations are referred to as Priority Locations.

When a licensed establishment is involved in certain administrative or criminal violations, it indicates a risk to public safety.

Locations are classified as:

- > Priority One
- > Priority Two
- > Priority Three

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Inspections

Enforcement & Compliance	FY 2008	FY 2009 YTD (July 31, 2009)
Total Inspections of Licensed Premises	120,020	103,723
Total Enforcement Inspections	104,503	83,699
Total Compliance Inspections	15,507	20,024

Attachment 6

Use of Force Summary



Use of Force Summary

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Use of Force Summary

Over the last 18 months, our agents have:

- > Conducted 171,851 inspections;
- > Issued 21,452 citations;
- > Arrested 1,936 people who were issued citations (9% of those cited); and
- > Used force 57 times (2.9% of arrests).

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Use of Force Policy

- > Certified Peace Officers (CPOs) will exercise force prudently for their own protection, in the protection of the life, health, or safety of others, in the protection of property, in the execution of a lawful arrest or search, or as otherwise authorized by the law. CPOs will employ objective reasonableness as a standard for appropriate levels of force.
- > The use of force in response to a perceived threat of imminent harm from a subject or to affect the seizure of a subject who is resisting or attempting to escape will be consistent with what is objectively reasonable considering the totality of the circumstances known to the officer at the time the force is used.

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Use of Force Summary

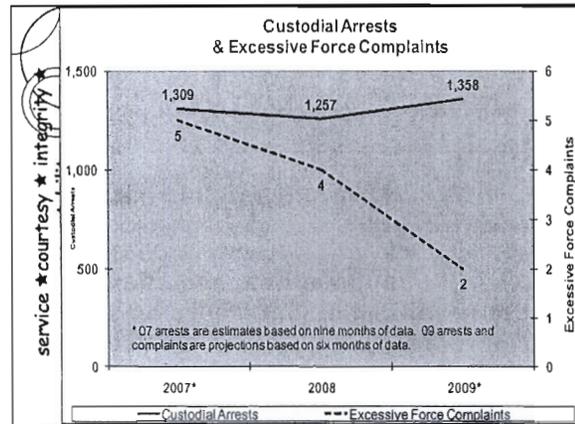
During the same period, our agency has received:

- >141 complaints about all employees (including those filed by employees themselves);
- >5 complaints about agents' use of force (.002% of inspections).

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Since 2005, we've taken proactive steps to ensure the public is safe and that force is used only when necessary, and that force is used appropriately. For example, our agency has:

- Implemented after action reviews to identify opportunities for improvement in policy, training, and reporting.
 - Longview Use of Force incident
 - Department of Justice Review of the Austin Police Department
- Reviewed and updated use of force policies.
 - Implemented a new use of force reporting system and enhanced the review process
- Enhanced use of force training.
 - All agents trained and updated
 - All enforcement supervisors trained on how to properly evaluate use of force incidents
- Currently developing an agency use of force expert.



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Our Guiding Principles

1. We value our employees, are committed to their continual improvement and empower them to make key decisions.
2. We recruit, train, mentor, and develop individuals who are committed to our vision.
3. We expect ethical and professional behavior of ourselves.
4. We exercise discretion in our authority when making decisions based on ethical and legal principles.
5. We do the right thing-not just what we have the right to do.
6. We know our mission and understand our purpose, and we integrate our efforts in order to accomplish it in a consistent and efficient manner.
7. We work together to achieve goals and solve problems.
8. We strive to put responsible people into business and promote good business practices through integrated partnerships.

Attachment 7

Rainbow Lounge Completed Investigation



OPR Case No. C2009-009

Andy Pena, Captain
Office of Professional Responsibility
Internal Affairs Unit



Rainbow Lounge Incident

Policies and Procedures
Investigation

INSPECTION

- June 28, 2009
- At approximately 1:30AM
- Fort Worth TABC Agents Christopher Aller and Jason Chapman and six officers of the Fort Worth Police Department
- Entered the Rainbow Lounge (651 S. Jennings) to conduct an inspection



INSPECTION CONT.

- Several subjects were detained for investigation of Public Intoxication
- Two arrests occurred inside the bar involving several officers
- There were six total arrests for Public Intoxication



INSPECTION CONT.

- One of the subjects, Chad Gibson, was also charged with Assault by Contact
- Gibson was later transported to a local hospital for treatment



NOTIFICATION

- June 28, 2009
- Fort Worth Police Captain Billy Cordell informed Fort Worth TABC Sergeant John Busby of the media attention concerning complaints by the gay and lesbian community about the inspection and the injury to Gibson
- TABC was notified that protests and vigils were planned



NOTIFICATION

- OPR and various other TABC offices began to receive a large number of complaints that our agents:
 - Targeted the Rainbow Lounge because it was known as a gay bar
 - Used excessive force during arrests at the bar
 - Caused injury to Chad Gibson



TABC INVESTIGATIONS

- TABC Internal Affairs received authorization to conduct two investigations:
 - **C2009-009**
 - Policies and Procedures
 - Completed 07-31-09
 - Currently in review process
 - **C2009-012**
 - Use of Force
 - In progress



POLICIES AND PROCEDURES

- **Objective:** To determine if TABC policies and procedures were followed by Sergeant Terry Parsons and Agents Christopher Aller and Jason Chapman in the following events:
 - Red Bull X-Fighter Freestyle Motocross event on 06-27-09
 - Bar inspections with the Fort Worth Police Department at the Rosedale Saloon, Cowboy Palace, and the Rainbow Lounge from June 25 through June 28, 2009



ALLEGATIONS

- It is alleged that Agents Christopher Aller and Jason Chapman:
 - Participated in a joint operation (bar inspections) with the Fort Worth Police Department on 06-28-09 without approval
 - Failed to follow instructions on Operational Plan of Red Bull X-Fighters Freestyle Motocross special event on 06-27-09 (left prior to end of assigned shift without approval)



ALLEGATIONS CONT.

- Conducted pre-arranged bar inspections at the Rosedale Saloon, Cowboy Palace, and the Rainbow Lounge on 06-28-09 in unapproved attire (special event uniform)
- Failed to follow bar inspection procedures on 06-28-09
- Failed to report use of force incident involving arrest of Chad Gibson during bar inspection at Rainbow Lounge on 06-28-09



ALLEGATIONS CONT.

- Failed to report injury of person (Chad Gibson) arrested during bar inspection at Rainbow Lounge on 06-28-09
- Disruption of business during bar inspection of Rainbow Lounge on 06-28-09



ALLEGATIONS CONT.

- Furthermore, it is alleged that Agent Christopher Aller:
 - Failed to submit a complaint card against the Rainbow Lounge for investigation of possible lewd conduct and sale to intoxicated persons on 06-25-09



ALLEGATIONS CONT.

- In addition, it is also alleged that Agent Jason Chapman:
 - Failed to report use of force incident involving arrest of George Armstrong during bar inspection at Rainbow Lounge on 06-28-09



OPR FINDINGS

- OPR Found:
 - All Counts against Agents Christopher Aller and Jason Chapman were supported by evidence
 - Evidence indicated a **"SUSTAINED"** classification
 - The standard by which the classification was determined was through a preponderance of evidence (The standard is met if the allegation is more likely to be true than not true)



OPR FINDINGS CONT.

- During the course of the investigation, evidence also indicated that Sergeant Terry Parsons:
 - Failed to take appropriate action on 06-28-09 after learning Agents Christopher Aller and Jason Chapman participated in a joint operation (bar inspections) in unapproved attire (special event uniform)



OPR FINDINGS CONT.

- Failed to notify supervisors of notification by Agent Christopher Aller of multiple arrests at limited locations on 06-28-09 during a bar inspection operation with the Fort Worth Police Department
- Failed to ensure a force report was submitted by Agents Christopher Aller and Jason Chapman regarding their involvement in arrests during bar inspections with the Fort Worth Police Department on 06-28-09



OPR FINDINGS CONT.

- Failed to review the Field Training Officer weekly progress reports of Agent-Trainee Jason Chapman for the first five (5) weeks of Phase 2 (May 27— July 3, 2009)



REVIEW PROCESS

- The Policy and Procedures Investigation was completed on 07-31-09
- General Counsel review completed on 08-04-09
- Statement of Charges prepared by Chief Joel Moreno on 08-04-09



REVIEW PROCESS CONT.

- Sergeant Parsons and Agents Aller and Chapman have reviewed the case file and submitted their responses
- Currently the investigative file and employee responses are being reviewed by Enforcement Division for final disposition



REVIEW PROCESS CONT.

- As required by policy, if the outcome includes disciplinary action the case file is reviewed by the General Counsel and the Director of Human Resources
- On conclusion of the process, the employee may submit a written grievance to Human Resources within 10 working days of notification of disciplinary action



UPDATE C2009-012

- TABC Internal Affairs, in cooperation with Fort Worth Police Department's Internal Affairs Division and Major Case Unit have interviewed approximately 70 persons and collected over 100 statements



UPDATE C2009-012 CONT.

- Presently, TABC investigators are in the process of finalizing statements, reviewing records, and analyzing all other relevant evidence, i.e. employee training records, inspection reports, medical records, etc.



CERTIFICATION

REGULAR COMMISSION MEETING

9:30 a.m. – August 25, 2009

5806 Mesa Drive
Austin, Texas 78731



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

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STATE OF TEXAS

COUNTY OF TRAVIS

This certifies that the attached is a true copy of the proceedings of the Texas Alcoholic Beverage Commission meeting held on August 25, 2009.

A handwritten signature in cursive script, appearing to read "Alan Steen".

Alan Steen
Administrator

Sworn and subscribed before me this the 30th day of September 2009.



A handwritten signature in cursive script, appearing to read "Gloria Darden Reed".

Gloria Darden Reed
Notary in and for Nueces County