

DOCKET NO. 577179

TEXAS ALCOHOLIC BEVERAGE COMMISSION	§	BEFORE THE TEXAS
	§	
	§	
VS.	§	
	§	
SYLVIA CRISTEL CORRALES	§	
D/B/A THE ORIGINAL NEIGHBORHOOD BAR	§	ALCOHOLIC
PERMIT/LICENSE NO(s). BG605878, BL	§	
	§	
HARRIS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-09-0365)	§	BEVERAGE COMMISSION

**ORDER ADOPTING PROPOSAL FOR DECISION**

CAME ON FOR CONSIDERATION this 8<sup>th</sup> day of January 2009, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Don Smith. The hearing convened on November 7, 2008 and adjourned the same date. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on November 21, 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.

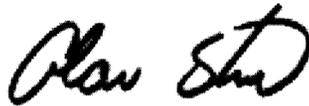
The Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained in the Proposal For Decision and incorporates those Findings of Fact and 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 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 conduct surety bond ( Bond Number 41120666) in the amount of \$5,000.00 be **FORFEITED**.

This Order will become final and enforceable on February 2, 2009, 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** this the 8th day of January, 2009, at Austin, Texas.



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Alan Steen, Administrator  
Texas Alcoholic Beverage Commission

**ADMINISTRATIVE LAW JUDGE**  
State Office of Administrative Hearings  
2020 N. Loop West, Suite 111  
Houston, Texas 77018  
**VIA FACSIMILE (713) 812-1001**

Sylvia Christel Corrales  
d/b/a The Original Neighborhood Bar  
**RESPONDENT**  
8902 Winkler Drive  
Houston, Texas 77017  
**VIA U.S. FIRST CLASS MAIL**

Sandra K. Patton  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Services Division

SKP/aa

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

November 21, 2008

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

**VIA REGULAR MAIL**

**RE: Docket No. 458-09-0365; Texas Alcoholic Beverage Commission vs. Sylvia Christel Corrales d/b/a The Original Neighborhood Bar**

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,

A handwritten signature in black ink that reads "Don Smith".

Don Smith  
Administrative Law Judge

DS/mr  
Enclosure

xc: Docket Clerk, State Office of Administrative Hearings- **VIA REGULAR MAIL**  
Sandra Patton, Staff Attorney, Texas Alcoholic Beverage Commission, 427 W 20<sup>th</sup> Street, Suite 600, Houston, TX 77008- **VIA REGULAR MAIL**  
Lou Bright, Director of Legal Services, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731- **VIA REGULAR MAIL**  
Sylvia Christel Corrales d/b/a The Original Neighborhood Bar, Respondent, 8902 Winkler Drive, Houston, TX 77017 -**VIA REGULAR MAIL**

**SOAH DOCKET NO. 458-09-0365**

**TEXAS ALCOHOLIC BEVERAGE  
COMMISSION**

**V.**

**SYLVIA CRISTEL CORRALES  
D/B/A THE ORIGINAL NEIGHBORHOOD  
BAR  
PERMIT NO(s) BG 605878, BL**

**HARRIS COUNTY, TEXAS  
(TABC CASE NO. 577179)**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

The staff of the Texas Alcoholic Beverage Commission (TABC or Commission) initiated this action seeking forfeiture of the conduct surety bond posted by Sylvia Christel Corrales d/b/a The Original Neighborhood Bar (Respondent) because Respondent was found to have committed three violations of the Texas Alcoholic Beverage Code (Code). The violations of the Code have been adjudicated. The Respondent made no appearance. This Proposal for Decision finds the allegations proven and adopts the recommendation of the staff that Respondent's conduct surety bond be forfeited.

**I. PROCEDURAL HISTORY, NOTICE, AND JURISDICTION**

The hearing in this matter convened on November 7, 2008, before Administrative Law Judge ALJ Don Smith at the offices of the State Office of Administrative Hearings (SOAH) in Houston, Harris County, Texas. The staff of the Commission (Staff) was represented by its counsel, Sandra Patton. Respondent did not appear. Because the hearing proceeded on a default basis and Staff's factual allegations are deemed admitted as true, the ALJ has incorporated those allegations into the finding of fact without further discussion.

Also, because the hearing proceeded on a default basis, procedural history, notice, and

jurisdiction are addressed in the findings of fact and conclusions of law without further discussion in the text of this proposal.

## II. EVIDENCE AND APPLICABLE STATUTORY PROVISIONS

TEX. ALCO. BEV. CODE ANN. §        and/or 61.13 provides that the amount of the surety bond shall be paid to the state if the license is revoked or on final adjudication that the holder violated a provision of the Code. Commission rule found at 16 TEX. ADMIN. CODE § 33.24 (j), governs forfeiture of a conduct surety bond, and provides that the Commission may seek forfeiture when a license or permit has been canceled, or where there has been a final adjudication that the licensee or permittee has committed three violations of the Code since September 1, 1995

Staff introduced two exhibits into evidence:

Exhibit 1 is the Unclaimed Certified Mail 7006 0810 0000 2143 5739 that was returned to the sender because it was not claimed by the addressee. The envelope is addressed to Sylvia Christel Corrales d/b/a The Original Neighborhood Bar, 8902 Winkler Drive, Houston, Texas 77017.

Exhibit 2 is the affidavit of Amy Harrison, TABC Director of the Licensing Division, with attached Respondent's TABC records (the records). The records state that the Wine and Beer Retailer's On Premise Permit, BG-605878, which includes the Retailer's On Premise Late Hours License, was issued to Sylvia Christel Corrales, doing business as The Original Neighborhood Bar, 8902 Winkler Drive, Houston, Harris County, Texas, by the Texas Alcoholic Beverage Commission, on the 24<sup>th</sup> day of August, 2005. The records contain final Orders in Docket Numbers 574069, 559557, and 554849, that Respondent has committed three violations under the Code. Each Order found that Respondent violated the Code and assessed a penalty. On April 7, 2008, the Commission mailed a notice to Respondent that the Commission intended to forfeit the conduct surety bond. Respondent requested a hearing to determine if the bond should be forfeited.

The ALJ took official notice of the notice of hearing in SOAH's file which shows the hearing was scheduled for November 7, 2008. The notice of hearing was mailed to Sylvia Christel Corrales d/b/a The Original Neighborhood Bar at 8902 Winkler Drive, Houston, Texas 77017 by certified mail 7006 0810 0000 2143 5739 on September 30, 2008.

### III. RECOMMENDATION

Because the Respondent has committed three violations of the Code since September , 1995, the Respondent should forfeit the full amount of the conduct surety bond

### IV. FINDINGS OF FACT

Sylvia Christel Corrales, d/b/a The Original Neighborhood Bar, 8902 Winkler Drive, Houston, Harris County, Texas, was issued a Wine and Beer Retailer's On Premise Permit, BG-605878, which includes the Retailer's On Premise Late Hours License, by TABC.

- 2 TABC staff sent a Notice of Hearing to Respondent on September 30, 2008, concerning the forfeiture of the conduct surety bond. The Notice of Hearing was returned to sender because it was not claimed.
- 3 Notice of hearing to the Respondent was shown by proof that the notice was sent to Respondent's known address, as shown on the referring agency's record, by certified mail, return receipt requested.
- 4 The notice of hearing also contained the following language in capital letters in 12 point or larger boldface type:

**If you fail to appear at the hearing, the Commission will proceed without you and the allegation (s) in this notice will be deemed admitted as true, and the relief sought may be granted by default.**
- 5 The hearing on the merits was held on November 7, 2008, at the offices of the State Office of Administrative Hearings, Houston, Harris County, Texas. Staff was represented by its counsel, Sandra Patton. The Respondent did not appear and was not represented at the hearing.
- 6 Respondent has three final adjudicated violations of the Code since September 1, 1995.

**V. CONCLUSIONS OF LAW**

TABC has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. §§ 1.11 and 61.13.

2. SOAH has jurisdiction to conduct the administrative 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.
3. Notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. Notice of the hearing was sufficient to allow entry of default judgment under State Office of Administrative Hearings Rules, 1 TEX. ADMIN. CODE § 155.55.
5. TEX. ALCO. BEV. CODE ANN. §§ 11.11 and/or 61.13 provides that the amount of the surety bond shall be paid to the state if the license is revoked or on final adjudication that the holder violated a provision of the code. Commission rule found at 16 TEX. ADMIN. CODE § 33.24 (j), governs forfeiture of a conduct surety bond, and provides that the Commission may seek forfeiture when a license or permit has been canceled, or where there has been a final adjudication that the licensee or permittee has committed three violations of the Code since September 1, 1995.
6. Based on Findings of Fact No. 6, and the above Conclusions of Law, the conduct surety bond executed by Respondent should be forfeited to the State.

SIGNED this 21st day of November, 2008.



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**DON SMITH**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**