

DOCKET NO. 584407

THE TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE TEXAS
COMMISSION	§	
	§	
VS.	§	
	§	ALCOHOLIC
BISOUS, INC.	§	
D/B/A THE LONDONER	§	
PERMIT NOS. MB-262049, LB-262050	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-99-1570)	§	BEVERAGE COMMISSION

WAIVER ORDER

On this day the above-numbered and styled case came on for consideration. The following findings of fact and conclusions of law are hereby adopted:

1. Bisous, Inc., Respondent, is the holder of a Mixed Beverage Permit and a Mixed Beverage Late Hours Permit issued by the Texas Alcoholic Beverage Commission for the premises known as The Londoner, located at 4291 Belt Line Road, Addison, Dallas County, Texas 75244, and whose mailing address is the same.
2. Respondent has waived hearing on the violations listed on the attached waiver, including any violations of Section 61.73(b) to date, without admitting said violations did occur, and accepts the penalty assessed below.
3. It is found that Respondent violated Section 61.73(b) of the Texas Alcoholic Beverage Code.

In accordance with the agreed waiver, Respondent's permits will be **SUSPENDED** for **twenty (20) days**.

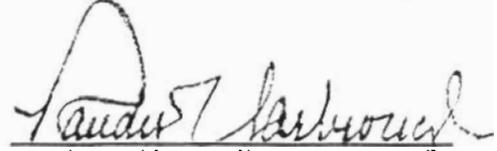
IT IS THEREFORE ORDERED that unless the Respondent pays a civil penalty in the amount of **\$3,000.00** on or before the **22nd day of December, 1999**, all rights and privileges under the above described permits will be **SUSPENDED** for a period of **twenty, (20) days, beginning at 12:01 A.M. on the 29th day of December, 1999.**

This Order is final and enforceable at the time that it is signed by agreement of the parties.

On this date of signature, service shall be made upon, Stephen F. Shaw, Attorney For Respondent, by certified mail, return receipt requested and upon Respondent by regular mail..

WITNESS MY HAND AND SEAL OF OFFICE on this the 17th day of November, 1999,
at Austin, Texas.

On Behalf of the Administrator,



Randy Yarbrough, Assistant Administrator
Texas Alcoholic Beverage Commission

TEG/pah

Stephen F. Shaw
ATTORNEY FOR RESPONDENT
8828 N. Stemmons Freeway, Ste. 320
Dallas, Texas 75247
CERTIFIED MAIL/RRR NO. Z 473 039 100

Bisous, Inc.
d/b/a The Londoner
4291 Belt Line Road
Addison, Texas 75244

Gayle Gordon
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division
Compliance Division
Dallas District Office

Z 473 039 100

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to	Steve Shaw	
Street & Number	Bisous Inc	
Post Office, State, & ZIP Code	# 584907	
Postage	\$	
Certified Fee		
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to Whom & Date Delivered		
Return Receipt Showing to Whom, Date, & Addressee's Address		
TOTAL Postage & Fees	\$	
Postmark or Date	11/17/99	

April 1995
FD Form 3800
FY-00
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WOT

TEXAS ALCOHOLIC BEVERAGE COMMISSION

CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 584407

REGISTER NUMBER:

NAME: Bisous, Inc.

TRADENAME: The Londoner

ADDRESS: 4291 Belt Line Road, Addison, Texas

DATE DUE: December 22, 1999

PERMITS OR LICENSES: MB-262049, LB-262050

AMOUNT OF PENALTY: \$3,000.00

Amount remitted \$ _____ Date remitted _____

If you wish to pay a civil penalty rather than have your permits and licenses suspended, you may pay the amount assessed in the attached Order to the Texas Alcoholic Beverage Commission in Austin, Texas. **IF YOU DO NOT PAY THE CIVIL PENALTY ON OR BEFORE THE 22ND DAY OF DECEMBER, 1999, YOU WILL LOSE THE OPPORTUNITY TO PAY IT, AND THE SUSPENSION SHALL BE IMPOSED ON THE DATE AND TIME STATED IN THE ORDER.**

When paying a civil penalty, please remit the total amount stated and sign your name below. **MAIL THIS FORM ALONG WITH YOUR PAYMENT TO:**

TEXAS ALCOHOLIC BEVERAGE COMMISSION

P.O. Box 13127

Austin, Texas 78711

WE WILL ACCEPT ONLY U.S. POSTAL MONEY ORDERS, CERTIFIED CHECKS, OR CASHIER'S CHECKS. NO PERSONAL CHECKS, NO PARTIAL PAYMENTS.

Your payment will not be accepted unless it is in proper form. Please make certain that the amount paid is the amount of the penalty assessed, that the U.S. Postal Money Order, Certified Check, or Cashier's Check is properly written, and that this form is attached to 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



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

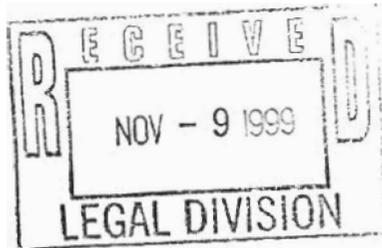
VIA CERTIFIED MAIL Z 283 051 852
Return Receipt Requested

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

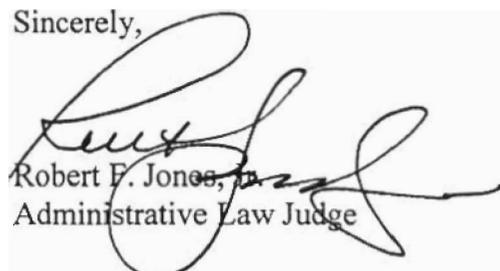
Dear Mr. Bailey:

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 COMMISSION	§	BEFORE THE STATE OFFICE
	§	
	§	
	§	
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.

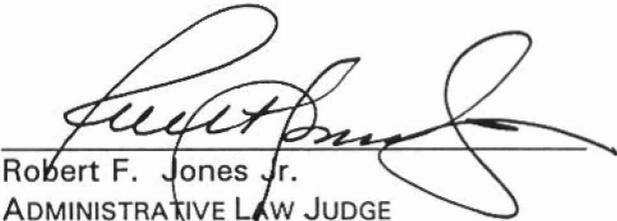
FINDINGS OF FACT

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 5th day of November, 1999.



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