

**DOCKET NO. 582626**

|                                     |   |                     |
|-------------------------------------|---|---------------------|
| TEXAS ALCOHOLIC BEVERAGE COMMISSION | § | BEFORE THE TEXAS    |
|                                     | § |                     |
| VS.                                 | § |                     |
|                                     | § |                     |
| LIQUID SPORTS BAR LLC               | § |                     |
| D/B/A LIQUID SPORTS BAR             | § | ALCOHOLIC           |
| PERMIT/LICENSE NO(s). RM691526, LB, | § |                     |
| PE & FB                             | § |                     |
|                                     | § |                     |
| DALLAS COUNTY, TEXAS                | § |                     |
| (SOAH DOCKET NO. 458-09-2676)       | § | BEVERAGE COMMISSION |

**ORDER ADOPTING PROPOSAL FOR DECISION**

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

After proper notice was given, this case was heard by Administrative Law Judge Brenda Coleman. The hearing convened on March 27, 2009 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 May 21, 2009. 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.

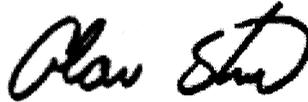
The Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained in the Proposal For Decision and incorporates those Findings of Fact and 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 permits and certificate be **CANCELLED FOR CAUSE**.

This Order will become final and enforceable on July 16, 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 22nd day of June 2009, at



---

Alan Steen, Administrator  
Texas Alcoholic Beverage Commission

Judge Brenda Coleman  
**ADMINISTRATIVE LAW JUDGE**  
State Office of Administrative Hearings  
6333 Forest Park Road, Suite 150-A  
Dallas, Texas 75235  
**VIA FACSIMILE (214) 956-8611**

Liquid Sports Bar LLC  
d/b/a Liquid Sports Bar  
**RESPONDENT**  
2376 Lavon Dr., Ste 138  
Garland, TX 75040  
**VIA REGULAR MAIL**

Ramona M. Perry  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division

Dallas Enforcement District Office-Lt. Gladden

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

May 22, 2009

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

**VIA FACSIMILE 512/206-3203**

**RE: TEXAS ALCOHOLIC BEVERAGE COMMISSION VS.  
LIQUID SPORTS BAR LLC D/B/A LIQUID SPORTS BAR  
SOAH DOCKET NO. 458-09-2676**

Dear Mr. Steen:

Please find enclosed a corrected 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 § 155.507(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

*Michelle Kella for Brenda Coleman*

Brenda Coleman  
Administrative Law Judge

BC/lan  
Enclosure

Xc: Ramona Perry, Staff Attorney, Texas Alcoholic Beverage Commission, **VIA FACSIMILE 713/426/7965**  
Lou Bright, Director of Legal Services, Texas Alcoholic Beverage Commission, **VIA FACSIMILE 512/206-3498**  
Liquid Sports Bar, **VIA REGULAR MAIL 2376 Lavon Drive Suite 138 Garland, Texas 75040**

**SOAH DOCKET NO. 458-09-2676**

**TEXAS ALCOHOLIC BEVERAGE,  
COMMISSION,  
Petitioner**

**V.**

**LIQUID SPORTS BAR LLC ,  
D/B/A LIQUID SPORTS BAR,  
Respondent**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**CORRECTED PROPOSAL FOR DECISION<sup>1</sup>**

The Staff of the Texas Alcoholic Beverage Commission (Commission or Petitioner) brought this enforcement action against Liquid Sports Bar LLC d/b/a Liquid Sports Bar (Respondent). Petitioner sought cancellation of Respondent's permits, alleging that Respondent has engaged in conduct prohibited by the Texas Alcoholic Beverage Code. Respondent failed to appear at the hearing, and the hearing proceeded on a default basis. The Administrative Law Judge (ALJ) recommends cancellation of Respondent's permits.

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

The Commission has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. ch. 5 and § 11.61. The State Office of Administrative Hearings (SOAH) 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 ANN. ch. 2003.

On February 23, 2009, the Commission issued its notice of hearing setting the matter for hearing on March 27, 2009. The notice of hearing was sent by regular mail and certified mail, return receipt requested, to Respondent at Respondent's last known address. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority

<sup>1</sup> This Proposal for Decision corrects the name of the TABC Staff Attorney.

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CORRECTED PROPOSAL FOR DECISION

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and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted, as required by TEX. GOV'T CODE ANN. § 2001.052. The notice of hearing also contained the following language in 12-point or larger boldface type: "If a party fails to appear at the hearing, the factual allegations in the notice of hearing will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default." The certified mail was received by Respondent's owner, Fernando Hernandez, as evidenced by Mr. Hernandez's signature on the green card.

On March 27, 2009, a hearing convened before SOAH ALJ Brenda Coleman. The Commission was represented at the hearing by Ramona Perry, Staff Attorney. Respondent did not appear and was not represented at the hearing. The record closed on that same date.

## II. DISCUSSION

Based on the failure of Respondent to appear at the hearing, Petitioner requested that the default provisions of 1 TEX. ADMIN. CODE (TAC) § 155.501 be invoked. The ALJ finds that Petitioner issued notice in compliance with 1 TAC §§ 155.401 and 155.501 and TEX. ALCO. BEV. CODE ANN. § 11.63. Pursuant to 1 TAC § 155.501, the allegations presented in the notice of hearing are deemed admitted as true. Accordingly, the ALJ has incorporated these allegations into the Proposed Findings of Fact below. Based on the deemed factual findings in this case, Respondent's permits should be cancelled.

## III. FINDINGS OF FACT

1. Liquid Sports Bar LLC d/b/a Liquid Sports Bar (Respondent), holds a Mixed Beverage Restaurant Permit, which includes the Food and Beverage Certificate, Mixed Beverage Late Hours Permit and Beverage Cartage Permit, issued by the Commission on April 30, 2008, for the premises located at 2376 Lavon Drive, Suite 138, Garland, Dallas County, Texas.
2. On October 7, 2008, Respondent or its agent, servant, or employee, knowingly possessed or permitted the possession of alcoholic beverages on Respondent's premises which were not covered by an invoice from the supplier from whom the alcoholic beverages were purchased.

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CORRECTED PROPOSAL FOR DECISION

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3. On October 7, 2008, Respondent or its agent, servant, or employee, failed to immediately invalidate the identification stamps on empty bottles of distilled spirits by mutilating the stamps.
4. On October 7, 2008, Respondent or its agent, servant, or employee, possessed or permitted another to possess distilled spirits in containers bearing identification stamps which had been mutilated or otherwise damaged or marked to a substantial degree on Respondent's premises.
5. On February 23, 2009, the Commission issued its notice of hearing by regular mail and certified mail, return receipt requested, to Respondent at Respondent's last known address, setting the hearing on the merits for March 27, 2009.
6. The certified mail was received by Respondent's owner, Fernando Hernandez, as evidenced by Mr. Hernandez's signature on the green card.
7. 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 short, plain statement of the matters asserted.
8. The notice of hearing also contained the following language in 12-point or larger boldface type: "If a party fails to appear at the hearing, the factual allegations in the notice of hearing will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default."
9. A hearing convened before SOAH ALJ Brenda Coleman on March 27, 2009. The Commission appeared through its Staff Attorney, Ramona Perry. Respondent did not appear and was not represented at the hearing. The record closed on that same date.

#### IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Code ch. 5 and § .61.
2. SOAH 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.
3. Proper and timely notice of the hearing was effected on Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001, 1 TEX. ADMIN. CODE (TAC) § 155.501 and 16 TAC § 37.3.

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CORRECTED PROPOSAL FOR DECISION

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4. A default judgment should be entered against Respondent pursuant to 1 TAC § 155.501.
5. Respondent violated TEX. ALCO. BEV. CODE ANN. §§ 11.61 and 28.09, and 16 TAC §§ 41.40 and 41.72.
6. Respondent's permits should be cancelled.

**SIGNED** May 21, 2009.

  
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**BRENDA COLEMAN**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**DALLAS OFFICE**

6333 Forest Park Road Suite 150a

Dallas, Texas 75235

Phone: (214) 956-8616

Fax: (214) 956-8611

DATE:

05/22/2009

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

06

REGARDING:

CORRECTED PROPOSAL FOR DECISION

DOCKET NUMBER:

458-09-2676

JUDGE BRENDA S COLEMAN

FAX TO:

FAX TO:

RAMONA PERRY (TEXAS ALCOHOLIC BEVERAGE  
COMMISSION)

(713) 426-7965

Liquid Sports Bar d/b/a Liquid Sports Bar

VIA REGULAR MAIL

ALAN STEEN (TEXAS ALCOHOLIC BEVERAGE  
COMMISSION)

(512) 206-3350

LOU BRIGHT GENERAL COUNSEL (Alcoholic Beverage  
Commission, Texas)

(512) 206-3498

**NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT LEIGH NOLAN(lda) (214) 956-8616**

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