

**DOCKET NO. 537209**

SHAHNAZ CORPORATION	§	BEFORE THE TEXAS
D/B/A VILLAGE SUPERMARKET	§	
PERMIT(S) NO. Q484747	§	ALCOHOLIC
	§	
HARRIS COUNTY, TEXAS	§	
(SOAH DOCKET NO.458-07-0457)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** on this 12th day of February 2007, 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 on November 10, 2006 and adjourned on the same date. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on January 9, 2007. The 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 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.

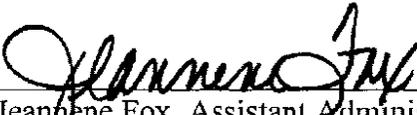
**IT IS THEREFORE ORDERED** by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1 of the Commission Rules, that Respondent's permits and licenses be **CANCELED FOR CAUSE**.

This Order will become final and enforceable on March 8, 2007 unless a Motion for Rehearing is filed **before** that date.

By copy of this Order, service shall be made upon all parties in the manner indicated below.

**SIGNED** on this 12<sup>th</sup> day of February 2007, at Austin, Texas.

On Behalf of the Administrator,

  
\_\_\_\_\_  
Jeannene Fox, Assistant Administrator  
Texas Alcoholic Beverage Commission

RMP/aa

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

Shahnaz Corporation  
d/b/a Village Supermarket  
**RESPONDENT**  
5255 Park Village  
Houston, Texas 77048  
**VIA CERTIFIED MAIL NO. 7005 3110 0000 6411 4492**

Shahnaz Corporation  
d/b/a Village Supermarket  
**RESPONDENT**  
2431 Parkwood Lane  
Sugar Land, Texas 77479  
**VIA FIRST CLASS MAIL**

Ramona M. Perry  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Section

Houston District Office

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SOAH DOCKET NO. 458-07-0457

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE STATE OFFICE
COMMISSION,	§	
Petitioner	§	
	§	
V.	§	OF
	§	
SHAHNAZ CORPORATION	§	
D/B/A VILLAGE SUPERMARKET	§	
PERMITS NO. Q-484747 & BF-484748	§	
HARRIS COUNTY, TEXAS	§	
(TABC CASE NO. 537209)	§	
Respondent	§	ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

The staff of the Texas Alcoholic Beverage Commission (TABC) brought this enforcement action against Shahnaz Corporation d/b/a Village Supermarket (Respondent), alleging:

1. On or about March 17, 2006, Respondent or Respondent’s agent, servant, or employee, gave a check or draft for the purchase of beer that was dishonored when presented for payment.
2. On or about March 17, 2006 through August 31, 2006, Respondent or Respondent’s agent, servant or employee engaged in and/or permitted subterfuge.

Staff recommended that Respondent’s permit/license be canceled. The Administrative Law Judge (ALJ) agrees with this recommendation.

**I. PROCEDURAL HISTORY**

The hearing in this matter convened on November 10, 2006, at the State Office of Administrative Hearings Office, 2020 North Loop West, Suite # 111, Houston, Texas and the record was closed on the same day. Staff attorney Ramona Perry represented the Petitioner. Respondent

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did not appear and was not represented at the hearing. Administrative Law Judge (ALJ) Timothy J. Horan presided.

On October 10, 2006, Petitioner issued its notice of hearing, directed to Shahnaz Corporation d/b/a Village Supermarket, 5255 Park Village, Houston, Texas 77048 via certified mail, return receipt requested, to Respondent's last known mailing address and was "unclaimed" by Respondent as evidenced by the certified mail receipt. After the taking of evidence, Staff moved for a default judgment pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.55. Because the hearing proceeded on a default basis, Staff's factual allegations contained in the Notice of Hearing are deemed admitted as true; therefore, the ALJ has incorporated those allegations into the findings of fact without further discussion of the evidence.

## II. FINDINGS OF FACT

1. Shahnaz Corporation d/b/a Village Supermarket (Respondent), located at 5255 Park Village, Houston, Harris County, Texas, holds Wine Only Package Store Permit Q-484747 and Beer Retailer's Off-Premise License BF-484748.
  2. On October 10, 2006, TABC timely sent a Notice of Hearing by certified mail, return receipt requested, to Respondent's last known mailing address at 5255 Park Village, Houston, Texas 77048. The Notice of Hearing contained information regarding the date, time, and place of the hearing; the statutes and rules involved; and the legal authorities under which the hearing would be held.
  3. The Notice of Hearing also contained language in 12-point, bold-face type informing Respondent that if it failed to appear at the hearing, the factual allegations against it would be deemed admitted as true, and the relief sought in the Notice of Hearing might be granted by default.
  4. The hearing on the merits was held November 10, 2006. Respondent did not appear at the hearing and the record was closed on the same day.
  5. The hearing proceeded on a default basis, and the allegations contained in the Notice of Hearing were deemed admitted as true.
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6. On or about March 17, 2006, Respondent or Respondent's agent, servant, or employee, gave a check or draft for the purchase of beer that was dishonored when presented for payment.; and,
7. On or about March 17, 2006 through August 31, 2006, Respondent or Respondent's agent, servant or employee engaged in and/or permitted subterfuge.

### III. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to Subchapter B of Chapter 5, § 11.61 of the Texas Alcoholic Beverage Code, TEX. ALCO. BEV. CODE ANN. § 1.01 *et seq.*
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 proposed findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. Ch. 2003.
3. Proper and timely notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.051, 2001.052 and 2001.054(c); 1 TEX. ADMIN. CODE (TAC) § 155.55; and TEX. ALCO. BEV. CODE ANN. § 11.63.
4. Notice of the hearing was sufficient to allow entry of default judgment under State Office of Administrative Hearings Rules, 1 TAC § 155.55.
5. Based on the above Findings of Fact, Respondent violated TEX. ALCO. BEV. CODE ANN. §§ 11.61 (b)(2), 61.73(b), 102.31, 102.32(a)(2) and 109.53.
6. Based on the above Findings of Fact and Conclusions of Law, Staff is entitled to a default judgment against Respondent pursuant to 1 TAC § 155.55.
7. Based on the foregoing Findings of Fact and Conclusions of Law, the cancellation of Respondent's permits is warranted.

SIGNED January 9, 2007.

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

# State Office of Administrative Hearings



**Shelia Bailey Taylor**  
**Chief Administrative Law Judge**

January 09, 2007

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

**VIA REGULAR MAIL**

**RE: Docket No. 458-07-0457/Texas Alcoholic Beverage Commission vs. Shahnaz Corporation d/b/a Village Supermarket**

Dear Mr. Steen:

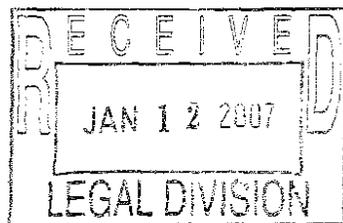
Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

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](http://www.soah.state.tx.us).

Sincerely,

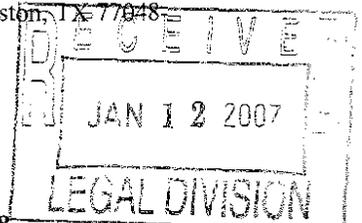


Timothy J. Horan  
Administrative Law Judge



TJH/mr  
Enclosure

xc: Docket Clerk, State Office of Administrative Hearings- **VIA REGULAR MAIL**  
Ramona Perry, Attorney, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731-  
**VIA REGULAR MAIL**  
Lou Bright, Director of Legal Services, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731-  
**VIA REGULAR MAIL**  
Shahnaz Corporation d/b/a Village Supermarket, Respondent, 5255 Park Village, Houston, TX 77048  
**VIA REGULAR MAIL**



2020 North Loop West, Suite 111 ♦ Houston, Texas 77018

(713) 957-0010 Fax (713) 812-1001

<http://www.soah.state.tx.us>