

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

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HOUSTON  
LEGAL

October 26, 2011

Alan Steen  
Administrator  
Texas Alcoholic Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

VIA REGULAR MAIL

**RE: Docket No. 458-11-8585 Texas Alcoholic Beverage Commission vs. Javier Guevara Belmontes d/b/a El Club Restaurante**

Dear Mr. Steen:

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 § 155.59(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Horan", written over a horizontal line.

Timothy Horan  
Administrative Law Judge

TH/mr  
Enclosure

xc: Docket Clerk, State Office of Administrative Hearings- VIA REGULAR MAIL  
Shelia Lindsey, Staff Attorney, Texas Alcoholic Beverage Commission, 427 W 20<sup>th</sup> Street, Suite 600, Houston, TX 77008- VIA REGULAR MAIL(with Certified Evidentiary Record and 1 hearing CD)  
Emily Helm, Director of Legal Services, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731- VIA REGULAR MAIL  
Javier Guevara Belmontes d/b/a El Club Restaurante, Respondent, 8037 Clinton Drive, Houston, Texas 77029 -VIA REGULAR MAIL

2020 North Loop West Suite 111 Houston, Texas 77018  
713.957.0010 (Telephone) 713.812.1001 (Fax)  
[www.soah.state.tx.us](http://www.soah.state.tx.us)

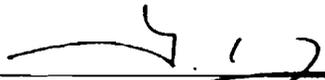


4. The hearing was held and the record closed on October 7, 2011.
5. The Respondent did not appear at the scheduled hearing and was not represented at the hearing.
6. The referring agency's staff moved for a default, which was granted.
7. The factual allegations set out in the notice of hearing are deemed admitted and are incorporated by reference into this Finding of Fact.

#### CONCLUSIONS OF LAW

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with findings of fact and conclusions of law. TEX. GOV'T CODE ch. 2003.
2. The referring agency has jurisdiction over this matter.
3. Proper and timely notice was provided to the Respondent in accordance with TEX. GOV'T CODE ch. 2001 and 1 TEX. ADMIN. CODE ch. 155.
4. The allegations in the notice of hearing were properly deemed admitted. 1 TEX. ADMIN. CODE § 155.501.
5. The referring agency staff has established the basis for sanction alleged in the notice of hearing, which is incorporated into this Conclusion of Law.
6. The referring agency is entitled to the relief requested and Respondent's Permit should be cancelled.

**SIGNED October 26, 2011.**

  
TIMOTHY HORAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS



Conclusion of Law No. 5. Being indebted to the state for taxes, fees or payment of penalties imposed by the Alcoholic Beverage Code, by rule of the Texas Alcoholic Beverage Commission, or by Chapter 183 of the Tax Code is a violation of Alcoholic Beverage Code §§11.61(b)(2) & (7), and 16 Texas Administrative Code §35.31.

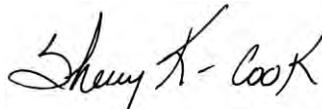
These changes are made pursuant to Government Code §2001.058.

The Findings of Fact and Conclusions of Law set forth in the Proposal for Decision, as modified by this Order, are incorporated into this Order, as if such were fully set out and separately stated herein. All motions, requests for entry of Proposed Findings of Facts 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 Mixed Beverage Permit No. MB644722, and the associated Mixed Beverage Late Hours Permit and Food and Beverage Certificate held by Javier Guevara Belmontes d/b/a El Club Restaurante are hereby **CANCELLED**.

**Unless a Motion for Rehearing is filed by the 7<sup>th</sup> of May, 2012, this Order will become final and enforceable on the 8<sup>th</sup> day of May, 2012.**

**SIGNED** this the 12th day of April, 2012 at Austin, Texas.



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Sherry K-Cook, Assistant Administrator  
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 12th day of April, 2012.



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Martin Wilson, Assistant General Counsel  
Texas Alcoholic Beverage Commission

Hon. Timothy Horan  
**ADMINISTRATIVE LAW JUDGE**  
State Office of Administrative Hearings  
2020 N. Loop W. Ste. 111  
Houston, TX 77018  
**VIA FACSIMILE: (512) 322-0474**

Javier Guevara Belmontes  
d/b/a El Club Restaurante  
**RESPONDENT**  
8037 Clinton Dr.  
Houston, TX 77029  
**VIA REGULAR & CERTIFIED MAIL: 7006 2760 0004 7904 2237**

Shelia A. Lindsey  
**ATTORNEY FOR PETITIONER**  
TABC Legal Division  
**VIA ELECTRONIC MAIL: [SHELIA.LINDSEY@TABC.STATE.TX.US](mailto:SHELIA.LINDSEY@TABC.STATE.TX.US)**

Lieutenant Marc Decatur  
**ENFORCEMENT – HOUSTON OFFICE**  
**VIA ELECTRONIC MAIL: [MARC.DECATUR@TABC.STATE.TX.US](mailto:MARC.DECATUR@TABC.STATE.TX.US)**

Sandy Higdon  
**LICENSING**  
**VIA ELECTRONIC MAIL: [SANDY.HIGDON@TABC.STATE.TX.US](mailto:SANDY.HIGDON@TABC.STATE.TX.US)**