

**DOCKET NO. 504708**

IN RE JAMES CURTIS HOUSE	§	BEFORE THE TEXAS
D/B/A THE DIXIE POOL HOUSE	§	
PERMIT NOS. BG554675, BL554676	§	
	§	ALCOHOLIC
	§	
JEFFERSON COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-06-1376)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 5<sup>th</sup> day of June 2006, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Timothy J. Horan. The hearing convened on March 17, 2006 and adjourned on the same day. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on May 9, 2006. This Proposal For Decision 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 permit and/or license are herein **SUSPENDED**.

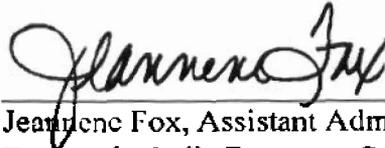
**IT IS FURTHER ORDERED** that unless the Respondent pays a civil penalty in the amount of \$900.00 on or before the 27<sup>th</sup> day of June, 2006, all rights and privileges under the above described permits will be **SUSPENDED for a period of six (6) days, beginning at 12:01 A.M. on the 5th day of July, 2006.**

This Order will become final and enforceable on **June 26, 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** on this the 5<sup>th</sup> day of June 2006.

On Behalf of the Administrator,



Jeanene Fox, Assistant Administrator  
Texas Alcoholic Beverage Commission

SKP/aa

Hon. Timothy J. Horan  
Administrative Law Judge  
State Office of Administrative Hearings.  
Houston, Texas  
*VIA FAX (713) 812-1001*

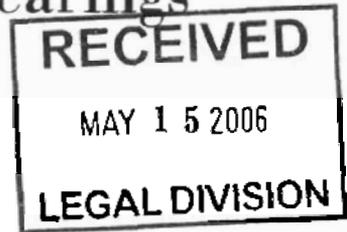
James Curtis House  
d/b/a The Dixie Pool Hall  
**RESPONDENT**  
2900 N. Twin City Hwy  
Nederland, Texas 77627  
**CERTIFIED MAIL NO. 7005 3110 0000 6409 2448**

Sandra K. Patton  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge



May 9, 2006

Alan Steen  
Administrator  
Texas Alcoholic Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

5047087  
order

**RE: Docket No. 458-06-1376; Texas Alcoholic Beverage Commission v. James Curtis House d/b/a The Dixie Pool Hall**

Dear Mr. Steen:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.59(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "T. J. Horan".

Timothy J. Horan  
Administrative Law Judge

TJH/mc  
Enclosure

xc: **Sandra Patton**, Texas Alcoholic Beverage Commission, 427 West 20<sup>th</sup> Street, Suite 600, Houston, Texas 77008 -  
**VIA REGULAR MAIL**  
James Curtis House d/b/a The Dixie Pool Hall, 2900 N. Twin City Hwy, Nederland, Texas 77627- **VIA REGULAR MAIL**

**DOCKET NO. 458-06-1376**

**TEXAS ALCOHOLIC BEVERAGE  
COMMISSION**

**V.**

**JAMES CURTIS HOUSE  
D/B/A THE DIXIE POOL HALL  
JEFFERSON COUNTY, TEXAS**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

The Texas Alcoholic Beverage Commission (TABC) staff (Petitioner) brought this disciplinary action against James Curtis House d/b/a The Dixie Pool Hall (Respondent), alleging that Respondent issued checks or drafts for the purchase of beer which were dishonored when presented for payment, in violation of the Texas Alcoholic Beverage Code. Petitioner requested that Respondent's permit be suspended for six days, or in lieu of suspension, that Respondent pay a civil penalty of \$900. The Administrative Law Judge (ALJ) agrees with this recommendation.

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

The Texas Alcoholic Beverage Commission has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. ch. 5, §§ 11.61(b)(2), 24.06, and 61.71(a)(1). The State Office of Administrative Hearings (SOAH) has jurisdiction over all matters relating to conducting a hearing in this proceeding, including the preparation of a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.

On February 13, 2006, Petitioner issued its notice of hearing, directed to James Curtis House d/b/a The Dixie Pool Hall, 2900 N. Twin City Hwy, Nederland, Texas 77627, via certified mail, return receipt requested. Respondent received the notice, as evidenced by the signed certified mail receipt. On March 17, 2006, a hearing convened before SOAH ALJ Timothy J. Horan at 2020 North Loop West, Suite # 111, Houston, Texas. Petitioner was represented at the hearing by Sandra Patton, TABC Staff Attorney. Respondent did not appear and was not represented at the hearing. After presentation of evidence regarding notice and jurisdiction, the record was closed.

## II. DISCUSSION

Based on the failure of Respondent to appear at the hearing, Petitioner requested that the default provisions of 1 TEX. ADMIN. CODE § 155.55 be invoked. The ALJ finds that Petitioner issued notice in compliance with 1 TEX. ADMIN. CODE §§ 155.27 and 155.55 and TEX. ALCO. BEV. CODE ANN. § 11.63. Pursuant to 1 TEX. ADMIN. CODE § 155.55, the allegations presented in the notice of hearing are deemed admitted as true. Accordingly, the ALJ has incorporated these allegations into the Proposed Findings of Fact below. As admitted, the allegations support the conclusion that Respondent violated the TEX. ALCO. BEV. CODE as mentioned in the notice and that the penalty is appropriate.

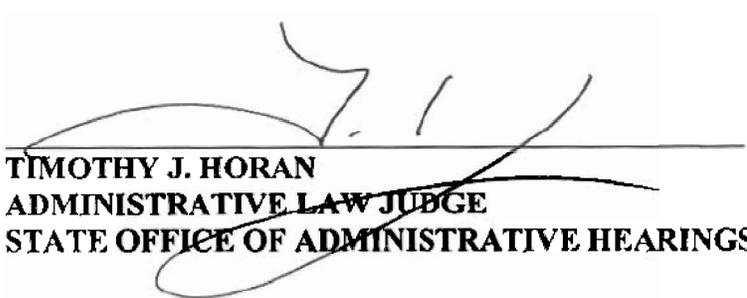
## III. FINDINGS OF FACT

1. Respondent, James Curtis House d/b/a The Dixie Pool Hall holds a Wine and Beer Retailer's Permit BG-554675 and Retail Dealer's On-Premise Late Hours License BL-554676 issued by the Texas Alcoholic Beverage Commission (TABC), for the premises located at 2900 N. Twin City Hwy, Nederland, Jefferson County, Texas.
2. On February 13, 2006, Petitioner issued its notice of hearing to Respondent, for a hearing that was held on March 17, 2006. The notice of hearing was sent via certified mail to Respondent's last known address and was received by Respondent evidenced by the signed certified mail receipt.
3. The notice of hearing 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 particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
4. The notice of hearing also contained the following language in 12-point or larger boldface type: If a party fails to appear at the hearing, the factual allegations in the notice of hearing will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default.
5. A hearing convened before Timothy J. Horan, an Administrative Law Judge with the State Office of Administrative Hearings (SOAH), on March 17, 2006. Respondent did not appear and was not represented at the hearing. The record was closed on March 17, 2006.
6. On or about March 17, 2005 and August 18, 2005, Respondent issued checks or drafts for the purchase of beer which were dishonored when presented for payment.

**IV. CONCLUSIONS OF LAW**

1. TABC has jurisdiction over this proceeding pursuant to TEX. ALCO. BEV. CODE ANN. ch. 5, §§ 11.61(b)(2), 24.06, and 61.71(a).
2. SOAH has jurisdiction over all matters relating to conducting a hearing in this proceeding, including the preparation of a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Petitioner issued its notice of hearing in compliance with 1 TEX. ADMIN. CODE §§ 155.27 and 155.55 and TEX. ALCO. BEV. CODE ANN. § 11.63.
4. The hearing proceeded on a default basis as authorized by 1 TEX. ADMIN. CODE § 155.55.
5. Respondent violated TEX. ALCO. BEV. CODE ANN. §§ 11.61(b)(2), and 61.73(b).
6. Based upon Conclusion of Law No. 5 and TEX. ALCO. BEV. CODE ANN. §§ 11.61(b)(2), 24.06, and 61.71(a), Respondent's permit should be suspended for a period of six days.
7. Based upon Conclusion of Law No. 6 and TEX. ALCO. BEV. CODE ANN. § 11.64, Respondent should be permitted to pay a civil penalty of \$900 in lieu of suspension of the permit/license.

**SIGNED May 9, 2006.**



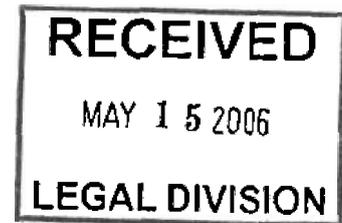
**TIMOTHY J. HORAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

# State Office of Administrative Hearings

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Shelia Bailey Taylor  
Chief Administrative Law Judge



May 9, 2006

Alan Steen  
Administrator  
Texas Alcoholic Beverage Commission  
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VIA REGULAR MAIL

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Timothy J. Horan  
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xc: Sandra Patton, Texas Alcoholic Beverage Commission, 427 West 20<sup>th</sup> Street, Suite 600, Houston, Texas 77008 -

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James Curtis House d/b/a The Dixie Pool Hall, 2900 N. Twin City Hwy, Nederland, Texas 77627- VIA REGULAR MAIL

DOCKET NO. 458-06-1376

TEXAS ALCOHOLIC BEVERAGE  
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V.

JAMES CURTIS HOUSE  
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**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

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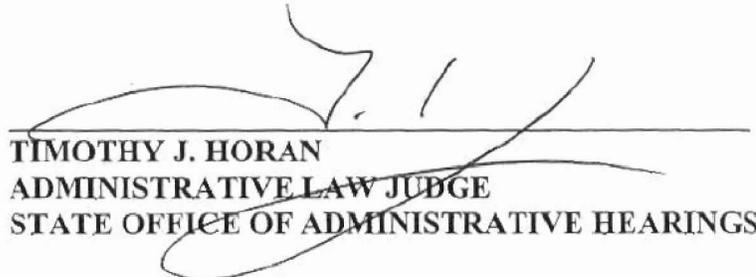
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SIGNED May 9, 2006.



TIMOTHY J. HORAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS