

**DOCKET NO. 458-02-3705****TEXAS ALCOHOLIC  
BEVERAGE COMMISSION****V.****MUREED ALAZRAI  
D/B/A MADRID FOOD MART  
PERMIT NO. BF-462918  
BEXAR COUNTY, TEXAS  
(TABC CASE NO. 597004)**§  
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§**BEFORE THE STATE OFFICE****OF****ADMINISTRATIVE HEARINGS****PROPOSAL FOR DECISION**

The staff of the Texas Alcoholic Beverage Commission (Staff) brought this enforcement action against Mureed Alazrai, d/b/a Madrid Food Mart (the Permittee) for paying for beer with checks for which funds were insufficient. The Staff recommended that Permittee's permits be suspended for 14 days or that Permittee pay a fine of \$150.00 per day in lieu of suspension.

**I. Procedural History, Notice, and Jurisdiction**

The hearing in this matter convened on September 17, 2002, before Administrative Law Judge (ALJ) Nancy Bage Sorenson, at the offices of the State Office of Administrative Hearings in San Antonio, Bexar County, Texas. Staff was represented by Gayle Gordon, Assistant Attorney General. The Permittee appeared and represented himself at the hearing.

The Texas Alcoholic Beverage Commission (the Commission) and the State Office of Administrative Hearings have jurisdiction over this matter as reflected in the Conclusions of Law. The notice of intention to institute an enforcement action and the notice of the hearing met the notice requirements imposed by statute and by rule as set forth in the Findings of Fact and Conclusions of Law.

**II. Allegations and Applicable Statutory Provisions**

The allegations in this proceeding asserted the Permittee, its agent, or employee paid beer distributors for beer with checks on July 10, 2001, March 29, 2002, May 16, 2002, May 30, 2002, and June 13, 2002, that were subsequently returned for insufficient funds. It is a violation of TEX. ALCO. BEV. CODE ANN. (the Code) § 61.73(b) for a permittee to tender a beer distributor a check for payment of beer which is dishonored when

presented for payment. Such a violation may be punished by cancellation or a maximum 60-day suspension of a permit.

### III. Summary of the Evidence

Staff introduced sufficient and undisputed evidence of the dishonored checks written to BudCo, Ltd., of San Antonio, Texas, and Halo Distributing Company, of San Antonio, Texas and accompanying affidavits. Permittee did not dispute the evidence.

### IV. Recommendation

Penalties for the violations of § 61.73(b) of the Code may be determined in accordance with the Commission's standard penalty chart found at 16 TEX. ADMIN. CODE § 37.60. The penalty chart prescribes suspensions of varying lengths, depending on a permittee's history of violations.

Permittee in no way contested the fact that on five separate occasions checks were dishonored, as contained in TABC Exhibit "B". Permittee's testimony established that he accepted responsibility for the dishonoring of these checks.

In this case, Staff recommended a 14 day suspension based on the present Notice of Hearing alleging five separate instances of cash law violations; the ALJ recommends a 10 day suspension. Pursuant to § 11.64 of the Code, the Permittee must be offered the opportunity to pay a civil penalty in lieu of a suspension. The penalty may not be less than \$150.00 nor more than \$25,000.00 for each day of the suspension. Staff recommended the minimum amount be used to determine the civil penalty.

### V. Findings of Fact

1. Mureed Alazrai d/b/a Madrid Food Mart (the Permittee), located at 1124 Madrid Street, San Antonio, Bexar County, Texas 78237, holds Permit No. BF-462918.
2. Permittee received proper and timely notice of the hearing from the staff of the Texas Alcoholic Beverage Commission (Staff) in a notice of hearing, dated July 31, 2002. The notice was properly sent to Permittee by certified mail at the address provided by the Permittee as reported in Findings of Fact No. 1.
3. The notice of hearing 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 particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
4. The hearing was convened on September 17, 2002, at 10:30 a.m. at the offices of the State Office of Administrative Hearings in San Antonio, Bexar County, Texas. Permittee represented himself at the hearing. Gayle Gordon, Assistant Attorney

General, represented the Staff.

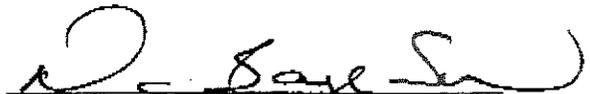
5. On or about July 10, 2001, Permittee, its agent, servant, or employee tendered a check written in the amount of \$751.05 to BudCo, Ltd., of San Antonio, Texas. On or about July 20, 2001, the check was returned by Drawee, Bank One, for insufficient funds.
6. On or about March 29, 2002, Permittee, its agent, servant, or employee tendered a check written in the amount of \$1,173.40 to BudCo, Ltd., of San Antonio, Texas. On or about April 8, 2002, the check was returned by Drawee, Bank One for insufficient funds.
7. On or about May 16, 2002, Permittee, its agent, servant, or employee tendered a check written in the amount of \$199.40 to BudCo, Ltd., of San Antonio, Texas. On or about June 10, 2002, the check was returned by Drawee, WF National Bank for "Stop Payment."
8. On or about May 30, 2002, Permittee, its agent, servant, or employee tendered a check written in the amount of \$838.10 to Halo Distributing Company, of San Antonio, Texas. On or about June 10, 2002, the check was returned by Drawee, Bank One for insufficient funds.
9. On or about June 13, 2002, Permittee, its agent, servant, or employee tendered a check written in the amount of \$888.75 to Halo Distributing Company, of San Antonio, Texas. On or about June 28, 2002, the check was returned by Drawee, Bank One for insufficient funds.

#### **VI. Conclusions of Law**

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. §§ 6.01, 11.61, and 61.73.
2. The State Office of Administrative Hearings has jurisdiction to conduct the administrative hearing in this matter and to issue a proposal for decision containing findings of fact and conclusions of law pursuant to TEX. ALCO. BEV. CODE ANN. § 5.43 and TEX. GOV'T CODE ANN. ch. 2003.
3. Proper and timely notice of the hearing was effected on Permittee pursuant to Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001, and 1 TEX. ADMIN. CODE § 155.55(d).
4. The Permittee, its agent, servant, or employee tendered a check in payment for beer, on July 10, 2001, which was dishonored for insufficient funds when presented for payment, in violation of TEX. ALCO. BEV. CODE ANN. § 61.73(b).

5. The Permittee, its agent, servant, or employee tendered a check in payment for beer, on March 29, 2002, which was dishonored for insufficient funds when presented for payment, in violation of TEX. ALCO. BEV. CODE ANN. § 61.73(b).
6. The Permittee, its agent, servant, or employee tendered a check in payment for beer, on May 16, 2002, which was dishonored for Stop Payment when presented for payment, in violation of TEX. ALCO. BEV. CODE ANN. § 61.73(b).
7. The Permittee, its agent, servant, or employee tendered a check in payment for beer, on May 30, 2002, which was dishonored for insufficient funds when presented for payment, in violation of TEX. ALCO. BEV. CODE ANN. § 61.73(b).
8. The Permittee, its agent, servant, or employee tendered a check in payment for beer, on June 13, 2002, which was dishonored for insufficient funds when presented for payment, in violation of TEX. ALCO. BEV. CODE ANN. § 61.73(b).
9. Based on the foregoing Findings and Conclusions, a 10 day suspension of the permits is warranted pursuant to 16 TEX. ADMIN. CODE § 37.60.
10. Pursuant to TEX. ALCO. BEV. CODE ANN. § 11.64, the Permittee should be allowed to pay a \$1,500.00 civil penalty in lieu of suspension of its permits.

SIGNED this 19th day of November, 2002.

  
NANCY BAGE SORENSON  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**DOCKET NO. 597004**

IN RE MUREED ALAZRAI  
D/B/A MADRID FOOD MART  
LICENSE NO. BF462918

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BEFORE THE  
  
TEXAS ALCOHOLIC  
  
BEVERAGE COMMISSION

BEXAR COUNTY, TEXAS  
(SOAH DOCKET NO. 458-02-3705)

**ORDER**

**CAME ON FOR CONSIDERATION** this 17th day of December, 2002, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Nancy Bage Sorenson. The hearing convened on September 17, 2002, and adjourned September 17, 2002. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on November 19, 2002. 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 License No. BF462918 is herein **SUSPENDED**.

**IT IS FURTHER ORDERED** that unless the Respondent pays a civil penalty in the amount of \$1,500.00 on or before the 5th day of February, 2003, all rights and privileges under the above described permits will be **SUSPENDED** for a period of ten (10) days, beginning at 12:01 A.M. on the 12th day of February, 2003.

This Order will become final and enforceable on JANUARY 7, 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 and by mail as indicated below.

**SIGNED** on this the 17th day of December, 2002.

On Behalf of the Administrator,



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Jeannene Fox, Acting Assistant Administrator  
Texas Alcoholic Beverage Commission

/vr

The Honorable Nancy Bage Sorenson  
Administrative Law Judge  
State Office of Administrative Hearings  
**VIA FACSIMILE (210) 308-6854**

Mureed Alazrai  
**RESPONDENT**  
d/b/a Madrid Food Mart  
1124 Madrid  
San Antonio, Tx. 78237  
**CERTIFIED MAIL NO. 7001 2510 0000 7278 6103**

Gayle Gordon  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Regulatory Division - Compliance Division  
San Antonio District Office

TEXAS ALCOHOLIC BEVERAGE COMMISSION

CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 597004

REGISTER NUMBER:

NAME: Mureed Alazrai

TRADENAME: Madrid Food Mart

ADDRESS: 1124 Madrid

DATE DUE: February 5, 2003

PERMITS OR LICENSES: BF462918

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 5TH DAY OF FEBRUARY, 2003, 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

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
P.O. Box No.

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Area Code/Telephone No.