

TABC DOCKET NO. 613768

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE STATE OFFICE
COMMISSION, Petitioner	§	
	§	
VS.	§	
	§	
FAMOUS VODKA INC.	§	OF
D/B/A FAMOUS VODKA INC., Respondent	§	
	§	
PERMIT NO. S-715524	§	
TRAVIS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 4 5 8 – 1 3 – 1 0 2 7)	§	ADMINISTRATIVE HEARINGS

ORDER

CAME ON FOR CONSIDERATION this 15th day of March, 2013, the above-styled and numbered cause.

After proper notice was given, this case was scheduled to be heard by an Administrative Law Judge on January 7, 2013 at 10:00 AM. The Respondent failed to appear at the scheduled hearing and the hearing proceeded on a default basis. The ALJ announced the default on the record and dismissed the case from the SOAH docket pursuant to 1 Texas Administrative Code §155.501(d). The ALJ made a finding of adequate notice and the file was returned to the Agency for informal disposition on a default basis in accordance with Texas Government Code §2001.056.

I. FINDINGS OF FACT

1. Famous Vodka Inc., is the holder of a Nonresident Seller's Permit, issued by the Commission. Respondent is located at 2226 Westlake Drive Unit 3, Travis County, Texas 78746.
2. On November 12, 2012, the Commission's Staff (Petitioner) issued its notice of hearing by regular mail and certified mail return receipt requested to Respondent at the address above. Respondent received the notice on November 14, 2012, as evidenced by the signature on the green card and the regular mail was not returned.
3. The notice 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 the matters asserted.
4. The notice 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 was convened by Administrative Law Judge Roy G. Scudday at the State Office of Administrative Hearings (SOAH) office in Austin, Texas. Petitioner was represented by Staff Attorney, John W. Sedberry. Respondent did not appear and was not represented at the hearing.

6. The hearing proceeded on a default basis. The ALJ announced default on the record and dismissed the case from the SOAH docket pursuant to 1 Texas Administrative Code §155.501(d). The ALJ made a finding of adequate notice.
7. The allegations contained in the notice are deemed admitted as true.
8. On or about October 22, 2012, Respondent, Famous Vodka Inc., or Respondent's owner, officer, agent, servant, or employee, is not of good moral character or his reputation for being a peaceable and law-abiding citizen in the community where he resides is bad in violation of Texas Alcoholic Beverage Code § 11.61(b)(6).
9. Petitioner requested that the Permit be Cancelled for Cause.

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ch. 5 and § 11.61 (b)(6).
2. Proper and timely notice of the hearing was provided as required by TEX. GOV'T CODE ANN. Ch. 2001 and TEX. ADMIN.CODE Ch. 155.
3. Based on the above Findings of Fact, Respondent violated Code § 11.61 (b)(6).
4. Staff is entitled to a default judgment against Respondent pursuant to 1 TAC §155.501.
5. Petitioner is entitled to the relief requested and Respondent's permit should be cancelled.

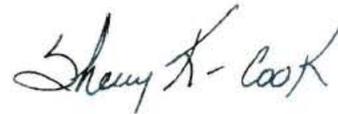
All Proposed Findings of Fact and Conclusions of Law, submitted by any party, which are not specifically adopted herein, are denied.

IT IS THEREFORE ORDERED, by the Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that your permit(s) and/or license(s) is/are hereby **CANCELLED FOR CAUSE**.

This Order will become final and enforceable on **April 9, 2013** unless a Motion for Rehearing is filed **before** that date.

By copy of this Order, service shall be made upon all parties by in the manner indicated below.

SIGNED this the 15th day of March, 2013 at Austin, Texas.



Sherry Cook, Administrator
Texas Alcoholic Beverage Commission

Administrative Law Judge
State Office of Administrative Hearings
Austin, TX
VIA FACSIMILE: (512) 322- 2061

Famous Vodka Inc.
RESPONDENT
2226 Westlake Drive Unit 3
Austin, Texas 78746
VIA CMRRR MAIL NO. 7007 0710 0004 9247 7023

John W. Sedberry
ATTORNEY FOR PETITIONER
TABC Legal Section

Agent Dewayne Thompson
TABC Headquarters
VIA EMAIL

Captain Harold Nanos & Lt. Cathleen Cavazos
Austin Enforcement District Office
VIA EMAIL

Licensing Division

SOAH DOCKET NO. 458-13-1027

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE STATE OFFICE
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V.	§	
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FAMOUS VODKA, INC. D/B/A	§	OF
FAMOUS VODKA, INC., Respondent	§	
PERMIT NO. S-715524	§	
TRAVIS COUNTY, TEXAS	§	
(TABC DOCKET NO. 613768)	§	ADMINISTRATIVE HEARINGS

ORDER NO. 1
ORDER DISMISSING CASE

This matter came to be heard on January 7, 2013, before Administrative Law Judge (ALJ) Roy G. Scudday. Attorney John W. Sedberry appeared on behalf of the Texas Alcoholic Beverage Commission (TABC). Respondent Famous Vodka, Inc. did not appear and was not represented at the hearing. Upon receiving TABC's Exhibits 1-3¹ showing proof of adequate notice to Respondent, the ALJ found there was adequate notice and granted TABC's Motion for Default.

Therefore, it is **ORDERED** that this matter is **DISMISSED** from the State Office of Administrative Hearings (SOAH) docket on a default basis in accordance with 1 Tex. Admin. Code § 155.501(d).² The file is being returned to TABC for informal disposition on a default basis in accordance with Tex. Gov't Code § 2001.056.

SIGNED January 22, 2013.


 ROY G. SCUDDAY
 ADMINISTRATIVE LAW JUDGE
 STATE OFFICE OF ADMINISTRATIVE HEARINGS

¹ TABC's Exhibit 1 is the Notice of Hearing dated November 12, 2012, sent to 2226 Westlake Dr., Unit 3, Austin, TX 78746, by certified mail and returned unclaimed and by regular mail which was not returned

² The ALJ only reviewed the adequacy of the notice and not the sufficiency of the factual allegations