

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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DATE: 08/20/2015
NUMBER OF PAGES INCLUDING THIS COVER SHEET: 3
REGARDING: DEFAULT PROPOSAL FOR DECISION
DOCKET NUMBER: 458-15-4493
JUDGE ROBERT JONES

FAX TO:

FAX TO:

MICKEYS MIDWAY INTL, INC

VIA REGULAR MAIL

EDGAR M. KORZENIOWSKI (TEXAS ALCOHOLIC
BEVERAGE COMMISSION)

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DOCKET NO. 458-15-4493

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner	§	BEFORE THE STATE OFFICE
	§	
	§	
v.	§	OF
	§	
MICKEY’S MIDWAY INT’L D/B/A QUIK STOP Respondent	§	ADMINISTRATIVE HEARINGS
	§	
	§	

DEFAULT PROPOSAL FOR DECISION

This matter was scheduled for hearing at the request of the Staff of the Texas Alcoholic Beverage Commission (TABC). Despite being sent proper notice, Mickey’s Midway Int’l d/b/a Quik Stop (Respondent) did not appear and was not represented at the hearing. For the reasons set out in the Findings of Fact and Conclusions of Law, the Administrative Law Judge (ALJ) finds that the relief requested by the Staff of the TABC and Denton County should be granted on a default basis.

I. FINDINGS OF FACT

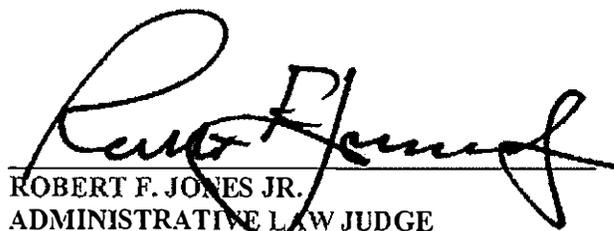
1. Notice of the hearing was mailed to Respondent at Respondent’s address of record at least 10 days prior to the scheduled hearing.
2. The notice of hearing contained a statement of the date, time, and place of the hearing; the matters asserted; the statutes and rules involved; and the legal authorities under which the hearing would be held.
3. The notice of hearing contained a statement in at least 12-point, bold-face type that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against the party that fails to appear at hearing.
4. The hearing was held and the record closed on August 7, 2015.
5. Respondent did not appear and was not represented at the hearing.

6. TABC's staff moved for a default with respect to count I in the notice of hearing, which was granted.
7. The factual allegations listed in count I in the notice of hearing are deemed admitted and are incorporated by reference into this Finding of Fact.

IV. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter. Tex. Alco. Bev. Code Chapter 5.
2. SOAH has jurisdiction to conduct the administrative hearing in this matter and to issue a proposal for decision containing proposed findings of fact and conclusions of law. Tex. Gov't Code Chapter 2003.
3. Proper and timely notice of the hearing was provided to Respondent. Tex. Gov't Code § 2001.051.
4. The allegations in count I in the notice of hearing were properly deemed admitted. 1 Tex. Admin. Code § 155.501.
5. TABC's staff has established the basis for sanctions alleged in count I in the notice of hearing, which is incorporated into this Conclusion of Law.
6. TABC is entitled to the relief requested and Respondent's Wine & Beer Retailer's Off Premise Permit BQ-872055 should be cancelled. Tex. Alco. Bev. Code §§ 5.44(a)(6) and 5.32.

SIGNED August 20, 2015.


ROBERT F. JONES JR.
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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SERVICE LIST

AGENCY: Alcoholic Beverage Commission, Texas (TABC)
STYLE/CASE: MICKEY'S MIDWAY INT'L INC DBA QUICK STOP
SOAH DOCKET NUMBER: 458-15-4493
REFERRING AGENCY CASE: 630989

STATE OFFICE OF ADMINISTRATIVE HEARINGS **ADMINISTRATIVE LAW JUDGE**
ALJ ROBERT JONES

REPRESENTATIVE / ADDRESS **PARTIES**

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MICKEYS MIDWAY INTL, INC.

xc: Docket Clerk, State Office of Administrative Hearings
Emily Helm GENERAL COUNSEL, TABC, Fax No. 512-206-3226

DOCKET NO. 630989

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner	§	BEFORE THE TEXAS
	§	
	§	
	§	
VS.	§	
	§	
	§	
	§	
MICKEY’S MIDWAY INT’L INC. D/B/A QUIK STOP, Respondent	§	ALCOHOLIC
	§	
	§	
	§	
PERMIT BQ872055	§	
	§	
	§	
	§	
BELL COUNTY, TEXAS (SOAH DOCKET NO. 458-15-4493)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 20th day of November, 2015, the above-styled and numbered cause.

After proper notice was given, this case was heard by the State Office of Administrative Hearings (SOAH), with Administrative Law Judge Robert F. Jones presiding. The hearing convened on August 7, 2015 and the SOAH record closed the same day. Respondent did not appear and was not represented at the hearing. The Administrative Law Judge filed a Default Proposal for Decision containing Findings of Fact and Conclusions of Law dated August 20, 2015. 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. No exceptions were filed.

After review and due consideration of the Proposal for Decision, and with the following modifications to Finding of Fact 7 and Conclusion of Law 6, I adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained therein and incorporate those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein.

The modification to Finding of Fact 7 is made to clarify the reference to the Notice of Hearing. The modification to Conclusion of Law 6 is to include additional legal citations.

Finding of Fact 7 is modified to read:

On or about December 19, 2014, Respondent failed to timely provide records requested by the Commission in a letter from auditor Clifford W. Stech dated November 21, 2014.

Conclusion of Law 6 is modified to read:

TABC is entitled to the relief requested and Respondent's Wine and Beer Retailer's Off-Premise Permit BQ872055 should be cancelled. Tex. Alco. Bev. Code §§ 5.32, 5.44 (a)(6), 11.61(b)(2), 26.03, and 61.71(a)(1).

All motions, requests for entry of Proposed Findings of Fact and Conclusions of Law, and any other requests for general or specific relief submitted by any party are denied, unless specifically adopted herein.

IT IS THEREFORE ORDERED that Wine and Beer Retailer's Off-Premise Permit BQ872055, is hereby **CANCELLED**.

This Order will become final and enforceable on the 15th day of December, 2015, unless a Motion for Rehearing is filed by the 14th day of December, 2015.

SIGNED this the 20th day of November, 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 20th day of November, 2015.



Martin Wilson, Assistant General Counsel
Texas Alcoholic Beverage Commission

Robert F. Jones Jr.
ADMINISTRATIVE LAW JUDGE
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