

**DOCKET NO. 620576 & 622002**

|   |   |                            |
|---|---|----------------------------|
| <b>TEXAS ALCOHOLIC BEVERAGE<br/>COMMISSION, Petitioner</b>              | § | <b>BEFORE THE TEXAS</b>    |
|   | § |                            |
|   | § |                            |
|   | § |                            |
| <b>VS.</b>  | § |                            |
|   | § |                            |
|   | § |                            |
|   | § |                            |
| <b>RC'S WATERING HOLE D/B/A<br/>OLIVER'S SPORTS BAR,<br/>Respondent</b> | § | <b>ALCOHOLIC</b>           |
|   | § |                            |
|   | § |                            |
|   | § |                            |
| <b>PERMIT N474549, PE</b>   | § |                            |
|   | § |                            |
|   | § |                            |
|   | § |                            |
| <b>PARKER COUNTY, TEXAS<br/>(SOAH DOCKET NO. 458-14-3769)</b>           | § | <b>BEVERAGE COMMISSION</b> |

**ORDER**

**CAME ON FOR CONSIDERATION** this 19th day of December, 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 Monica Garza presiding. The hearing convened on July 11, 2014 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 July 21, 2014. 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 the privileges granted by the Commission and the activities authorized under the above permits by the Code will be **SUSPENDED beginning at 12:01 a.m. on February 4, 2015** and shall remain suspended **for SEVENTEEN (17) CONSECUTIVE DAYS, UNLESS** a civil penalty in the amount of **\$5,100.00 is paid** in lieu of the suspension **ON OR BEFORE January 27, 2015**.

**If this Order is appealed and is affirmed**, the privileges granted by the Commission and the activities authorized under the above permits by the Code will be **suspended** beginning at 12:01 a.m. on the **tenth (10<sup>th</sup>)** day following the date the Order is affirmed, whether by Order of the Court or by operation of law, and shall remain suspended for seventeen (17) consecutive days, unless a civil penalty in the amount of \$5,100.00 is paid in lieu of the suspension on or before the **seventh (7<sup>th</sup>)** day following the date this Order is affirmed, whether by Order of the Court or by operation of law.

**This Order will become final and enforceable on the 13th day of January, 2015, unless a Motion for Rehearing is filed by the 12th day of January, 2015.**

**SIGNED** this the 19th day of December, 2014, at Austin, Texas.



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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 19th day of December, 2014.



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Martin Wilson, Assistant General Counsel  
Texas Alcoholic Beverage Commission

Monica Garza  
**ADMINISTRATIVE LAW JUDGE**  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street, Suite 502  
Austin, TX 78701  
**VIA FACSIMILE: (512) 322-2061**

RC's Watering Hole  
d/b/a Oliver's Sports Bar  
**RESPONDENT**  
5200 IH 20-E  
Willow Park, TX 76087  
**VIA FIRST CLASS MAIL, CMRRR #70050390000575497247**

Shelia Lindsey  
**ATTORNEY FOR PETITIONER**  
TABC Legal Division  
**VIA E-MAIL: [Shelia.lindsey@tabc.texas.gov](mailto:Shelia.lindsey@tabc.texas.gov)**

**TEXAS ALCOHOLIC BEVERAGE COMMISSION  
CIVIL PENALTY REMITTANCE**

**DOCKET NUMBER: 620576 and 622002      REGISTER NUMBER:**

**NAME: RC's Watering Hole**

**TRADENAME: Oliver's Sports Bar**

**ADDRESS: 5200 IH 20 E, Willow Park, Texas**

**DUE DATE: January 27, 2015**

**PERMITS OR LICENSES: N474549, PE**

**AMOUNT OF PENALTY: \$5,100.00**

Amount remitted \$ \_\_\_\_\_ Date remitted \_\_\_\_\_

You may pay a civil penalty rather than have your permits and licenses suspended if an amount for civil penalty is included on the attached order.

**YOU HAVE THE OPTION TO PAY THE CIVIL PENALTY ONLY IF YOU PAY THE ENTIRE AMOUNT ON OR BEFORE THE DUE DATE. AFTER THAT DATE YOUR LICENSE OR PERMIT WILL BE SUSPENDED FOR THE TIME PERIOD STATED ON THE ORDER.**

**Mail this form with your payment to:**

**TEXAS ALCOHOLIC BEVERAGE COMMISSION**

**P.O. Box 13127**

**Austin, Texas 78711**

**Overnight Delivery Address: 5806 Mesa Dr., Austin, Texas 78731**

**You must pay by postal money order, certified check, or cashier's check. No personal or company check nor partial payment accepted. Your payment will be returned if anything is incorrect. You must pay the entire amount of the penalty assessed.**

**Attach this form and please make certain to include the Docket # on your payment.**

\_\_\_\_\_  
Signature of Responsible Party

\_\_\_\_\_  
Street Address                      P.O. Box No.

\_\_\_\_\_  
City              State              Zip Code

\_\_\_\_\_  
Area Code/Telephone No.

# State Office of Administrative Hearings



Cathleen Parsley  
Chief Administrative Law Judge

July 21, 2014

**RECEIVED**

**JUL 25 2014**  
**TABC HOUSTON**  
**LEGAL DEPT.**

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

VIA REGULAR MAIL

**RE: SOAH Docket No. 458-14-3769; TABC Case Nos. 620576 & 622002**  
**Texas Alcoholic Beverage Commission vs RC's Watering Hole**  
**D/B/A Oliver's Sports Bar**

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,

A handwritten signature in black ink that reads "Monica Garza".

MONICA GARZA  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

MG/lal

Enclosure

xc Sheila Lindsey, Staff Attorney, Texas Alcoholic Beverage Commission, 427 W. 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 1 Hearing CD/s)  
RC's Watering Hole, D/B/A Oliver's Sports Bar, 5200 IH 20E, Weatherford, TX 76087 - VIA REGULAR MAIL

SOAH DOCKET NO. 458-14-3769  
TABC CASE NOS. 620576 & 622002

|  |   |                         |
|--|---|-------------------------|
| TEXAS ALCOHOLIC BEVERAGE COMMISSION,<br>Petitioner   | § | BEFORE THE STATE OFFICE |
|  | § |                         |
|  | § |                         |
| v.   | § |                         |
|  | § | OF                      |
| RC'S WATERING HOLE<br>D/B/A OLIVER'S SPORTS BAR<br>PERMIT/LICENSE NO(s):<br>N474549, PE,<br>Respondent | § |                         |
|  | § |                         |
|  | § |                         |
|  | § | ADMINISTRATIVE HEARINGS |
| PARKER COUNTY, TEXAS   | § |                         |

**PROPOSAL FOR DECISION**

The Texas Alcoholic Beverage Commission (TABC) staff (Petitioner) brought this enforcement action against RC's Watering Hole d/b/a Oliver's Sports Bar (Respondent), alleging that Respondent engaged in conduct prohibited by or in violation of the Texas Alcoholic Beverage 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 finds that the relief requested by Petitioner should be granted on a default basis.

**I. FINDINGS OF FACT**

1. RC's Watering Hole d/b/a Oliver's Sports Bar (Respondent) holds a Private Club Registration Permit, with accompanying Beverage Cartage Permit, issued by the Texas Alcoholic Beverage Commission (TABC) for the premises located at 5200 Interstate Highway 20 East, Willow Park, Parker County, Texas 76087.
2. On May 23, 2014, TABC staff (Petitioner) issued a notice of hearing by certified mail, return receipt requested, to Respondent at its address of record, setting the hearing on the merits for July 11, 2014. The notice was received by Respondent as evidenced by the signed return receipt.

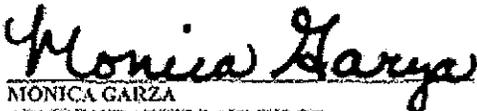
3. The notice of hearing informed Respondent of the time, date, and location of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and included a short, plain statement of the matters asserted.
4. The notice of hearing 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 convened on July 11, 2014, before Administrative Law Judge Monica Garza at the State Office of Administrative Hearings (SOAH) office in Fort Worth, Texas. TABC was represented by Staff Attorney, Shelia Lindsey. 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. On August 10, 2013, Respondent permitted consumption of an alcoholic beverage on the licensed premises during prohibited hours (between 12:15 a.m. and 7:00 a.m.).
9. On August 10, 2013, Respondent sold an alcoholic beverage to a non-member.
10. On November 3, 2013, Respondent sold an alcoholic beverage to a non-member.

## II. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter pursuant to Texas Alcoholic Beverage Code (Code) Chapters 5, 32, and 105.
2. SOAH has jurisdiction over all matters related to conducting a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Government Code Chapter 2003.
3. Proper and timely notice of the hearing was provided as required by Texas Government Code §§ 2001.051 and 2001.052.
4. Respondent violated Code §§ 32.01 and 32.17.
5. Respondent's permit should be suspended for a period of 17 days pursuant to Code § 32.17(a) and 16 Texas Administrative Code § 34.3.

6. In the alternative, Respondent should be allowed to pay a civil penalty in the amount of \$5,100 pursuant to Code § 11.64.

SIGNED: July 21, 2014.

  
MONICA GARZA  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

FT. WORTH OFFICE  
6777 Camp Bowie Blvd Suite 400  
Fort Worth, Texas 76116  
Phone: (817) 731-1733  
Fax: (512) 322-0473

SERVICE LIST

AGENCY: Alcoholic Beverage Commission, Texas (TABC)  
STYLE/CASE: RC'S WATERING HOLE DBA OLIVER'S SPORTS BAR  
SOAH DOCKET NUMBER: 458-14-3769  
REFERRING AGENCY CASE: 620576 & 622002

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STATE OFFICE OF ADMINISTRATIVE  
HEARINGS

ADMINISTRATIVE LAW JUDGE  
ALJ MONICA GARZA

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REPRESENTATIVE / ADDRESS

PARTIES

SHEILA LINDSEY  
STAFF ATTORNEY  
TEXAS ALCOHOLIC BEVERAGE COMMISSION  
427 W. 20TH STREET, SUITE 600  
HOUSTON, TX 77008  
(713) 426-7900 (PH)  
(713) 862-7478 (FAX)

TEXAS ALCOHOLIC BEVERAGE COMMISSION

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RC'S WATERING HOLE  
D/B/A OLIVER'S SPORTS BAR  
5200 IH 20E  
WEATHERFORD, TX 76087  
(817) 441-5617 (PH)

RC'S WATERING HOLE

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xc: Docket Clerk, State Office of Administrative Hearings  
Emily Helm GENERAL COUNSEL, TABC, Fax No. 512-206-3498