

DOCKET NO. 610402

IN RE INGEORG SUMAN INC.	§	BEFORE THE
D/B/A TAJ MAHAL INDIAN RESTAURANT	§	
PERMIT/LICENSE NOS. BG527579,	§	
FB527580	§	TEXAS ALCOHOLIC
	§	
NUECES COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-05-0025)	§	BEVERAGE COMMISSION

ORDER

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

After proper notice was given, this case was heard by Administrative Law Judge Melissa M. Ricard. The hearing convened on October 22, 2005 and adjourned on October 22, 2005. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on December 22, 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.

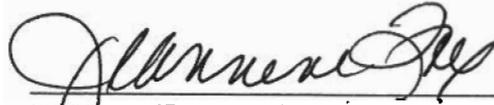
**IT IS THEREFORE ORDERED**, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that the above-referenced permits/license are **CANCELLED**.

This Order will become final and enforceable on February 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 January, 2005.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator  
Texas Alcoholic Beverage Commission

CG/bc

The Honorable Melissa M. Ricard  
Administrative Law Judge  
State Office of Administrative Hearings  
VIA FAX (361) 884-5427

INGEBORG SUMAN INC.  
d/b/a TAJ MAHAL INDIAN RESTAURANT  
RESPONDENT  
601 N. SHORELINE BLVD.  
CORPUS CHRISTI, TX 78401-2323  
VIA CM/RRR NO. 7000 1530 0003 1902 2283

Christopher Gee  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division

Corpus Christi District Office



TABC was represented at the hearing by Dewey Brackin, Staff Attorney. Respondent did not appear and was not represented at the hearing. The hearing concluded and the record closed that same day.

## II. REASONS FOR PROPOSED DECISION

Based on Respondent's failure to appear at the hearing, Staff requested that the default provisions of 1 TEX. ADMIN. CODE (TAC) § 155.55 be invoked. The ALJ finds that Staff issued notice in compliance with 1 TAC §§ 155.27 and 155.55, and § 11.63 of the Code. 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.

Staff requested that the ALJ recommend a penalty in this case of denial of renewal of Respondent's permits or cancellation of the same.

## III. PROPOSED FINDINGS OF FACT

1. Ingeborg Suman Inc. D/B/A Taj Mahal Indian Restaurant (Respondent) holds a Wine and Beer Retailer's Permit BG-527580 and a Food and Beverage Certificate FB-527580, issued by the Texas Alcoholic Beverage Commission (TABC), for the premises located at 601 N. Shoreline Blvd., Corpus Christi, Nueces County, Texas, 78401.
2. On September 13, 2004, the TABC Staff issued a Notice of Hearing to Respondent at its mailing address of record reflected on Respondent's permits: 601 N. Shoreline Blvd., Corpus Christi, Texas, 78401. The Notice was sent by certified mail, return receipt requested. The "green card" was returned. Respondent's licensed premises is no longer in business and no forwarding address was given.
3. 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 statement of the matters asserted.
4. The Notice of Hearing also properly disclosed in at least twelve-point, bold-face type that upon Respondent's failure to appear at the hearing, the factual allegations in the Notice will be deemed as true, and the relief sought may be granted by default.
5. On October 22, 2004, a hearing was convened before ALJ Melissa M. Ricard at the State Office of Administrative Hearings, 1225 Agnes Street, Suite 109, Corpus Christi,

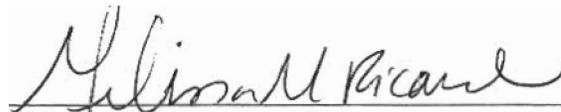
Nueces County Texas. TABC was represented at the hearing by Dewey Brackin, Staff Attorney. Respondent did not appear and was not represented at the hearing.

6. On or about November 4, 2002, Respondent committed the violation of making a false statement or misrepresentation in an original or renewal application.

#### IV. PROPOSED CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this proceeding pursuant to TEX. ALCO. BEV. CODE ANN. §§ 5.32, 5.44, 26.03, and 61.71.
2. The State Office of Administrative Hearings 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.
3. Staff issued the notice of hearing in compliance with 1 TEX. ADMIN. CODE (TAC) §§ 155.27 and 155.55, and TEX. ALCO. BEV. CODE ANN. § 11.63.
4. The hearing proceeded on a default basis as authorized by 1 TAC § 155.55.
5. Based upon Proposed Finding of Fact No. 6, Respondent violated TEX. ALCO. BEV. CODE ANN § 61.71(a)(4).
6. Based upon Proposed Conclusion of Law No. 5, Respondent's permits should be canceled or denied.

**SIGNED December 22, 2004**



MELISSA M. RICARD

ADMINISTRATIVE LAW JUDGE

STATE OFFICE OF ADMINISTRATIVE HEARINGS