

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge
July 21, 2015

RECEIVED

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**TABC HOUSTON
LEGAL DEPT.**

Sherry K. Cook
Administrator
Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78731

VIA REGULAR MAIL

**RE: SOAH Docket No. 458-15-3516; Texas Alcoholic Beverage
Commission vs. BNS Investments Inc. d/b/a Forest Food Store**

Dear Ms. Cook:

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 § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink that reads "Lindy Hendricks".

Lindy Hendricks
Administrative Law Judge

LH/mr
Enclosure

xc Sandra Patton, Staff Attorney, Texas Alcoholic Beverage Commission, 427 W. 20th Street, Suite 600, Houston, TX 77008 - **VIA REGULAR MAIL**
Martin Wilson, General Counsel, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - **VIA REGULAR MAIL**
Judith Kennison, Senior Attorney, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - **VIA REGULAR MAIL**
BNS Investments Inc. d/b/a Forest Food Store, 5922 Shadow Creek Court, Baytown, TX 77520 - **VIA REGULAR MAIL**

3. The notice of hearing 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 included a short, plain statement of the matters asserted.
4. The notice of hearing 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 convened on July 10, 2015, before Administrative Law Judge Lindy Hendricks at the State Office of Administrative Hearings (SOAH) office in Houston, Texas. TABC was represented by Staff Attorney, Sandra K. Patton. Respondent did not appear and was not represented at the hearing.
6. Staff moved for a default, which was granted.
7. The allegations contained in the notice are deemed admitted as true.
8. Respondent or its agent, servant, or employee, gave a check or draft for the purchase of beer that was dishonored when presented for payment.

II. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter pursuant to Texas Alcoholic Beverage Code (Code) Chapter 5 and § 11.61.
2. SOAH has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Government Code Chapter 2003.
3. Proper and timely notice of the hearing was provided as required by Texas Government Code §§ 2001.051 and 2001.052.
4. Respondent violated Code §§ 61.71(a)(1), 61.73, 102.31(b) and (c), and 16 Texas Administrative Code § 45.131.
5. Based on the above Conclusions of Law, Respondent's permit should be suspended for a period of seven days.
6. Based upon the above Conclusions of Law, Respondent should be permitted to pay a civil penalty of \$300 per day in lieu of suspension of the permits.

SIGNED July 21, 2015.



LINDY HENDRICKS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

12:01 a.m. on February 10, 2016 and shall remain suspended for **SEVEN (7) DAYS, UNLESS** a civil penalty in the amount of **\$2100.00 is paid ON OR BEFORE February 2, 2016.**

This Order will become final and enforceable on the 23rd day of January, 2016, unless a Motion for Rehearing is filed by the 22nd day of January, 2016.

SIGNED this the 30th day of December, 2015, at Austin, Texas.



Sherry K-Cook, Executive Director
Texas Alcoholic Beverage Commission

CERTIFICATE OF SERVICE

I certify that the persons listed below were served with a copy of this Order in the manner indicated below on this the 30th day of December, 2015.



Martin Wilson, Assistant General Counsel
Texas Alcoholic Beverage Commission

Lindy Hendricks
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
2020 North Loop West, Suite 111
Houston, TX 77018
VIA FACSIMILE: (512) 322-2061

BNS Investments Inc.
d/b/a Forest Food Store
RESPONDENT
5922 Shadow Creek Court
Baytown, TX 77520
VIA FIRST CLASS MAIL, CMRRR # 70150640000460343429

Sandra K. Patton
ATTORNEY FOR PETITIONER
TABC Legal Division
VIA E-MAIL: sandra.patton@tabc.texas.gov

**TEXAS ALCOHOLIC BEVERAGE COMMISSION
CIVIL PENALTY REMITTANCE**

DOCKET NUMBER: 630476

REGISTER NUMBER:

NAME: BNS Investments, Inc.

TRADENAME: Forest Food Store

ADDRESS: 5922 Shadow Creek Court, Baytown, Texas

DUE DATE: February 2, 2016

PERMITS OR LICENSES: BQ870389

AMOUNT OF PENALTY: \$2,100.00

Amount remitted \$ _____ Date remitted _____

You may pay a civil penalty rather than have your permits and licenses suspended if an amount for civil penalty is included on the attached order.

YOU HAVE THE OPTION TO PAY THE CIVIL PENALTY ONLY IF YOU PAY THE ENTIRE AMOUNT ON OR BEFORE THE DUE DATE. AFTER THAT DATE YOUR LICENSE OR PERMIT WILL BE SUSPENDED FOR THE TIME PERIOD STATED ON THE ORDER.

Mail this form with your payment to:

TEXAS ALCOHOLIC BEVERAGE COMMISSION

P.O. Box 13127

Austin, Texas 78711

Overnight Delivery Address: 5806 Mesa Dr., Austin, Texas 78731

You must pay by postal money order, certified check, or cashier's check. No personal or company check nor partial payment accepted. Your payment will be returned if anything is incorrect. You must pay the entire amount of the penalty assessed.

Attach this form and please make certain to include the Docket # on your payment.

Signature of Responsible Party

Street Address P.O. Box No.

City State Zip Code

Area Code/Telephone No.

