

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

September 26, 2008

577139

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

VIA INTERAGENCY MAIL

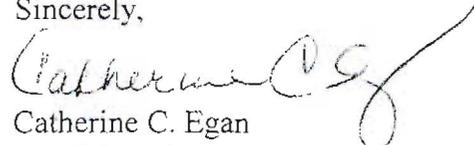
RE: **Docket No. 458-08-3701; Texas Alcoholic Beverage Commission, Petitioner v. Amrik Ram d/b/a Cabaret Dance Club**

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,


Catherine C. Egan
Administrative Law Judge

CCE:nl
Enclosure

xc Lou Bright, General Counsel, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - VIA MAIL INTERAGENCY MAIL
Judith Kennison, Senior Attorney, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - VIA INTERAGENCY MAIL (with exhibits Nos. 1-2 and 1 hearing CD)
Amrik Ram, d/b/a Cabaret Dance Club, 3854 Hwy. 132 North, Lytle, TX 78052-4729 - VIA REGULAR MAIL



Post Office Box 13025 ♦ William P. Clements Building ♦ Austin Texas 78711-3025
(512) 475-4993 300 West 15th Street, Suite 502 ♦ Docket (512) 475-3445 Fax (512) 475-4994
<http://www.soah.state.tx.us>

SOAH DOCKET NO. 458-08-3701

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE STATE OFFICE
COMMISSION,	§	
Petitioner	§	
	§	
V.	§	OF
	§	
AMRIK RAM D/B/A	§	
CABARET DANCE CLUB,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Alcoholic Beverage Commission (TABC) seeks the forfeiture of the certificate of deposit posted by Amrik Ram d/b/a Cabaret Dance Club (Respondent) in lieu of a conduct surety bond following the cancellation of his permit/license for cause according to the TEX. ALCO. BEV. CODE ANN. (the Code) § 11.11. Following a hearing that Respondent failed to attend, the Administrative Law Judge (ALJ) recommends that Respondent's certificate of deposit be forfeited.

I. JURISDICTION, NOTICE AND PROCEDURAL HISTORY

There were no contested issues of notice or jurisdiction in this proceeding. Therefore, those matters will be set forth in the findings of fact and conclusions of law without further discussion here.

On August 15, 2008, a hearing was convened before ALJ Catherine C. Egan at the State Administrative Hearings hearing rooms in San Antonio, Texas. Staff Attorney Judith Kennison represented Petitioner. Although properly notified of the hearing, Respondent did not appear, either in person or through a representative, at the hearing. The record closed the same day.

After presenting evidence regarding jurisdiction and notice, Staff requested a default decision, pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.55. At the hearing, Staff presented Exhibit No. 1, the notice of hearing and Exhibit No. 2, TABC's file on Respondent. The ALJ

finds that notice of the hearing was properly sent to Respondent, as set forth below, and that it was proper to proceed on a default basis.

II. FINDINGS OF FACT

1. On September 10, 2007, Amrik Ram d/b/a Cabaret Dance Club (Respondent), Medina County, Texas, was issued a Wine and Beer Retailer's On Premise Permit and Retailer's On Premise Late Hours License (License No. BG670881) by the Texas Alcoholic Beverage Commission (TABC).
2. On August 31, 2007, in lieu of a conduct surety bond, Respondent assigned to TABC Certificate of Deposit No. 10911 in the amount of \$5,000 held by the Medina Valley State Bank.
3. On April 30, 2008, Respondent's permit/license was canceled for cause.
4. On April 30, 2008, TABC sent written notice to Respondent at his last known designated mailing address of its intent to seek forfeiture of Respondent's certificate of deposit.
5. On July 10, 2008, TABC sent notice of the hearing to Respondent at his last known designated mailing address by certified mail, return receipt requested, advising Respondent that the hearing was set to convene on August 15, 2008, concerning the proposed forfeiture.
6. The notice was sent to Respondent's designated mailing address of record, 3854 Highway 132 North, Lytle, Texas 78052-4729.
7. The notice contained a short plain statement of the matters asserted against Respondent; the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; and a reference to the particular sections of the statutes and rules involved.
8. The notice informed Respondent in 12-point, boldface type, that if Respondent failed to appear at the hearing, TABC would proceed without Respondent, the allegations in the notice would be deemed admitted as true, and the relief sought could be granted by default.
9. The hearing on the merits convened August 15, 2008, at the hearing facility of the State Office of Administrative Hearings in San Antonio, Texas. Staff attorney, Judith Kennison, represented TABC. Respondent did not appear and was not represented at the hearing. The record closed on the same day.

III. CONCLUSIONS OF LAW

1. The TABC has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. (the Code) ch. 5 and § 11.11.
2. The State Office of Administrative Hearings has jurisdiction to conduct the hearing in this proceeding and to issue a proposal for decision with findings of fact and conclusions of law as provided by TEX. GOV'T CODE ANN. ch. 2003, and § 5.43 of the Code.
3. Proper and timely notice of the hearing was provided to Respondent in accordance with TEX. GOV'T CODE ANN. ch. 2001 and § 11.63 of the Code.
4. Pursuant to § 11.11 of the Code, Respondent forfeited the full amount of his certificate of deposit because his permit was revoked and he violated a provision of the Code.
5. TABC is entitled to a default decision against Respondent pursuant to 1 TAC § 155.55.
6. Respondent's certificate of deposit should be forfeited in accordance with § 11.11 of the Code.

SIGNED September 26, 2008.



**CATHERINE C. EGAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**