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**DOCKET NO. 615728**

IN RE STUMPY'S ENTERTAINMENT	§	BEFORE THE TEXAS
GROUP INC. D/B/A STUMPY'S	§	
PERMIT/LICENSE NOS. MB486710,	§	
LB555102	§	ALCOHOLIC
	§	
TARRANT COUNTY, TEXAS	§	BEVERAGE COMMISSION

**DISMISSAL ORDER**

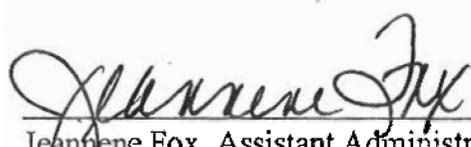
On this day the Texas Alcoholic Beverage Commission moved to dismiss the above styled and numbered cause for the following reason:

Respondent has satisfied its obligations to the Tarrant County Tax Assessor-Collector's Office.

**IT IS THEREFORE ORDERED** that the complaint in Docket No. 615728 is **DISMISSED** without prejudice.

SIGNED on this 31 day of January 2006, at Austin, Texas.

On behalf of the Administrator,

  
 Jeannene Fox, Assistant Administrator  
 Texas Alcoholic Beverage Commission

\bc

STUMPY'S ENTERTAINMENT GROUP INC.  
 D/B/A STUMPY'S  
**RESPONDENT**  
 905 Larpur Lane  
 Fort Worth, TX 76112-2706

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

Licensing Division

Fort Worth District Office  
 Tarrant County Tax Assessor-Collector's Office

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge



December 13, 2005

Alan Steen, Administrator  
Texas Alcoholic Beverage Commission

VIA FACSIMILE 512/206-3498

**RE: Docket No. 458-06-0454; Texas Alcoholic Beverage Commission vs Stumpy's Entertainment Group, Inc. d/b/a Stumpy's (TABC Case No. 615728)**

Dear Mr. Steen:

Enclosed please find a Proposal for Decision in the above-referenced cause for the consideration of the Texas Alcoholic Beverage Commission. Copies of the proposal are being sent to Christopher Gee, attorney for Texas Alcoholic Beverage Commission, and to Stumpy's Entertainment Group, Inc. d/b/a Stumpy's, Respondent. The Staff of the Texas Alcoholic Beverage Commission ( Staff) brought this disciplinary action against Stumpy's Entertainment Group, Inc. d/b/a Stumpy's (Respondent), alleging that Respondent failed to pay a local fee to Tarrant County, Texas. As Respondent did not appear and was not represented at the hearing, the hearing proceeded on a default basis. The Administrative Law Judge (ALJ) deems TABC Staff's allegations to be true and recommends the relief sought, cancellation of Respondent's permit.

Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Commission according to the agency's rules, with a copy to the State Office of Administrative Hearings, located at 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Texas 76116. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,

A handwritten signature in cursive script that reads "Tanya Cooper".

Tanya Cooper  
Administrative Law Judge

TC/dd  
attachments

cc: Stumpy's Entertainment Group, Inc., VIA REGULAR MAIL, Christopher Gee, TABC Staff Attorney VIA FACSIMILE  
Timothy Griffith, TABC Staff Attorney, VIA FACSIMILE 972/547-5093

DOCKET NO. 458-06-0454



TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner

V.

STUMPY'S ENTERTAINMENT GROUP, INC. D/B/A STUMPY'S TARRANT COUNTY, TEXAS Respondent (TABC No. 615728)

§ § § § § § § § §

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (TABC) Staff brought this disciplinary action against Stumpy's Entertainment Group, Inc., d/b/a Stumpy's (Respondent), alleging that Respondent failed to pay a local fee to Tarrant County, Texas. As Respondent did not appear and was not represented at the hearing, the hearing proceeded on a default basis. The Administrative Law Judge (ALJ) deems TABC Staff's allegations to be true and recommends the relief sought, cancellation of Respondent's permit.

I. PROCEDURAL HISTORY

On November 17, 2005, TABC Staff issued a notice of hearing to Respondent at its mailing address of record reflected on Respondent's permits: 905 Larkspur Lane, Fort Worth, Texas 76112-2706. The notice of hearing was sent by certified mail (7005 0390 0005 7550 1845), return receipt requested via the U.S. Postal Service. Although the Postal Service return, receipt "green card" evidencing Respondent's actual receipt was not presented by TABC Staff, the notice of hearing is presumed to have been received<sup>1</sup> on November 21, 2005, at its address of record pursuant to 16 TEX.

<sup>1</sup> 16 TEX. ADMIN. CODE § 155.25 provides that any person filing a document with SOAH in a case shall, on the same date as the document is filed, provide a copy to each party. . . by regular, certified or registered mail.

SOAH DOCKET NO. 458-06-0454

PROPOSAL FOR DECISION

PAGE 2

ADMIN. CODE § 37.3<sup>2</sup>, based upon the Certificate of Service included in TABC Staff's notice of hearing which was filed with SOAH in this matter on November 17, 2005.

A hearing was convened as scheduled before ALJ Tanya Cooper at the State Office of Administrative Hearings, 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Texas, on December 5, 2005. TABC Staff was represented at the hearing by Christopher Gee, a TABC Staff Attorney. Respondent did not appear and was not represented at the hearing. During the hearing, TABC Staff offered evidence to support a default decision against Respondent. The hearing concluded on December 5, 2005, and the record closed on that same day.

## II. ANALYSIS

Based on Respondent's failure to appear at the hearing, TABC Staff requested that the default provisions of 1 TEX. ADMIN. CODE § 155.55 be invoked. TABC Staff's notice of the hearing complies 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 incorporates these allegations into the Findings of Fact below.

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(d) Presumed time of receipt of served documents. The following rebuttable presumptions shall apply regarding the party's receipt of documents served by another party:

...

(3) If a document was sent by regular mail, certified mail, or registered mail, the judge shall presume that it was received no later than three days after mailing.

<sup>2</sup> TABC's Rule 37.3 provides that service of notices of hearing, . . . related to contested cases shall be by certified mail addressed to the licensee/permittee/certificate holder's last known address as reflected in the commission's records. A certificate of service to such address shall be prima facie evidence of adequate service on the licensee/permittee/certificate holder. This rule further requires that licensee/permittee/certificate holders and applicants for licenses, permits, or certificates, and their representatives, shall notify the commission in writing of any change of address within seven days of such change. Licensee/permittees shall file their change of address with the Licenseing Division of the Texas Alcoholic Beverage Commission.

SOAH DOCKET NO. 458-06-0454

PROPOSAL FOR DECISION

PAGE 4

**IV. CONCLUSIONS OF LAW**

1. The Texas Alcoholic Beverage Commission has jurisdiction over this proceeding pursuant to TEX. ALCO. BEV. CODE ANN. chs. 5, 6, and 11.
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. 2001.
3. Based upon Findings of Fact Nos. 2 - 4, Staff 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 Findings of Fact Nos. 2 - 5, the hearing proceeded on a default basis as authorized by 1 TEX. ADMIN. CODE § 155.55.
5. Based upon Finding of Fact No. 6, Respondent violated TEX. ALCO. BEV. CODE ANN § 11.38(b).
6. Based upon Findings of Fact Nos. 1 -6, Conclusion of Law No. 5, and TEX. ALCO. BEV. CODE ANN. §11.38 (b), Respondent's permit should be cancelled.

SIGNED ON DECEMBER 13, 2005.



**TANYA COOPER,  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**6777 Camp Bowie Blvd.  
Ft. Worth, Texas 76116  
Phone (817) 731-1733  
Fax (817) 377-3706**

**SERVICE LIST**

**AGENCY:** TEXAS ALCOHOLIC BEVERAGE COMMISSION  
**CASE:** Stumpy's Entertainment Group Inc. d/b/a Stumpy's  
**DOCKET NUMBER:** 458-06-0454  
**AGENCY CASE NO:** 615728

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Christopher Gee  
Staff Attorney  
Texas Alcoholic Beverage Commission  
Ph: 512/206-3490  
Fax: 512/206-3498

**AGENCY COUNSEL**  
BY FAX

Stumpy's Entertainment Group Inc.  
d/b/a Stumpy's  
905 Larkspur Lane  
Fort Worth, Texas 76012-4808

**RESPONDENT**  
BY MAIL

As of December 14, 2005