

DOCKET NO. 580232

IN RE CHAMPPS ENTERTAINMENT	§	BEFORE THE
OF TEXAS, INC.	§	
D/B/A CHAMPPS ENTERTAINMENT	§	
OF TEXAS, INC.	§	
PERMIT NOS. MB-405942, LB-405943	§	TEXAS ALCOHOLIC
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-99-0904)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 22nd day of November, 1999, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Robert F. Jones, Jr. The hearing convened on July 15, 1999 and the record closed on August 20, 1999. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on October 20, 1999. This Proposal For Decision was properly served on all parties who were given an opportunity to file Exceptions and Replies as part of the record herein. Respondent filed its objections/exceptions on October 29, 1999, Petitioner replied on November 8, 1999, and ALJ Jones responded on November 9, 1999.

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 Permit Nos. MB-405942 & LB-405943 are herein **SUSPENDED**.

IT IS THEREFORE ORDERED that unless the Respondent pays a civil penalty in the amount of \$3,150.00 on or before the 16th day of February, 2000, all rights and privileges under the above described permits will be **SUSPENDED** for a period of twenty-one, (21) days, beginning at 12:01 A.M. on the 23rd day of February, 2000.

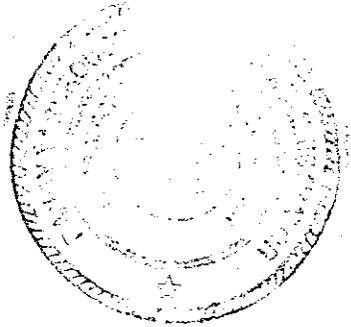
This Order will become final and enforceable on December 13, 1999, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties by facsimile and by mail as

indicated below.

WITNESS MY HAND AND SEAL OF OFFICE on this the 22nd day of November, 1999.

On Behalf of the Administrator,



A handwritten signature in cursive script, reading "Randy Yarbrough", is written over a horizontal line.

Randy Yarbrough, Assistant Administrator
Texas Alcoholic Beverage Commission

TEG/pah

The Honorable Robert F. Jones, Jr.
Administrative Law Judge
State Office of Administrative Hearings
VIA FACSIMILE (817) 626-7448

Shanee Woodbridge, Docket Clerk
State Office of Administrative Hearings
300 West 15th Street, Suite 504
Austin, Texas 78701
VIA FACSIMILE (512) 475-4994

Stephen F. Shaw
ATTORNEY FOR RESPONDENT
8828 N. Stemmons Freeway, Ste. 320
Dallas, Texas 75247
CERTIFIED MAIL/RRR NO. Z 473 039 116

Timothy E. Griffith
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division
Dallas District Office

TEXAS ALCOHOLIC BEVERAGE COMMISSION

CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 580232 REGISTER NUMBER:
NAME: Champps Entertainment of Texas, Inc.

ADDRESS: 4951 Belt Line Road, Addison, Texas 75240-7538
DATE DUE: February 16, 2000
PERMITS OR LICENSES: MB-405942, LB-405943
AMOUNT OF PENALTY: \$3,150.00

Amount remitted \$ _____ Date remitted _____

If you wish to pay a civil penalty rather than have your permits and licenses suspended, you may pay the amount assessed in the attached Order to the Texas Alcoholic Beverage Commission in Austin, Texas. **IF YOU DO NOT PAY THE CIVIL PENALTY ON OR BEFORE THE 16TH DAY OF FEBRUARY, 2000, YOU WILL LOSE THE OPPORTUNITY TO PAY IT, AND THE SUSPENSION SHALL BE IMPOSED ON THE DATE AND TIME STATED IN THE ORDER.**

When paying a civil penalty, please remit the total amount stated and sign your name below. **MAIL THIS FORM ALONG WITH YOUR PAYMENT TO:**

TEXAS ALCOHOLIC BEVERAGE COMMISSION
P.O. Box 13127
Austin, Texas 78711

WE WILL ACCEPT ONLY U.S. POSTAL MONEY ORDERS, CERTIFIED CHECKS, OR CASHIER'S CHECKS. NO PERSONAL CHECKS. NO PARTIAL PAYMENTS.

Your payment will not be accepted unless it is in proper form. Please make certain that the amount paid is the amount of the penalty assessed, that the U.S. Postal Money Order, Certified Check, or Cashier's Check is properly written, and that this form is attached to your payment.

Signature of Responsible Party

Street Address

P.O. Box No.

City

State

Zip Code

Area Code/Telephone No.

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

October 20, 1999

Doyme Bailey
Administrator
Texas Alcoholic Beverage Commission
5806 Mesa Drive, Suite 160
Austin, Texas 78731

CERTIFIED MAIL,
RETURN RECEIPT
Z 283 051 831

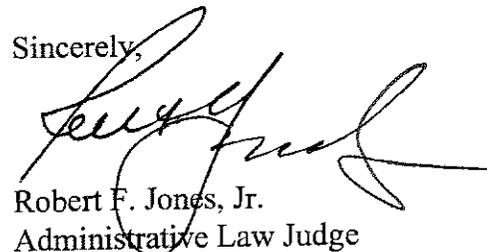
RE: Docket No. 458-99-0904; Texas Alcoholic Beverage Commission vs. Champps Entertainment of Texas, Inc., d/b/a Champps Entertainment of Texas; TABC Case No. 580232

Dear Mr. Bailey:

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 Timothy Griffith, attorney for Texas Alcoholic Beverage Commission, and to Stephen F. Shaw, Attorney for the Respondent. For reasons discussed in the proposal, I recommend that Respondent's Mixed Beverage Permit, MB-405942, and Mixed Beverage Late Hours Permit, MB-405943, should be suspended for a period of twenty-one (21) days, and Respondent should be permitted to pay a fine in lieu of suspension of One Hundred Fifty Dollars (\$150.00) per day of suspension of a total of Three Thousand One Hundred Fifty Dollars (\$3150.00).

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. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,


Robert F. Jones, Jr.
Administrative Law Judge

RJ:ds

Enclosure

xc: Shanee Woodbridge, State Office of Administrative Hearing - **Regular Mail**: Timothy Griffith, Staff Attorney, Texas Alcoholic Beverage Commission - **CMRR# Z 283 051 832**; Stephen F. Shaw, Attorney for Respondent, 8828 N. Stemmons Freeway, Suite 320, Dallas, Texas 75247- **CMRR # Z 283 051 833**

The Vinnedge Building
2100 N. Main Street, Suite 10 ♦ Fort Worth, Texas 76106
(817) 626-0003 Fax (817) 626-7448

5 1999
DIVISION

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE STATE OFFICE
COMMISSION	§	
	§	
	§	
VS.	§	OF
	§	
CHAMPPS ENTERTAINMENT OF TEXAS,	§	
INC. D/B/A CHAMPPS ENTERTAINMENT	§	
OF TEXAS	§	
PERMITS NOS. MB-405942, LB-405943	§	
(TABC CASE NO. 580232)	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (Staff) brought this disciplinary action against Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas alleging (1) that Respondent permitted consumption of alcoholic beverages during prohibited hours, and (2) that Respondent, through its employees, permitted a minor to violate § 106.04, or §106.05, or §§ 106.04 and 106.05, TEX. ALCO. BEV. CODE. Staff requested that Respondent's permit and license be canceled or suspended. This proposal finds that the allegations against Respondent are true in part and not true in part. The Administrative Law Judge (ALJ) recommends suspension of Respondent's permits.

JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

The Texas Alcoholic Beverage Commission (TABC) has jurisdiction over this matter under §§ 11.61(b)(2)&(13), 61.71(a)(18), 105.06, 106.04, and 106.05, TEX. ALCO. BEV. CODE. 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 §2003.021, TEX. GOV'T CODE. There were no contested issues of notice or jurisdiction in this proceeding.

On May 24, 1999, the Staff issued its Notice of Hearing, admitted into evidence as Petitioner's Exhibit Number 1. The notice was directed to Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas by and through its attorney of record. On July 15, 1999, a hearing convened before ALJ Robert F. Jones Jr., SOAH, at 6300 Forest Park Road, Suite B-230, Dallas, Dallas County, Texas. Staff was represented at the hearing by Timothy E. Griffith, TABC Staff Attorney. Respondent was represented at the hearing by Stephen F. Shaw, Attorney at Law. The record was closed on August 20, 1999.



LEGAL STANDARDS AND APPLICABLE LAW

TABC is authorized under § 11.61(b)(2) of the Code to cancel a permit if it is found that the permittee has violated a provision of the Code during the existence of the permit. Under § 1.04(11), "permittee" means "an agent, servant, or employee" of the permittee. A permit may be canceled or suspended for not more than 60 days if it is found the permittee with criminal negligence sold, served, dispensed, or delivered an alcoholic beverage to a minor or with criminal negligence permitted a minor to violate Section 106.04 or 106.05 of this code on the licensed premises. " TEX. ALCO. BEV. CODE § 106.13(a).

A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint. TEX. ALCO. BEV. CODE § 1.08; TEX. PENAL CODE § 6.03(d).

Under § 106.04(a), TEX. ALCO. BEV. CODE., "a minor commits an offense if he consumes an alcoholic beverage." Under § 106.05(a), TEX. ALCO. BEV. CODE. , "a minor commits an offense if he possesses an alcoholic beverage." Under § 61.71(a)(18), TEX. ALCO. BEV. CODE., a retail dealer's on- or off-premise license may be suspended for not more than 60 days or canceled if it is found the licensee . . . consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by [the] code." § 105.06, TEX. ALCO. BEV. CODE., provides:

(a) In this section:

(1) "Extended hours area" means an area subject to the extended hours of sale provided in Section 105.03¹ or 105.05² of this code.

1
§ 105.03, TEX. ALCO. BEV. CODE.
Hours of Sale: Mixed Beverages.

(a) No person may sell or offer for sale mixed beverages at any time not permitted by this section.
(c) In a county having a population of 500,000 or more, according to the last preceding federal census, a holder of a mixed beverage late hours permit may also sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.

2
§ 105.05, TEX. ALCO. BEV. CODE.
Hours of Sale: Beer.

(a) No person may sell, offer for sale, or deliver beer at any time not permitted by this section.

(c) In an extended hours area, a person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time on Sunday between 2:15 a.m. and 12 noon and on any other day between 2:15 a. m. and 7 a.m.

EVIDENCE AND PARTIES' CONTENTIONS

The Staff's Exhibit 2 established that Respondent was issued Mixed Beverage Permit, MB-405942, and Mixed Beverage Late Hours Permit, MB-405943. The permits were issued on January 7, 1997, and have been continuously renewed. The permits were issued to Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas (Champps). Champps' licensed premises is located at 4951 Belt Line Road, Addison, Dallas County, Texas. Staff alleged that on June 18, 1998, (1) Champps, through its employee Keith Hooker, permitted consumption of alcoholic beverage by Joette M. Shaffer during prohibited hours, (2) Champps through its employee, Keith Hooker, served or delivered an alcoholic beverage to a minor, Joette M. Shaffer, and (3) Respondent's employee Keith Hooker consumed alcohol on the licensed premises during prohibited hours.

1. Testimony of C. R. Foster

Officer Charlie R. Foster, Badge Number 056, is a sixteen year police officer, employed by the Addison Police Department. On June 18, 1998, Foster was driving his police vehicle north bound on Quorum Drive, approaching Quorum's intersection with Belt Line Road. Champps is located the intersection of Quorum's and Belt Line Road. The Champps premises was well lighted, which was not unusual. Foster observed three individuals seated at the bar, with several glasses of an amber liquid in front of them on the bar. The Champps premises is so constructed that the bar area was visible to Foster from the street. Foster stopped his vehicle, and approached the premises on foot, stopping in a patio area with a view of the bar. Foster observed two of the three at the bar, a male (later identified as Keith Hooker), and a female (later identified as Joette M. Shaffer), drink from the glasses of amber fluid. The third person at the bar (later identified as Steven Koski) was not observed to be drinking. Foster called for a back-up officer, and was joined by Addison Police officer D. W. Smith, Badge Number 147. Foster knocked on the door to the establishment, and was admitted by Hooker. Hooker examined the glasses with the amber liquid, and smelled the liquid. Hooker opined that the liquid was beer. Hooker identified himself to Foster as manager of Champps, and identified Joette M. Shaffer as an employee of Champps. Shaffer appeared to be youthful to Foster. Shaffer was small and petite, had youthful facial features, and appeared to Foster to be twenty to twenty-one years of age. Foster asked her for identification. Shaffer denied having any identification in

(c) In a county having a population of 500,000 or more, according to the last preceding federal census, a holder of a retail dealer's on-premise late hours license may also sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

her possession, and gave Foster a birth date of September 13, 1976. Foster's investigation, consisting of running a computer check using Shaffer's name, returned information that a Joette M. Shaffer, matching Shaffer's description and address, had a valid Texas drivers license. The Joette M. Shaffer with the Texas driver's license had a birth date of September 13, 1977, which would mean the holder of that driver's license was under 21 years of age on June 18, 1998.

2. Testimony of D. W. Smith

Officer D. W. Smith, Badge Number 147, is employed by the Addison Police Department. On June 18, 1998, while on patrol, Smith was dispatched to assist Officer Foster at Champps. The dispatch informed Smith that Foster had seen people at the Champps bar drinking. Smith arrived at the licensed premises at approximately 2:35 a.m., by his estimate. Smith entered the premises with Foster. Smith observed Foster interact with Hooker and Shaffer, but did not recall any details. Smith explained his presence was for "officer safety" rather than to gather evidence.

3. Testimony of Keith Hooker

On June 18, 1998. Keith Hooker was the bar manager at Champps. Joette M. Shaffer had worked that night as a cash taker, and Steven Koski had worked as a bar-back. Champps closed at 1:00 a.m., which was the usual time for that day of the week, a Tuesday. At approximately 2:30 a.m., Hooker, Shaffer, and Koski were standing in front of the bar entrance, which was some ten to twelve feet from the patio of the restaurant. Hooker stated the three were not drinking alcohol. Hooker stated there were two glasses on the bar by the three. One container was clear glass, and was empty. The other container was clear glass, and contained one or two ounces of an amber fluid. Hooker did not state the composition of the amber liquid. Hooker stated that Foster began pounding on the emergency door that opened onto the patio with his flashlight. Hooker stated Foster told him to "open the [expletive] door, or you're all under arrest." Hooker let Foster in through the emergency door, and relocked it. About five minutes later, Smith arrived and Foster asked Hooker to allow Smith to enter. Hooker denied allowing Shaffer to consume alcohol. Hooker agreed he had expressed ignorance to Foster as to whether it was unlawful to drink after 2:00 a.m. Hooker denied knowing Shaffer was a minor, but agreed he had access to her employee file and could have determined her age. Hooker stated that if Shaffer had asked to drink alcohol he would have asked Shaffer for identification.

4. Testimony concerning Champps' reputation

Foster testified that Champps had been the scene of numerous arrests for intoxication. Foster testified that two arrests for intoxication offenses had been made on July 15, 1999, the morning of the hearing. Smith testified that Champps had been the scene of public intoxication arrests, and calls for assistance from Champps management in cases of confrontations. Hooker testified that personnel at Champps

dealing with the sale of alcohol were seller/server trained and certified. Hooker also testified that the Champps employees were trained to call the police in case of trouble with intoxicated persons.

ANALYSIS

1. Consumption of alcohol after hours

Under § 61.71(a)(18), TEX. ALCO. BEV. CODE., a license may be suspended or canceled if the licensee, or its employees, consume "an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by [the] code." § 105.06(c), TEX. ALCO. BEV. CODE., makes consumption of an alcoholic beverage in a public place between 2:15 a.m. and 12 noon on Sunday and on any other day between 2:15 a. m. and 7 a.m an offense. TABC relies upon the testimony of Foster to prove that Hooker and Shaffer were drinking alcohol, after 2:15 a.m., and in a public place. Champps relies on Hooker's testimony to prove Hooker and Shaffer were not drinking at all, that Hooker and Shaffer were not drinking alcohol, and at 2:38 a.m. Champps was not a public place.

The resolution of whether Hooker and Shaffer were drinking depends upon the credibility of the principal witnesses for each party. Both Foster and Hooker place the three Champps employees at or near the bar, both place Foster on the patio with a clear view of the bar area, both agree that there were two clear glasses on the bar, and both agree that one glass had a amber colored liquid within. Foster says that both glasses had amber colored liquid; Hooker denies this. Foster says that he saw Hooker and Shaffer drink; Hooker denies this. Foster says he called for a back-up officer, and in company with Officer Smith was let into Champps through the front door by Hooker. Hooker says Foster demanded entry through the patio emergency exit, and that Smith was let in later. Smith testified that he entered with Foster through the front door to Champps which was opened by Hooker. The ALJ finds that Foster's testimony was corroborated by Smith, and by Hooker in most details. Hooker's description of Foster's alleged threats and entry into Champps are at odds with Foster's demeanor as observed by the ALJ. Hooker's description of Foster beating on windows, cursing, and threatening Hooker seem more imagined than real. The ALJ finds that Foster observed Hooker and Shaffer drinking an amber colored liquid from glasses at the bar of Champps at approximately 2:38 a.m. on June 18, 1998.

Foster identified the amber liquid as beer by smell and appearance. Although Hooker denied drinking or serving alcoholic beverages to himself or Shaffer, he testified that one glass had an amber liquid in it, but did not identify the liquid as non-alcoholic beer, a soft drink, or colored water. The ALJ infers that if the liquid had not been beer, Hooker would have readily identified the liquid as not being beer. The ALJ finds that Hooker and Shaffer were drinking beer, an alcoholic beverage, from glasses at the bar of Champps at approximately 2:38 a.m. on June 18, 1998.

The Alcoholic Beverage Code does not define a "public place." Tex. Penal Code § 1.07(a)(40), states 'public place' means "any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops." The description given by both Foster and Hooker of the bar area of Champps and Hooker's description of Champps as a sports bar restaurant, support the finding that Champps is a "place to which the public or a substantial group of the public has access." The fact that Champps was closed at the time Hooker and Shaffer were drinking does not change the character of Champps as a public place. A public place need not be accessible at all times. The ALJ finds that Hooker and Shaffer were drinking beer, an alcoholic beverage, from glasses at the bar of Champps, a public place, at approximately 2:38 a.m. on June 18, 1998.

2. Consumption of alcohol by a minor

Under the analysis, above, Joette Shaffer, the alleged minor, possessed and consumed an alcoholic beverage. The issues remaining are (1) whether Joette Shaffer was proved to be a minor, and, if so, (2) whether Champps permitted Shaffer to violate the code with criminal negligence.

a. Is Shaffer a minor ?

Shaffer appeared to be youthful to Foster. Shaffer was small and petite, had youthful facial features, and appeared to Foster to be twenty to twenty-one years of age. Hooker testified that if Shaffer had asked to drink alcohol he would have asked Shaffer for identification. Foster asked Shaffer for identification. Shaffer denied having any identification in her possession, and gave Foster a birth date of September 13, 1976. Foster's investigation, consisting of running a computer check using Shaffer's name, returned information that a Joette M. Shaffer, matching Shaffer's description and address, had a valid Texas drivers license. The Joette M. Shaffer with the Texas driver's license had a birth date of September 13, 1977. Hooker denied knowing Shaffer was a minor, but agreed he had access to her employee file and could have determined her age. Champps objected at the hearing and argued that the information used by Foster to identify Shaffer on the night of June 18, 1998, is hearsay if offered to prove Shaffer's age on that date. The ALJ agrees. The information was sufficient to allow Officer Foster to develop probable cause that Shaffer was under age prior to issuing a citation or making arrests. However, Shaffer's age is a material fact that has to be proved through reliable sources, subject to exceptions to the hearsay rule, or by direct evidence. The ALJ cannot determine from competent evidence that Shaffer was a minor.

RECOMMENDATION

Under § 61.71(a)(18), TEX. ALCO. BEV. CODE., Champps is subject to suspension of its permits for not more than 60 days or cancellation of its permits. Under § 11.64(a),

when the commission or administrator is authorized to suspend a permit or license under this code, the commission or administrator shall give the permittee or licensee the opportunity to pay a civil penalty rather than have the permit or license suspended, In cases in which a civil penalty is assessed, the commission or administrator shall determine the amount of the penalty and in doing so shall consider the economic impact a suspension would have on the permittee or licensee. The amount of the civil penalty may not be less than \$150 or more than \$25,000 for each day the permit or license was to have been suspended.

The ALJ recommends that Mixed Beverage Permit, MB-405942, and Mixed Beverage Late Hours Permit, MB-405943 held by Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas(Champps), located at 4951 Belt Line Road, Addison, Dallas County, Texas, be suspended, for a period of twenty-one (21) days, and Champps be permitted to pay a fine in lieu of suspension of One Hundred Fifty Dollars per day of suspension or a total of \$3150.00. The basis for these recommendations are as follows:

(a) Respondent holds a mixed drink permit and the sale of alcoholic beverages likely constitutes a major source of the Respondent's business;

(b) Respondent's employees were engaged in drinking after hours; and

(c) Respondent's record and reputation shows public intoxication arrests, and calls for assistance from Champps management in cases of confrontations. Champps employees were trained to call the police in case of trouble with intoxicated persons.

(d) aggravating or ameliorating circumstances are

(i) the violation was caused by intentional conduct of the employees of the Respondent;

(ii) the violation did not cause serious bodily injury or death of another; and/or

(iv) the character and nature of the Respondent's operation is reasonably calculated to avoid future violations of the Alcoholic Beverage Code and rules of the commission, as personnel at Champps dealing with the sale of alcohol are

seller/server trained and certified.

Any other requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly set forth below, should be denied.

FINDINGS OF FACT

1. Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas(Champps) holds Mixed Beverage Permit, MB-405942, and Mixed Beverage Late Hours Permit, MB-405943, issued on January 7, 1997.
2. Champps' licensed premises are located at 4951 Belt Line Road, Addison, Dallas County, Texas.
3. On June 18, 1998, Keith Hooker and Joette Shaffer, both employees of Champps, were drinking beer, an alcoholic beverage, from glasses at the bar of Champps, a public place, at approximately 2:38 a.m.
4. On May 24, 1999, the Staff issued its Notice of Hearing. The notice was directed to Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas by and through its attorney of record. The Notice was received on May 25, 1999.
5. On July 15, 1999, a hearing convened before ALJ Robert F. Jones Jr., SOAH, at 6300 Forest Park Road, Suite B-230, Dallas, Dallas County, Texas. Staff was represented at the hearing by Timothy E. Griffith, TABC Staff Attorney. Respondent was represented at the hearing by Stephen F. Shaw, Attorney at Law. The record was closed on August 20, 1999.

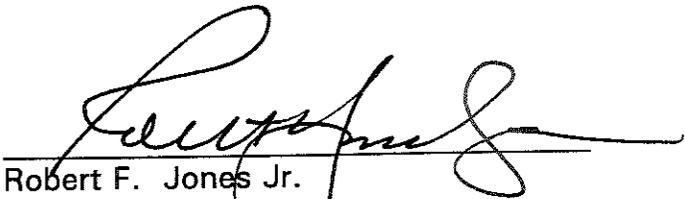
CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter under §§ 11.61(b)(2) and 61.71(a)(18), TEX. ALCO. BEV. CODE.
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 findings of fact and conclusions of law, pursuant to §2003.021, TEX. GOV'T CODE.
3. Respondent received notice of the proceedings and hearing, pursuant to § 2001.052, TEX. GOV'T CODE., and 1 TEX. ADMIN. CODE §§ 155.25(d)(3)

and 155.27.

4. Based on Findings of Fact Nos. 1, 2, and 3, Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas violated §§ 11.61(b)(2) and 61.71(a)(18), TEX. ALCO. BEV. CODE.
5. Based on Conclusion of Law No. 4, Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas Mixed Beverage Permit, MB-405942, and Mixed Beverage Late Hours Permit, MB-405943, should be suspended, for a period of twenty-one (21) days, and Champps Entertainment of Texas, Inc. d/b/a Champps Entertainment of Texas should be permitted to pay a fine in lieu of suspension of One Hundred Fifty Dollars per day of suspension or a total of \$3150.00.

SIGNED this 19th day of October, 1999.


Robert F. Jones Jr.
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS