

DOCKET NO 605157

TEXAS ALCOHOLIC BEVERAGE COMMISSION	§ § § § § § § § § §	BEFORE THE TEXAS
VS.		
LETICIA VALDEZ D/B/A PUERTO VALLARTA No. 1 RESTAURANT PERMIT/LICENSE NO(s). BG540454 EL PASO COUNTY, TEXAS (SOAH DOCKET NO.458-12-6373)		ALCOHOLIC BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 14th day of September, 2012, the above-styled and numbered cause.

After proper notice was given, this case was scheduled to be heard by an Administrative Law Judge on July 10, 2012 at 1:00 PM. The Respondent failed to appear at the scheduled hearing and the hearing proceeded on a default basis. The ALJ announced the default on the record and dismissed the case from the SOAH docket pursuant to 1 Texas Administrative Code §155.501(d). The ALJ made a finding of adequate notice and the file was returned to the Agency for informal disposition on a default basis in accordance with Texas Government Code §2001.056.

I. FINDINGS OF FACT

1. Leticia Valdez, Respondent, is the holder of a Wine & Beer Retailer's On Premise Permit, issued by the Commission for the premises known as Puerto Vallarta No. 1 Restaurant, located at 1611 Montana Avenue, El Paso, El Paso County, Texas 79902-5621.
2. On June 29, 2012, the Commission's Staff (Petitioner) issued its notice of hearing by personal service to Respondents at the licensed premises located at 420 Talbot Space A, Canutillo, Texas 79835. Respondent received the notice on June 29, 2012, as evidenced by the signature of Respondent's agent, Leticia Blanco.
3. The notice informed Respondent of the time, date, and location of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and the matters asserted.
4. The notice also contained language in 12-point, bold-face type informing Respondent that if it failed to appear at the hearing, the factual allegations against it would be deemed admitted as true, and the relief sought in the notice might be granted by default.
5. The hearing was convened by Administrative Law Judge Veronica S. Najera at the State Office of Administrative Hearings (SOAH) field office in El Paso, Texas. Petitioner was represented by Staff Attorney, John W. Sedberry. Respondent did not appear and was not represented at the hearing.

6. The hearing proceeded on a default basis. The ALJ announced default on the record and dismissed the case from the SOAH docket pursuant to 1 Texas Administrative Code §155.501(d). The ALJ made a finding of adequate notice.
7. The allegations contained in the notice are deemed admitted as true.
8. On or about October 5, 2010, Respondent, LETICIA VALDEZ possessed or permitted others to possess a narcotic on her licensed premises, to wit: Leticia Valdez was found guilty and sentenced on April 27, 2011 by the United States District Court (Western District of Texas) for conspiracy to possess with intent to distribute more than five (5) kilograms of cocaine in violation of Texas Alcoholic Beverage Code §§ 104.01(9), 61.71(a)(3), 25.04, and 16 Texas Administrative Code § 35.41 (b).
9. Petitioner requested that the License be Cancelled for Cause.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ch. 5 and §§104.01(9), 61.71(a)(3) and § 25.04.
2. Proper and timely notice of the hearing was provided as required by TEX. GOV'T CODE ANN. Ch. 2001 and TEX. ADMIN.CODE Ch. 155.
3. Based on the above Findings of Fact, Respondent violated Code §§104.01(9), 61.71(a)(3), 25.04, and 16 Texas Administrative Code § 35.41 (b).
4. Staff is entitled to a default judgment against Respondent pursuant to 1 TAC §155.501.
5. Petitioner is entitled to the relief requested and Respondent's license should be cancelled.

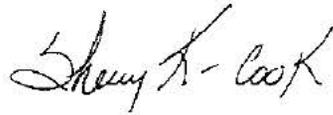
All Proposed Findings of Fact and Conclusions of Law, submitted by any party, which are not specifically adopted herein, are denied.

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 your permit(s) and/or license(s) is/are hereby **CANCELLED FOR CAUSE**.

This Order will become final and enforceable on **October 9, 2012**, 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 14th day of September, 2012, at Austin, Texas.



Sherry Cook, Administrator
Texas Alcoholic Beverage Commission

Administrative Law Judge
State Office of Administrative Hearings
El Paso, TX
VIA FACSIMILE: (512) 322- 0472

Leticia Valdez
d/b/a Puerto Vallarta No. 1 Restaurant
RESPONDENT
1611 Montana Ave
El Paso, TX 79902-5621
VIA CERTIFIED MAIL NO. 7007 0710 0005 4744 5441

John W. Sedberry
ATTORNEY FOR PETITIONER
TABC Legal Section

Lt. Salvador Morales Jr.
El Paso Enforcement District Office
VIA EMAIL

Licensing Division

DOCKET NO. 458-12-6373

TEXAS ALCOHOLIC BEVERAGE
COMMISSION,
Petitioner

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BEFORE THE STATE OFFICE

V.

OF

LETICIA VALDEZ d/b/a
PUERTO VALLARTA NO. 1,
Respondent

ADMINISTRATIVE HEARINGS

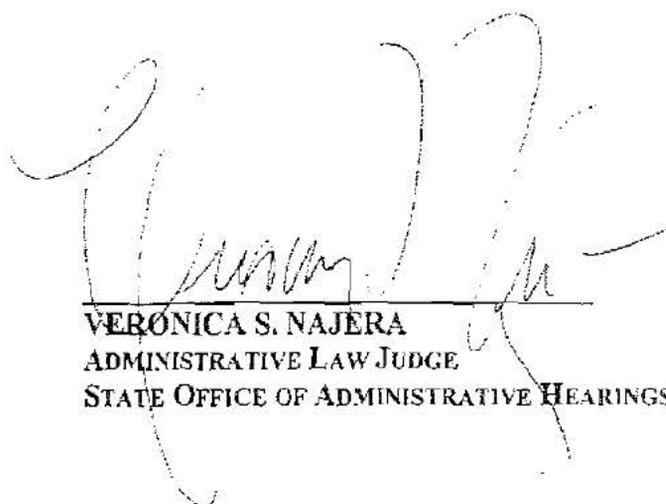
(TABC CASE NO. 605157)

DISMISSAL FROM SOAH DOCKET BASED ON DEFAULT

The Respondent failed to appear at the scheduled hearing convened by the undersigned Administrative Law Judge (ALJ) on July 10, 2012. Staff for the Texas Alcoholic Beverage Commission appeared and the hearing proceeded on a default basis. Accordingly, upon receiving the required showing of proof to support a default, the ALJ announced the default on the record and dismissed the case from the SOAH docket pursuant to 1 Texas Administrative Code § 155.501(d). Furthermore, the ALJ makes a finding of adequate notice. See TABC Exhibit No. 1. The file is returned to the referring agency for informal disposition on a default basis in accordance with Texas Government Code § 2001.056.

A party may file a motion with SOAH no later than ten days after the hearing to set aside a default announced at the hearing and to reopen the record.

Signed July 11, 2012.



VERÓNICA S. NAJERA
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS