

DOCKET NO. 587248

IN RE JAVIER CARDENAS CEJA	§	BEFORE THE
D/B/A CEJA'S PLACE	§	
PERMIT NO. BG-315947 AND	§	
LICENSE NO. BL-315948	§	TEXAS ALCOHOLIC
	§	
JEFFERSON COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-00-0304)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 29th day of June, 2000, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Veronica B. Dorsey. The hearing convened on April 6, 2000 and adjourned April 6, 2000. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on June 6<sup>th</sup>, 2000. 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.

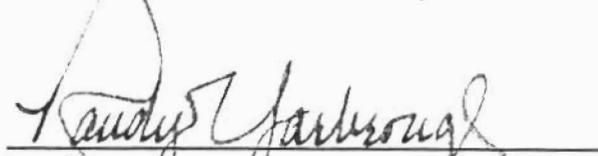
**IT IS THEREFORE ORDERED**, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1 of the Commission Rules, that Respondent's conduct surety bond in the amount of \$5,000.00 be **FORFEITED**.

**This Order will become final and enforceable on July 20, 2000**, 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.

**WITNESS MY HAND AND SEAL OF OFFICE** on this the 29th day of June, 2000.

On Behalf of the Administrator,



Randy Yarbrough, Assistant Administrator  
Texas Alcoholic Beverage Commission

KGG/vr

The Honorable Veronica B. Dorsey  
Administrative Law Judge  
State Office of Administrative Hearings  
**VIA FACSIMILE (713) 812-1001**

Holly Wise, Docket Clerk  
State Office of Administrative Hearings  
300 West 15th Street, Suite 504  
Austin, Texas 78701  
**VIA FACSIMILE (512) 475-4994**

Javier Cardenas Ceja  
**RESPONDENT**  
d/b/a Ceja's Place  
710 11<sup>th</sup> Ave.  
Port Arthur, Texas 77642-3113  
**VIA CERTIFIED MAIL RRR Z 473 041 957**

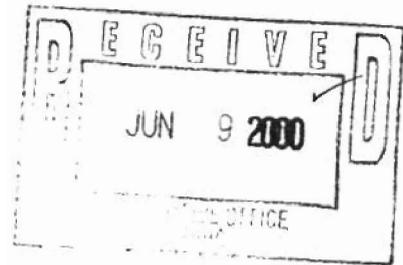
Gayle Gordon  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division  
Houston District Office

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge



June 7, 2000

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

**CERTIFIED MAIL NO. P 332 127 589**  
**RETURN RECEIPT REQUESTED**

**RE: Docket No. 458-00-0304; TABC vs. Javier Cardenas Ceja d/b/a Ceja's Place,  
(Permit No. BG-315947 and License No. BL-315948) (TABC Case No.  
587248)**

Dear Mr. Bailey:

Please find enclosed a Proposal for Decision that has been prepared for your consideration in the above referenced case. Copies of the Proposal For Decision are being sent to Gayle Gordon, Staff Attorney representing the Texas Alcoholic Beverage Commission and Javier Cardenas Ceja, d/b/a Ceja's Place. For reasons discussed in the Proposal for Decision, I have recommended forfeiture of the full amount of Permittee's conduct surety bond, or any instrument serving in place of a conduct surety bond (including, but not limited, to certificates of deposit and letters of credit), is warranted.

Pursuant to TEX. GOV'T CODE ANN. §2001.062 (Vernon Supp. 1996), each party has the right to file exceptions to the Proposal for Decision and to present a brief with respect to the exceptions. If any party files exceptions or briefs, all other parties may file a reply. Exceptions and replies must be filed according to the time limits specified in TABC rules. A copy of any exceptions, briefs on exceptions, or replies must also be filed with the State Office of Administrative Hearings and served on the other party in this case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Veronica B. Dorsey".

Veronica B. Dorsey  
Administrative Law Judge

VD/rfm  
Enclosure

CC: **Gayle Gordon, TABC, 5806 Mesa Drive, Suite 160, Austin, TX 78731 - REGULAR MAIL**  
**Javier Cardenas Ceja 710 11th Avenue, Port Arthur, Texas, 77642-3113 -**  
**VIA CERTIFIED MAIL NO. P 332 127 590, RETURN RECEIPT REQUESTED**  
**Holly Wise, Docket Clerk, State Office of Administrative Hearings - VIA REGULAR MAIL**

North Loop Office Park  
2020 North Loop West, Suite 111 ♦ Houston, Texas 77018  
(713) 957-0010 Fax (713) 812-1001

SOAH DOCKET NO. 458-00-0304

TEXAS ALCOHOLIC BEVERAGE  
COMMISSION, Petitioner

§  
§  
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§

BEFORE THE STATE OFFICE

VS.

OF

JAVIER CARDENAS CEJA,  
d/b/a Ceja's Place, Respondent  
PERMIT NO. BG-315947  
LICENSE NO. BL-315948

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Alcoholic Beverage Commission (TABC) brought this enforcement action against Javier Cardenas Ceja, d/b/a Ceja's Place (Permittee) for forfeiture of the full amount of its conduct surety bond in conjunction with TEX. ALCO. BEV. CODE ANN. §61.13 (b)(2) and Texas Alcoholic Beverage Commission Rules, 16 TAC §33.24. TABC alleged that Permittee committed three violations of the Alcoholic Beverage Code since September 1, 1995, in violation of Texas Alcoholic Beverage Commission Rules §33.24. Violations of TEX. ALCO. BEV. CODE ANN. §§106.04 and 106.13 occurred on or about December 14, 1996. Violations of TEX. ALCO. BEV. CODE ANN. §§106.04, 106.05, or 106.13 occurred on or about March 28, 1998.

This Proposal for Decision finds the allegations by the TABC to be proven and adopts the recommendation of TABC that the full amount of the conduct surety bond, or any instrument serving in place of a conduct surety bond (including, but not limited to, certificates of deposit and letters of credit), should be forfeited.

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

The hearing in this matter convened on April 6, 2000, at State Office of Administrative Hearings (SOAH), 2020 North Loop South, Suite #111, Houston, Texas. Gayle Gordon represented Petitioner. Javier Cardenas Ceja, Permittee, appeared and represented himself. Veronica B. Dorsey, Administrative Law Judge (ALJ), presided.

There are no contested issues of notice or jurisdiction in this proceeding. Therefore, these matters are set out in the proposed findings of fact and conclusions of law without further discussion here.

The Commission and the State Office of Administrative Hearings have jurisdiction over this matter as reflected in the conclusions of law. The notice of intention to institute enforcement action and of the hearing met the notice requirements imposed by statute and by rule as set forth in the findings of fact and conclusions of law.

## II. EVIDENCE AND APPLICABLE STATUTORY PROVISIONS

Texas Alcoholic Beverage Commission Rules 16 TAC §33.24(j) authorizes TABC to notify a permittee or licensee of its intent to seek forfeiture of the bond when a licensee or permittee has committed three violations of the Alcoholic Beverage Code since September 1, 1995. As described in the Findings of Fact, the Permittee violated Texas Alcoholic Beverage Commission Rules, 16 TAC §33.24 by committing three violations of the Alcoholic Beverage Code since September 1, 1995.

The TABC's attorney introduced the following three exhibits into evidence:

Commission's 1 is the file of Permittee, including multiple "Waivers," signed on November 8, 1999.

Commission's 2 is the green card showing receipt of the Notice of Hearing.

Permittee introduced a letter that he received from TABC which informed him of his right to request a hearing.

## III. RECOMMENDATION

Because the Permittee committed three violations of the Alcoholic Beverage Code since September 1, 1995, in violation of Texas Alcoholic Beverage Commission Rules, 16 TAC §33.24, the full amount of the conduct surety bond, or any instrument serving in place of a conduct surety bond (including, but not limited to certificates of deposit and letters of credit), should be forfeited.

## IV. FINDINGS OF FACT

1. Texas Alcoholic Beverage Commission (TABC) issued Permit No.-BG-315947 and license No. BL-315948 to Javier Cardenas Ceja, (Permittee).
2. On December 2, 1999, TABC sent Permittee notice that he had violated three or more provisions of Texas Alcoholic Beverage Code or Rules since September 1, 1995, and that he had a right to a hearing to contest the forfeiture of his conduct surety bond.
3. Permittee requested a hearing to determine if his bond should be forfeited.
4. The hearing proceeded and the factual allegations were deemed admitted as follows:

A violation of TEX. ALCO. BEV. CODE ANN. §106.13 occurred on or about December 14, 1999, when Permittee with criminal negligence sold, served, dispensed, or delivered an alcoholic beverage to a minor or with criminal negligence

permitted a minor to violate Section 106.04 or 106.05 of this Code on the licensed premises.

A violation of TEX. ALCO. BEV. CODE ANN. §§106.04 and 106.05 occurred on or about March 28, 1998, when the Permittee, its agent, servant, or employee permitted a minor to possess or consume an alcoholic beverage.

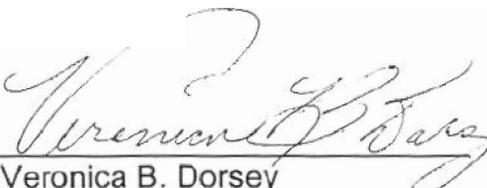
A violation of TEX. ALCO. BEV. CODE ANN. §106.13 occurred on or about March 28, 1998, when Permittee with criminal negligence sold, served, dispensed, or delivered an alcoholic beverage to a minor or with criminal negligence permitted a minor to violate Section 106.04 or 106.05 of this Code on the licensed premises.

5. The above listed violations of the Texas Alcoholic Beverage Code or Rules also have been finally adjudicated.

### V. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. §§6.01 and 61.71.
2. The State Office of Administrative Hearings has jurisdiction to conduct the administrative 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. Notice of the Hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051 and 2001.052.
4. Permittee violated Texas Alcoholic Beverage Commission Rules, 16 TAC §33.24, by committing three violations of the Alcoholic Beverage Code Since September 1, 1995.
5. Based on the foregoing Findings of Fact and Conclusions of Law, forfeiture of the full amount of Permittee's conduct surety bond, or any instrument serving in place of a conduct surety bond (including, but not limited to, certificates of deposit and letters of credit), is warranted.

SIGNED this 4<sup>th</sup> day of June 2000.

  
Veronica B. Dorsey  
Administrative Law Judge  
State Office of Administrative Hearings