

DOCKET NO. 607765

IN RE WELCOME INVESTMENT INC.	§	BEFORE THE
D/B/A WELCOME STOP	§	
PERMIT NOS. BQ-417747	§	
	§	TEXAS ALCOHOLIC
	§	
MEDINA COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-04-5263)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 8th day of November, 2004, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Cyrena Benson. After the record was closed, the case was reassigned to Administrative Law Judge Robert F. Jones, Jr. The hearing convened on June 29, 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 August 26, 2004, 2004. The 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. Exceptions to the Proposal were filed by Respondent on September 10, 2004.

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.

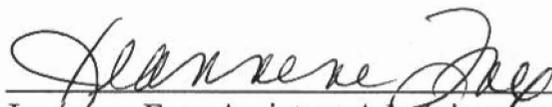
IT IS THEREFORE ORDERED, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that Wine and Beer Retailer's Off-Premise Permit is hereby **CANCELLED AND THE RENEWAL APPLICATION DENIED**.

This Order will become final and enforceable on November 29, 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 8th day of November, 2004.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

DAB/yt

Administrative Law Judge
State Office of Administrative Hearings
Fort Worth, Texas
VIA FACSIMILE: (817) 377-3706

Welcome Investment Inc.
d/b/a Welcome Stop
RESPONDENT
815 Hwy. 90 West
Castroville, Texas 78009
CERTIFIED MAIL NO. 7000 1530 0003 1902 7097
RETURN RECEIPT REQUESTED

Kristyl M. M. Smith
ATTORNEY FOR RESPONDENT
1616 Broadway
San Antonio, Texas 78215
VIA FACSIMILE: (210) 227-1323

Dewey A. Brackin
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division
San Antonio District Office

II. DISCUSSION

A. Applicable Law

A permit may be canceled or suspended if it is displayed "in the conduct of a business for the benefit of a person not authorized by law to have an interest in the" permit.¹ Fifty-one percent of the shares of a corporate permittee must be "owned at all times by citizens who have resided within the state for a period of one year and who possess the qualifications required of other applicants for permits."² The Legislature's intent is

to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices.³

B. Evidence

1. Documentary Evidence

The TABC first issued Respondent's wine and beer retailer's off-premises permit BQ17747 on August 11, 1997. A renewal application filed by Respondent in 2003 is pending. Respondent's permitted premises are located at 815 Highway 90 West, Castroville, Medina County, Texas.⁴

¹ TEX. ALCO. BEV. CODE ANN. § 67.71(a)(15) (Vernon 2004) (the Code). See also § 11.05 of the Code (no permittee may consent to or allow the use or display of his permit by a person other than the person to whom the permit was issued).

² § 109.53 of the Code.

³ *Id.*

⁴ TABC Exhibit #1.

The following facts are not disputed:

- Respondent is a Texas corporation, incorporated on March 24, 1997. Rajagopal Hosur is its registered agent. Respondent is authorized to issue 200 shares of stock.⁵
- On March 25, 1997, Mr. Rajagopal was issued 98 shares of stock and Mr. Tagula Goud was issued 102 shares of stock.⁶
- On February 16, 1995, Mr. Rajagopal and Mr. Goud acquired title to the real estate on which Respondent's premises were to be located.⁷
- On December 4, 1996, Mr. Rajagopal and Mr. Goud transferred title to the premises to RR Trading, Inc. (RR Trading).⁸
- RR Trading is a Texas corporation, incorporated in December 1994. Mr. Goud was its registered agent. RR Trading did business as Pic N Go Market at 12980 Highway 16 North, Helotes, Bexar County, Texas. RR Trading was dissolved in 2000.⁹
- On August 8, 1997, Respondent filed its original application for the permit. The application was filed by Mr. Rajagopal who identified himself as its president and secretary.¹⁰
- In Form L-101-C of the Application, Mr. Rajagopal affirmed that all Respondent's officers, 51% of the owners of each class of shares issued, and a majority of Respondent's directors had legally resided in Texas for at least one year immediately preceding the filing of the application. Mr. Rajagopal stated 200 shares in Respondent had been issued.¹¹
- In Form L-101-C, Mr. Rajagopal listed himself as an officer, director and shareholder of Respondent. He stated he held 200 shares of Respondent's stock. Mr. Goud was not listed or

⁵ TABC Exhibit #19.

⁶ TABC Exhibits #16 & 17.

⁷ TABC Exhibits #11 & 14; Testimony of Agent Bruce Boardman.

⁸ TABC Exhibit #12.

⁹ Respondent's Exhibit #3.

¹⁰ TABC Exhibit #1.

¹¹ *Id.*

identified as an officer, director and shareholder of Respondent.¹²

- In Form L-40, the personal history sheet, Mr. Rajagopal provided his date and place of birth, Texas driver's license number, social security number, spouse's name and social security number, residence history in Texas, telephone number, visa or resident alien card number, and the amount of his investment in Respondent and its source. Mr. Rajagopal stated he had worked from December 1996 to the date of the application at Pic N Go Market at 12980 Highway 16 North, Helotes, Bexar County, Texas. He identified himself as the president and secretary of Pic N Go.¹³
- In Form L-101-OP, Mr. Rajagopal identified himself as the owner of Respondent's premises.¹⁴
- Neither RR Trading nor Mr. Goud filed a Form L-101-OP. Mr. Goud did not file a Form L-40.
- The various acknowledgments made by Mr. Rajagopal in the original application were notarized by Salim Merchant.¹⁵
- On November 3, 1997, RR Trading transferred title to the premises to Respondent by warranty deed executed by Mr. Goud and Mr. Rajagopal as president and vice president, respectively, of RR Trading.¹⁶
- On November 3, 1997, Respondent granted a deed of trust in favor of Pacific Southwest Bank secured by the premises. The deed was executed for Respondent by Mr. Goud and Mr. Rajagopal as president and vice president, respectively, of Respondent.¹⁷
- Respondent has filed renewal applications and the permit has been renewed on the August 11 anniversary date from 1998 to 2002.¹⁸
- In each renewal application, Mr. Rajagopal affirmed that he was the president of Respondent and owned 200 shares of Respondent's stock. Each time he affirmed that "all of the facts and

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ TABC Exhibit #10.

¹⁷ TABC Exhibits #2 & 9.

¹⁸ TABC Exhibit #1.

representations made in [the] original application [which was incorporated into the renewal application] were and are true and correct." Each contained a warning that a false statement or representation in an application is a crime under § 101.69 of the Code. The 1999 and 2000 applications were notarized by Mr. Merchant.¹⁹

On May 28, 1997, Mr. Rajagopal and Mr. Goud executed a deposit account agreement for Respondent with Broadway National Bank. Mr. Rajagopal was listed as president and Mr. Goud as manager.²⁰

- Mr. Goud executed a commercial insurance application on behalf of Respondent, and on January 14, 1999, and October 17, 2001, executed insurance premium financing agreements for Respondent.²¹
- Mr. Goud and Mr. Rajagopal met with an accountant on August 18, 2000, to prepare Respondent's corporate books and tax returns.²²
- On April 6, 2000, October 6, 2000, and January 6, 2001, Respondent was billed for and paid premiums on insurance for Mr. Goud.²³
- On January 14, 1999, Mr. Goud executed a "statement of no-loss" to induce an insurance company to reinstate Respondent's insurance policy.²⁴
- On July 6, 1999, Mr. Goud executed an agreement on behalf of Respondent with TeleCheck.²⁵
- On January 1, 2003, Mr. Goud transferred the 102 shares of Respondent's stock issued to him to Mr. Rajagopal.²⁶

¹⁹ *Id.*

²⁰ TABC Exhibit #3.

²¹ TABC Exhibit #5.

TABC Exhibit #4.

²³ TABC Exhibit #6.

²⁴ TABC Exhibit #7.

²⁵ TABC Exhibit #8.

²⁶ TABC Exhibit #17.

- ~~On March 25, 2003, Mr. Rajagopal was elected director of the corporation at Respondent's annual shareholders meeting.²⁷~~
- On March 25, 2003, Mr. Rajagopal was elected president, vice president, secretary, and treasurer of the corporation at Respondent's annual board of directors meeting.²⁸

2. Testimony of Bruce Boardman

TABC Investigator Bruce Boardman testified. Agent Boardman investigates applicants for issues of subterfuge and money laundering. Agent Boardman investigated Respondent as a continuation of Agent Tracy Bowmer's investigation. Agent Bowmer first made contact with Mr. Rajagopal concerning the applications in July 22, 2003. Agent Bowmer sent a letter to Mr. Rajagopal requesting documents in support of the application under § 5.32 of the Code.²⁹ As the result of the investigation, Agent Boardman determined that Respondent had not made a full disclosure to the Commission.

Agent Boardman's review of the facts led him to conclude that the answers to a number of questions in Respondent's original application were not true when they were made and were not corrected in subsequent renewal applications. The original application indicated that all of Respondent's officers, 51% of all owners of shares in Respondent, and the majority of Respondent's directors had "legally resided in Texas for at least one (1) year immediately preceding the filing of this application." Mr. Rajagopal is the only person listed as a shareholder, officer and director, owning 200 of Respondent's shares, all of the shares the application avers were issued. Respondent's corporate records indicate that Mr. Goud owned 51% of Respondent's shares, and that Mr. Goud was an officer of Respondent. Agent Boardman viewed the March 27, 2003, election of Mr. Rajagopal as the president, etc., of Respondent

²⁷ TABC Exhibit #18.

²⁸ TABC Exhibit #20.

²⁹ § 5.32 of the Code states: "The commission may require the filing of reports and other data by persons engaged in the alcoholic beverage business which the commission finds necessary to accomplish the purposes of this code."

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as a "clean up" of the corporate records to ~~perpetuate the myth that Mr. Goud was not one of~~
Respondent's officers.

Agent Boardman asserted that the original application was not truthful when Mr. Rajagopal stated he personally owned the property and building the permitted premises was to occupy. In fact, when the application was filed, RR Trading owned the property, and it was transferred to Respondent after the original permit was granted.

Agent Boardman opined that the documentary evidence shows that the permit was not operated for the exclusive benefit of Mr. Rajagopal. Respondent was also operated for the benefit of Mr. Goud. Mr. Goud's involvement in Respondent was not disclosed to the Commission and he was not authorized by the Commission to operate under the permit.

On cross-examination, Agent Boardman professed familiarity with the application process and the instructions the TABC issues for completing an application. He was questioned concerning the TABC on-line instructions.³⁰ Respondent asserted that the instructions were confusing because they discussed how to list *corporate* majority and minority shareholders. Respondent asserted to Agent Boardman that since the Form L-101-C instructions discuss majority and minority shareholders which are corporations, trusts, or limited or general partnerships Mr. Rajagopal could conclude that Mr. Goud need not be listed. Agent Boardman responded that the instructions for Form L-101-C states "list the officers, directors, and stockholders of a corporation,"³¹ and Mr. Goud and Mr. Rajagopal were the shareholders in Respondent. Agent Boardman acknowledged that Question C7D on Form L-101-C does not use the adjective "all" with reference to listing officers, directors, and shareholders.³²

³⁰ Respondent's Exhibit #1, TABC Form L-101-A, and Respondent's Exhibit #2, TABC Form L-101-C

³¹ Respondent's Exhibit #2.

³² The ALJ notes that the bold, vertical border on the left side of Form L-101-C states "For Corporation or Limited Liability Company - Name(s) of Officer(s) & Director(s) of Corporation, Officer(s) & Manager(s) of Limited Liability Company, Stockholders/members." TABC Exhibit #1. Further, the instructions to Form L-101-C not only state

Agent Boardman was questioned about Operation Green Quest.³³ He identified this as a multi-agency investigation involving Mr. Goud and his associate Mr. Merchant. The task force is led by the Internal Revenue Service, and is investigating Mr. Goud's and Mr. Merchant's involvement in organized crime, money laundering, and gambling. Agent Boardman disclosed that Mr. Goud has two social security numbers, and has filed tax returns under each. Mr. Merchant and Mr. Goud's wife also each have two identities. Agent Boardman identified Mr. Merchant as Mr. Rajagopal's accountant.³⁴ Agent Boardman acknowledged that Operation Green Quest precipitated the TABC investigation of Mr. Rajagopal.

Agent Boardman has questioned Mr. Rajagopal to learn if he had any knowledge about the matters of concern in Operation Green Quest. Agent Boardman believes that Mr. Rajagopal has participated in illegal activities, and stated that he will file criminal charges against him. He does not have evidence that Mr. Rajagopal has multiple identities. Agent Boardman is unaware if Mr. Rajagopal is laundering money through Respondent's accounts. Agent Boardman agreed he told Respondent's counsel that if Mr. Rajagopal gave information on Mr. Goud the administrative process would go more smoothly. Agent Boardman also asserted that he told counsel he would pursue criminal charges, that no deals were made, and that Mr. Rajagopal provided no useful information.

3. Testimony of Rajagopal Hosur

The Staff called Mr. Rajagopal as an adverse witness. Mr. Rajagopal was asked to admit that: he signed the original application; he purported to be the sole shareholder; he was not in fact the sole shareholder; Mr. Goud was the majority shareholder at the time the original application was made; and every renewal application did not disclose that Mr. Goud owned 102 of 200 shares of Respondent's stock.

"list the officers, directors, and stockholders of a corporation," but require that officers and directors of a corporation be listed "before entering *other* stockholders." Respondent's Exhibit #2 (emphasis supplied).

³³ Respondent's Exhibit #3 & #4.

³⁴ See TABC Exhibit #1, original application, which lists Respondent's accountant as being "Merchant Tax Service."

Mr. Rajagopal declined to answer each on the basis of his right against self incrimination.

C. The Parties' Arguments

The Staff asserted that Mr. Goud was not authorized by TABC to have any interest in Respondent's license. Mr. Goud owned a majority of Respondent's shares from 1997 to 2003 which was not disclosed to the TABC. The documentary evidence demonstrates that Mr. Goud was in charge of Respondent's business. The instructions to Form L-101-C require an applicant to list "the" shareholders, officers, and directors. The Staff argues that "all" is implied in "the." The application required Respondent to account for all its shares, which Mr. Rajagopal did not do. The Staff urged that §109.53 of the Code requires the law to be liberally construed to prohibit subterfuge ownership. The policy arose after prohibition and from the Legislature's concern that organized crime would take control of the Texas liquor industry. Since Respondent did not make an honest disclosure of the facts, Respondent's permit should be canceled.

Respondent asserted that Mr. Rajagopal has made no secret of his association with Mr. Goud. It is disclosed in numerous public records. Respondent contended that the instructions to Form L-101-C leave room for error. Although Mr. Rajagopal offered no evidence, Respondent's counsel argued Mr. Rajagopal made a mistake based upon Mr. Rajagopal's understanding of what the instructions to Form L-101-C meant to him. According to counsel this was the first time Mr. Rajagopal had ever filled out an application, Mr. Goud having done this work before (presumably for RR Trading), and he did not understand the directions. Mr. Rajagopal allegedly met with a TABC account examiner and no questions were raised, and Mr. Rajagopal assumed that he had been accurate. When Mr. Rajagopal filed his renewal applications, as far as he knew there had been no change, and no need to reflect a change in the status quo. Respondent argued this was a "technical" violation, and that a lesser penalty than cancellation should be considered. Since Mr. Rajagopal's association with Mr. Goud is a matter of record, Respondent asserted that Mr. Rajagopal has acted honestly, especially since there was no evidence that Mr. Rajagopal has multiple identities or is laundering money through Respondent's accounts.

The Staff responded that Mr. Rajagopal claimed his right against self-incrimination when questioned. From this Staff infers that Mr. Rajagopal was not confused by the application instructions but knew exactly what he was doing when he concealed Mr. Goud's involvement in Respondent. Respondent replied that Mr. Rajagopal took refuge in his privilege because the TABC is using every means to force Mr. Rajagopal to provide evidence against Mr. Goud, including threats of criminal action.

D. Discussion

Respondent's original application and each succeeding renewal application contained false statements of the ownership of Respondent's stock, and the identity of its officers and directors. Taken as a whole, Form L-101-C and its instructions make it clear that all officers, directors, and shareholders should be listed. The Form itself makes reference to "Name(s) of Officer(s) & Director(s) of Corporation, . . . [and] Stockholders," provides numerous spaces for listing purposes, and admonishes "if you need additional space for more names, use additional copies of this page." As noted earlier, the instructions say "list the officers, directors, and stockholders of a corporation," and require that officers and directors of a corporation be listed "before entering *other* stockholders." Respondent offered no evidence that Mr. Rajagopal was in fact confused, although it had the opportunity to question Mr. Rajagopal. Mr. Rajagopal's statement in the application that he owned the property comprising the premises was also false; Respondent did not offer to argue that Mr. Rajagopal was confused when he made that lie.

The evidence also demonstrates that the permitted business was a subterfuge run for Mr. Goud's benefit. Mr. Goud had and exercised authority over a number of Respondent's business activities. He applied for and authorized financing of Respondent's insurance. He had authority over Respondent's bank accounts, and purchased TeleCheck services for Respondent. He was involved in the bookkeeping and tax accounting for the business. Respondent purchased an insurance policy of which he was the insured.

Although Respondent asserts that Mr. Goud's relationship was a matter of record, it was not a

matter of record in documents filed with the Commission. Further, that record would not be evident without a careful search of the Medina County deed records tracing the chain of title from the first grant of the premises to Mr. Goud and Mr. Rajagopal, to RR Trading, to Respondent. Placing the Commission on official notice of the contents of the Medina County records would eviscerate the entire application process which requires truthful answers to the questions propounded to the applicant.

Mr. Goud owned 51% of Respondent's stock and his personal information was not presented to the Commission for review and investigation. The evidence as a whole demonstrates that the failure of the application to disclose Mr. Goud's holding in the Respondent allowed a person of interest to the criminal authorities to benefit from the permit exactly in the way the Code is designed to bar. If the Form L-101-C had been answered honestly, Mr. Goud would have been required to complete a sworn Form L-40, the personal history sheet.³⁵ Mr. Goud would have had to supply information such as his date and place of birth, Texas driver's license number, social security number, spouse's name and social security number, residence history in Texas, telephone number, visa or resident alien card number, and the amount of his investment in Respondent and its source. If so, then Mr. Merchant's and Mr. Goud's connection with Mr. Rajagopal, Respondent, and the permit might have been discovered earlier.³⁶

The ALJ recommends Respondent's renewal application be denied, and its permit canceled.

III. FINDINGS OF FACT

1. The Texas Alcoholic Beverage Commission (TABC) issued Respondent's wine and beer retailer's off-premises permit BQ17747 (the permit) on August 11, 1997.
2. Respondent's permitted premises are located at 815 Highway 90 West, Castroville, Medina County, Texas.

³⁵ See *Application Instructions For Alcoholic Beverage License or Permit, Retailers Wholesalers Texas-Based Manufacturers* (2004), pp. 39-42. (found at www.tabc.state.tx.us/Publications/Instruct.pdf).

³⁶ Aside from the fact that Mr. Merchant was apparently listed as Respondent's accountant, and notarized the original application and two of the renewal applications.

3. A renewal application filed by Respondent in 2003 is pending.
4. Respondent is a Texas corporation, incorporated on March 24, 1997. Rajagopal Hosur is its registered agent. Respondent is authorized to issue 200 shares of stock.
5. On March 25, 1997, Mr. Rajagopal was issued 98 shares of Respondent's stock and Mr. Tagula Goud was issued 102 shares of Respondent's stock.
6. On February 16, 1995, Mr. Rajagopal and Mr. Goud acquired title to what became Respondent's premises.
7. On December 4, 1996, Mr. Rajagopal and Mr. Goud transferred title to the premises to RR Trading, Inc. (RR Trading).
8. RR Trading is a Texas corporation, incorporated in December 1994. Mr. Goud was its registered agent. RR Trading did business as Pic N Go Market at 12980 Highway 16 North, Helotes, Bexar County, Texas. RR Trading was dissolved in 2000.
9. On August 8, 1997, Respondent filed its original application for the permit. The application was filed by Mr. Rajagopal who identified himself as Respondent's president and secretary.
10. In Form L-101-C of the application, Mr. Rajagopal affirmed that all Respondent's officers, 51% of the owners of each class of shares issued, and a majority of Respondent's directors had legally resided in Texas for at least one year immediately preceding the filing of the application. Mr. Rajagopal stated 200 shares in Respondent had been issued.
11. In Form L-101-C, Mr. Rajagopal listed himself as an officer, director and shareholder of Respondent. He stated he held 200 shares of Respondent's stock. Mr. Goud was not listed or identified as an officer, director and shareholder of Respondent.
12. In Form L-40, the personal history sheet, Mr. Rajagopal provided his date and place of birth, Texas driver's license number, social security number, spouse's name and social security number, residence history in Texas, telephone number, visa or resident alien card number, and the amount of his investment in Respondent and its source. Mr. Rajagopal stated he had worked from December 1996 to the date of the application at Pic N Go Market at 12980 Highway 16 North, Helotes, Bexar County, Texas. He identified himself as the president and secretary of Pic N Go Market.
13. In Form L-101-OP, Mr. Rajagopal identified himself as the owner of Respondent's premises.

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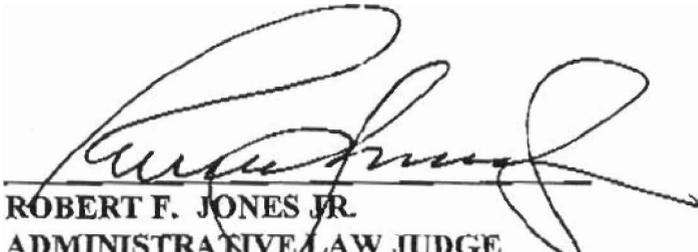
14. Neither RR Trading nor Mr. Goud filed a Form L-101-OP. Mr. Goud did not file a Form L-40.
15. The various acknowledgments made by Mr. Rajagopal in the original application were notarized by Salim Merchant.
16. On November 3, 1997, RR Trading transferred title to the premises to Respondent by warranty deed executed by Mr. Goud and Mr. Rajagopal as president and vice president, respectively, of RR Trading.
17. On November 3, 1997, Respondent granted a deed of trust in favor of Pacific Southwest Bank secured by the premises. The deed was executed for Respondent by Mr. Goud and Mr. Rajagopal as president and vice president, respectively, of Respondent.
18. Respondent has filed renewal applications and the permit has been renewed on the August 11 anniversary date from 1998 to 2002.
19. In each renewal application, Mr. Rajagopal affirmed that he was the president of Respondent and owned 200 shares of Respondent's stock. Each time he affirmed that "all of the facts and representations made in [the] original application [which was incorporated into the renewal application] were and are true and correct." The 1999 and 2000 applications were notarized by Mr. Merchant.
20. On May 28, 1997, Mr. Rajagopal and Mr. Goud executed a deposit account agreement for Respondent with Broadway National Bank. Mr. Rajagopal was listed as president and Mr. Goud as manager.
21. Mr. Goud executed a commercial insurance application on behalf of Respondent, and on January 14, 1999, and October 17, 2001, executed insurance premium financing agreements for Respondent.
22. Mr. Goud and Mr. Rajagopal met with an accountant on August 18, 2000, to prepare Respondent's corporate books and tax returns.
23. On April 6, 2000, October 6, 2000, and January 6, 2001, Respondent was billed for and paid premiums on insurance for Mr. Goud.
24. On January 14, 1999, Mr. Goud executed a "statement of no-loss" to induce an insurance company to reinstate Respondent's insurance policy.
25. On July 6, 1999, Mr. Goud executed an agreement on behalf of Respondent with TeleCheck.

26. On January 1, 2003, Mr. Goud transferred the 102 shares of Respondent's stock issued to him to Mr. Rajagopal.
27. On March 25, 2003, Mr. Rajagopal was elected director of the corporation at Respondent's annual shareholders meeting.
28. On March 25, 2003, Mr. Rajagopal was elected president, vice president, secretary, and treasurer of the corporation at Respondent's annual board of directors meeting.
29. Respondent's original application and each succeeding renewal application contained false statements of the ownership of Respondent's stock, and the identity of its officers and directors.
30. The application's statement that Mr. Rajagopal owned the property comprising Respondent's premises was false.
31. The permit was not operated for the exclusive benefit of Mr. Rajagopal.
32. Respondent was operated for the benefit of Mr. Goud.
33. Mr. Goud's involvement in Respondent was not disclosed to the Commission and he was not authorized by the Commission to operate under the permit.
34. Mr. Goud and his associate Mr. Merchant are the subjects of a multi-agency investigation lead by the Internal Revenue Service named Operation Green Quest.
35. Operation Green Quest is investigating Mr. Goud's and Mr. Merchant's involvement with organized crime, money laundering, and gambling.
36. On May 3, 2004, the Staff of the TABC (Staff) served its Notice of Hearing (NOH) on Respondent.
37. The NOH made reference to the legal authority and jurisdiction under which the hearing was to be held, referenced the particular sections of the statutes and rules involved, and included a short, plain statement of the matters asserted.
38. On June 29, 2004, a hearing was convened before ALJ Cyrena Benson, at the SOAH San Antonio office located at 10300 Heritage, Suite 250, San Antonio, Bexar County, Texas. Staff was represented by Dewey Brackin, an attorney with the Texas Alcoholic Beverage Commission's (TABC) Legal Division. Respondent appeared through its attorney Kristyl M. M. Smith and its president Rajagopal Hosur. The record closed on June 29, 2004.

IV. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter pursuant to Chapter 5 of the Code.
2. The State Office of Administrative Hearings has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003 (Vernon 2004).
3. Notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051 and 2001.052 (Vernon 2004).
4. Based on the foregoing findings and conclusions, Respondent consented to and allowed the use its permit by a person other than the person to whom the permit was issued. § 11.05 of the Code.
5. Based on the foregoing findings and conclusions, Respondent permitted the use or display of its permit in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license. § 61.71(a)(15) of the Code.
6. Based on the foregoing findings and conclusions, 51% of the Respondent's shares have not been owned at all times by citizens who have resided within the state for a period of one year and who possess the qualifications required of other applicants for permits. § 109.53 of the Code.
7. Based on the foregoing findings and conclusions, Respondent allowed a subterfuge ownership of its permit. § 109.53 of the Code.
8. Based on the foregoing findings and conclusions, Respondent's permit should be canceled and its pending application for renewal denied. §§ 11.05, 61.71(a)(15), & 109.53 of the Code.

SIGNED August 26, 2004.



ROBERT F. JONES JR.
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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SERVICE LIST

AGENCY: TEXAS ALCOHOLIC BEVERAGE COMMISSION

CASE: Welcome Investment Inc. d/b/a Welcome Stop

DOCKET NUMBER: 458-04-5263

AGENCY CASE NO: 607765

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Fax: 210/227-1323

ATTORNEY FOR RESPONDENT
BY FAX

As of August 26, 2004