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DOCKET NO. 606218

IN RE SUNSET LICENSES, INC.	§	BEFORE THE
D/B/A SUNSET BAR & GRILL	§	
PERMIT/LICENSE NOS. M528879,	§	
LB528880, PF528881 & CB528882	§	TEXAS ALCOHOLIC
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-06-0212)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 4th day of January, 2006, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Michelle Kallas. The hearing convened on November 9, 2005. Respondent failed to appear at the hearing, and the hearing proceeded on a default basis. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on December 14, 2005. This Proposal For Decision (**attached hereto 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, 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.

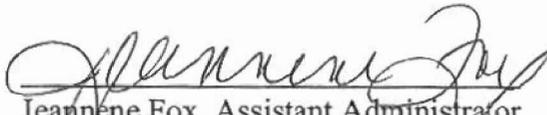
IT IS THEREFORE ORDERED, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that Respondent's permits and licenses be **CANCELLED FOR CAUSE**.

This Order will become final and enforceable on January 25, 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 this 4th day of January, 2006.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

TEG/bc

The Honorable Michelle Kallas
Administrative Law Judge
State Office of Administrative Hearings
VIA FAX (214) 956-8611

SUNSET LICENSES, INC.
d/b/a SUNSET BAR & GRILL
RESPONDENT
1011 South Akard Street
Dallas, Texas 75215-1002
VIA CM/RRR NO. 77001 2510 0000 7274 5056

Timothy E. Griffith
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Dallas District Office



SOAH DOCKET NO. 458-06-0212

**TEXAS ALCOHOLIC BEVERAGE
COMMISSION**
Petitioner

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§

BEFORE THE STATE OFFICE

V.

OF

**SUNSET LICENSES INC. D/B/A
SUNSET BAR & GRILL**
Respondent

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

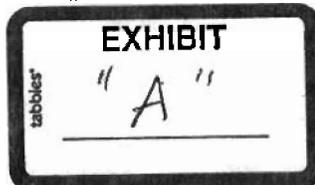
The Texas Alcoholic Beverage Commission (TABC) staff (Petitioner) brought this action against Sunset Licenses, Inc. d/b/a Sunset Bar & Grill (Respondent), alleging that Respondent failed to provide records data, reports, documents, or other information to Petitioner, in violation of the Texas Alcoholic Beverage Code. 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, 44.03, and 31.03. 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 October 5, 2005, Petitioner issued its notice of hearing, directed to Respondent at Respondent's last known designated mailing address: 1011 South Akard Street, Dallas, Texas, 75215-1002, via certified mail, return receipt requested.¹ The notice of hearing contained a

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 TEX. ADMIN. CODE § 37.3.



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PROPOSAL FOR DECISION

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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 November 9, 2005, a hearing convened before SOAH ALJ Michelle Kallas at 6333 Forest Park Road, Suite 150-A, Dallas, Dallas County, Texas. Petitioner was represented at the hearing by Timothy Griffith, 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 November 9, 2005.

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.

III. FINDINGS OF FACT

1. Sunset Licenses, Inc. d/b/a Sunset Bar & Grill (Respondent) holds a Mixed Beverage Permit, MB-528879, a Mixed Beverage Late Hours Permit, LB-528880, Caterer's Permit, CB-528882, and a Beverage Cartage Permit, PE-528881, issued by the Texas Alcoholic Beverage Commission (Petitioner) for the premises located at 1011 S. Akard, Dallas, Dallas County,

Texas.

2. Respondent's last known designated mailing address, as reflected in Petitioner's records, is 1011 S. Akard, Dallas, Texas, 75215-1002.
3. On October 5, 2005, 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 November 9, 2005.
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 Michelle Kallas, Administrative Law Judge with the State Office of Administrative Hearings (SOAH), on November 9, 2005. Petitioner appeared through its Staff Attorney, Timothy Griffith. Respondent did not appear and was not represented at the hearing. The record closed on that same date.
7. On or about July 24, 2003, Respondent failed to provide records data, reports, documents, or other information to Petitioner.

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, 44.03, and 31.03.
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.

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PROPOSAL FOR DECISION

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5. Respondent violated the Texas Alcoholic Beverage Code. TEX. ALCO. BEV. CODE ANN. §§ 5.32, 11.61(b)(2), and/or 61.71(a)(1).
6. Respondent's permits should be canceled. TEX. ALCO. BEV. CODE ANN. §§ 11.61 (b)(2) and 61.71(a)(1).

SIGNED December 14, 2005.

Michelle Kallas

MICHELLE KALLAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

December 14, 2005

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

RE: . Docket # 458-06-0212
TABC VS. SUNSET LICENSES, INC.,
D/B/A SUNSET BAR & GRILL
TABC 606218

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 black ink that reads "Michelle Kallas".

Michelle Kallas
Administrative Law Judge

MK/sr
Enclosure

cc: Timothy Griffith, Agency Council for Texas Alcoholic Beverage Commission, Via Fax,
Sunset Licenses, Inc., /D/B/A Sunset Bar & Grill, Respondent, Via Mail

SERVICE LIST

AGENCY: TEXAS ALCOHOLIC BEVERAGE COMMISSION
CASE: TABC vs. Sunset Licenses, Inc. D/b/a Sunset Bar & Grill
DOCKET NUMBER: 458-06-0212
AGENCY CASE NO: 606218

Timothy Griffith
Staff Attorney
825 North McDonald, Ste. 180
McKinney, Texas 75609
Telephone No: (972) 547-5092
Fax No: (972) 547-5093

AGENCY COUNSEL
VIA FAX (972) 547-5093

Sunset Licenses, Inc.
d/b/a Sunset Bar & Grill
1011 S. Akard Street
Dallas, Texas 75215-1002

RESPONDENT
VIA REGULAR MAIL

as of December 14, 2005