

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge

January 25, 1999

Doyne Bailey  
Administrator  
Texas Alcoholic Beverage Commission  
5806 Mesa Drive, Suite 160  
Austin, Texas 78731

**HAND DELIVERY**

RE: Docket No. 458-98-1941; Texas Alcoholic Beverage Commission vs. Steve Robert Gruber d/b/a Big Steve's County Line (TABC Case No. 574656)

Dear Mr. Bailey:

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 Clyde Burlson, attorney for Texas Alcoholic Beverage Commission, and to Steve Robert Gruber, d/b/a Big Steve's County Line, Respondent. For reasons discussed in the proposal, I recommend Respondent's permit be canceled.

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. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,

Sarah G. Ramos  
Senior Administrative Law Judge

SGR:et  
Enclosure

xc: Rommel Corro, Docket Clerk, State Office of Administrative Hearing - **HAND DELIVERY**  
Clyde Burlson, Staff Attorney, Texas Alcoholic Beverage Commission - **HAND DELIVERY**  
Steve Robert Gruber, 19412 FM 1093 #1, Richmond, Texas 77469-9524 - **CERTIFIED MAIL NO. Z 383 247**  
**876, RETURN RECEIPT REQUESTED**

JAN 25 1999

DOCKET NO. 458-98-1941

TEXAS ALCOHOLIC § BEFORE THE STATE OFFICE  
BEVERAGE COMMISSION §  
V. §  
STEVE ROBERT GRUBER § OF  
D/B/A BIG STEVE'S COUNTY LINE §  
PERMIT BG-244394 §  
(TABC CASE NO. 574656) § ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

The staff of the Texas Alcoholic Beverage Commission (Commission) brought this enforcement action against Steve Robert Gruber, d/b/a Big Steve's County Line (Permittee), asserting he no longer holds a sales tax permit. Staff requested cancellation of the alcoholic beverage permit. The Permittee represented himself at the hearing and asserted he would pay all outstanding taxes in order to receive a current permit. Although the record remained open for filing of tax-payment documentation, the Permittee filed nothing. This proposal recommends the permit's cancellation.

**I. REASONS FOR PROPOSED DECISION**

Notice and jurisdiction were not contested issues and are discussed in the Findings of Fact and Conclusions of Law. The hearing convened on November 20, 1998, at the State Office of Administrative Hearings office in Houston, Texas (2020 North West Loop, Suite 111). Assistant Attorney General, Clyde Burleson, represented Staff. The Permittee represented himself at the hearing. The hearing concluded on the same day, but the record remained open until December 9, 1998.

An enforcement officer with the Comptroller of Public Accounts, Craig Phifer, testified the Permittee failed to pay portions of his required state sales tax. As a result, the sales tax permit was canceled on August 13, 1997. The Permittee's account was still delinquent at the time of the hearing. A Comptroller's agent took the Permittee's sales tax permit off the wall at his business.

The Permittee testified he was not aware his sales tax permit had been suspended. He has paid some of the taxes due, and his bank account has been levied upon for some. He acknowledged he was not current in paying the taxes.

The parties requested that the record remain open until December 9, 1998, to allow the Permittee to become current on his taxes. However, the Permittee submitted no documentation evidencing his compliance with the Tax Code requirement of paying all sales taxes. Thus, this proposal recommends cancellation of his alcoholic beverage permit.

**II. FINDINGS OF FACT**

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1. Steve Robert Gruber, d/b/a Big Steve's County Line (Permittee), holds permit BG-244394 issued by the Texas Alcoholic Beverage Commission (Commission).

2. On October 27, 1998, the Commission's staff sent notice of the hearing to be held November 19, 1998, based on an alleged violation of the TEX. ALCO. BEV. CODE ANN. (Vernon 1995 and Vernon Supp. 1998) (Code) to the Permittee by certified mail, return receipt requested.
3. By order dated November 9, 1998, and sent by certified mail, return receipt requested, the Administrative Law Judge changed the date of the hearing to November 20, 1998.
4. The hearing on the merits convened November 20, 1998, at 2020 North West Loop, Suite 111, Houston, Texas. Both parties were represented.
5. The Permittee no longer holds a sales tax permit for the place of business covered by the permit.

### III. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Code §§6.01 and 11.61.
2. The State Office of Administrative Hearings 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 (Vernon 1998).
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 1998).
4. Code §61.712 authorizes cancellation of a permit when the Permittee no longer holds the sales tax permit required by TEX. TAX CODE ANN. ch. 151 (Vernon 1992 and Vernon Supp. 1998).
5. Based on the foregoing Findings and Conclusions, Permit BG-244394 should be canceled.

SIGNED this 25<sup>th</sup> day of January, 1999.



SARAH G. RAMOS  
Senior Administrative Law Judge  
State Office of Administrative Hearings