

DOCKET NO. 565163

TEXAS ALCOHOLIC BEVERAGE
COMMISSION

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BEFORE THE TEXAS

VS.

BUD CLIFFORD WILLIAMS
D/B/A STOCKYARD SALOON
PERMIT/LICENSE NO(s). BG510215
DALLAM COUNTY, TEXAS
(SOAH DOCKET NO.458-08-1320)

ALCOHOLIC

BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this day, in the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge B. L. Phillips. The hearing convened on the 5th day of February 2008 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 the 4th day of March 2008. The 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 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, 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 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 your permit is hereby CANCELLED FOR CAUSE.

This Order will become final and enforceable on April 21, 2008, unless a Motion for Rehearing is filed before that date.

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

SIGNED this 27th March, 2008, at Austin, Texas.



Alan Steen, Administrator
Texas Alcoholic Beverage Commission

JLK\bc

The Honorable B. L. Phillips
Administrative Law Judge
State Office of Administrative Hearings
VIA FAX (806) 792-0149

BUD CLIFFORD WILLIAMS
RESPONDENT
d/b/a STOCKYARD SALOON
919 S 1ST
DALHART, TX 79022-3048

JUDITH L. KENNISON
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Enforcement District Office

DOCKET NO. 458-08-1320

**TEXAS ALCOHOLIC BEVERAGE
COMMISSION,
Petitioner**

V.

**BUD CLIFFORD WILLIAMS
D/B/A STOCKYARD SALOON,
DALLAM COUNTY, TEXAS
(TABC NO. 565163),
Respondent**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (TABC, Staff) brought this disciplinary action against Bud Clifford Williams d/b/a Stockyard Saloon (Respondent), alleging that Respondent, its agent, servant, or employee, failed to pay a debt for taxes, fees, or penalties on or about May 14, 2007. A hearing was scheduled and convened; however, Respondent did not appear and was not represented. The Administrative Law Judge (Judge) finds Staff's allegations are true and recommends that Respondent's permit be canceled or suspended as determined by the Commission.

I. PROCEDURAL HISTORY

On January 18, 2008, Staff issued a Notice of Hearing to Respondent at its mailing address of record: 919 S. 1st, Dalhart, Texas, 79022-3048. The notice was sent by certified mail, return receipt requested. The "green card" was returned to Staff by the U.S. Postal Service and showed that the notice was delivered to Respondent on January 25, 2008.

A hearing was convened before Judge B. L. Phillips at the State Office of Administrative Hearings, 8212 Ithaca, Suite W3, Lubbock, Lubbock County, Texas, on February 5, 2008. TABC was represented at the hearing by Judith L. Kennison, Staff Attorney, who appeared by telephone.

Respondent did not appear and was not represented at the hearing. The hearing concluded and the record closed that same day.

II. REASONS FOR PROPOSED DECISION

Based on Respondent's failure to appear at the hearing, Staff requested that the default provisions of 1 TEX. ADMIN. CODE (TAC) § 155.55 be invoked. The Judge finds that Staff issued notice in compliance with 1 TAC §§ 155.27 and 155.55, and § 11.63 of the Code. Pursuant to 1 TAC § 155.55, the allegations presented in the Notice of Hearing are deemed admitted as true. Accordingly, the Judge has incorporated these allegations into the Proposed Findings of Fact below.

Staff requested that the Judge recommend a penalty in this case of cancellation or suspension of Respondent's permits.

III. PROPOSED FINDINGS OF FACT

1. Bud Clifford Williams d/b/a Stockyard Saloon (Respondent) holds a Wine and Beer Retailer's Permit, BG-510215, issued by the Texas Alcoholic Beverage Commission (TABC), for the premises located at 1003 E. 8th, Dalhart, Dallam County, Texas.
2. On January 18, 2008, the TABC Staff issued a Notice of Hearing to Respondent at its mailing address of record. The notice was sent by certified mail, return receipt requested. The "green card" was returned showing that the notice was delivered to Respondent on January 25, 2008.
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 statement of the matters asserted.
4. The Notice of Hearing also properly disclosed in at least twelve-point, bold-face type 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 may be granted by default.
5. On February 5, 2008, a hearing was convened before Administrative Law Judge B. L. Phillips at the State Office of Administrative Hearings, 8212 Ithaca, Suite W3,

Lubbock, Lubbock County, Texas. TABC was represented at the hearing by Judith L. Kennison, Staff Attorney, who appeared by telephone. Respondent did not appear and was not represented at the hearing.

6. Respondent committed the violation of failure to pay a debt for taxes, fees, or penalties, on or about May 17, 2007.

IV. PROPOSED CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this proceeding pursuant to TEX. ALCO. BEV. CODE §§ 5.32, 5.44, 26.03, and 61.71.
2. The State Office of Administrative Hearings has jurisdiction over all matters relating to conducting a hearing in this proceeding, including the preparation of a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE, chapter 2003.
3. Staff issued the notice of hearing in compliance with 1 TEX. ADMIN. CODE (TAC) §§ 155.27 and 155.55, and TEX. ALCO. BEV. CODE § 11.63.
4. The hearing proceeded on a default basis as authorized by 1 TAC § 155.55.
5. Based upon Proposed Finding of Fact No. 6, Respondent violated TEX. ALCO. BEV. CODE § 11.61(b)(5).
6. Based upon Proposed Conclusion of Law No. 5, Respondent's permit should be canceled or denied.

SIGNED: March 4th, 2008.

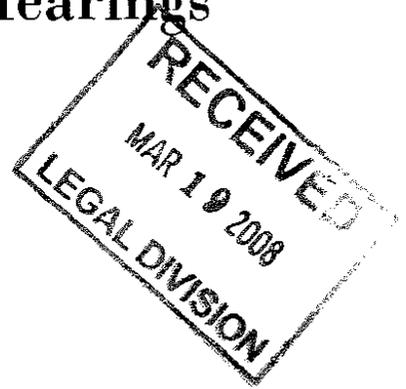


**B. L. PHILLIPS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge



March 4, 2008

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

VIA REGULAR MAIL

RE: Docket No. 458-08-1320; Re: Bud Clifford Williams d/b/a Stockyard Saloon

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,
B.L. Phillips

B.L. Phillips
Administrative Law Judge

BLP/vu

Enclosure

xc Judith Kennison, Licensing 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
Bud Clifford Williams, 1003 E. 8th, Dalhart, TX 79022-VIA REGULAR MAIL