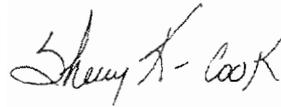


IT IS THEREFORE ORDERED that Respondent's Wine and Beer Retailer's Permit, BG763133, is hereby **CANCELLED**.

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.

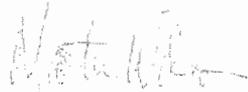
SIGNED this the 30th day of December, 2015, at Austin, Texas.



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.



Steven M. Rivas
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
300 W. 15th Street, Suite 502
Austin, TX 78701
VIA FACSIMILE: (512) 322-2061

Griffin Brothers, LLC
d/b/a The Quihi Shop
RESPONDENT
1201 Robin Court
Hondo, TX 78861
VIA FIRST CLASS MAIL, CMRRR # 70150640000460343344

Judith Kennison
ATTORNEY FOR PETITIONER
TABC Legal Division
VIA E-MAIL: Judith.kennison@tabc.texas.gov

260 CRD 4518 in the city of Hondo, Medina County, Texas. Mr. Reynolds testified that although Respondent currently holds a permit, pending renewal, he is delinquent on tax payments. On November 13, 2014, Mr. Reynolds, acting on behalf of the CPA, filed a written protest of the renewal of Respondent's license because Respondent was delinquent in paying sales taxes.¹ On August 3, 2015, Staff of the TABC informed Respondent of the protest and of Staff's intent to cancel Respondent's permit.²

The basis for the protest was that Respondent owes \$1,098.51 in delinquent sales and use tax for the months of June and July 2014. Mr. Griffin did not deny owing the taxes and testified he was in the process of closing the bar.

The Alcoholic Beverage Code states that the TABC may "refuse to renew or, after notice and hearing, suspend for not more than 60 days or cancel a license if the commission or administrator finds that the licensee":

is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Tax Code), or is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under Chapter 321, Tax Code.³

Staff seeks cancellation of Respondent's license on the basis that Respondent owes sales tax due and payable under chapters 151 and 321 of the Texas Tax Code. Respondent does not dispute that the taxes are finally determined and are due.

The preponderance of the evidence establishes that Respondent is shown to be subject to a final determination of taxes due and payable pursuant to Chapters 151 and 321 of the Texas Tax Code in the amount of \$1,098.51. The taxes remain unpaid, and Respondent does not

¹ Staff Ex. 1 at 1.

² Staff Ex. 1 at 3.

³ Tex. Alco. Bev. Code § 61.712(2).

deny same. As such, the ALJ recommends that Respondent's Wine & Beer Retailer's On Premise Permit BG763133 be cancelled.

III. FINDINGS OF FACT

1. The Texas Alcoholic Beverage Commission (TABC) issued Wine & Beer Retailer's On Premise Permit BG763133 to Griffin Brothers, LLC d/b/a The Quihi Shop (Respondent) on December 7, 2010.
2. The licensed premise was located at 260 CRD 4518 in the city of Hondo, Medina County, Texas.
3. Respondent's permit is current, pending renewal.
4. On November 13, 2014, John Reynolds, a program specialist with the Texas Comptroller of Public Accounts (CPA), acting on behalf of the CPA, filed a written protest of the renewal of Respondent's license because Respondent was delinquent in paying sales taxes.
5. On August 3, 2015, Staff of the TABC informed Respondent of the protest and of Staff's intent to cancel Respondent's permit.
6. Respondent continues to owe \$1,098.51 in delinquent sales tax.
7. On August 3, 2015, Staff issued its Notice of Hearing, which contained information regarding 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.
8. The hearing in this matter convened before Administrative Law Judge Steven M. Rivas on August 25, 2015, at the State Office of Administrative Hearings (SOAH), in Austin, Texas. Judith Kennison of the TABC Legal Services Division appeared via telephone and represented Staff. Lance Griffin, Respondent's owner, appeared via telephone. Evidence was received and the record closed that same day.

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.
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3. Proper and timely notice of the hearing was provided to Respondent. Tex. Gov't Code § 2001.051.
4. Respondent's Wine & Beer Retailer's On Premise Permit BG763133 should be cancelled. Tex. Alco. Bev. Code § 61.712(2).

SIGNED October 2, 2015.



**STEVEN M. RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

October 2, 2015

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

VIA INTERAGENCY MAIL

RE: SOAH Docket No. 458-15-5062; Texas Alcoholic Beverage Commission v. Griffin Brothers LLC D/B/A The Quihi Shop

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, appearing to read "S. Rivas", written over a horizontal line.

Steven M. Rivas
Administrative Law Judge

SMR/lh

Enclosure

xc Emily Helm, General Counsel, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - VIA INTERAGENCY MAIL
Judith Kennison, Senior Attorney, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - VIA INTERAGENCY MAIL - (with Certified Evidentiary Record and 1 Hearing CD)
Lance Griffin, Griffin Brothers LLC d/b/a The Quihi Shop, 1201 Robin Court, Hondo, TX 78861 - VIA REGULAR MAIL