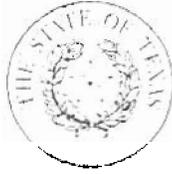


State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

January 5, 2000

Doyne Bailey
Administrator
Texas Alcoholic Beverage Commission
5806 Mesa Drive, Suite 160
Austin, Texas 78731

VIA CERTIFIED MAIL Z 283 051 878
Return Receipt Requested

RE: Docket No. 458-98-2430; Texas Alcoholic Beverage Commission vs. LMI VIN, Inc. d/b/a La Madeleine, (TABC Case No. 584608)

Dear Mr. Bailey:

Enclosed please find a Proposal for Decision in the above-referenced cause for the consideration of the Texas Alcoholic Beverage Commission. Copies of the proposal are being sent to Timothy Griffith, attorney for Texas Alcoholic Beverage Commission, and to LMI VIN, Inc, d/b/a La Madeleine. For reasons discussed in the proposal, I recommend Respondent's application for renewal of permits previously issued by the Commission, should be denied pursuant to Tex. Alco. Bev. Code Ann. §28.04 (Vernon 2000).

Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Commission according to the agency's rules, with a copy to the State Office of Administrative Hearings. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,

A handwritten signature in black ink, appearing to read "Tanya A. Cooper".

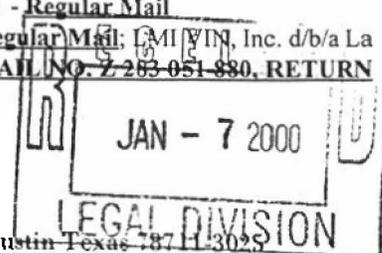
Tanya A. Cooper
Administrative Law Judge

TC:ds

Enclosure

xc: Shanee Woodbridge, State Office of Administrative Hearings, Austin, Texas - Regular Mail
Timothy Griffith, Staff Attorney, Texas Alcoholic Beverage Commission - Regular Mail; LMI VIN, Inc. d/b/a La Madeleine 5340 Alpha Road, Dallas, Texas 75240-4318 - **CERTIFIED MAIL NO. Z 283 051 880, RETURN RECEIPT REQUESTED**

William P. Clements Building
Post Office Box 13025 ♦ 300 West 15th Street, Suite 502 ♦ Austin, Texas 78711-3025
(512) 475-4993 Docket (512) 475-3445 Fax (512) 475-4994



TEXAS ALCOHOLIC
BEVERAGE COMMISSION

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BEFORE THE STATE OFFICE

V.

LMI VIN, Inc.,
D/B/A La Madeleine
MB-237685
(TABC CASE NO. 584608)

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Alcoholic Beverage Commission (Commission) brought this action seeking denial of the application submitted by LMI VIN, Inc., d/b/a La Madeleine (Respondent), for permit renewal because more than fifty percent of the legal or beneficial ownership of the stock of Respondent has changed since the original permit had been issued to Respondent by the Commission. A hearing was conducted; however, Respondent did not attend. The Administrative Law Judge (ALJ) recommends that Respondent's application for permit renewal be denied.

I. PROCEDURAL HISTORY

On December 10, 1999, a hearing was convened before Tanya Cooper, Administrative Law Judge (ALJ), in the State Office of Administrative Hearings, 6300 Forest Park Road, Suite B-230, Dallas, Dallas, Texas. TABC Staff was represented by Timothy E. Griffith. Respondent failed to appear. The hearing was concluded and the record closed on the same day.

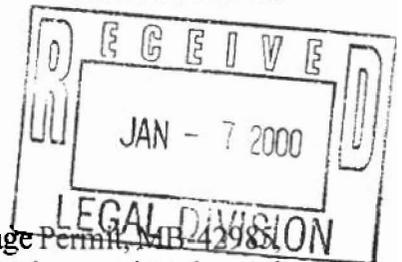
TABC Staff presented exhibits which were admitted into evidence. These exhibits included the Notice of Hearing issued by TABC staff to Respondent, along with certified mail return receipts showing delivery of the notice to Respondent, Respondent's permit and violation history maintained by TABC staff, and Respondent's permit renewal application.

II. REASONS FOR PROPOSED DECISION

Because Respondent failed to appear at the hearing, and TABC Staff proved that Respondent had received appropriate notice of the hearing, all matters relating to jurisdiction, notice, the issues for determination, and recommended relief are addressed in the Findings of Fact and Conclusions of Law sections of this proposal without discussion.

III. FINDINGS OF FACT

1. LMI VIN, Inc., d/b/a La Madeleine (Permittee), holds a Mixed Beverage Permit, MB-429851, issued by the Texas Alcoholic Beverage Commission (Commission) for the premises located at 4201 S. Cooper Street, Suite 731, Arlington, Tarrant County, Texas.

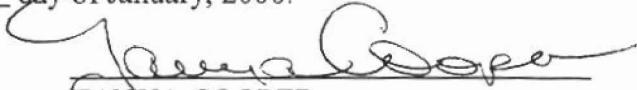


2. On October 26, 1999, the Commission's Staff sent, by certified mail, return receipt requested, a Notice of Hearing to Respondent, which contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the statutes and rules involved; and a statement of the matters asserted.
 - a. The Notice of Hearing was sent to Respondent at its mailing address of record, 5340 Alpha Road, Dallas, Texas 75240-4318 by certified mail (No. Z 473 039 058), return receipt requested, and it was received at that address on October 27, 1999.
 - b. The Notice disclosed, in 10-point, bold-face type, that upon Respondent's failure to appear at the hearing the factual allegations in the Notice would be deemed as true, and the relief sought could be granted.
3. The hearing convened December 10, 1999, at 6300 Forest Park Road, Suite B-230, Dallas, Dallas County, Texas, before Tanya Cooper, Administrative Law Judge (ALJ). Commission Staff was represented by Timothy E. Griffith, but Respondent failed to appear at the hearing.
4. On or about May 6, 1999, Respondent made an application for renewal of its permit previously issued by the Commission and listed in Finding of Fact No. 1.
5. On or about May 6, 1999, more than fifty percent (50%) of the legal or beneficial ownership of the stock of LMI VIN, Inc., d/b/a La Madeleine, had changed since Respondent's original permit was issued.

IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. (the Code) ch. 5, §§ 6.01, 28.04, and 61.71 (Vernon 2000).
2. The State Office of Administrative Hearings has jurisdiction to conduct the hearing in this matter and to issue a proposal for decision containing findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. ch. 2003 (Vernon 2000).
3. Notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052 (Vernon 2000) and 1 TEX. ADMIN. CODE §§155.27 and 155.55.
4. Based upon the foregoing, Respondent's application for renewal of the permit previously issued by the Commission, and referenced in Finding of Fact No. 1, should be denied pursuant to TEX. ALCO. BEV CODE ANN. § 28.04 (Vernon 2000).

SIGNED this 5th day of January, 2000.


TANYA COOPER
Administrative Law Judge
State Office of Administrative Hearing