



DOCKET NO. 611049

IN RE SHARON LEE J. PUTZ	§	BEFORE THE
D/B/A HALF MOON SALOON	§	
PERMIT/LICENSE NOS. BG311464	§	
	§	TEXAS ALCOHOLIC
	§	
BURLESON COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-05-4881)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 14th day of September, 2005, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Suzan Moon Shinder. The hearing convened on May 25, 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 July 28, 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. Exceptions were filed in this case.

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.

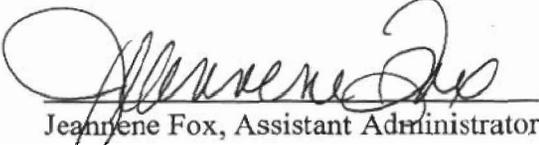
IT IS THEREFORE ORDERED, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that Respondent's permits and/or licenses are **CANCELLED FOR CAUSE**.

This Order will become final and enforceable on October 5, 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 14th day of September, 2005

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

CG/bc

The Honorable Suzan Moon Shinder
Administrative Law Judge
State Office of Administrative Hearings
VIA FAX (254) 750-9380

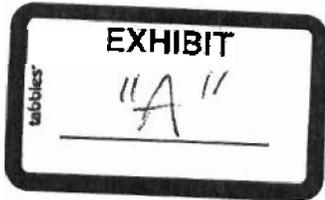
Jim Hering
ATTORNEY FOR RESPONDENT
VIA FAX (254) 297-7301

Sharon Lee J. Putz
d/b/a Half Moon Saloon
RESPONDENT
PO Box 372
Lyons, Texas 77863
VIA CM/RRR NO. 7005 0390 0005 7550 2965

Christopher Gee
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Waco District Office



**SOAH DOCKET NO. 458-05-4881
TABC CASE NO. 611049**

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner	§	BEFORE THE STATE OFFICE
	§	
	§	
V.	§	OF
	§	
SHARON LEE J. PUTZ D/B/A HALF MOON SALOON PERMIT/ LICENSE NOS. BG311464 BURLESON COUNTY, TEXAS Respondent	§	ADMINISTRATIVE HEARINGS
	§	
	§	

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (the Commission) Staff (the Staff) brought this action against Sharon Lee J. Putz d/b/a Half Moon Saloon (the Respondent), alleging: that the Respondent acquired an alcoholic beverage for the purpose of resale from another retail permit or license holder, in violation of Texas Alcoholic Beverage Code (Code) §§ 11.61(b)(2), 61.71(a)(20), 69.09, and 71.05; on or about February 20, 2004, the Respondent was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by his license, in violation of Code §§ 61.71(a)(28) and 25.04(b); and, on or about February 20, 2004, the Respondent was residentially domiciled with or related to a person engaged in selling distilled spirits, so that there is a community of interests which the Commission or administrator finds contrary to the purposes of the Code, in violation of Code §§ 61.71(a)(29) and 25.04(b). The Administrative Law Judge (ALJ) finds that the Staff's allegations are true, and agrees with the Staff's request that the Respondent's permit be canceled.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

On May 25, 2005, a public hearing was held before ALJ Suzan Shinder, at the offices of the State Office of Administrative Hearings (SOAH) at 801 Austin Avenue, Suite 750, in Waco, Texas. The Staff appeared by its attorney Christopher Gee. The Respondent appeared by its permittee,

Sharon Putz, and was represented by its attorney Jim Hering. At the request of both parties, Texas Alcoholic Beverage Commission vs. Roy Gail Hickman d/b/a Quarter Moon Liquors, SOAH Docket No. 458-05-4880, and the instant case, were heard at the same time. After the taking of evidence, the hearing concluded the same day; however, at the request of the parties, the record was left open until June 22, 2005, for written argument. Findings regarding notice, jurisdiction, and venue are set out in the findings of fact and conclusions of law without further discussion here.

II. LEGAL STANDARDS AND APPLICABLE LAW

Pursuant to Code § 11.61 (b)(2), the Commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that the permittee violated a provision of the Code or a rule of the Commission.

Pursuant to Code § 25.04 (b) the provisions of the Code applicable to the cancellation and suspension of a retail dealer's on-premise license also apply to the cancellation and suspension of a wine and beer retailer's permit.

Pursuant to Code § 69.09 no holder of a retail dealer's on-premise license may borrow or acquire from, exchange with, or loan to any other holder of a retail dealer's on-premise license or holder of a retail dealer's off-premise license any alcoholic beverage for the purpose of resale.

Pursuant to Code § 71.05 no holder of a retail dealer's off-premise license may borrow or acquire from, exchange with, or loan to any other holder of a retail dealer's off-premise license or holder of a retail dealer's on-premise license any alcoholic beverage for the purpose of resale.

Pursuant to Code § 61.71 (a) (20),(28), and (29), the Commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee: (20) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages; (28) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person

having an interest in that type of business to have a financial interest in the business authorized by this license, except as permitted by Section 22.06, 24.05, or 102.05 of the Code; and (29) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05 of the Code, so that there is a community of interests which the Commission or administrator finds contrary to the purposes of the Code.¹

III. SUMMARY OF THE EVIDENCE

It was undisputed that the Respondent holds a Wine and Beer Retailer's Permit, issued by the Commission, for the premises known as Half Moon Saloon, located at Park Road 4 North Side, 2.3 miles South FM 60, Somerville, Burleson County, Texas 77879. It was undisputed that Roy Gail Hickman d/b/a Quarter Moon Liquors holds a Package Store Permit and a Beer Retailer's Off-Premise License, issued by the Commission, for the premises known as Quarter Moon Liquors, located at 12019 Rec Road 4, Somerville, Burleson County, Texas 77879. Roy Gail Hickman d/b/a Quarter Moon Liquors' permittee was Roy Gail Hickman, and Respondent's permittee was Sharon Lee J. Putz. Finally, it was undisputed that alcoholic beverages were sold to the ultimate consumer from both permitted premises. The following is a summary of the most credible evidence in this case.

¹ Pursuant to Code § 22.06(a) Except as otherwise provided in Section 102.05 of this code and in Subsection (b) of this section, no person who holds a package store permit or owns an interest in a package store may have a direct or indirect interest in any of the following: (1) a manufacturer's, retail dealer's on-premise, or general, branch, or local distributor's license; (2) a wine and beer retailer's, wine and beer retailer's off-premise, or mixed beverage permit; or (3) the business of any of the permits or licenses listed in Subdivisions (1) and (2) of this subsection. (b) A package store permit and a retail dealer's off-premise license may be issued to the same person.

Pursuant to Code § 24.05(a) No person who holds a wine only package store permit or owns an interest in a wine only package store may have a direct or indirect interest in any of the following: (1) a manufacturer's or general, branch, or local distributor's license; (2) the business of any of the licenses listed in Subdivision (1) of this subsection. (b) A person may hold both a wine only package store permit and a retail dealer's off-premise license. (c) A person may not hold a wine and beer retailer's or wine and beer retailer's off-premise permit at the same location where the person holds a wine only package store permit.

Pursuant to Code § 102.05, in regard to a hotel, multiple interests are authorized: a hotel may hold a package store permit, mixed beverage permit, wine and beer retailer's permit, and retail dealer's license if the businesses are completely segregated from each other.

A. The Respondent acquired an alcoholic beverage for the purpose of resale from another retail permit or license holder, in violation of Code §§ 61.71(a)(20), 69.09, and 71.05.

In April 2004, Commission's Agent Victor Kuykendoll requested invoices for boxes of wine that he found on the Respondent's premises. Ms. Putz told the agent that the invoices were at the Quarter Moon Liquors at that time. Some days later, Ms. Putz produced copies of what she said were invoices for the wine, but the agent observed that the invoices did not cover the wine that he had seen on the Respondent's premises. The invoice account was a Glazier Wholesale invoice for wine to Quarter Moon Liquors. Ms. Putz testified that the three boxes of wine in question were purchased from Glazier Wholesale by her daughter-in-law for Quarter Moon Liquors. Her daughter-in-law was the Quarter Moon Liquors permittee prior to Mr. Hickman. Ms. Putz admitted that she had never purchased wine for the Respondent's premises from Glazier Wholesale, and acknowledged that the boxes of wine for sale on the Respondent's premises were purchased for the Respondent from Quarter Moon Liquors, an unauthorized source.

B. On or about February 20, 2004, the Respondent was residentially domiciled with or related to a person engaged in selling distilled spirits, so that there is a community of interests which the Commission or administrator finds contrary to the purposes of the Code, in violation of Code § 61.71(a)(29).

Agent Kuykendoll testified that when he interviewed Roy Gail Hickman, Mr. Hickman admitted that he lived "primarily" with Ms. Putz, but that he owned another house. At that time, Ms. Putz told the agent that she and Mr. Hickman had been "living together" for more than three years, since Thanksgiving 2003. Ms. Putz testified that both she and Mr. Hickman would have described their (past and current) circumstances as "living together." She testified that she and Mr. Hickman "shared" their two houses, and that, although they were not married, her relationship to Mr. Hickman was analogous to that of a spouse.² She testified that Mr. Hickman needed to maintain the second house because his aging mother lives on his property and his presence there is often required because of his elderly mother's poor health. Ms. Putz testified that she accompanied Mr. Hickman to every application interview for Quarter Moon Liquors. She and Mr. Hickman filled out the permit

²When Mr. Hickman testified, he refused to answer, and asserted his constitutional right not to incriminate himself, when he was asked if he had been living with Ms. Putz.

application together. She also testified that, after the permit was granted, she managed the affairs of Quarter Moon Liquors during the day, while Mr. Hickman worked in the construction trade. Ms. Putz testified that Mr. Hickman's daughter got off the school bus at Quarter Moon Liquors; Mr. Hickman arrived at Quarter Moon Liquors sometime after 4:00 p.m.; and they had supper together and worked together at Quarter Moon Liquors. She testified, "It's all done together in the evening."

Although Ms. Putz testified that she was the "manager" for Quarter Moon Liquors, she denied that she received any salary for her work there.³ She did it for free, "to help (Mr. Hickman)." She testified, "I get benefit out of it because I have a place where people can come and I do notary and accounting and paperwork for them, an appropriate office space for that work. I'm there to help him, but while I'm there I can do these other things, too. I moved my computer there, I enjoy it because in the afternoon I fix dinner. (Mr. Hickman's daughter) Samantha has something to eat when she gets off the bus. (Mr. Hickman) and I have dinner after she gets picked up by her mom. This is out in the country." Both assume the expense of their groceries. "Whoever is in town buys the groceries," according to Ms. Putz, and there is no expectation of repayment for such expenses. She assumes responsibility for Mr. Hickman's daughter if he is not there. Although she tried to emphasize Mr. Hickman's role in running Quarter Moon Liquors, describing him as the "sole owner," she stated that a joint checking account was established for Quarter Moon Liquors in which both she and Mr. Hickman were signatories, because Mr. Hickman was often out of town, and they were anticipating that he would be gone for a month at a time for an "off-shore" construction job.

In April 2004, Commission Agent Victor Kuykendoll was on the Quarter Moon Liquors' premises for a routine inspection. When the agent told employees that he wanted to speak to the Quarter Moon Liquors permittee, the employees responded by calling Ms. Putz to the scene. When Agent Kuykendoll interviewed Mr. Hickman in June 2004, Mr. Hickman told the agent that Ms. Putz was largely responsible for the business done at Quarter Moon Liquors: she made the purchases; she paid the bills; and she kept the books. Mr. Hickman stated that he was in the construction trade, and that he "helped out" periodically at Quarter Moon Liquors after 5:00 p.m.; the remainder of the time,

³ Ms. Putz testified that she and Mr. Hickman "don't have that kind of a relationship," the kind that would require him to pay her a salary. She also testified that because she could not do the physical work required on the Respondent's premises, her work at Quarter Moon Liquors did not keep her from working on the Respondent's premises.

Ms. Putz was in charge. Ms. Putz testified that her "main" computer, used for the Respondent's business, and for the business of Quarter Moon Liquors, was on the Quarter Moon Liquor premises, where she also kept an office for both premises.

C. On or about February 20, 2004, the Respondent was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by this license, in violation of Code § 61.71(a)(28).

According to Agent Kuykendoll, Ms. Putz told him that she owned the land and the building occupied by Quarter Moon Liquors; she did not want the property to "go back to the bank," so she and Mr. Hickman invested money in the business to try to "turn it around." According to Ms. Putz's testimony, she and Mr. Hickman filled out his "Application for a Retailer's Permit or License" for Quarter Moon Liquors (the application) (Staff's Exhibit No. 2) together. Although the application states that Mr. Hickman pays Ms. Putz \$550.00 rent per month for the Quarter Moon Liquors premises, Mr. Hickman actually pays the monthly bank payments on the property in lieu of paying rent. Ms. Putz testified that she needed to keep the premises "open and viable"; and if Mr. Hickman was not able to make the monthly payments on the premises, it would have to be re-leased, and she would "hate for that to happen."

The application listed only Mr. Tom Browning as a person that had or would advance any money, that held any mortgage or encumbrance against the assets of the business, or that had signed or co-signed, guaranteed or financially assisted this business for which Mr. Hickman was seeking a permit and license. Attached to the application was a copy of a promissory note in the amount of \$8,000.00, as evidence of Mr. Browning's loan. Two signatures identify the borrowers as "R.S. Hickman" and "Sharon J. Putz." The note clearly states that the borrowers "jointly and severally promise to (re)pay" Mr. Browning for the loan, plus interest, in monthly installments; and it states that the debt is payable in full, immediately, at the option of any holder, upon the failure to make any payment due within five days of its due date. Ms. Putz testified that this was "start up money" for Quarter Moon Liquors.

In the application, Mr. Hickman listed account number 25-660-9 at the Citizen's Bank at

Somerville, Texas, as the account to be used in connection with Quarter Moon Liquors. Staff's Exhibit No. 3 is a signature card for account number 25-660-9, a personal checking account at the Citizen's State Bank, for a multiple-party account with a right of survivorship in the funds. The account owners are listed as "Roy G. Hickman or Sharon J. Putz." According to the card, either signature is sufficient to make a withdrawal. The initial deposit for this new account, opened January 12, 2004, was \$8,000.00. Ms. Putz testified that she is responsible for writing the checks out of this account to pay the Quarter Moon Liquors' bills.

Ms. Putz testified that she purchased the aforementioned three boxes of wine for the Respondent from Quarter Moon Liquors, an unauthorized source, because there was a big "bike rally" in the area in the spring of 2004, and the Respondent's customers, who were also staying at Ms. Putz's motel, were asking for the wine. She testified that wine normally has to be purchased by the case and there are four five-liter containers in a case. Further, she testified that under normal circumstances, "no more often than the Half Moon has wine drinkers," it would have taken a "very" long time to sell an entire case of wine from the Respondent's premises.⁴ In fact, the wine that was still remaining on the Respondent's premises, during the Commission's agent's investigation, had been purchased by Quarter Moon Liquors from Glazier Wholesale approximately one year prior to the investigation.⁵

IV. ANALYSIS

- A. The Respondent, by its permittee, acquired an alcoholic beverage for the purpose of resale from another retail permit or license holder, in violation of Code §§ 61.71(a)(20), 69.09, and 71.05.**

This allegation was not seriously disputed by Ms. Putz. She admitted that she purchased wine from Quarter Moon Liquors, knowing that it was an unauthorized source, to sell for the

⁴ Ms. Putz clearly inferred that she preferred to buy the wine from an unauthorized source, because she could purchase a smaller quantity of wine from an unauthorized source than she could from an authorized source.

⁵ Ms. Putz testified that when she purchased the wine for Respondent's premises, from Quarter Moon Liquors, her daughter-in-law was the permittee for Quarter Moon Liquors.

Respondent. The Respondent's customers, who were in town for a limited time, were asking for the wine; and it was easier to get it from Quarter Moon Liquors than from an authorized source. Ms. Putz inferred that she preferred to buy the wine from an unauthorized source, because she could purchase a smaller quantity of wine from an unauthorized source than she could from an authorized source. She testified that it would have taken a "very" long time to sell an entire case of wine from the Respondent's premises.⁶

- B. On or about February 20, 2004, the Respondent, by its permittee, was residentially domiciled with or related to a person engaged in selling distilled spirits, so that there is a community of interests which the Commission or administrator finds contrary to the purposes of the Code, in violation of Code § 61.71(a)(29).**

Ms. Putz was (and is) residentially domiciled with Mr. Hickman, the Quarter Moon Liquors' permittee. The community of interests is obvious. She accompanied Mr. Hickman to every license application interview for Quarter Moon Liquors. She and Mr. Hickman filled out the Quarter Moon Liquors' license application together. They borrowed the "start up" money for Quarter Moon Liquors together, and they are both individually liable for the full amount of that loan. They both have a right of survivorship in the funds in the Quarter Moon Liquors' personal checking account. Ms. Putz manages Quarter Moon Liquors for Mr. Hickman without compensation, because they have "that kind of a relationship."

Both Mr. Hickman and Ms. Putz would describe their past and current situation as "living together." They have lived together since Thanksgiving of 2003. They "share" two houses. Ms. Putz described her relationship with Mr. Hickman as analogous to that of a spouse. Ms. Putz testified, "whoever is in town buys the groceries," and there is no expectation of repayment for such expenses. She automatically takes responsibility for his daughter, if he is absent when his daughter gets off the bus. They have a routine: Mr. Hickman's daughter gets off the school bus at Quarter Moon Liquors; Ms. Putz makes sure that the child has something to eat before her mother picks her up; Mr. Hickman gets away from his construction job sometime after 4:00 p.m.; Ms. Putz makes them both supper; and, after they eat supper, they both work at Quarter Moon Liquors. She testified

⁶ See sections A and C under the heading, "Summary of the Evidence."

that, "it's all done together in the evening."

Clearly, Ms. Putz's home has been with Mr. Hickman for several years and the relationship continues to this date. Whether their home is at the Quarter Moon Liquors or in either of their shared houses, the critical relationship, the community of interests, is there. This community of interests is contrary to the purposes of the Code, in that it is prohibited by the Code.

- C. On or about February 20, 2004, the Respondent, by its permittee, was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by this license, in violation of Code § 61.71(a)(28).**

The Respondent benefitted economically as a result of Ms. Putz's prohibited interest in Quarter Moon Liquors, because she could get the wine that the Respondent's customers were requesting, faster, in smaller quantities, and far more conveniently, from Quarter Moon Liquors than she could get it from an authorized source. Because of Ms. Putz's financial interest in Quarter Moon Liquors, she could wait and acquire the wine when the Respondent had a buyer for at least some of the wine. This reduced the Respondent's risk of loss for a product that did not sell well.

Because of the intimate business and personal relationship between Ms. Putz, Mr. Hickman, and Quarter Moon Liquors, when Quarter Moon Liquors benefitted financially, Ms. Putz also benefitted. Ms. Putz preferred the Quarter Moon Liquor's premises for office space for the Respondent as well as other endeavors. Because she worked for free, Mr. Hickman did not have the expense of hiring an employee to run Quarter Moon Liquors. This savings to Quarter Moon Liquors made it more likely that the business would be a success, and it was vital to Ms. Putz for the Quarter Moon Liquors to succeed. She co-signed an \$8,000.00 note for "start up money" for Quarter Moon Liquors, and could have been responsible to repay the entire amount plus interest. She owned the building that was the Quarter Moon Liquor premises, and she needed Mr. Hickman to be able to make the monthly payments on that property (in lieu of paying rent). Both she and Mr. Hickman could write checks on the Quarter Moon Liquors' personal checking account, to which Ms. Putz had a right of survivorship in the funds. The community of interests between the Respondent, Respondent's permittee, and Quarter Moon Liquors is such that it is difficult to find a separation

between them. The connection between the three is so substantial, and Mr. Hickman's role is so tenuous, that it raises the question of whether or not Mr. Hickman was involved in name only, simply to enable Ms. Putz's business pursuits.

The deliberate and ongoing nature of the foregoing violations strongly support the cancellation of the Respondent's permit.

V. FINDINGS OF FACT

1. Sharon Lee J. Putz d/b/a Half Moon Saloon (the Respondent) holds a Wine and Beer Retailer's Permit, issued by the Texas Alcoholic Beverage Commission (the Commission), for the premises known as Half Moon Saloon, located at Park Road 4 North Side, 2.3 miles South FM 60, Somerville, Burleson County, Texas 77879.
2. Roy Gail Hickman d/b/a Quarter Moon Liquors holds a Package Store Permit and a Beer Retailer's Off-Premise License, issued by the Commission, for the premises known as Quarter Moon Liquors, located at 12019 Rec Road 4, Somerville, Burleson County, Texas 77879.
3. Roy Gail Hickman d/b/a Quarter Moon Liquors' permittee was Roy Gail Hickman.
4. The Respondent's permittee was Sharon Lee J. Putz.
5. Alcoholic beverages were sold to the ultimate consumer from both permitted premises.
6. The Staff's Amended Notice of Hearing informed the Respondent of the date, time, and place of the hearing; the factual allegations; the statutes and rules involved; and the legal authorities under which the hearing was to be held.
7. The hearing on the merits convened on May 25, 2005, in the offices of the State Office of Administrative Hearings (SOAH) at 801 Austin Avenue, Suite 750, in Waco, Texas. The Commission appeared by its attorney Christopher Gee. The Respondent appeared by its permittee, Sharon Putz, and was represented by its attorney Jim Hering. After the taking of evidence, the hearing was concluded the same day. However, at the request of the parties, the record was left open until June 22, 2005, for written argument.
8. The Respondent, by its permittee, purchased three boxes of wine from Quarter Moon Liquors for the purpose of resale in the spring of 2004.
9. The ability to purchase wine from Quarter Moon Liquors was an economic benefit to the Respondent, because Ms. Putz could get the wine that the Respondent's customers were

requesting, faster, in smaller quantities, and far more conveniently, from Quarter Moon Liquors than she could get it from an authorized source.

10. Because Ms. Putz could wait and acquire the wine when she had a buyer for at least some of the wine, this reduced the Respondent's risk of loss for a product that did not ordinarily sell quickly from the Respondent's premises.
11. Ms. Putz has been living with the Quarter Moon Liquors' permittee, Roy Hickman, for the last several years. Her relationship with Mr. Hickman is analogous to that of a spouse, and her home has been with Mr. Hickman, even though they have lived in multiple locations. This relationship is ongoing.
12. Ms. Putz managed Quarter Moon Liquors without compensation; therefore, Mr. Hickman did not have to go to the expense of hiring a manager.
13. Ms. Putz used the Quarter Moon Liquors' premises for office space for the Respondent.
14. Ms. Putz co-signed an \$8,000.00 note for "start up" money for Quarter Moon Liquors, and could be made responsible to repay the full amount plus interest.
15. Ms. Putz owns the land and the building that is the Quarter Moon Liquors premises, and she needed Mr. Hickman to make the monthly payments on that property, in lieu of paying rent.
16. Both Ms. Putz and Mr. Hickman could write checks on the Quarter Moon Liquors' personal checking account, to which Ms. Putz had a right of survivorship in the funds.
17. Because of the intimate business and personal relationship between the Respondent's permittee, the Quarter Moon Liquors' permittee, and Quarter Moon Liquors, when Quarter Moon Liquors benefitted financially, the Respondent also benefitted.

VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. (Code) Ch. 5, Subch. B.
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. (Government Code) ch. 2003.
3. Based on Findings of Fact Nos. 6 and 7, proper and timely notice of the hearing was provided as required under the Administrative Procedure Act, Government Code ch. 2001.
4. Based on Findings of Fact Nos. 1-5 and 8-10, in the spring of 2004, the Respondent acquired an alcoholic beverage for the purpose of resale from another retail permit or license holder,

in violation of Code §§ 61.71(a)(20), 69.09, and 71.05.

5. Based on Findings of Fact Nos. 1-5 and 8-17, on February 20, 2004, the Respondent was financially interested in a place of business engaged in the selling of distilled spirits in violation of Code § 61.71(a)(28).
6. Based on Findings of Fact Nos. 1-5 and 11-17, for the last several years, the Respondent's permittee has been residentially domiciled with a person engaged in selling distilled spirits, so that there is a community of interests which the Commission or administrator finds contrary to the purposes of the Code, in violation of Code § 61.71(a)(29).
7. Based on the foregoing findings and conclusions, the Respondent's permit should be canceled.

Signed July 28, 2005.



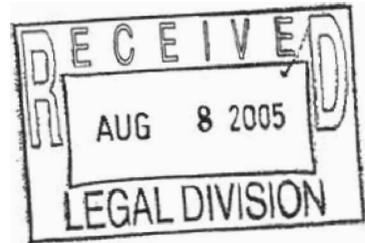
**SUZAN MOON SHINDER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

State Office of Administrative Hearings

8-1



Shelia Bailey Taylor
Chief Administrative Law Judge



July 29, 2005

Alan Steen, Administrator
Texas Alcoholic Beverage Commission
5806 Mesa
Austin, Texas 78731

REGULAR MAIL

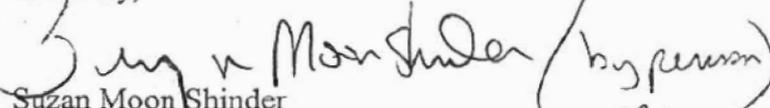
RE: Docket No. 458-05-4881, Half Moon Saloon, TABC Case No. 611049

Dear Mr. Steen:

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,


Suzan Moon Shinder (by person)
Administrative Law Judge
ME

sms/me
Enclosure

xc: Christopher Gee, TABC, 5806 Mesa, Suite 160, Austin, Texas 78731 - **REGULAR MAIL**
Jim Herring, Esquire, 801 Washington Avenue, Suite 800 Waco, Texas 76701-1289- **REGULAR MAIL**