

DOCKET NO. 509074

RUEBEN JEFF SOLIS
D/B/A COCO BONGO CLUB
LICENSE NO. BG556684
HARRIS COUNTY, TEXAS

§ BEFORE THE TEXAS
§
§
§
§ ALCOHOLIC
§
§
§ BEVERAGE COMMISSION

(SOAH DOCKET NO. 458-06-1465)

ORDER

CAME ON FOR CONSIDERATION this 14th day of July 2006, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Roshunda Pringle. The hearing convened on April 21, 2006 and the same day. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on June 22, 2006. The Proposal For Decision, attached 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 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 your permit is hereby **CANCELLED FOR CAUSE**.

This Order will become final and enforceable on 3rd day of August 2006, unless a Motion for Rehearing is filed **before** that date.

By copy of this Order, service shall be made upon all parties by in the manner indicated below.

SIGNED this the 14th day of July 2006, at Austin, Texas.

On Behalf of the Administrator,


Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

Hon. Judge Roshunda Pringle
State Office of Administrative Hearings
2020 North Loop West, Suite 111
Houston, TX 77018
Via Facsimile 713-812-1001

Ruben Jeff Solis
RESPONDENT
d/b/a Coco Bongo Club
9025 Winkler
Houston, TX 77017
CERTIFIED MAIL NO. 7005 3110 0000 6409 1076

Ramona M. Perry
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Houston District Office

State Office of Administrative Hearings



RECEIVED
JUN 28 2006
LEGAL DIVISION

509074

Shelia Bailey Taylor
Chief Administrative Law Judge

June 22, 2006

VIA REGULAR MAIL

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

RE: Docket No. 458-06-1465; Texas Alcoholic Beverage Commission v. Rueben Jeff Solis d/b/a Coco Bongo Club

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.

Sincerely,

A handwritten signature in cursive script that reads "Roshunda Pringle".

Roshunda Pringle
Administrative Law Judge

RP/mc
Enclosure

xc: Ramona Perry, Texas Alcoholic Beverage Commission, 427 West 20th Street, Suite 600, Houston, Texas 77008 -
VIA REGULAR MAIL
Rueben Jeff Solis d/b/a Coco Bongo Club, 9025 Winkler, Houston, Texas 77017 -**VIA REGULAR MAIL**

JUN 28 2006

SOAH DOCKET NO. 458-06-1465

TEXAS ALCOHOLIC BEVERAGE COMMISSION	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
V.	§	OF
	§	
RUEBEN JEFF SOLIS	§	
D/B/A COCO BONGO CLUB	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (TABC) staff (Petitioner) brought this action against Rueben Jeff Solis d/b/a Coco Bongo Club (Respondent), alleging that Respondent, his agent, servant, or employee consumed an alcoholic beverage or permitted others to consume an alcoholic beverage on the licensed premises at a time when the consumption of alcoholic beverages is prohibited. Respondent failed to appear at the hearing, and the hearing proceeded on a default basis. Petitioner requested that Respondent's permits be canceled for cause. The Administrative Law Judge (ALJ) recommends cancellation of Respondent's permits.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

TABC has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. ch. 5 and §§ 5.32, 11.61, 61.71, 29.03, 31.03, and 44.03. 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 21, 2006, Petitioner issued its notice of hearing, directed to Respondent at Respondent's last known designated mailing address: 9025 Winkler, Houston, Harris County, Texas,

77017, via certified mail, return receipt requested.¹ 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, as required by TEX. GOV'T CODE ANN. § 2001.052. 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."

On April 21, 2006, a hearing convened before SOAH ALJ Roshunda Pringle at 2020 North Loop West, Ste. 111, Houston, Harris County, Texas. Petitioner was represented at the hearing by Ramona Perry, TABC Staff Attorney. Respondent did not appear and was not represented at the hearing. Petitioner presented evidence regarding notice and jurisdiction. The record closed on April 21, 2006.

II. DISCUSSION

Based on the failure of Respondent to appear at the hearing, Petitioner requested that the default provisions of 1 TEX. ADMIN. CODE (TAC) § 155.55 be invoked. Petitioner's Notice of Hearing complies with 1 TAC §§ 155.27 and 155.55 and TEX. ALCO. BEV. CODE ANN. § 11.63. Pursuant to 1 TAC § 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. Based on the deemed factual findings in this case, the ALJ recommends that Respondent's permits be canceled.

¹ Service of notices of hearing, pleadings, or other documents related to contested cases shall be by certified mail addressed to the permittee's last known address as reflected in the commission's records. A certificate of service to such address shall be *prima facie* evidence of adequate service on the permittee. 16 TAC § 37.3.

III. FINDINGS OF FACT

1. Rueben Jeff Solis d/b/a Coco Bongo Club (Respondent) holds a Wine and Beer Retailer's On Premise Permit (BG-556684) and Retail Dealer's On-Premise Late Hours License (BL-556685), issued by the Texas Alcoholic Beverage Commission (Petitioner) for the premises located at 9025 Winkler, Houston, Harris County, Texas 77017.
2. Respondent's last known designated mailing address, as reflected in Petitioner's records, is 9025 Winkler, Houston, Harris County, Texas 77017.
3. On February 21, 2006, Petitioner issued its notice of hearing by certified mail, return receipt requested, to Respondent at Respondent's last known address, setting the hearing on the merits for April 21, 2006.
4. 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.
5. 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."
6. A hearing convened before Roshunda Pringle, Administrative Law Judge with the State Office of Administrative Hearings (SOAH), on April 21, 2006. Petitioner appeared through its Staff Attorney, Ramona Perry. Respondent did not appear and was not represented at the hearing. The record closed on that same date.
7. On or about October 8, 2005, Respondent, his agent, servant, or employee consumed or permitted others to consume an alcoholic beverage on the licensed premises during prohibited hours.

IV. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. ch. 5 and §§ 5.32, 11.61, 61.71, 29.03, 31.03, and 44.03.
2. SOAH 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.

3. Proper and timely notice of the hearing was effected on Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001, 1 TEX. ADMIN. CODE (TAC) § 155.55 and 16 TAC § 37.3.
4. A default judgment should be entered against Respondent pursuant to 1 TAC § 155.55.
5. Respondent violated TEX. ALCO. BEV. CODE ANN. §§ 61.71 (a)(18) and 105.06
6. Respondent's permits should be canceled. TEX. ALCO. BEV. CODE ANN. §§ 11.61 (b)(2) and 61.71(a)(1).

SIGNED June 22, 2006.



ROSHUNDA PRINGLE
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS