

DOCKET NO. 606184

IN RE RUDY RAMOS	§	BEFORE THE
D/B/A RUDY'S BAR	§	
PERMIT NO. BG-432030	§	
	§	TEXAS ALCOHOLIC
	§	
FRIO COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-04-1581)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 17th day of May, 2004, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Nancy Bage Sorenson. The hearing convened on February 24, 2004, and adjourned the same day. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on April 26, 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 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.

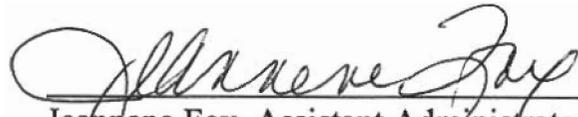
IT IS THEREFORE ORDERED, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that Wine and Beer Retailer's Permit No. BG-432030 is hereby **CANCELED FOR CAUSE**.

This Order will become final and enforceable on June 9, 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.

WITNESS MY HAND AND SEAL OF OFFICE on this the 19th day of May,
2004.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

DAB/yt

Rudy Ramos
d/b/a Rudy's Bar
RESPONDENT

P. O. Box P

Dilley, Texas 78017

CERTIFIED MAIL NO. 7001 2510 0007 0098 4246

RETURN RECEIPT REQUESTED

Administrative Law Judge
State Office of Administrative Hearings
San Antonio, Texas

VIA FACSIMILE: (210) 308-6854

Dewey A. Brackin
ATTORNEY FOR PETITIONER
Texas Alcoholic Beverage Commission
Legal Division

San Antonio District Office
Licensing Division

SOAH DOCKET NO. 458-04-1581

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE STATE OFFICE
COMMISSION	§	
	§	
V.	§	
	§	
RUDY RAMOS	§	OF
d/b/a RUDY'S BAR	§	
PERMIT NO. BG-422030	§	
BEXAR COUNTY, TEXAS	§	
TABC CASE NO. 606184	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Alcoholic Beverage Commission (Staff, TABC) brought this enforcement action against Rudy Ramos d/b/a Rudy's Bar (Respondent, Permittee) alleging that on or about May 13, 2003, Permittee failed to pay a debt for taxes, fees, or penalties. By failing to pay a debt for taxes, fees, or penalties, Permittee violated Texas Alcoholic Beverage Code §§ 11.61. Staff recommended that Permittee's permit be canceled.

I. PROCEDURAL HISTORY

The hearing in this matter convened on February 24, 2004, at the State Office of Administrative Hearings Office, 10300 Heritage, Suite 250, San Antonio, Texas, and concluded the same day. Staff attorney Dewey Brackin represented the Petitioner. Respondent did not appear and was not represented at the hearing. Nancy Bage Sorenson, Administrative Law Judge (ALJ), presided.

After the taking of evidence, Staff moved for a default judgment pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.55. Because the hearing proceeded on a default basis, Staff's factual allegations are deemed admitted as true; therefore, the ALJ has incorporated those allegations into the findings of fact without discussing the evidence.

II. FINDINGS OF FACT

1. Rudy Ramos d/b/a Rudy's Bar (Permittee/Respondent), located at 302 E. Salinas, Dilley, Texas, and whose mailing address is P.O. Box P, Dilley, Texas 78017, holds Permit No. BG-422030.
2. On January 9, 2004, TABC timely sent a Notice of Hearing by certified mail, return receipt requested, to Respondent at P.O. Box P, Dilley, Texas 78017. The Notice of Hearing contained information regarding the date, time, and place of the hearing; the statutes and rules involved; and the legal authorities under which the hearing would be held. The return receipt was signed by Respondent and returned to TABC on January 14, 2004.
3. The Notice of Hearing also contained language in 12-point, bold-face type informing Respondent that if he failed to appear at the hearing, the factual allegations against him would be deemed admitted as true, and the relief sought in the Notice of Hearing might be granted by default.
4. The hearing on the merits was held February 24, 2004. Respondent did not appear at the hearing.
5. The hearing proceeded on a default basis, and the allegations contained in the Notice of Hearing were deemed admitted as true.
6. On or about May 13, 2003, Permittee failed to pay a debt for taxes, fees, or penalties.

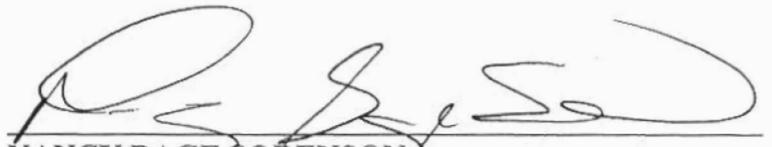
III. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to Subchapter B of Chapter 5, §§ 6.01 and 11.61 of the Texas Alcoholic Beverage Code, TEX. ALCO. BEV. CODE ANN. §1.01 *et seq.*
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 proposed 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 provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051, 2001.052 and 2001.054(c); 1 TEX. ADMIN. CODE (TAC) § 155.55; and TEX. ALCO. BEV. CODE ANN. § 11.63.
4. Notice of the hearing was sufficient to allow entry of default judgment under State

Office of Administrative Hearings Rules, 1 TAC §155.55.

- 5. Based on the above Findings of Fact, Respondent violated TEX. ALCO BEV. CODE ANN. §§ 11.61, on or about May 13, 2003.
- VI. Based on the above Findings of Fact and Conclusions of Law, Staff is entitled to a default judgment against Respondent pursuant to 1 TAC § 155.55.
- VII. Based on the foregoing Findings of Fact and Conclusions of Law, the cancellation of Respondent's permit is warranted pursuant to 16 TAC § 37.60.

SIGNED April 26, 2004.



NANCY BAGE SORENSON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS