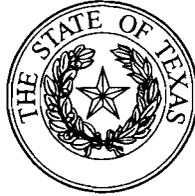


# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

November 01, 2012

RECEIVED

NOV 5 2012

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

**VIA INTERAGENCY MAIL**

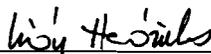
**RE: SOAH Docket No. 458-13-0045**

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](http://www.soah.state.tx.us).

Sincerely,

  
\_\_\_\_\_  
LINDY HENDRICKS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

LH/dg  
Enclosure

xc Sandra Patton, Texas Alcoholic Beverage Commission, 427 20<sup>th</sup> Street, Suite 600, Houston, TX 77008 -  
**VIA REGULAR MAIL**  
Emily Helm, 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** (with Certified Evidentiary Record and \_Hearing CD/s)  
Ceteris Hospitality Group LLC, d/b/a Decco Café, 5120 Woodway, Ste. 145, Houston, TX 77056 -**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)



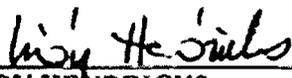
3. The notice of hearing contained a statement in at least 12-point, boldface type that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against a party that failed to appear at the hearing.
4. The notice of hearing was sent to Respondent at the Respondent's address of record, advising Applicant that the hearing was scheduled for October 19, 2012, at 10:00 a.m.
5. The hearing was held and the record closed on October 19, 2012.
6. Respondent did not appear at the scheduled hearing and was not represented at the hearing.
7. The referring agency's staff moved for a default, which was granted.
8. On March 15, 2012, Respondent or Respondent's agent, servant, or employee purchased beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license.
9. On March 15, 2012, Respondent or Respondent's agent, servant, or employee possessed or permitted others to possess an unauthorized alcoholic beverage.

#### **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 Applicant 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. Purchasing beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license is a violation of Texas Alcoholic Beverage Code (Code) §§ 61.71 (a)(19) and 69.09.

7. Possessing or permitting others to possess an unauthorized alcoholic beverage is a violation of Code § 61.71 (a)(9).
8. The referring agency is entitled to the relief requested in its notice of hearing and Applicant's license should be cancelled.

SIGNED November 1, 2012

  
\_\_\_\_\_  
LINDY HENDRICKS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

**DOCKET NO. 611289**

<b>TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner</b>	§	<b>BEFORE THE TEXAS</b>
	§	
	§	
<b>VS.</b>	§	
	§	
<b>CETERIS HOSPITALITY GROUP LLC D/B/A DECCO CAFE, Respondent</b>	§	<b>ALCOHOLIC</b>
	§	
	§	
<b>PERMIT/LICENSE BG764465, FB</b>	§	
	§	
	§	
<b>HARRIS COUNTY, TEXAS (SOAH DOCKET NO. 458-13-0045)</b>	§	<b>BEVERAGE COMMISSION</b>

**ORDER**

**CAME ON FOR CONSIDERATION** this 21<sup>st</sup> day of March, 2013, 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 Lindy Hendricks presiding. The hearing convened on October 19, 2012 and the SOAH record closed that same day. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on November 1, 2012. 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, I adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained in the Proposal for Decision, and incorporate those Findings of Fact and Conclusions of Law 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 Respondent's Wine and Beer Retailer's Permit No. BG764465 and the associated Food and Beverage Certificate are hereby **CANCELLED**.

**This Order will become final and enforceable on the 14<sup>th</sup> day of April, 2013, unless a Motion for Rehearing is filed on or before the 13<sup>th</sup> day of April, 2013.**

**SIGNED** this the 21<sup>st</sup> day of March, 2013, at Austin, Texas.



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Sherry K-Cook, 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 21<sup>st</sup> day of March, 2013.



---

Martin Wilson, Assistant General Counsel  
Texas Alcoholic Beverage Commission

Lindy Hendricks  
**ADMINISTRATIVE LAW JUDGE**  
State Office of Administrative Hearings  
2020 North Loop West, STE 111  
Houston, Texas 77018  
**VIA FACSIMILE: 512.322.0474**

Ceteris Hospitality Group LLC.  
d/b/a Decco Cafe  
**RESPONDENT**  
5120 Woodway, STE 145  
Houston, Texas 77056  
**VIA CMRRR#**  
**70120470000133005674**

Sandra Patton  
**ATTORNEY FOR PETITIONER**  
TABC Legal Division  
**VIA EMAIL:**  
[sandra.patton@tabc.state.tx.us](mailto:sandra.patton@tabc.state.tx.us)