

DOCKET NO. 458-07-0954**TEXAS ALCOHOLIC BEVERAGE
COMMISSION**§
§
§
§
§
§
§
§
§
§**BEFORE THE STATE OFFICE****VS.****OF****3R RESTAURANT CO. LLC D/B/A
OVERTIME SPORTS BAR & GRILL
TARRANT COUNTY, TEXAS
(TABC CASE NO. 543849)****ADMINISTRATIVE HEARINGS****PROPOSAL FOR DECISION**

The Staff of the Texas Alcoholic Beverage Commission (Staff) brought this case against 3R Restaurant Co. LLC d/b/a Overtime Sports Bar & Grill (Respondent) seeking forfeiture of Respondent's conduct surety bond. The Administrative Law Judge (ALJ) recommends forfeiture of the conduct surety bond.

I. PROCEDURAL HISTORY

On May 16, 2006, Staff sent Respondent written notice of Staff's intent to seek forfeiture of Respondent's conduct surety bond. Respondent requested a hearing to determine if the bond should be forfeited. This matter was referred to the State Office of Administrative Hearings (SOAH). On December 19, 2006, at 10:09 a.m., a public hearing was convened before ALJ Robert F. Jones Jr., at 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Tarrant County, Texas. Staff was represented by Diane Brown, an attorney with the Texas Alcoholic Beverage Commission's (TABC) Legal Services. Respondent failed to appear. The record was closed on December 19, 2006.

II. NOTICE & JURISDICTION

Respondent's licensed premises are (or were) located at 950 N. Burleson Boulevard, Burleson, Tarrant County, Texas. The TABC issued a mixed beverage permit and a mixed beverage late hours permit to Respondent. The Staff served its Notice of Hearing (NOH) on Respondent on December 4, 2006, by certified mail, return receipt requested, to Respondent's mailing address as disclosed on Respondent's permit, namely 9516 Lynwood, Fort Worth, Texas 76134-5900. The

NOH notified the Respondent that its failure to appear at the hearing would constitute a default, and the relief sought by the Staff would be granted.

Based upon Respondent's default, the ALJ recommends Respondent's conduct surety bond be forfeited.

III. FINDINGS OF FACT

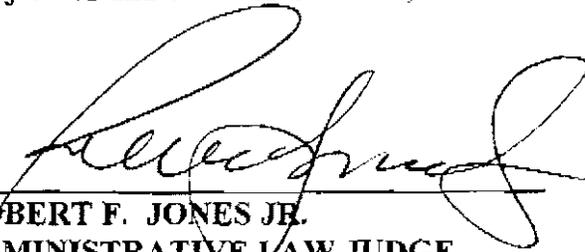
1. 3R Restaurant Co. LLC d/b/a Overtime Sports Bar & Grill (Respondent) licensed premises are (or were) located at 950 N. Burleson Boulevard, Burleson, Tarrant County, Texas.
2. Respondent's mailing address is 9516 Lynwood, Fort Worth, Texas 76134-5900.
3. The Texas Alcoholic Beverage Commission (TABC) issued mixed beverage permit and mixed beverage late hours permit MB551377 to Respondent.
4. Respondent posted a conduct surety bond. The bond is TABC Conduct Surety Bond Number XTL07341, dated January 11, 2005. Respondent executed the bond as principal. First Indemnity of America Insurance Company is the surety. The bond is in the amount of \$5,000.00 and is payable to the State of Texas.
5. On December 4, 2006, the Staff of the TABC (Staff) served its Notice of Hearing (NOH) on Respondent by certified mail, return receipt requested, to Respondent's mailing address. The return receipt was signed by Ryan Fussell.
6. The NOH contained a disclosure, in 12-point, bold-faced type, of the fact that upon failure of the Respondent to appear at the hearing, "the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default."
7. The NOH warned that the Staff would seek forfeiture of Respondent's conduct surety bond. It informed the Respondent the hearing would be held on December 19, 2006, at 10:00 a.m. at 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Tarrant County, Texas. The NOH made reference to the legal authority and jurisdiction under which the hearing was to be held, referenced the particular sections of the statutes and rules involved, and included a short, plain statement of the matters asserted.
8. On December 19, 2006, after those present waited for Respondent until 10:09 a.m., a public hearing was convened before Administrative Law Judge (ALJ) Robert F. Jones Jr., at 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Tarrant County, Texas. Staff was represented by Diane Brown, an attorney with the TABC Legal Services. Respondent failed to appear. The record was closed on December 19, 2006.

9. Respondent committed three violations of the Texas Alcoholic Beverage Code since September 1, 1995.

IV. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter pursuant to Chapter 5 of the Texas Alcoholic Beverage Code (the Code).
2. The State Office of Administrative Hearings has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003 (Vernon 2006).
3. Notice of the hearing was provided as required by the Administrative Procedure Act. TEX. GOV'T CODE ANN. §§2001.051 and 2001.052 (Vernon 2006).
4. The factual allegations in the NOH are deemed true. 1 TEX. ADMIN. CODE § 155.55(a).
5. Based on the foregoing findings and conclusions, Respondent's conduct surety bond XTL07341 should be forfeited. §§ 11.11 and 61.13 of the Code; 16 TEX. ADMIN. CODE § 33.24.

SIGNED January 22, 2007.



ROBERT F. JONES JR.
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

6777 Camp Bowie Blvd.
Ft. Worth, Texas 76116
Phone (817) 731-1733
Fax (817) 377-3706

SERVICE LIST

AGENCY: TEXAS ALCOHOLIC BEVERAGE COMMISSION
CASE: 3R Restaurant Co. LLC d/b/a Overtime Sports Bar & Grill
DOCKET NUMBER: 458-07-0954
AGENCY CASE NO: 543849

Diane Brown
Staff Attorney
Texas Alcoholic Beverage Commission
Fax: 214/678-4050
Ph: 214/678-4000

AGENCY COUNSEL
BY FAX

3R Restaurant Co. LLC
d/b/a Overtime Sports Bar & Grill
9516 Lynwood
Fort Worth, Texas 76134-5900

RESPONDENT
BY MAIL

as of December 1, 2006

State Office of Administrative Hearings

Thank you



Shelia Bailey Taylor
Chief Administrative Law Judge

January 22, 2007

Alan Steen, Administrator
Texas Alcoholic Beverage Commission

VIA FACSIMILE 512/206-3498

**RE: Docket No. 458-07-; Texas Alcoholic Beverage Commission vs 3R Restaurant Co. LLC
d/b/a Overtime Sports Bar & Grill, (TABC Case No. 543849)**

Dear Mr. Steen:

Enclosed please find a Proposal for Decision in the above-referenced cause for the consideration of the Texas Alcoholic Beverage Commission. Copies of the proposal are being sent to Diane Brown, attorney for Texas Alcoholic Beverage Commission, and to 3R Restaurant Co. LLC d/b/a Overtime Sports Bar & Grill, the Respondent. The Texas Alcoholic Beverage Commission (Staff) brought this case against 3R Restaurant Co. LLC d/b/a Overtime Sports Bar & Grill (Respondent) seeking forfeiture of Respondent's conduct surety bond. The Administrative Law Judge (ALJ) recommends forfeiture of the conduct surety bond.

Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Commission according to the agency's rules, with a copy to the State Office of Administrative Hearings, located at 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Texas 76116. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,

Robert F. Jones, jr.
Administrative Law Judge

MG/dd

Diane Brown, TABC Staff Attorney, VIA FACSIMILE 214/678-4050

3R Restaurant Co. LLC d/b/a Overtime Sports Bar & Grill, 9516 Lynwood, Fort Worth, TX 76134-5900 VIA REGULAR MAIL