

**DOCKET NO. 595890**

IN RE AAASK INC.  
D/B/A STOP AND SHOP  
LICENSE NO. BF462516

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BEFORE THE  
  
TEXAS ALCOHOLIC  
  
BEVERAGE COMMISSION

TARRANT COUNTY, TEXAS  
(SOAH DOCKET NO. 458-02-2481)

**O R D E R**

**CAME ON FOR CONSIDERATION** this 18th day of July 2002, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Tanya Cooper. The hearing convened and adjourned on June 12, 2002. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on June 25, 2002. 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. 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 License No. BF462516 is hereby **SUSPENDED** for ten (10) days.

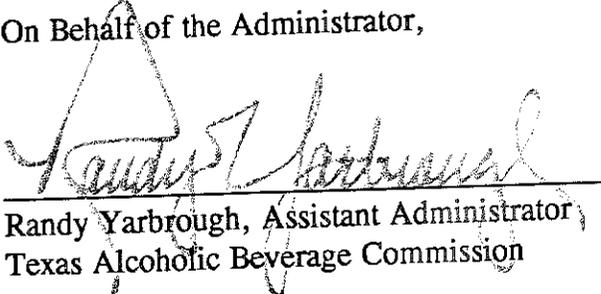
**IT IS FURTHER ORDERED** that unless the Respondent pays a civil penalty in the amount of \$1,500.00 on or before the 18th day of September, 2002, all rights and privileges under the above described license will be **SUSPENDED** for a period of ten (10) days, beginning at 12:01 A.M. on the 25th day of September, 2002.

This Order will become final and enforceable on August 8, 2002, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties by facsimile or through the U.S. Mail, as indicated below.

**WITNESS MY HAND AND SEAL OF OFFICE** on this the 18th day of July, 2002.

On Behalf of the Administrator,



Randy Yarbrough, Assistant Administrator,  
Texas Alcoholic Beverage Commission

TEG/bc

The Honorable Tanya Cooper  
Administrative Law Judge  
State Office of Administrative Hearings  
**VIA FAX (817) 377-3706**

**AAASK INC.  
STOP AND SHOP  
RESPONDENT  
2501 E. Arkansas  
Arlington, Texas 76010  
CERTIFIED MAIL NO. 7001 2510 0000 7278 8398**

Timothy E. Griffith  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division  
Fort Worth District Office

TEXAS ALCOHOLIC BEVERAGE COMMISSION  
CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 595890

REGISTER NUMBER:

NAME: AAASK INC.

TRADENAME: STOP AND SHOP

ADDRESS: 2300 S. Collins, Arlington, Texas 76014-1224

DATE DUE: September 18, 2002

PERMITS OR LICENSES: BF462516

AMOUNT OF PENALTY: \$1,500.00

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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 18TH, DAY OF SEPTEMBER, 2002, 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.

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Signature of Responsible Party

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Street Address

P.O. Box No.

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City

State

Zip Code

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Area Code/Telephone No.

## DOCKET NO. 458-02-2481

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner	§	BEFORE THE STATE OFFICE
V.	§	OF
AAASK, INC. d/b/a STOP AND SHOP, Respondent Tarrant County, Texas (TABC No. 595890)	§	ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

The Staff of the Texas Alcoholic Beverage Commission (Commission) brought this enforcement action against its licensee, AAASK, INC. d/b/a Stop and Shop (Respondent) because it allegedly paid for beer by checks that were dishonored for insufficient funds when presented for payment. A hearing was scheduled and convened, however, the Respondent did not appear and was not represented. The Administrative Law Judge (ALJ) finds that Commission Staff's allegations are true and recommends that Respondent's license be suspended for ten days or, in the alternative, that it pay a civil penalty of \$1,500.00.

**I. PROCEDURAL HISTORY**

On June 12, 2002, a hearing was conducted by ALJ Tanya Cooper at the State Office of Administrative Hearings, 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Tarrant County, Texas. Commission Staff was represented by Timothy E. Griffith. Respondent was not present and was not represented by counsel. The hearing was concluded and the record closed on the same day.

**II. REASONS FOR PROPOSED DECISION**

Commission Staff presented several exhibits which were admitted into evidence. Because Respondent failed to appear at the hearing and Commission Staff proved that Respondent had received proper notice of the hearing, all matters relating to jurisdiction, notice, the violations and recommended punishment are addressed in the Proposed Findings of Facts and Conclusions of Law sections without discussion.

**III. PROPOSED FINDINGS OF FACT**

1. AAASK, INC. d/b/a Stop and Shop (Respondent), holds a Beer Retailer's Off-Premises License, BF-462516, issued by the Texas Alcoholic Beverage Commission (Commission)



for the premises located at 2300 S. Collins, Arlington, Tarrant County, Texas.

2. On April 18, 2002, the Commission's Staff sent, by certified mail, a Notice of Hearing to Respondent, which contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the statutes and rules involved; and a statement of the matters asserted.
  - a. The Notice of Hearing was sent to Respondent at its mailing address of record, 2501 E. Arkansas, Arlington, Texas 76010 by certified mail (7001 2510 0000 7278 9623), return receipt requested, and it was received at that address on April 24, 2002.
  - b. The Notice properly disclosed that upon Respondent's failure to appear at the hearing, the factual allegations in the Notice would be deemed as true, and the relief sought could be granted.
3. The hearing convened June 12, 2002, at 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Texas, before Tanya Cooper, Administrative Law Judge (ALJ). Commission Staff was represented by Timothy E. Griffith, but Respondent failed to appear and was not represented.
4. On May 22, 2001, Respondent gave a \$596.20 check to Coors Distributing Co. of Fort Worth, Texas, for beer. The check was dishonored for insufficient funds when presented for payment at Respondent's bank, Bank United.
5. On June 5, 2001, Respondent gave a \$212.50 check to Coors Distributing Co. of Fort Worth, Texas, for beer. The check dishonored for insufficient funds when presented for payment at Respondent's bank, Bank United.
6. On May 31, 2001, Respondent gave a \$1,509.40 check to Ben E. Keith Beers of Fort Worth, Texas, for beer. The check was dishonored for insufficient funds when presented for payment at Respondent's bank, Bank United.
7. On June 12, 2001, Respondent gave a \$1,619.75 check to Ben E. Keith Beers of Fort Worth, Texas, for beer. The check was dishonored for insufficient funds when presented for payment at Respondent's bank, Washington Mutual.

#### IV. PROPOSED CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission (Commission) has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. ch. 5, §§ 6.01 and 61.71.
2. The State Office of Administrative Hearings has jurisdiction to conduct the hearing in the matter and to issue a proposal for decision containing proposed findings of facts and

conclusions of law pursuant to TEX. GOV'T CODE ANN. ch. 2003.

3. As referenced in Proposed Finding of Fact 2, proper and timely notice of the conduct alleged, statutes and rules governing the proceeding, and the hearing was provided to Respondent, pursuant to TEX. ALCO. BEV. CODE ANN. § 61.71(a), TEX. GOV'T CODE ANN. ch. 2001, and 1 TEX. ADMIN. CODE §§ 155.27 and 155.55.
  
4. Based on Proposed Findings of Fact Nos. 4 - 7, Respondent paid for beer by checks which were dishonored for insufficient funds in violation of TEX. ALCO. BEV. CODE ANN. § 61.73(b), which warrants suspension of Respondent's license referenced in Proposed Finding of Fact No. 1 for ten days, or payment of a civil penalty in lieu of suspension in the amount of \$1,500.00.

SIGNED on this the 25<sup>th</sup> day of June 2002.



TANYA COOPER, Administrative Law Judge  
STATE OFFICE OF ADMINISTRATIVE HEARINGS