

DOCKET NO. 605312

IN RE JUVONNA CAROL JOHNSON	§	BEFORE THE
D/B/A LA CHAMPS SPORTS LOUNGE	§	
PERMIT NO. BG306191	§	
LICENSE NO. BL306192	§	TEXAS ALCOHOLIC
	§	
HARRIS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-04-7580)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 18th day of October, 2004, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Don Smith. The hearing convened on September 10, 2004 and adjourned September 10, 2004. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on September 17, 2004. 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 Permit No. BG306191 and License No. BL306192 are herein **SUSPENDED**.

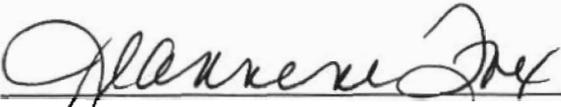
IT IS FURTHER ORDERED that unless the Respondent pays a civil penalty in the amount of \$1,500.00 on or before the 15th day of December, 2004, all rights and privileges under the above described permit and license will be **SUSPENDED for a period of ten (10) days, beginning at 12:01 A.M. on the 22rd day of December, 2004.**

This Order will become final and enforceable on November 8, 2004, 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 18th day of October, 2004.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

/tc

The Honorable Don Smith
Administrative Law Judge
State Office of Administrative Hearings
Houston, Texas
VIA FACSIMILE (713) 812-1001

Juhvonna Carol Johnson
RESPONDENT
d/b/a La Champs Sports Lounge
5403 Griggs
Houston, Texas 77021
CERTIFIED MAIL/RRR NO. 7000 1530 0003 1926 6540

Lindy To
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Houston District Office

TEXAS ALCOHOLIC BEVERAGE COMMISSION

CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 605312

REGISTER NUMBER:

NAME: Juhvonna Carol Johnson

TRADENAME: La Champs Sports Lounge

ADDRESS: 5405 Griggs, Houston, Texas 77021

DATE DUE: December 15, 2004

PERMITS OR LICENSES: BG306191, BL306192

AMOUNT OF PENALTY: \$1,500.00

Amount remitted \$ _____ Date remitted _____

If you wish to pay a civil penalty rather than have your permits and licenses suspended, you may pay the amount assessed in the attached Order to the Texas Alcoholic Beverage Commission in Austin, Texas. **IF YOU DO NOT PAY THE CIVIL PENALTY ON OR BEFORE THE 15TH DAY OF DECEMBER, 2004, YOU WILL LOSE THE OPPORTUNITY TO PAY IT, AND THE SUSPENSION SHALL BE IMPOSED ON THE DATE AND TIME STATED IN THE ORDER.**

When paying a civil penalty, please remit the total amount stated and sign your name below. **MAIL THIS FORM ALONG WITH YOUR PAYMENT TO:**

TEXAS ALCOHOLIC BEVERAGE COMMISSION

P.O. Box 13127

Austin, Texas 78711

Overnight Delivery Address: 5806 Mesa Drive, Austin, Texas 78731

WE WILL ACCEPT ONLY U.S. POSTAL MONEY ORDERS, CERTIFIED CHECKS, OR CASHIER'S CHECKS. NO PERSONAL CHECKS. NO PARTIAL PAYMENTS.

Your payment will not be accepted unless it is in proper form. Please make certain that the amount paid is the amount of the penalty assessed, that the U.S. Postal Money Order, Certified Check, or Cashier's Check is properly written, and that this form is attached to your payment.

Signature of Responsible Party

Street Address

P.O. Box No.

City

State

Zip Code

Area Code/Telephone No.

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

September 17, 2004

Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission
5806 Mesa, Suite 160
Austin, Texas 78731

VIA REGULAR MAIL

RE: Docket No. 458-04-7580; Juhvonna Carol Johnson d/b/a La Champs Sports Lounge

Dear Ms. Fox:

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 "Don Smith".

Don Smith
Administrative Law Judge

DS/mc
Enclosure

cc: **Lindy To**, TABC, 427 W. 20th Street, Suite 600, Houston, Texas 77008 - VIA REGULAR MAIL
Juhvonna Carol Johnson, d/b/a La Champs Sports Lounge, 5403 Griggs, Houston, Texas 77021 -VIA REGULAR MAIL



DOCKET NO. 458-04-7580

TEXAS ALCOHOLIC BEVERAGE COMMISSION	§	BEFORE THE STATE OFFICE
	§	
	§	
VS.	§	OF
	§	
JUHVONNA CAROL JOHNSON	§	
D/B/A LA CHAMPS SPORTS LOUNGE	§	
PERMIT/LICENSE NOS. BG306191, BL306192	§	
HARRIS COUNTY, TEXAS	§	
(TABC CASE NO. 605312)	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Alcoholic Beverage Commission (TABC or the Commission) brought this enforcement action against Juhvonna Carol Johnson d/b/a La Champs Sports Lounge (Permittee) for offenses committed in violation of TEX. ALCO. BEV. CODE ANN. § 1.01 *et seq.* (Vernon 1995 & Supp. 2003) (Code) or the Texas Alcoholic Beverage Commission Rules, 16 TEX. ADMIN. CODE § 31.1 *et seq.* (West 2003) (the Rules), or both. The Permittee did not make an appearance at the hearing. This Proposal for Decision finds the allegations proven and adopts the recommendation of the staff that the license be suspended for a period of 10 days or that Permittee be allowed to pay a fine of \$1,500.00 in lieu of suspension.

I. PROCEDURAL HISTORY, NOTICE, AND JURISDICTION

The hearing in this matter convened on September 10, 2004, at the offices of the State Office of Administrative Hearings in Houston, Harris County, Texas. TABC was represented by its counsel, Lindy To. Because the hearing proceeded on a default basis and Staff's factual allegations are deemed admitted as true, the Administrative Law Judge (ALJ) has incorporated those allegations into the findings of fact.

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

CODE § 61.71 (a) (1) authorizes the Commission to cancel or suspend a license for not more than 60 days if it is found, after notice and hearing, that the Permittee violated a provision of the Code or a rule of the Commission. As described in the findings of fact, the Permittee violated CODE §§ 61.71 (a) (1), (a) (9), and (a) (20); 25.09; and 69.09.

The staff attorney introduced two exhibits into evidence. Exhibit TABC 1 is an affidavit of Amy Harrison, Licensing Department Director, that Permits BG-306191 and BL-306192 were issued to Permittee. Permittee's mailing address is 5403 Griggs, Houston, Texas 77021. Exhibit TABC 2 is the Notice of Hearing to Juhvonna Carol Johnson, doing business as La Champs Sports Lounge with attached return receipt showing Permittee received the notice on July 30, 2004.

III. RECOMMENDATION

The notice of hearing, in bold lettering, states "if you fail to appear at the hearing, the allegations in the notice will be deemed admitted as true, and the relief sought may be granted by default." The Rules authorize service of the notice of hearing by sending it to the party's address as shown by the agency's records, and there is credible evidence that the notice of hearing was sent by certified or registered mail, return receipt requested, to Permittee's address, as shown by the agency's records. The return receipt has a delivery date to Petitioner of July 30, 2004. Therefore, the allegations that Permittee violated CODE §§ 61.71 (a) (1), (a) (9), (a) (20); 25.09; and 69.09 are admitted as true. The relief sought should be granted, and the permit should be suspended for ten days, or in lieu of suspension the Permittee should pay a fine of \$1,500.00.

IV. FINDINGS OF FACT

1. Permits BG-306191 and BL-306192 were issued to Juhvonna Carol Johnson, d/b/a La Champs Sports Lounge by the Texas Alcoholic Beverage Commission. The mailing address of Permittee is 5403 Griggs, Houston, Texas 77021.
2. The staff sent a notice of hearing regarding the violations of the Texas Alcoholic Beverage Code to the Permittee by certified mail, return receipt requested, and mailed the notice to Permittee's address as shown in the agency's records.
3. Permittee received the Notice of Hearing on July 30, 2004.
4. The notice of hearing contained the following language in capital letters in 12-point boldface type:

If you fail to appear at the hearing, the allegations in the notice will be deemed admitted as true, and the relief sought may be granted by default.

5. The hearing on the merits was held on September 10, 2004, at the offices of the State Office of Administrative Hearings, Houston, Harris County, Texas. Staff was represented by its counsel, Lindy To. The Permittee did not appear and was not represented at the hearing.
6. The hearing proceeded on a default basis, and the factual allegations were deemed admitted as follows:

On or about April 23, 2003, Permittee/Licensee, Juhvonna Carol Johnson, her agent, servant or employee, possessed or permitted the possession of distilled spirits or liquor containing alcohol in excess of 17 percent by volume on the licensed premises. By possessing or permitting the possession of distilled spirits or liquor containing alcohol in excess of 17 percent by volume on the licensed premises, Permittee/Licensee violated Texas Alcoholic Beverage Code §§ 61.71 (a) (1), 61.71 (a) (9), and 25.09 (Vernon 1995 and Supp. 2003).

On or about April 23, 2003, Permittee/Licensee, Juhvonna Carol Johnson, her agent, servant or employee, acquired an alcoholic beverage for the purpose of resale from another retail permit or license holder. By acquiring an alcoholic beverage for the purpose of resale from another retail permit or license holder, Licensee violated Texas Alcoholic Beverage Code §§ 61.71 (a) (1), 61.71 (1) (20), and 69.09 (Vernon 1995 and Supp. 2003).

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. Notice of the hearing was sufficient to allow entry of default judgment under State Office of Administrative Hearings Rules, 1 TEX. ADMIN. CODE § 155.55.
5. Based upon finding of fact No. 5, Permittee violated TEX. ALCO. BEV. CODE ANN. §§ 61.71 (a) (1), (a) (9), (a) (20); 25.09, and 69.09.
6. Based on the foregoing Findings of Fact and Conclusions of Law, a ten-day suspension of the permit and license is warranted. Pursuant to TEX. ALCO. BEV. CODE ANN. § 11.64, the Permittee should be allowed to pay a \$1,500 civil penalty in lieu of suspension of its permits and licenses.

SIGNED September 17, 2004.



**DON SMITH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**