

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge

November 5, 1999

Doyme Bailey  
Administrator  
Texas Alcoholic Beverage Commission  
5806 Mesa Drive, Suite 160  
Austin, Texas 78731

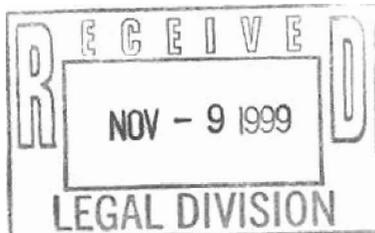
**VIA CERTIFIED MAIL Z 283 051 852**  
**Return Receipt Requested**

**RE: Docket No. 458-98-1570; Texas Alcoholic Beverage Commission vs. Bisous, Inc.. d/b/a The Londoner (TABC Case No. 584407)**

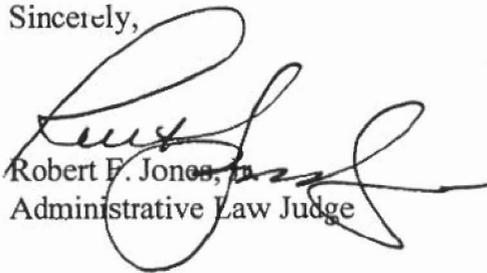
Dear Mr. Bailey:

Enclosed please find a Proposal for Decision in the above-referenced cause for the consideration of the Texas Alcoholic Beverage Commission. Copies of the proposal are being sent to Timothy Griffith, attorney for Texas Alcoholic Beverage Commission, and to Bisous, Inc., Respondent, d/b/a The Londoner. For reasons discussed in the proposal, I recommend Respondent's Mixed Beverage Permit MB-262049 and Mixed Beverage Late Hours Permit LB-262050, should be canceled. Tex. Alco. Bev. Code § 11.61(b)(2) & 61.73(b)..

Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Commission according to the agency's rules, with a copy to the State Office of Administrative Hearings. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.



Sincerely,

  
Robert F. Jones, Jr.  
Administrative Law Judge

RJ:ds

Enclosure

xc: Shanee Woodbridge, State Office of Administrative Hearings, Austin, Texas - **Regular Mail**  
Timothy Griffith, Staff Attorney, Texas Alcoholic Beverage Commission - **Regular Mail**; Bisous, Inc. d/b/a The Londoner, 4291 Belt Line Road, Addison, Texas 75244 - **CERTIFIED MAIL NO. Z 283 051 853, RETURN RECEIPT REQUESTED**

DOCKET NO. 458-99-1570

TEXAS ALCOHOLIC BEVERAGE § BEFORE THE STATE OFFICE  
COMMISSION §  
§  
§  
VS. § OF  
§  
BISOUS, INC. D/B/A §  
THE LONDONER §  
PERMITS NO. MB-262049 & LB-262050 §  
DALLAS COUNTY, TEXAS §  
(TABC CASE NO. 584407) § ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

The Staff of the Texas Alcoholic Beverage Commission (Staff) brought this disciplinary action against Bisous, Inc. d/b/a The Londoner (Respondent). Staff sought cancellation of Respondent's permits, alleging Respondent on three occasions gave a check, as maker, as full or partial payment for beer or the containers or packages in which it is contained or packaged, which were each dishonored when presented for payment. This proposal finds that the allegations against Respondent are true. The Administrative Law Judge (ALJ) recommends cancellation of Respondent's permits.

**PROCEDURAL HISTORY**

On October 5, 1999, a public hearing was convened before Robert F. Jones Jr., Administrative Law Judge (ALJ), in the State Office of Administrative Hearings at 6300 Forest Park Road, Suite B-230, Dallas, Dallas County, Texas. Staff was represented by Timothy E. Griffith, an attorney with the Commission's Legal Division. Respondent failed to appear and was not represented by an attorney. Staff moved for judgment, and the motion was granted.

**REASONS FOR DECISION**

Because Respondent failed to appear at the hearing, and Staff proved that Respondent had received appropriate notice of the hearing, jurisdiction, notice, the violation and recommended punishment are addressed in the Findings of Fact and Conclusions of Law without discussion.

**LEGAL STANDARDS AND APPLICABLE LAW**

Under TEX. ALCO. BEV. CODE § 11.61(b)(2) (Vernon 1999)(the Code) the Texas Alcoholic Beverage Commission (TABC) may cancel a permit if the permittee violates a provision of the Code. TABC is authorized under § 61.73(b) of the Code to

cancel an original or renewal retail dealer's on- or off-premise license if

it is found, after notice and hearing, that the licensee gave a check, as maker or endorser, or a draft, as drawer or endorser, as full or partial payment for beer or the containers or packages in which it is contained or packaged, which is dishonored when presented for payment.

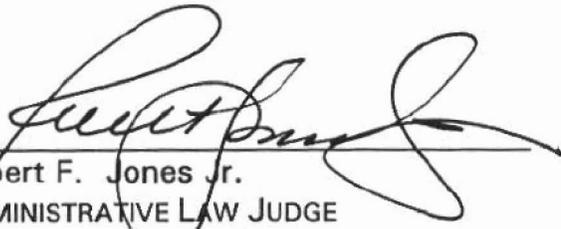
#### FINDINGS OF FACT

1. Bisous, Inc. d/b/a The Londoner (Respondent) was issued Mixed Beverage Permit MB-262049, and Mixed Beverage Late Hours Permit LB-262050, on January 19, 1996.
2. Respondent's licensed premises was located at 4291 Belt Line Road, Addison, Dallas County, Texas.
3. Respondent gave check number 4249, dated January 11, 1998, in the amount of \$ 834.80, drawn on Bank One, Texas NA, and payable to Miller of Dallas, Inc. The check was given in payment for beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on January 11, 1998. The check was dishonored by the drawee bank on January 13, 1998, because of insufficient funds.
4. Respondent gave check number 4255, dated January 15, 1998, in the amount of \$ 323.95, drawn on Bank One, Texas NA, and payable to Miller of Dallas, Inc. The check was given in payment for beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on January 15, 1998. The check was dishonored by the drawee bank on January 19, 1998, because of insufficient funds.
5. Respondent gave check number 4256, dated January 16, 1998, in the amount of \$ 365.00, drawn on Bank One, Texas NA, and payable to Miller of Dallas, Inc. The check was given in payment for beer or the containers or packages in which it is contained or packaged, delivered to Respondent's premises on January 16, 1998. The check was dishonored by the drawee bank on January 19, 1998, because of insufficient funds.
6. On August 17, 1999, Staff issued its Notice of Hearing. The notice was directed to Bisous, Inc. d/b/a The Londoner at 4291 Belt Line road, Addison, Dallas County, Texas. According to the certificate of service, the notice was served by certified mail, return receipt requested. The certified mail return receipt was signed on August 20, 1999.
7. On October 5, 1999, a hearing convened before ALJ Robert F. Jones Jr., SOAH, at 6300 Forest Park Road, Suite B-230, Dallas, Dallas County, Texas. Staff was represented at the hearing by Timothy E. Griffith, TABC Staff Attorney. Respondent failed to appear.

CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter under TEX. ALCO. BEV. CODE ANN. § 61.73(b) (Vernon 1999).
2. The State Office of Administrative Hearings has jurisdiction over all matters relating 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 TEX. GOV'T CODE ANN. §2003.021 (Vernon 1999).
3. Respondent received notice of the proceedings and hearing, pursuant to TEX. GOV'T CODE. § 2001.051, and 1 TEX. ADMIN. CODE §§ 155.25(d)(3) and 155.27.
4. Based on Findings of Fact Nos. 1 - 5, Respondent's Mixed Beverage Permit MB-262049, and Mixed Beverage Late Hours Permit LB-262050, should be canceled. TEX. ALCO. BEV. CODE §§ 11.61(b)(2) & 61.73(b).

SIGNED this 5<sup>th</sup> day of November, 1999.

  
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Robert F. Jones Jr.  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS