

**DOCKET NO. 610628**

IN RE RED LION CLUB INC.	§	BEFORE THE
D/B/A RED LION CLUB	§	
PERMIT/LICENSE NOS. N -503984,	§	
PE503985	§	TEXAS ALCOHOLIC
	§	
DENTON COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-05-2995)	§	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 Brenda Coleman. 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.

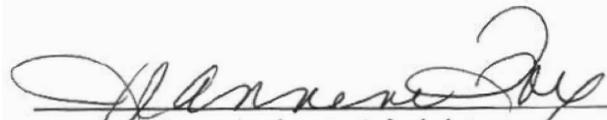
**IT IS THEREFORE ORDERED**, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that Respondent's permits/licenses are hereby **CANCELLED FOR CAUSE**.

**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,



Jeannene Fox, Assistant Administrator  
Texas Alcoholic Beverage Commission

TEG/bc

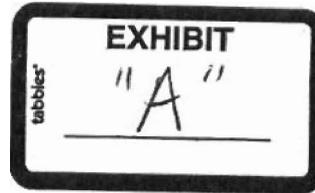
The Honorable Brenda Coleman  
Administrative Law Judge  
State Office of Administrative Hearings  
**VIA FAX (214) 956-8611**

Red Lion Club Inc.  
d/b/a Red Lion Club  
**RESPONDENT**  
PO Box 1741  
Midlothian, Texas 76065  
**VIA CM/RRR NO. 7000 1530 0003 1929 2785**

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

Licensing Division

Dallas District Office



13 2005

SOAH DOCKET NO. 458-05-2995

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner

§ § § § § § § §

BEFORE THE STATE OFFICE

V.

OF

RED LION CLUB INC. D/B/A RED LION CLUB, Respondent

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (TABC) staff (Petitioner) brought this action against Red Lion Club Inc. d/b/a Red Lion Club (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 § 11.61. 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 January 4, 2005, Petitioner issued its notice of hearing, directed to Respondent. The notice of hearing was received by Respondent on January 13, 2005. 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, as required by TEX. GOV'T CODE ANN. § 2001.052. The

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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 February 17, 2005, a hearing convened before SOAH ALJ Brenda Coleman 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 February 17, 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. The ALJ finds that Petitioner issued notice in compliance 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, Respondent's permits should be canceled.

## III. FINDINGS OF FACT

1. Red Lion Club Inc. d/b/a Red Lion Club (Respondent) holds a Private Club Registration Permit, N-503984, and a Beverage Cartage Permit, PE-503985, issued by the Texas Alcoholic Beverage Commission (Petitioner) for the premises located at 1402 FM 407, Lewisville, Denton County, Texas.
2. On January 4, 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 February 17, 2005.
3. The notice of hearing was received by Respondent on January 13, 2005. The return receipt was signed by Pamela Craig.

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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 Brenda Coleman, Administrative Law Judge with the State Office of Administrative Hearings (SOAH), on February 17, 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 June 23, 2004, Respondent failed to provide records data, reports, documents, or other information to Petitioner.

#### IV. CONCLUSIONS OF LAW

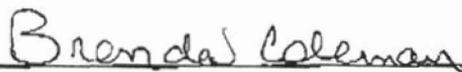
1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. ch. 5 and § 11.61.
2. SOAH has jurisdiction to conduct the hearing in this matter and to issue a proposal for decision containing findings of fact and conclusions of law pursuant to TEX. 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.
5. Respondent violated the Texas Alcoholic Beverage Code. TEX. ALCO. BEV. CODE ANN. §§ 5.32 and 11.61(b)(2).
6. Respondent's permits should be canceled. TEX. ALCO. BEV. CODE ANN. § 11.61 (b)(2).

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SIGNED April 13, 2005.



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BRENDA COLEMAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**SERVICE LIST****AGENCY:** TEXAS ALCOHOLIC BEVERAGE COMMISSION**CASE:** TABC vs. Red Lion Club Inc. D/B/A Red Lion Club**DOCKET NUMBER:** 458-05-2995**AGENCY CASE NO:** 610628

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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**

Red Lion Club Inc.  
D/B/A Red Lion Club  
PO Box 1741  
Midlothian, TX 76065

**RESPONDENT**  
**VIA REGULAR MAIL**

as of April 13, 2005

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge

April 13, 2004

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

**RE:** Docket # 458-05-2995 /TABC Vs. Red Lion Club Inc.,  
D/B/A Red Lion Club

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](http://www.soah.state.tx.us).

Sincerely,

*Brenda Coleman*  
Administrative Law Judge  
Brenda Coleman

BC/sr  
Enclosure

cc: Timothy Griffith, Agency Council for Texas Alcoholic Beverage Commission, Via Fax,  
Red Lion Club Inc., D/B/A Red Lion Club, Respondent, By Mail