

DOCKET NO. 583587

IN RE AHMAD, INC.	§	BEFORE THE
D/B/A FAST STOP MARKET	§	
PERMIT NO. Q-252748	§	
LICENSE NO. BF-304981	§	TEXAS ALCOHOLIC
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-99-1571)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 7th day of December, 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 October 5, 1999 and adjourned the same day. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on November 5, 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. 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 Permit No. Q-252748 and License No. BF-304981 is hereby **CANCELED FOR CAUSE**.

This Order will become final and enforceable on December 28, 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 7th day of December, 1999.

On Behalf of the Administrator,



Randy Yarbrough

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

Ahmad, Inc.
d/b/a Fast Stop Market
RESPONDENT
7230 Gaston
Dallas, Texas 75214
CERTIFIED MAIL/RRR NO. Z 473 039 156

Timothy E. Griffith
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division
Dallas District Office

Z 473 039 156

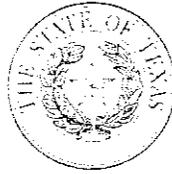
US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to	<i>Ahmad, Inc</i>
Street & Number	<i>Dallas</i>
Post Office, State, & ZIP Code	<i>DA # 583587</i>
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	<i>12/7/99</i>

PS Form 3800 April 1995

F.ORD

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

November 5, 1999

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

VIA CERTIFIED MAIL Z 283 051 854
Return Receipt Requested

RE: Docket No. 458-98-1571; Texas Alcoholic Beverage Commission vs. Ahmad, Inc. d/b/a Fast Stop Market (TABC Case No. 583587)

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 Ahmad, Inc. Respondent, d/b/a Fast Stop Market. For reasons discussed in the proposal, I recommend Respondent's Wine Only Package Store Permit Q-252748 and Beer Retainer's Off-Premise License BF-304981, should be canceled. Tex. Alco. Bev. Code § 11.62(b)(2) & 61.73(b)..

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 Hearings, Austin, Texas - **Regular Mail**
Timothy Griffith, Staff Attorney, Texas Alcoholic Beverage Commission - **Regular Mail**; Ahmad, Inc. d/b/a Fast Stop Market, 7230 Gaston, Dallas, Texas 75214 - **CERTIFIED MAIL NO. Z 283 051 855. RETURN RECEIPT REQUESTED**

NOV - 9 1999

LEGAL DIVISION

DOCKET NO. 458-99-1571

TEXAS ALCOHOLIC BEVERAGE COMMISSION	§	BEFORE THE STATE OFFICE
	§	
	§	
	§	
VS.	§	OF
	§	
AHMAD INC. D/B/A	§	
FAST STOP MARKET	§	
PERMIT NO. Q-252748	§	
LICENSE NO. BF-304981	§	
DALLAS COUNTY, TEXAS	§	
(TABC CASE NO. 583587)	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Alcoholic Beverage Commission (Staff) brought this disciplinary action against Ahmad Inc. d/b/a Fast Stop Market (Respondent). Staff sought cancellation of Respondent's permits, alleging Respondent on twenty-nine occasions gave a check, as maker, as full or partial payment for beer or the containers or packages in which it is contained or packaged, which were each dishonored when presented for payment. This proposal finds that the allegations against Respondent are true. The Administrative Law Judge (ALJ) recommends cancellation of Respondent's permits.

PROCEDURAL HISTORY

On October 5, 1999, a public hearing was convened before Robert F. Jones Jr., Administrative Law Judge (ALJ), in the State Office of Administrative Hearings at 6300 Forest Park Road, Suite B-230, Dallas, Dallas County, Texas. Staff was represented by Timothy E. Griffith, an attorney with the Commission's Legal Division. Respondent failed to appear and was not represented by an attorney. Staff moved for judgment, and the motion was granted.

REASONS FOR DECISION

Because Respondent failed to appear at the hearing, and Staff proved that Respondent had received appropriate notice of the hearing, jurisdiction, notice, the violation and recommended punishment are addressed in the Findings of Fact and Conclusions of Law without discussion.

LEGAL STANDARDS AND APPLICABLE LAW

Under TEX. ALCO. BEV. CODE § 11.61(b)(2) (Vernon 1999)(the Code) the Texas Alcoholic Beverage Commission (TABC) may cancel a permit if the permittee violates a provision of the Code. TABC is authorized under § 61.73(b) of the Code to

cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee gave a check, as maker or endorser, or a draft, as drawer or endorser, as full or partial payment for beer or the containers or packages in which it is contained or packaged, which is dishonored when presented for payment.

FINDINGS OF FACT

1. Ahmad Inc. d/b/a Fast Stop Market (Respondent) was issued Wine Only Package Store Permit Q-252748, and Beer Retailer's Off-Premise License BF-304981, on February 16, 1995.
2. Respondent's licensed premises were located at 7230 Gaston Road, Dallas, Dallas County, Texas.
3. Respondent gave check number 1063, dated October 2, 1998, in the amount of \$4,771.25, drawn on First State Bank, Mesquite, and payable to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on October 2, 1998. The check was dishonored by the drawee bank on October 6, 1998, because of insufficient funds.
4. Respondent gave check number 8130, dated January 7, 1999, in the amount of \$1801.75, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on January 7, 1999. The check was dishonored by the drawee bank on January 11, 1998, because of insufficient funds.
5. Respondent gave check number 8189, dated February 9, 1999, in the amount of \$2,096.05, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on February 9, 1999. The check was dishonored by the drawee bank on February 10, because of insufficient funds.
6. Respondent gave check number 8197, dated February 12, 1999, in the amount of \$2,134.30, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on February 12, 1999. The check was dishonored by the drawee bank on February 16, 1999, because of insufficient funds.

7. Respondent gave check number 8202, dated February 16, 1999, in the amount of \$2,845.15, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on February 16, 1999. The check was dishonored by the drawee bank on February 17, 1999, because of insufficient funds.
8. Respondent gave check number 8233, dated March 3, 1999, in the amount of \$2,957.00, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on March 3, 1999. The check was dishonored by the drawee bank on March 4, 1999, because of insufficient funds.
9. Respondent gave check number 8253, dated March 12, 1999, in the amount of \$4,449.37, drawn on First State Bank, Mesquite, and payable to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on March 12, 1999. The check was dishonored by the drawee bank on March 17, 1999, because of insufficient funds.
10. Respondent gave check number 8260, dated March 16, 1999, in the amount of \$2,705.60, drawn on First State Bank, Mesquite, and payable to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on March 16, 1999. The check was dishonored by the drawee bank on March 19, 1999, because of insufficient funds.
11. Respondent gave check number 8273, dated March 23, 1999, in the amount of \$2,501.20, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on March 23, 1999. The check was dishonored by the drawee bank on April 1, 1999, because of insufficient funds.
12. Respondent gave check number 8276, dated March 23, 1999, in the amount of \$3,689.79, drawn on First State Bank, Mesquite, and payable to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on March 23, 1999. The check was dishonored by the drawee bank on April 1, 1999, because of insufficient funds.
13. Respondent gave check number 8297, dated April 6, 1999, in the amount of \$2,498.52, drawn on First State Bank, Mesquite, and payable

to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 6, 1999. The check was dishonored by the drawee bank on April 7, 1999, because of insufficient funds.

14. Respondent gave check number 8299, dated April 6, 1999, in the amount of \$2,832.65, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 6, 1999. The check was dishonored by the drawee bank on April 15, 1999, because of insufficient funds.
15. Respondent gave a check dated April 7, 1999, in the amount of \$260.00, drawn on First State Bank, Mesquite, and payable to Willow Distributors, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on May 7, 1999. The check was dishonored by the drawee bank on May 17, 1999, because of insufficient funds.
16. Respondent gave check number 8304, dated April 8, 1999, in the amount of \$2,900.05, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 8, 1999. The check was dishonored by the drawee bank on April 12, 1999, because of insufficient funds.
17. Respondent gave a check dated April 13, 1999, in the amount of \$2,664.48, drawn on First State Bank, Mesquite, and payable to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 13, 1999. The check was dishonored by the drawee bank on April 15, 1999, because of insufficient funds.
18. Respondent gave check number 8324, dated April 15, 1999, in the amount of \$3,508.25, drawn on First State Bank, Mesquite, and payable to Willow Distributors, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 16, 1999. The check was dishonored by the drawee bank on April 28, 1999, because of insufficient funds.
19. Respondent gave check number 8327, dated April 20, 1999, in the amount of \$2,097.80, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 20, 1999. The check was dishonored

by the drawee bank on April 21, 1999, because of insufficient funds.

20. Respondent gave a check dated April 20, 1999, in the amount of \$1,916.50, drawn on First State Bank, Mesquite, and payable to Willow Distributors, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 20, 1999. The check was dishonored by the drawee bank on May 17, 1999, because of insufficient funds.
21. Respondent gave a check dated April 23, 1999, in the amount of \$2,765.70, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 23, 1999. The check was dishonored by the drawee bank on April 26, 1999, because of insufficient funds.
22. Respondent gave a check dated April 23, 1999, in the amount of \$2,734.65, drawn on First State Bank, Mesquite, and payable to Willow Distributors, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 23, 1999. The check was dishonored by the drawee bank on May 4, 1999, because of insufficient funds.
23. Respondent gave a check dated April 27, 1999, in the amount of \$3,110.40, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 27, 1999. The check was dishonored by the drawee bank on April 28, 1999, because of insufficient funds.
24. Respondent gave a check dated April 27, 1999, in the amount of \$2,844.65, drawn on First State Bank, Mesquite, and payable to Willow Distributors, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 27, 1999. The check was dishonored by the drawee bank on May 6, 1999, because of insufficient funds.
25. Respondent gave a check dated April 30, 1999, in the amount of \$2,224.55, drawn on First State Bank, Mesquite, and payable to Miller of Dallas, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 30, 1999. The check was dishonored by the drawee bank on May 4, 1999, because of insufficient funds.
26. Respondent gave a check dated April 30, 1999, in the amount of

\$3,520.70, drawn on First State Bank, Mesquite, and payable to Willow Distributors, Inc. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on April 30, 1999. The check was dishonored by the drawee bank on May 12, 1999, because of insufficient funds.

27. Respondent gave check number 8433, dated June 18, 1999, in the amount of \$3,249.47, drawn on First State Bank, Mesquite, and payable to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on June 18, 1999. The check was dishonored by the drawee bank on June 22, 1999, because of insufficient funds.
28. Respondent gave check number 8441, dated June 22, 1999, in the amount of \$3,448.18, drawn on First State Bank, Mesquite, and payable to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on June 22, 1999. The check was dishonored by the drawee bank on June 23, 1999, because of insufficient funds.
29. Respondent gave check number 8452, dated June 25, 1999, in the amount of \$4,190.49, drawn on First State Bank, Mesquite, and payable to Ben E. Keith, Co. The check was given in payment of beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on June 25, 1999. The check was dishonored by the drawee bank on June 28, 1999, because of insufficient funds.
30. On August 17, 1999, Staff issued its Notice of Hearing. The notice was directed to Ahmad Inc. d/b/a Fast Stop Market at 7230 Gaston, Dallas, Dallas County, Texas. According to the certificate of service, the notice was served by certified mail, return receipt requested. The certified mail return receipt was signed on August 20, 1999.
31. On October 5, 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 failed to appear.

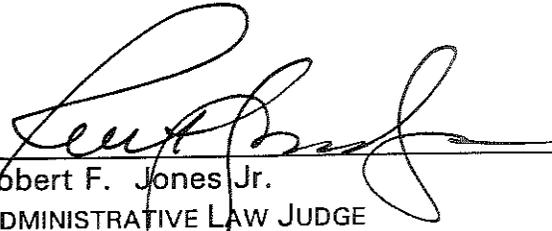
CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN § 61.73(b)(Vernon 1999).
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 TEX. GOV'T CODE ANN § 2003.021 (Vernon 1999).

3. Respondent received notice of the proceedings and hearing, pursuant to TEX. GOV'T CODE. § 2001.051, and 1 TEX. ADMIN. CODE §§ 155.25(d)(3) and 155.27.
4. Based on Findings of Fact Nos. 1 - 29, Respondent's Wine Only Package Store Permit Q-252748, and Beer Retailer's Off-Premise License BF-304981, should be canceled. TEX. ALCO. BEV. CODE §§ 11.62(b)(2) & 61.73(b).

SIGNED this 5th day of November, 1999.


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