

DOCKET NO. 618373

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| TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner | § | BEFORE THE TEXAS |
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| | § | |
| VS. | § | |
| | § | |
| | § | |
| SOL DAVID BARRON D/B/A TIME SAVER FOOD STORE, Respondent | § | ALCOHOLIC |
| | § | |
| | § | |
| PERMIT BQ572636 | § | |
| | § | |
| | § | |
| DALLAS COUNTY, TEXAS (SOAH DOCKET NO. 458-13-5429) | § | BEVERAGE COMMISSION |

ORDER

CAME ON FOR CONSIDERATION this 29th day of April, 2014, 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 Brenda Coleman presiding. The hearing convened on August 30, 2013 and the SOAH record closed on that same date. Although proper and timely notice was provided to Respondent, Respondent did not appear and was not represented at the hearing. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on October 29, 2013. 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 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.

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 Respondent's Wine and Beer Retailer's Off Premise Permit No. BQ572636 is hereby **CANCELLED**.

This Order will become final and enforceable on the 23rd day of May, 2014, unless a Motion for Rehearing is filed by the 22nd day of May, 2014.

SIGNED this the 29th day of April, 2014, 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 29th day of April, 2014.



Martin Wilson, Assistant General Counsel
Texas Alcoholic Beverage Commission

Brenda Coleman
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
6333 Forest Park Road, Suite 150A
Dallas, Texas 75235
VIA FACSIMILE: (512) 322-2061

Sol David Barron
d/b/a Time Saver Food Store
RESPONDENT
667 W Tarrant Rd
Grand Prairie, Texas 75050
VIA FIRST CLASS MAIL, CMRRR # 70120470000133008316

Lisa D. Crissman
ATTORNEY FOR PETITIONER
TABC Legal Division
VIA E-MAIL: lisa.crissman@tabc.state.tx.us

618373

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

RECEIVED
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TABC HOUSTON
LEGAL DEPT.

October 29, 2013

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

VIA REGULAR MAIL

**RE: TEXAS ALCOHOLIC BEVERAGE COMMISSION VS.
SOL DAVID BARRON d/b/a TIME SAVER FOOD STORE
SOAH DOCKET NO. 458-13-5429**

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,

Brenda Coleman
Brenda Coleman
Administrative Law Judge

BC/sp
Enclosure

Xc: ✓ Lisa Crissman, Staff Attorney, Texas Alcoholic Beverage Commission, VIA REGULAR MAIL 427 W. 20th Street, Suite 600, Houston, Texas 77008
Emily Helm, General Counsel, Texas Alcoholic Beverage Commission, VIA REGULAR MAIL 5806 Mesa Drive, Austin Texas 78731
Sol David Barron, Respondent, VIA REGULAR MAIL, 607 West Tarrant Road, Grand Prairie, Texas 75050

6333 Forest Park Road Suite 150A Dallas, Texas 75235
214.956.8616 (Telephone) 214.956.8611 (Fax)
www.soah.state.tx.us

**TEXAS ALCOHOLIC
BEVERAGE COMMISSION,
Petitioner**

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BEFORE THE STATE OFFICE

V.

OF

**SOL DAVID BARRON D/B/A
TIME SAVER FOOD STORE
Respondent**

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Alcoholic Beverage Commission (Petitioner/Commission) brought this action against Sol David Barron d/b/a Time Saver Food Store (Respondent). Petitioner seeks cancellation of Respondent’s permit, alleging that Respondent engaged in conduct in violation of the Texas Alcoholic Beverage Code (Code). 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 relief requested by the Commission’s Staff should be granted on a default basis.

I. FINDINGS OF FACT

1. Sol David Barron d/b/a Time Saver Food Store (Respondent), located at 667 W. Tarrant Road, Grand Prairie, Dallas County, Texas, is the holder of a Wine and Beer Retailer’s Off Premise Permit issued by the Texas Alcoholic Beverage Commission (Commission).
2. On July 25, 2013, the Commission’s Staff (Petitioner) issued its notice of hearing by certified mail, return receipt requested, to Respondent at Respondent’s last known mailing address of 667 W. Tarrant Road, Grand Prairie, Texas 75050, setting the hearing on the merits for August 30, 2013. The notice was returned marked “return to sender moved left no address unable to forward.”
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

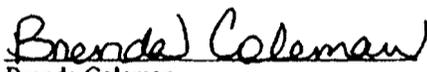
admitted as true, and the relief sought in the notice might be granted by default.

5. The hearing was convened on August 30, 2013, by Administrative Law Judge Brenda Coleman at the State Office of Administrative Hearings (SOAH) field office in Dallas, Texas. Petitioner was represented by Staff Attorney, Lisa Crissman. Respondent did not appear and was not represented at the hearing.
6. Petitioner moved for a default, which was granted, and the record closed at the conclusion of the hearing.
7. The allegations contained in the notice are deemed admitted as true.
8. Respondent is shown on the records of the Comptroller of Public Account as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Texas Tax Code) or the Municipal Sales and Use Tax Act (Chapter 321, Texas Tax Code).

II. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter. Tex. Alco. Bev. Code (Code) ch. 5 and §§ 11.61, 61.71 and 61.712.
2. SOAH has jurisdiction over matters relating to the hearing in this proceeding, including the preparation of a proposal for decision containing findings of fact and conclusions of law. Tex. Gov't Code ch. 2003.
3. Proper and timely notice of the hearing was provided. Tex. Gov't Code ch. 2001 and Tex. Admin. Code ch. 155.
4. Based on the above Findings of Fact, Respondent violated Code §§11.61, 61.71 and 61.712.
5. Staff is entitled to a default decision against Respondent. 1 Tex. Admin. Code § 155.501.
6. Petitioner is entitled to the relief requested, and Respondent's permit should be cancelled.

SIGNED October 29, 2013.


Brenda Coleman
Administrative Law Judge
State Office of Administrative Hearings