

DOCKET NO. 610323

IN RE COREY RAYMOND MILLS § BEFORE THE TEXAS
D/B/A JOE'S POOL HALL §
§
PERMIT NO. BG540655 § ALCOHOLIC
§
HARRIS COUNTY, TEXAS §
(SOAH DOCKET NO. 458-04-7277) § BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 19th day of October, 2004, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Timothy J. Horan. The hearing convened on July 23, 2004 and adjourned on July 30, 2004. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on September 17, 2004. The 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.

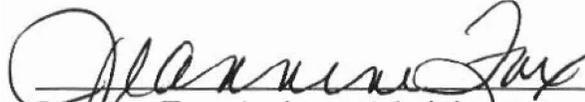
IT IS THEREFORE ORDERED, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1 of the Commission Rules, that Respondent's conduct surety bond in the amount of \$5,000.00 be **FORFEITED**.

This Order will become final and enforceable on NOVEMBER 9, 2004, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties in the manner indicated below.

SIGNED this the 19th day of October, 2004, at Austin, Texas.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

/vr

The Honorable Timothy J. Horan
Administrative Law Judge
State Office of Administrative Hearings
Houston, Texas
VIA FAX (713) 812-1001

Corey Raymond Mills
RESPONDENT
d/b/a Joe's Pool Hall
2900 N. Twin City Hwy.
Nederland, Tx. 77627
CERTIFIED MAIL RRR #7000 1530 0003 1926 6304

Gayle Gordon
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division
Houston District Office

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

SEP 20 2004

September 17, 2004

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

RE: Docket No. 458-04-7277; Corey Raymond Mills d/b/a Joe's Pool Hall

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,



Timothy J. Horan
Administrative Law Judge

TJH/mc
Enclosure

xc: Christopher Gee, Staff Attorney, TABC, 5806 Mesa Dr., Suite 160, Austin, Texas 78731 - VIA REGULAR MAIL
Corey Raymond Mills d/b/a Joe's Pool Hall, 2900 N. Twin City Hwy, Nederland, Texas 77627 - VIA REGULAR MAIL



DOCKET NO. 458-04-7277

TEXAS ALCOHOLIC BEVERAGE COMMISSION	§	BEFORE THE STATE OFFICE
	§	
	§	
V.	§	OF
	§	
COREY RAYMOND MILLS	§	
D/B/A JOE'S POOL HALL	§	
JEFFERSON COUNTY, TEXAS	§	
(TABC CASE NO. 610323)	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (TABC) staff (Petitioner) brought this forfeiture action against Corey Raymond Mills d/b/a Joe's Pool Hall (Respondent). Petitioner sought forfeiture of Respondent's conduct surety bond, alleging Respondent's permits were canceled for cause. For reasons discussed in this proposal, the Administrative Law Judge (ALJ) recommends forfeiture of the conduct surety bond.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The Texas Alcoholic Beverage Commission (TABC) has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. ch. 5 and § 11.11(b)(2) and 16 TEX. ADMIN. CODE § 33.24. 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 findings of fact and conclusions of law, under TEX. GOV'T CODE ANN. ch. 2003. There were no contested issues of jurisdiction in this proceeding.

On July 7, 2004, Petitioner issued its Notice of Hearing to Respondent, Corey Raymond Mills d/b/a Joe's Pool Hall, at Respondent's last known address, 2900 N. Twin City Hwy, Nederland, Texas



77627 via certified mail, return receipt requested. On July 23, 2004, a hearing convened before ALJ Timothy J. Horan at 2020 North Loop West, Suite # 111, Houston, Texas . Petitioner was represented at the hearing by Christopher Gee, TABC Staff Attorney. Respondent did not appear and was not represented at the hearing. After presentation of evidence regarding notice and jurisdiction, the record closed on July 30, 2004.

II. DISCUSSION

Based on the failure of Respondent to appear at the hearing, Petitioner requested that the default provisions of 1 TEX. ADMIN. CODE § 155.55 be invoked. The ALJ finds that Petitioner issued notice in compliance with 1 TEX. ADMIN. CODE §§ 155.27 and 155.55 and TEX. ALCO. BEV. CODE ANN. § 11.63. Pursuant to 1 TEX. ADMIN. CODE § 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.

III. PROPOSED FINDINGS OF FACT

1. Respondent, Corey Raymond Mills d/b/a Joe's Pool Hall, were issued a Wine and Beer Retailer's Permit, BG-540655 and Retail Dealer's On-Premise Late Hours License, BL-540656, on July 25, 2003, by the Texas Alcoholic Beverage Commission (TABC).
2. Respondent's permits were issued for the premises located at 2900 N. Twin City Hwy., Nederland, Jefferson County, Texas.
3. Respondent has posted Texas Alcoholic Beverage Commission Surety Bond Number MB 42278, dated July 16, 2003, in the amount of \$5,000.
4. On March 3, 2004, Respondent's permits were canceled for cause.

5. On July 7, 2004, Petitioner issued its Notice of Hearing to Respondent for a hearing that was held on July 23, 2004.
6. 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.
7. 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 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.
8. On July 23, 2004, a hearing convened before ALJ Timothy J. Horan at 2020 North Loop West, Suite # 111, Houston, Harris County, Texas. Respondent did not appear and was not represented at the hearing.

IV. PROPOSED CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. ch. 5 and § 11.11(b)(2) and 16 TEX. ADMIN. CODE § 33.24.
2. 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 findings of fact and conclusions of law, under TEX. GOV'T CODE ANN. ch. 2003.
3. Based upon Proposed Findings of Fact Nos. 2 - 7, Petitioner issued its notice of hearing in compliance with 1 TEX. ADMIN. CODE §§ 155.27 and 155.55 and TEX. ALCO. BEV. CODE ANN. § 11.63.
4. Based upon Proposed Findings of Fact Nos. 5 - 8, the hearing proceeded on a default basis as authorized by 1 TEX. ADMIN. CODE § 155.55.
5. Based upon Proposed Finding of Fact No. 8 and TEX. ALCO. BEV. CODE ANN. ch. 5 and § 11.11(b)(2) and 16 TEX. ADMIN. CODE § 33.24, Respondent's conduct surety bond should be forfeited.

SIGNED September 17, 2004.



TIMOTHY J. HORAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS