

DOCKET NO. 591684

IN RE MAKAS MANAGEMENT INC.	§	BEFORE THE
D/B/A BOBBIE'S SUPERETTE	§	
PERMIT NO. BQ320674	§	
	§	TEXAS ALCOHOLIC
	§	
JEFFERSON COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-01-1147)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 11th day of April, 2001, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Timothy J. Horan. The hearing convened and adjourned on January 25, 2001. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on March 16, 2001. 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. BQ320674 is herein **SUSPENDED**.

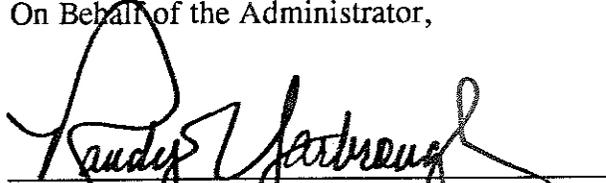
IT IS FURTHER ORDERED that unless the Respondent pays a civil penalty in the amount of \$6,750.00 on or before the 11th day of July, 2001, all rights and privileges under the above described permit will be **SUSPENDED** for a period of forty-five (45) days, beginning at 12:01 A.M. on the 18th day of July, 2001.

This Order will become final and enforceable on May 2, 2001, 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 11th day of April, 2001.

On Behalf of the Administrator,



Randy Yarbrough, Assistant Administrator
Texas Alcoholic Beverage Commission

CB/bc

The Honorable Timothy J. Horan
Administrative Law Judge
State Office of Administrative Hearings
VIA FACSIMILE (713) 812-1001

Makas Management Inc.
d/b/a Bobbie's Superette
3180 Merriman
Port Neches, Texas 77651-6003
RESPONDENT
CERTIFIED MAIL NO. 7000 1530 0003 1927 2770

Christopher Burnett
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division
Beaumont District Office

**TEXAS ALCOHOLIC BEVERAGE COMMISSION
CIVIL PENALTY REMITTANCE**

DOCKET NUMBER: 591684

REGISTER NUMBER:

NAME: MAKAS MANAGEMENT INC. TRADENAME: BOBBIE'S SUPERETTE

ADDRESS: 2423 Nederland Avenue, Nederland, Texas 77627-6047

DATE DUE: July 11, 2001

PERMITS OR LICENSES: BQ320674

AMOUNT OF PENALTY: \$6,750.00

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 ____TH DAY OF JULY 11, 2001, 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.

DOCKET NO. 458-01-1147

TEXAS ALCOHOLIC
BEVERAGE COMMISSION

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BEFORE THE STATE OFFICE

V.

OF

MAKAS MANAGEMENT INC.
D/B/A BOBBIE'S SUPERETTE
PERMIT NO. BQ-320674
JEFFERSON COUNTY, TEXAS
(TABC CASE NO. 591684)

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Alcoholic Beverage Commission brought this enforcement action against Makas Management Inc. d/b/a/ Bobbie's Superette (Respondent) because the Respondent, its agent, employee, or servant, sold, with criminal negligence, an alcoholic beverage to a minor on the licensed premises. The Respondent did not attend the January 25, 2001 hearing. This Proposal for Decision finds the allegation proven and agrees with Staff's recommended sanction of a forty-five day suspension of the license or, in lieu of suspension, payment of a \$6,750.00 penalty.

I. REASONS FOR PROPOSED DECISION

There were no contested issues of notice or jurisdiction in this proceeding. Because the Respondent did not appear for the hearing, Staff requested a default decision, pursuant to 1 TEX. ADMIN. CODE §155.55. The notice of hearing contained a statement of the matters asserted against Respondent; the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; and a reference to the statutes and rules involved. Additionally, it contained the language in a 10-point type required by the State Office of Administrative Hearings default rule. Agreeing with Staff that such action is appropriate, the ALJ recommends the following Findings of Fact and Conclusions of Law.

II. FINDINGS OF FACT

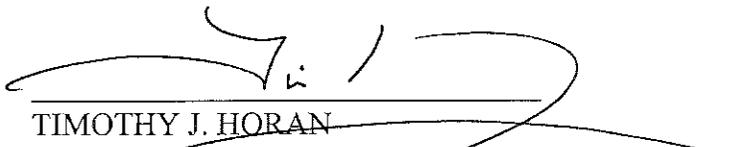
1. Makas Management Inc. d/b/a/ Bobbie's Superette, Jefferson County, Texas, holds License No. BQ-320674, issued by the Texas Alcoholic Beverage Commission (the Commission).
2. On December 4, 2000, the Commission's Staff sent notice of the hearing to be held January 25, 2001, based on an alleged violation of the TEXAS ALCOHOLIC BEVERAGE CODE (Code) to the Respondent by certified mail, return receipt requested.
3. The notice was sent to the Respondent's address of record, 3180 Merriman, Port Neches, Texas, 77651-6003. The receipt was signed and returned to Staff.

4. The hearing on the merits convened January 25, 2001, at the offices of the State Office of Administrative Hearings, 2020 North Loop West, Suite 111, Houston, Texas. The Commission's Staff was represented by attorney, Christopher Burnett. The Respondent did not appear and was not represented at the hearing. The record closed on the same day.
5. On or about September 8, 2000, the Respondent, its agent, servant, or employee with criminal negligence, sold an alcoholic beverage to a minor.

III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Code §§6.01, 61.71, and 61.73.
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. Notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051 and 2001.052.
4. Based upon Finding of Fact No. 5 the Respondent violated Code § 106.03(a).
5. Based on the foregoing findings and conclusions, a forty-five day suspension of Permit No. BQ-320674 is warranted.
6. Pursuant to Code §11.64, the Respondent should be allowed to pay a \$6,750.00 civil penalty in lieu of suspension of its license.

SIGNED this 16 day of March, 2001.


TIMOTHY J. HORAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS