

DOCKET NO. 534894

IN RE NORMA JEAN ULLOM	§	BEFORE THE TEXAS
D/B/A LAST RESORT BAR & GRILL	§	
PERMIT NOS. BE575551 & BL575552	§	
	§	ALCOHOLIC
	§	
BRAZORIA COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-06-3022)	§	BEVERAGE COMMISSION

CAME ON FOR CONSIDERATION this 12th day of January 2007, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Stephen J. Burger. The hearing convened on October 6, 2006 and adjourned on the same day. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on December 4, 2006. 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 and Exhibits, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge, that 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 Licenses BE575551 and BI.575552 are herein **SUSPENDED for twelve (12) days**.

IT IS FURTHER ORDERED that unless the Respondent pays a civil penalty in the amount of **\$1,800.00** on or before the **6th day of March 2007**, all rights and privileges under the above described permits will be **SUSPENDED for a period of twelve (12) days beginning at 12:01 A.M. on the 14th day of March 2007**.

This Order will become final and enforceable on February 15, 2007 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 12th day of January 2007.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

Hon. Stephen J. Burger
Administrative Law Judge
State Office of Administrative Hearings
Houston, Texas
VIA FAX (713) 812-1001

Norma Jean Ullom
d/b/a Last Resort Bar & Grill
RESPONDENT
P. O. Box 450
Brazoria, Texas 77422
CERTIFIED MAIL NO. 7005 3110 0000 6411 4287
RETURN RECEIPT REQUESTED

Norma Jean Ullom
d/b/a Last Resort Bar & Grill
RESPONDENT
1462 Hwy 521 West
Brazoria, Texas 77422
CERTIFIED MAIL NO. 7005 3110 0000 6411 4294
RETURN RECEIPT REQUESTED

Ramona M. Perry
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Richmond Outpost

At the hearing, the TABC presented Exhibit No. 1, the US Postal Service green card signed by Respondent indicating receipt of the Notice of Hearing, and Exhibit No. 2, the TABC's license history of Respondent.

The ALJ proposes the following Findings of Fact and Conclusions of Law.

II. FINDINGS OF FACT

1. Respondent, Norma Jean Ullom, d/b/a Last Resort Bar and Grill, Brazoria County, Texas, holds a Beer Retailer's On-Premise License BE-575551, and a Retail Dealer's On-Premise Late Hours License BL-575552, issued by the TABC.
2. On August 30, 2006, the TABC sent notice to Respondent by certified mail, return receipt requested, of the hearing to be held October 6, 2006, at 9:00 a.m., regarding the alleged violation.
3. The August 30, 2006, notice of hearing from the TABC was sent to the Respondent's mailing address of record, P.O. Box 450, Brazoria, Brazoria County, Texas 77422.
4. The hearing on the merits convened October 6, 2006, at 9:00 a.m., at the offices of the State Office of Administrative Hearings, 2020 North Loop West, Suite 111, Houston, Texas. The TABC was represented by attorney Ramona Perry. The Respondent did not appear and was not represented at the hearing. The record closed the same day.
5. On February 16, 2006, Respondent gave a draft or check for the purchase of beer that was dishonored when presented for payment, in violation of TEX. ALCO. BEV. CODE §§ 61.73, and 11.61(b)(2).

III. CONCLUSIONS OF LAW

1. The TABC has jurisdiction over this matter pursuant to subchapter B of Chapter 5, §§ 11.46, 11.61, 61.71 and 61.73 of the TEX. ALCO. BEV. CODE.
 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.
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4. Based upon Finding of Fact No. 5, the Respondent violated TEX. ALCO. BEV. CODE §§ 61.73 and 11.61(b)(2).
5. Based on the Findings of Fact and Conclusions of Law, the TABC is entitled to a default decision against Respondent pursuant to 1 TAC § 155.55.
6. Based on the foregoing Findings of Fact and Conclusions of Law, a 12 day suspension of Respondent's licenses is warranted.
7. Based on the foregoing Findings of Fact and Conclusions of Law, Respondent should be allowed to pay a \$150 per day civil penalty in lieu of suspension of its licenses.

SIGNED December 4, 2006.



STEPHEN J. BURGER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

December 4, 2006

Alan Steen
Administrator
Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78731

VIA REGULAR MAIL

RE: Docket No. 458-06-3022; Texas Alcoholic Beverage Commission v. Norina Jean Ullom d/b/a Last Resort Bar & Grill

Dear Mr. Steen:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.59(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink that appears to read "SJBurger".

Stephen J. Burger
Administrative Law Judge

SJB/jh
Enclosure

xc: Docket Clerk, State Office of Administrative Hearings- **VIA REGULAR MAIL**
Ramona M. Perry, Attorney, Texas Alcoholic Beverage Commission, 427 W. 20th Street, Suite 600, Houston, TX 77008 **VIA REGULAR MAIL**
Lou Bright, Director of Legal Services, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731- **VIA REGULAR MAIL**
Norma Jean Ullom d/b/a Last Resort Bar & Grill, P.O. Box 450, Brazoria, Texas 77422 -**VIA REGULAR MAIL**

