

DOCKET NO. 589411

TEXAS ALCOHOLIC BEVERAGE
COMMISSION

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BEFORE THE TEXAS

VS.

SIR B'S HOSPITALITY INC.
D/B/A MR. B'S SPORT'S GRILL
PERMIT/LICENSE NO(s). N691871, NL & PE
TARRANT COUNTY, TEXAS
(SOAH DOCKET NO. 458-10-3069)

ALCOHOLIC

BEVERAGE COMMISSION

ORDER

The above-styled and numbered cause is before the Assistant Administrator, Texas Alcoholic Beverage Commission for consideration and entry of the agency order.

After proper notice was given, this case was heard by Administrative Law Judge Phyllis Crazz. The hearing convened on the 23rd day of March, 2010 and adjourned the same day. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on the 12th day of May, 2010. The Proposal For Decision was properly served on all parties who were given an opportunity to file Exceptions and Replies. No exceptions were filed.

The Assistant 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.

IT IS THEREFORE ORDERED, that pursuant to rules adopted by the commission found in Title 16, Texas Administrative Code §33.24, your conduct surety bond, certificate of deposit, or letter of credit is FORFEITED.

IT IS FURTHER ORDERED, that service of this Order shall be made to the surety company, bank or savings institution holding the bond, certificate of deposit or letter of credit securing performance of the holder of the permit on the date it becomes final, and the amount of the bond payable to the state be remitted to the commission, not later than 10 days from the date the final order is served.

This Order will become **final and enforceable** on the 26th day of July, 2010, 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 the 2nd day of July, 2010, at Austin, Texas.



Sherry K-Cook, Assistant Administrator
Texas Alcoholic Beverage Commission

CERTIFICATE OF SERVICE

I certify that each party or person with an interest in the above matter has been notified of the agency order in the manner indicated below on the 2nd day of July, 2010.



Cecelia Brooks, Paralegal
Texas Alcoholic Beverage Commission
Legal Division

Honorable Judge Phyllis Cranz
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
Fort Worth, Texas
VIA FACSIMILE: (817) 377-3706

International Fidelity Insurance Company
SURETY, BANK OR SAVINGS INSTITUTION
One Newark Center, 20th Floor
Newark, NJ 07102
VIA REGULAR MAIL

Sir B's Hospitality, Inc..
d/b/a Mr. B'S Sport's Grill
RESPONDENT
2860 Hwy. 157N, Ste. 100
Mansfield, TX 76063
VIA REGULAR MAIL

Judith L. Kennison
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Arlington District Office

DOCKET NO. 458-10-3069

**TEXAS ALCOHOLIC BEVERAGE
COMMISSION, Petitioner**

v.

**SIR B'S HOSPITALITY INC.
D/B/A MR. B'S SPORT'S GRILL
Respondent
TARRANT COUNTY, TEXAS
(TABC No. 589411)**

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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 Sir B's Hospitality Inc. d/b/a Mr. B's Sport's Grill (Respondent), alleging that Respondent had three or more adjudicated violations of the Texas Alcoholic Beverage Code or Texas Alcoholic Beverage Commission Rules. A hearing was scheduled and convened, however, the Respondent did not appear and was not represented. The Administrative Law Judge (ALJ) finds that TABC Staff's allegations are true and recommends that Respondent's surety bond, certificate of deposit, or letter of credit be forfeited.

I. PROCEDURAL HISTORY

On March 10, 2010, TABC Staff issued a Notice of Hearing to Respondent at its mailing address of record reflected on Respondent's permit and license, TABC No. N 691871: 2860 Hwy 157N, Ste. 100, Mansfield, Texas 76063. The Notice of Hearing was sent by certified mail (7007 0710 0005 4782 8770), return receipt requested. The Notice of Hearing was signed for by Kevin R. Williams on March 12, 2010.

A hearing was convened as scheduled before ALJ Phyllis Crazz at the State Office of Administrative Hearings, at 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Texas 76107, on March 23, 2010. TABC Staff was represented at the hearing by Judith Kennison, a TABC Staff Attorney, via telephone conference call. Respondent did not appear and was not represented at the hearing.

During the hearing, documents were offered by TABC Staff and admitted into evidence to support a recommendation for default decision. The hearing concluded on March 23, 2010, and the record closed on that same day. The ALJ will proceed with consideration of TABC Staff's request for a default recommendation and forfeiture, as discussed below.

II. REASONS FOR PROPOSED DECISION

Based on Respondent's failure to appear at the hearing, TABC Staff requested that the default provisions of 1 TEX. ADMIN. CODE § 155.501 be invoked. The ALJ finds that TABC Staff issued notice of the hearing in compliance with 1 TEX. ADMIN. CODE §§ 155.401 and 155.501, and TEX. ALCO. BEV. CODE ANN. § 11.63. Pursuant to 1 TEX. ADMIN. CODE § 155.501, the allegations presented in the Notice of Hearing are deemed admitted as true. TABC Staff provided a copy of Respondent's licensing history, which is maintained by TABC Staff, in support of its request. Accordingly, the ALJ has incorporated these allegations into the Proposed Findings of Fact below. The findings support the requested penalty of forfeiture of the surety bond, certificate of deposit, or letter of credit.

III. PROPOSED FINDINGS OF FACT

1. Sir B's Hospitality Inc. d/b/a Mr. B's Sport's Grill (Respondent) holds a Private Club Registration Permit, a Private Club late Hours Permit, and a Beverage Cartage Permit, issued

by the Texas Alcoholic Beverage Commission (TABC) , for the premises located at 2860 Hwy 157 N, Suite 100, Mansfield, Tarrant County, Texas 76063.

2. On March 10, 2010, the TABC Staff issued a Notice of Hearing to Respondent at its mailing address of record reflected on Respondent's permit and license, N 691871: 2860 Hwy 157N, Ste. 100, Mansfield, Texas 76063. This notice was sent by certified mail (7007 0710 0005 4782 8770), return receipt requested, and was signed for by Kevin R. Williams on March 12, 2010.
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 March 23, 2010, a hearing was convened before ALJ Phyllis Cranz at the State Office of Administrative Hearings, at 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Texas 76107. TABC Staff was represented at the hearing by Judith Kennison, a TABC Staff Attorney via telephone conference call. Respondent did not appear and was not represented at the hearing.
6. Respondent, through its agent, servant, or employee, had three or more adjudicated violations of the Texas Alcoholic Beverage Code or Rules, and the permits were cancelled for cause on September 30, 2009. (TABC Exhibit 2)

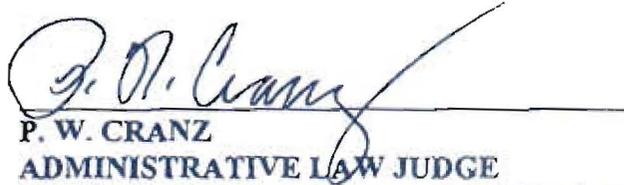
IV. PROPOSED CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this proceeding pursuant to TEX. ALCO. BEV. CODE ANN. ch. 5.
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 ANN. ch. 2003.
3. Based upon the above Proposed Findings of Fact, Staff issued its notice of hearing in compliance with 1 TEX. ADMIN. CODE §§ 155.401 and 155.501 and TEX. ALCO. BEV. CODE

ANN §§ 5.43 and 11.015.

4. Based upon the above Proposed Findings of Fact, the hearing proceeded on a default basis as authorized by 1 TEX. ADMIN. CODE § 155.501.
5. Based upon Proposed Finding of Fact No. 6, Respondent violated TEX. ALCO. BEV. CODE ANN §§ 11.11 and 16 TEX. ADMIN. CODE §33.24 (j) (Tex. Alco. Bev. Comm'n, Conduct Surety Bond).
6. Based upon Proposed Findings of Fact Nos. 6, Conclusion of Law No. 5, and TEX. ALCO. BEV. CODE ANN., Respondent's surety bond should be forfeited.

SIGNED May 11, 2010.



A handwritten signature in cursive script, appearing to read "P. W. Cranz", is written over a horizontal line.

**P. W. CRANZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**