

**DOCKET NO. 608638**

IN RE CAMENA ADAMS	§	BEFORE THE
D/B/A ARANDAS CLUB	§	
PERMIT/LICENSE NOS. MB065590,	§	
LB065591	§	TEXAS ALCOHOLIC
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-05-2994)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 12th day of May, 2005, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Jerry Van Hamme. The hearing convened on February 17, 2005 and adjourned on the same date. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on April 13, 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/licenses are hereby **CANCELLED FOR CAUSE**.

**This Order will become final and enforceable on June 2, 2005** 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 12th day of May, 2005.

On Behalf of the Administrator,



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Jeannene Fox, Assistant Administrator  
Texas Alcoholic Beverage Commission

TEG/bc

The Honorable Jerry Van Hamme  
Administrative Law Judge  
State Office of Administrative Hearings  
**VIA FAX (214) 956-8611**

Camena Adams  
d/b/a Arandas Club  
**RESPONDENT**  
914 Coventry Ln  
Duncanville, Texas 75137  
**VIA CM/RRR NO. 7000 1530 0003 1929 2808**

Timothy E. Griffith  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division

Dallas District Office

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<b>TEXAS ALCOHOLIC BEVERAGE</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>COMMISSION,</b>	§	
<b>Petitioner</b>	§	
	§	
<b>V,</b>	§	<b>OF</b>
	§	
<b>CAMENA ADAMS D/B/A ARANDAS</b>	§	
<b>CLUB</b>	§	
<b>DALLAS COUNTY, TEXAS</b>	§	
<b>(TABC CASE NO. 608638),</b>	§	
<b>Respondent</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**PROPOSAL FOR DECISION**

The Texas Alcoholic Beverage Commission Staff (Staff) brought this disciplinary action against Camena Adams d/b/a Arandas Club (Respondent), alleging that on or about December 19, 2003, Respondent or its agent, servant, or employee, permitted the possession of alcoholic beverages on Respondent's premises that were not covered by invoice and to which local distributor stamps were not affixed. The Administrative Law Judge (ALJ) finds that Staff has proven the allegations and recommends that Respondent's permits be canceled.

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

No contested issues of notice, jurisdiction, or venue were raised in this proceeding. Therefore, these matters are set out in the findings of fact and conclusions of law without further discussion here.

On February 17, 2005, a public hearing was held before Jerry Van Hamme, ALJ, at the offices of the State Office of Administrative Hearings (SOAH), Dallas, Dallas County, Texas. Staff was represented by Timothy E. Griffith, attorney. Greg McGill and Tyrone McGill appeared *pro*

**EXHIBIT**

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se for Respondent. The record was closed on that date.

## II. LEGAL STANDARDS AND APPLICABLE LAW

A holder of a mixed beverage permit, or any officer, agent, or employee of a holder, may not knowingly possess or permit to be possessed on the licensed premises any alcoholic beverage which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased. TEX. ALCO. BEV. CODE ANN. § 28.06(c). The Texas Alcoholic Beverage Commission (Commission) or administrator shall cancel the permit of any permittee found by the Commission or administrator, after notice and hearing, to have violated this provision. TEX. ALCO. BEV. CODE ANN. § 28.06(d).

"Alcoholic beverage" means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted. TEX. ALCO. BEV. CODE ANN. § 1.04(1).

## III. EVIDENCE

### A. Staff's Evidence and Contentions

Agent Michael Gardner, an investigator for the Commission, testified that he conducted an investigation of Respondent's establishment on December 19, 2003, and found four bottles of alcoholic beverages on the premises which did not have local distributor stamps affixed to them. One of the bottles, a one-liter bottle of DeKuyper Razzmatazz alcoholic beverage, was in a locked cabinet located behind the bar. Respondent's bartender had the key to the locked cabinet. The other three bottles, a .75-liter bottle of Jose Cuervo Especial, one .75-liter bottle of Bacardi Rum, and a one-liter bottle of Smirnoff Vodka, were in a three-drawer file cabinet located in Respondent's office. Only Respondent's employees had keys to the office. None of these bottles had local distributor stamps affixed to them, nor did Respondent have invoices for them. In addition, Agent Gardner testified that if a local distributor mistakenly sent an unstamped bottle to Respondent,

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Respondent was obligated to immediately notify the distributor and have it corrected.

#### **B. Respondent's Evidence and Contentions**

Tyrone McGill testified that his family has operated this establishment for many years, that it has a long history as a well-run business providing a service to the community, and that on the date in question the night manager on duty was not familiar with Respondent's policy of notifying distributors if a bottle was received lacking a local distributor stamp.

#### **IV. ANALYSIS**

As the holder of a mixed beverage permit, Respondent may not knowingly possess, or permit to be possessed, any alcoholic beverage on the licensed premises which is not covered by an invoice from the supplier from whom the alcoholic beverage was purchased. Four bottles on Respondent's premises did not have local distributor stamps affixed to them and were not covered by invoices from suppliers. The presence of these bottles in their respective locations, one in a locked cabinet to which Respondent's employee had the key and three in an office filing cabinet accessible by Respondent's employees alone, supports Staff's contention that the presence of these bottles on Respondent's premises occurred with the knowledge of Respondent's officers, agents, or employees. Accordingly, the evidence on the record is sufficient to show that Respondent knowingly possessed these non-invoiced alcoholic beverages in violation of the above-cited regulation.

#### **V. RECOMMENDATION**

Staff requested that Respondent's permits be canceled. Based on the evidence presented on the record, the ALJ agrees with Staff's request and recommends that Respondent's permits be canceled.

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## VI. FINDINGS OF FACT

1. On September 13, 1971, the Texas Alcoholic Beverage Commission (Commission) issued Mixed Beverage Permit MB-065590 and Mixed Beverage Late Hours Permit LB-065591 to Camena Adams, doing business as Arandas Club, 4611 S. Oakland, Dallas, Dallas County, Texas.
2. On December 19, 2003, a one-liter bottle of DeKuyper Razzmatazz alcoholic beverage was in a locked cabinet behind the bar of Respondent's establishment. The bottle did not have a local distributor stamp affixed to it. Respondent did not have an invoice for this bottle.
3. Respondent's bartender had a key to this locked cabinet.
4. A .75-liter bottle of Jose Cuervo Especial, one .75-liter bottle of Bacardi rum, and a one-liter bottle of Smirnoff Vodka were in a three-drawer file cabinet in Respondent's office. The bottles did not have local distributor stamps affixed to them. Respondent did not have invoices for these alcoholic beverages.
5. Only Respondent's employees had keys to Respondent's office.
6. Respondent knowingly possessed alcoholic beverages on Respondent's premises which were not covered by invoices from the suppliers from whom the alcoholic beverages were purchased.
7. On January 24, 2005, Staff sent a notice of hearing by certified mail, return receipt requested, to Respondent's mailing address as listed in the Commission's records, informing Respondent of the date, time, and place of the hearing, the statutes and rules involved, and the legal authorities under which the hearing was to be held.
8. The hearing on the merits convened February 17, 2005, at the State Office of Administrative Hearings, 6333 Forest Park Rd., Suite 150-A, Dallas, Texas, 75235. Staff was represented by Timothy E. Griffith, attorney. Greg and Tyrone McGill appeared *pro se* for Respondent. The record was closed on that date.

## VII. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. Subchapter B of Chapter 5, §§ 6.01 and 11.61(b)(2).
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.

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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, and 1 TEX. ADMIN. CODE § 155.55.
4. Respondent knowingly possessed, or permitted to be possessed, on the licensed premises alcoholic beverages which were not covered by an invoice from the supplier from whom the alcoholic beverages were purchased. TEX. ALCO. BEV. CODE ANN. § 28.06(c).
5. Based on the foregoing Findings and Conclusions, Respondent's permits should be canceled. TEX. ALCO. BEV. CODE ANN. § 28.06(d).

SIGNED April 13, 2005.



**JERRY VAN HAMME**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**