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**DOCKET NO. 502605**

IN RE MARIA GUADALUPE LOPEZ  
D/B/A TWILIGHT LOUNGE  
PERMIT/LICENSE NOS. BG153969

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BEFORE THE  
  
TEXAS ALCOHOLIC  
  
BEVERAGE COMMISSION

TARRANT COUNTY, TEXAS  
(SOAH DOCKET NO. 458-06-0357)

**ORDER**

**CAME ON FOR CONSIDERATION** this 11th day of January 2006, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Tanya Cooper. The hearing convened on November 28, 2005 and adjourned on the same date. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on December 20, 2005. This Proposal For Decision (**attached hereto as Exhibit "A"**), was properly served on all parties who were given an opportunity to file Exceptions and Replies as part of the record herein. As of this date no exceptions have been filed.

The Assistant Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision, Transcripts, and Exhibits, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge, which are contained in the Proposal For Decision and incorporates those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein. All Proposed Findings of Fact and Conclusions of Law, submitted by any party, which are not specifically adopted herein are denied.

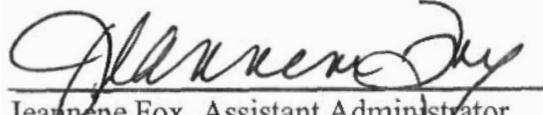
**IT IS THEREFORE ORDERED**, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that Respondent's permits and licenses be **CANCELLED FOR CAUSE**.

**This Order will become final and enforceable on February 1, 2006** unless a Motion for Rehearing is filed **before** that date.

By copy of this Order, service shall be made upon all parties by facsimile and by mail as indicated below.

**SIGNED** this 11th day of January, 2006.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator  
Texas Alcoholic Beverage Commission

TEG/bc

The Honorable Tanya Cooper  
Administrative Law Judge  
State Office of Administrative Hearings  
**VIA FAX (817) 731-1964**

Maria Guadalupe Lopez  
d/b/a Twilight Lounge  
**RESPONDENT**  
3825 Englewood Lane  
Fort Worth, Texas 76107-1027  
**VIA CM/RRR NO. 7001 2510 0000 7274 4592**

Timothy E. Griffith  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division

Fort Worth District Office

DOCKET NO. 458-06-0357



TEXAS ALCOHOLIC BEVERAGE  
COMMISSION, Petitioner

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BEFORE THE STATE

V.

OF

MARIA GUADALUPE LOPEZ D/B/A  
TWILIGHT LOUNGE,  
Respondent  
(TABC CASE NO. 502605)

ADMINISTRATIVE HEARING

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (TABC) Staff brought this disciplinary action against Maria Guadalupe Lopez d/b/a Twilight Lounge (Respondent), alleging a violation of the Texas Alcoholic Beverage Code (the Code).<sup>1</sup> In TABC Staff's notice of hearing, it alleged that on or about July 28, 2005, Respondent's agent or employee, Roberto Lopez, or some other person,

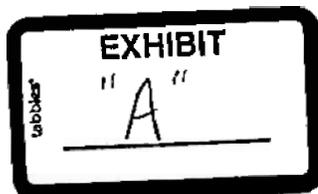
<sup>1</sup> The Commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found after notice and hearing, that the permittee/licensee violated a provision of the Code or a rule of the Commission. TEX. ALCO. BEV. CODE ANN. §§ 11.61(b)(2) and 61.71(a)(1).

\* \* \* \* \*  
The provisions of this code applicable to the cancellation and suspension of a retail dealer's on-premise license also apply to the cancellation and suspension of a wine and beer retailer's permit. TEX. ALCO. BEV. CODE ANN. § 25.04

\* \* \* \* \*  
All provisions of this code which apply to a retail dealer's on-premise license also apply to a retail dealer's on-premise late hours license. TEX. ALCO. BEV. CODE § 70.03.

\* \* \* \* \*  
Permittee means a person who holds a permit provided for in the Code, or an agent, servant, or employee of that person. TEX. ALCO. BEV. CODE ANN. § 1.04(11).

\* \* \* \* \*  
Person means a natural person or association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any them. TEX. ALCO. BEV. CODE ANN. § 1.04(6).



conducted business at the Respondent's licensed premises in a place or manner which warranted cancellation or suspension of Respondent's permits based upon the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, by selling, delivering, or possessing cocaine, a controlled substance. TABC Staff sought cancellation of Respondent's permits in relation to this allegation.

The Administrative Law Judge (ALJ) finds the evidence sufficiently established that Respondent's employee, Roberto Lopez, sold, delivered, and possessed cocaine on the licensed premises. Further, the ALJ finds that Respondent's licensing history, together with this violation, shows a pattern of conduct that warrants cancellation of Respondent's permits.

### I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

TABC has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. chs. 5, 11, 25, 61, 70, and 104, and 16 TEX. ADMIN. CODE § 31.1 *et. seq.* (the Rules). The State Office of Administrative Hearings (SOAH) has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, under TEX. GOV'T CODE ANN. chs. 2001 and 2003. Notice and jurisdiction were not contested issues in this proceeding and are addressed in the findings of fact and conclusions of law without further discussion.

On November 28, 2005, a hearing convened before ALJ Tanya Cooper, at the SOAH offices located at 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Texas. TABC Staff was represented at the hearing by Timothy Griffith, TABC Staff Attorney. Respondent appeared and represented herself. The hearing concluded and the record closed on that same day.

### II. EVIDENCE

Respondent holds a Wine and Beer Retailer's On-Premises Permit and a Retail Dealer's On-

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Premises Late Hours License, BG-153969 and BL-159970, issued by TABC for Respondent's premises located at 3032 S. Main, Fort Worth, Tarrant County, Texas. Respondent's permits were initially issued on May 14, 1982, and have been continuously renewed since that date. Officer B. Blaisdell, Elizabeth Van-Munchrath, TABC Agent Ralph May, and Respondent testified at the hearing.

#### A. TABC Staff's Evidence.

Officer B. Blaisdell, Fort Worth Police Department, stated that he was present at Respondent's licensed premises on July 28, 2005. On that day, Officer Blaisdell was working with several Fort Worth Police Department officers investigating possible sales of narcotics. Officer Blaisdell's offense report was admitted into evidence, which documents the officers' investigation at the licensed premises (TABC Exhibit 5).

According to Officer Blaisdell, Officer J. Cedillo was working in an undercover capacity and entered the bar. Once inside the bar, Officer Cedillo saw Respondent's employee, Roberto Lopez, exit from a storeroom. Officer Cedillo approached Mr. Lopez, who was working as the licensed premises' bartender. Officer Cedillo asked Mr. Lopez for a Coors Light beer and four bags of cocaine. Mr. Lopez produced the bags of cocaine and Officer Cedillo paid for them with marked \$20-dollar bills. Officer Cedillo notified Officer Blaisdell that the transaction had been completed.

Officer Blaisdell testified that he and other Fort Worth Police officers entered the licensed premises taking Mr. Lopez into custody. In searching Mr. Lopez incident to his arrest, the marked \$20-dollar bills were found in Mr. Lopez's pants pockets, along with other money and bags of cocaine. Additional bags of cocaine were located in the licensed premises after a waitress at the licensed premises told the officers that cocaine was kept in the premises' storeroom.

In total, approximately one ounce was cocaine was seized by the officers during this incident. The seized drugs were labeled and secured as evidence at a Fort Worth Police Department facility

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prior to being delivered to the City of Fort Worth Police Department Forensic Laboratory for analysis.

Officer Blaisdell also described a previous encounter he had with Rosa Lopez at the licensed premises. Ms. Lopez is Mr. Lopez's sister, and both Roberto Lopez and Rosa Lopez are Respondent's children. Officer Blaisdell said another undercover Fort Worth officer had negotiated purchasing one ounce of cocaine from Ms. Lopez, while she was working as a bartender at the licensed premises. Surveillance was set up around the licensed premises, and officers observed Ms. Lopez leave. She was followed to her residence, and after a short time, she left to return to the bar with the cocaine. Approximately one ounce of cocaine was taken from Ms. Lopez when officers stopped her. The officers returned to her residence according to Officer Blaisdell, where approximately one kilo of cocaine and \$13,000 was recovered from that location.

During that same incident, the officers returned to Respondent's licensed premises and another bartender was arrested. Additional individual bags of cocaine were recovered there at that time. Officer Blaisdell characterized the total amounts of cocaine seized in this instance and during the 2005 investigation as dealer-size quantities.

Elizabeth Van-Munchrath, a Senior Forensic Scientist for the City of Fort Worth Police Department, performed a controlled substance analysis on the evidence seized from Roberto Lopez and Respondent's licensed premises on July 28, 2005. Ms. Van-Munchrath said that she used two recognized scientific methods in performing this analysis. Ms. Van-Munchrath stated the results from her analysis revealed that the substance seized from Mr. Lopez and recovered from Respondent's licensed premises was cocaine hydrochloride, commonly referred to as cocaine.

Agent Ralph May testified he received a copy of Officer Blaisdell's report and reviewed TABC Staff's records concerning Respondent's licensed premises. According to Agent May, Mr. Lopez is Respondent's son and resides in her home.

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Agent May said that this case is the third narcotic violation involving Respondent's licensed premises. According to Agent May, Respondent accepted a 40-day permit suspension, or \$6,000 civil penalty in lieu of suspension for two narcotic violations in 2003: possession of drugs (cocaine) by an employee and sale/delivery of drugs (cocaine) by an employee. In 2002, Respondent also accepted a 7-day permit suspension, or \$1,050 civil penalty in lieu of any suspension, for permitting a minor to possess or consume alcoholic beverage on the licensed premises.

### B. Respondent's Evidence.

Respondent testified that she has owned and operated the Twilight Lounge for several years. While Respondent acknowledged that she was not at the licensed premises when the conduct Officer Blaisdell testified about occurred, she said that she would have never thought that her children, Roberto and Rosa, would sell drugs.

Respondent said that her children were no longer involved in the operation of her licensed premises and expressed her sorrow that her children had done the things that were discussed by TABC Staff's witnesses. Respondent said these activities would not occur at her licensed premises again, and asked that she be allowed to keep her permit and license as she needed the income produced from the licensed premises.

### III. ANALYSIS

It is undisputed that cocaine, a controlled substance or drug<sup>2</sup>, was possessed, sold and delivered<sup>3</sup> by Respondent's son, Roberto Lopez, to a Fort Worth Police Department undercover officer. This conduct was engaged in on the licensed premises by Mr. Lopez on July 28, 2005, and while Mr. Lopez was working there as a bartender.

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<sup>2</sup> TEX. HEALTH & SAFETY CODE ANN. §§ 481.002(29)(D) and 481.102(3)(D).

<sup>3</sup> TEX. HEALTH & SAFETY CODE ANN. §§ 481.112 and 481.115.

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Further, this was not the first instance where negotiations for the purchase and delivery of cocaine had occurred on the licensed premises. In 2003, Respondent's daughter, Rosa Lopez, negotiated the sale of one gram of cocaine to a Fort Worth Police Department undercover officer while she was working as a bartender at the licensed premises. In each instance, a significant amount of cocaine, (dealer-sized quantities packaged for resale) was possessed or sold by Mr. or Ms. Lopez.

Respondent, as the holder of a TABC-issued permit and license, is responsible for the actions of her agents and employees while they are on the licensed premises.<sup>4</sup> And while Respondent stated that she was not at the licensed premises when these incidents occurred, the ALJ finds that it is unlikely that she would not be aware of her children's conduct since Mr. Lopez resided in Respondent's home and Respondent had previously admitted in 2003 that Ms. Lopez had possessed, delivered, or sold cocaine on her licensed premises. The conduct of Respondent's employees, who include her children, and Respondent's inability to prevent such conduct, along with the other Code violation, demonstrate that Respondent's licensed premises has a history of being operated in a manner that is contrary to the public sense of decency and of contrary to the general welfare, health, peace, morals, and safety of the general public.

The possession and sale of cocaine, or any illegal narcotic, is deemed to be lewd, immoral, or indecent conduct. Section 104.01 of the Code provides, in part:

No person authorized to sell beer at retail, nor his agent, servant, or employee, may engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including, but not limited to, any of the following acts:

...

(9) possession of a narcotic. . . or permitting a person on the licensed premises to do so.

Further, TABC Rules list several offenses or conduct which is considered contrary to the general welfare of the public. A licensee or permittee violates provisions of the Code, specifically

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<sup>4</sup> TEX. ALCO. BEV. CODE ANN. § 1.04(6) and (11).

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Sections 11.61(b)(7) and 61.71(a)(17), if any narcotics-related offense described in Chapter 481 of the Texas Health and Safety Code occurs on the licensed premises.<sup>5</sup> The provisions of Sec. 35.31 of the Rule are applicable if the licensee or permittee has directed involvement in any offense or even in the event that the licensee or permittee, in the exercise of reasonable care, should have known of the offense or the likelihood of its occurrence and failed to take reasonable steps to prevent the offense.<sup>6</sup> The ALJ believes, at a minimum, Respondent should have been aware of Mr. Lopez's conduct as this activity was ongoing in her house and at the licensed premises.

#### IV. RECOMMENDATION

The ALJ recommends that Respondent's permit and license be cancelled due to Respondent's business at her licensed premises being conducted in a manner that is contrary to the general welfare, health, peace, morals, and safety of the people and on the public sense of decency.

#### V. FINDINGS OF FACT

1. Maria Guadalupe Lopez d/b/a Twilight Lounge (Respondent) holds a Wine and Beer Retailer's On-Premises Permit and a Retail Dealer's On-Premises Late Hours License, BG-153969 and BL-153970, issued by the Texas Alcoholic Beverage Commission (TABC) for the premises located at 3032 S. Main, Fort Worth, Tarrant County, Texas.
2. On July 28, 2005, Fort Worth Police Department officers, including Officer B. Blaisdell, were conducting an investigation into distribution of cocaine from the licensed premises described in Finding of Fact No. 1.
3. Officer J. Cedillo, working in an undercover capacity, entered the licensed premises and observed Roberto Lopez exit from a storage room and move behind the bar.
4. Officer Cedillo approached Mr. Lopez and asked him for a Coors Light beer and four bags of cocaine.
5. Mr. Lopez produced the requested items, which were paid for by Officer Cedillo with

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<sup>5</sup> 16 TEX. ADMIN. CODE § 35.31.

<sup>6</sup> 16 TEX. ADMIN. CODE §35.31(b).

marked currency.

6. Officer Cedillo reported to Officer Blaisdell that the transaction had been completed, and Officer Blaisdell entered the licensed premises with other Fort Worth police officers.
7. Mr. Lopez was arrested, and when taken into custody, Officer Blaisdell recovered the marked currency and other bags of cocaine from Mr. Lopez's pants pockets.
8. Mr. Lopez is Respondent's son; he resided with Respondent and was working at the licensed premises as the bartender at the time of this incident.
9. Another employee at the licensed premises, a waitress, confirmed to the officers that more cocaine was kept in the licensed premises' storeroom.
10. Officer Blaisdell recovered more cocaine from the licensed premises' storeroom.
11. Officer Blaisdell seized the cocaine from the licensed premises, and submitted it for analysis at the City of Fort Worth Police Department's Crime Laboratory.
12. The substance was analyzed by Elizabeth Van-Munchrath, a Senior Forensic Scientist for the City of Fort Worth Police Department's Crime Laboratory, using two scientifically-recognized methods.
13. The results from Ms. Van-Munchrath's analysis confirmed that the substance seized by Officer Blaisdell from Respondent's licensed premises was approximately one gram of cocaine.
14. Officer Blaisdell participated in another delivery of cocaine investigation at Respondent's licensed premises in 2003.
15. During that investigation, Respondent's daughter, Rosa Lopez, negotiated the sale and delivery of approximately one gram of cocaine with another Fort Worth Police Department undercover officer, while Ms. Lopez was working as the bartender at Respondent's licensed premises.
16. Surveillance of Ms. Lopez by other police officers followed her activities from the licensed premises to a location where she picked up the cocaine. She was stopped and arrested while in route back to the licensed premises to deliver the cocaine to the undercover officer.
17. During the investigation referenced in Findings of Fact Nos. 15 and 16, approximately one kilo of cocaine was seized; another bartender at the licensed premises, in addition to Ms. Lopez, was also arrested with a significant amount of currency confiscated at that time.

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18. Respondent accepted a 40-day suspension of her permit and license, or paid a \$6,000 civil penalty in lieu of suspension of her permit and license, in relation to the violation described in Findings of Fact Nos. 14 - 17.
19. Respondent's licensing history maintained by TABC Staff, contains another Code violation, possession or consumption of an alcoholic beverage by a minor on the licensed premises, which Respondent accepted a penalty for that violation in 2002.
20. On October 18, 2005, TABC Staff issued a notice of hearing notifying all parties that a hearing would be held concerning this enforcement action and informing the parties of the time, place, and nature of the hearing, of the legal authority and jurisdiction under which the hearing was to be held, giving reference to the particular sections of the statutes and rules involved, and including a short, plain statement of the matters asserted.
21. A hearing in this matter was conducted on November 28, 2005, at the State Office of Administrative Hearings, 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Texas. Administrative Law Judge Tanya Cooper presided. TABC Staff was represented by TABC Staff Attorney, Timothy Griffith. Respondent appeared and represented herself. The hearing concluded and the record closed on that day.

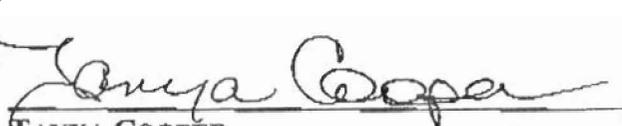
## VI. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. chs. 5, 6, 11, 25, 61, 70, and 104.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. chs. 2001 and 2003.
3. Respondent received adequate notice of the proceedings and hearing as required by TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. Based upon Findings of Fact Nos. 1 - 17, Respondent's employees possessed, sold, and delivered a control substance, cocaine, on the licensed premise in violation of TEX. HEALTH & SAFETY CODE ANN. §§ 481.002(29)(D), 481.102(3)(D), 481.112, and 481.115, and TEX. ALCO. BEV. CODE ANN. §§ 1.04(6), 1.04(11), 104.01(9).
5. Based upon Findings of Fact Nos. 1 -19 and Conclusion of Law No. 4, Respondent has conducted business at the licensed premises in a manner contrary to the general welfare, health, peace, morals, and safety of the people and to the public sense of decency in violation of TEX. ALCO. BEV. CODE ANN. §§ 11.61(b)(7) and 61.71(a)(17) and 16 TEX. ADMIN. CODE

§ 35.31.

6. Based on the foregoing Findings of Fact Nos. 1 - 19 and Conclusions of Law Nos. 4 and 5, Respondent's Wine and Beer Retailer's Permit and Retail Dealer's On-Premises Late Hours License, BG-153969 and BL-153970, should be cancelled.

SIGNED December 20, 2005.

  
TANYA COOPER  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

## STATE OFFICE OF ADMINISTRATIVE HEARINGS

6777 Camp Bowie Blvd.  
Ft. Worth, Texas 76116  
Phone (817) 731-1733  
Fax (817) 377-3706

## SERVICE LIST

AGENCY: TEXAS ALCOHOLIC BEVERAGE COMMISSION  
CASE: Maria Guadalupe Lopez d/b/a Twilight Lounge  
DOCKET NUMBER: 468-06-0357  
AGENCY CASE NO: 502605

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Timothy Griffith  
Staff Attorney  
Texas Alcoholic Beverage Commission  
Ph: 972/547-5092  
Fax: 972/547-5093

AGENCY COUNSEL  
BY FAX

Maria Guadalupe Lopez  
d/b/a Twilight Lounge  
3825 Englewood Lane  
Fort Worth, Texas 76107-1027

RESPONDENT  
BY MAIL

As of December 20, 2005

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge



December 20, 2005

Alan Steen, Administrator  
Texas Alcoholic Beverage Commission

VIA FACSIMILE 512/206-3498

**RE: Docket No. 458-06-0357; Texas Alcoholic Beverage Commission vs Maria Guadalupe Lopez  
d/b/a Twilight Lounge (TABC Case No. 502605)**

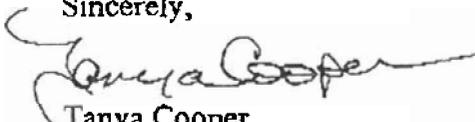
Dear Mr. Steen:

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 Maria Guadalupe Lopez d/b/a Twilight Lounge, Respondent. The Texas Alcoholic Beverage Commission (TABC) Staff brought this disciplinary action against Maria Guadalupe Lopez d/b/a Twilight Lounge (Respondent), alleging a violation of the Texas Alcoholic Beverage Code (the Code). In TABC Staff's notice of hearing, it alleged that on or about July 28, 2005, Respondent's agent or employee, Roberto Lopez, or some other person, conducted business at the Respondent's licensed premises in a place or manner which warranted cancellation or suspension of Respondent's permits based upon the general welfare, health, peace, morals, and safety of the people and on the public sense of decency, by selling, delivering, or possessing cocaine, a controlled substance. TABC Staff sought cancellation of Respondent's permits in relation to this allegation.

The Administrative Law Judge (ALJ) finds the evidence sufficiently established that Respondent's employee, Roberto Lopez, sold, delivered, and possessed cocaine on the licensed premises. Further, the ALJ finds that Respondent's licensing history, together with this violation, shows a pattern of conduct that warrants cancellation of Respondent's permits.

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, located at 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Texas 76116. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,



Tanya Cooper  
Administrative Law Judge

TC/ds  
attachments

Maria Guadalupe Lopez d/b/a Twilight Lounge, 3825 Englewood Lane, Fort Worth, Texas 76107-1027  
Timothy Griffith, TABC Staff Attorney, VIA FACSIMILE 972/547-5093