

DOCKET NO. 584764

IN RE VICTOR LUIS MIRANDA	§	BEFORE THE
D/B/A BLUE ROOM	§	
PERMIT NO. BG-431329	§	TEXAS ALCOHOLIC
LICENSE NO. BL-431330	§	
EL PASO COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-99-1513)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 18th day of November, 1999, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Louis R. Lopez. The hearing convened on September 8, 1999 and adjourned the same day. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on October 22, 1999. This 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.

The Assistant Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision, Transcripts, and Exhibits, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge, which are contained in the Proposal For Decision and incorporates those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein. 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 Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §33.24(j) of the Commission Rules, that Respondent's Conduct Surety Bond is hereby **FORFEITED**.

This Order will become final and enforceable on December 9, 1999, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties by facsimile and by mail as indicated below.

WITNESS MY HAND AND SEAL OF OFFICE on this the 18th day of November, 1999.



On Behalf of the Administrator,

A handwritten signature in black ink, appearing to read "Randy Yarbrough", written over a horizontal line.

Randy Yarbrough, Assistant Administrator
Texas Alcoholic Beverage Commission

KGG/pah

The Honorable Louis R. Lopez
Administrative Law Judge
State Office of Administrative Hearings
VIA FACSIMILE (915) 595-0362

Shanee Woodbridge, Docket Clerk
State Office of Administrative Hearings
VIA FACSIMILE (512) 475-4994

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TABC Legal Section

Licensing Division

DOCKET NO. 458-99-1513
(TABC NO. 584764)

<p>TEXAS ALCOHOLIC BEVERAGE COMMISSION</p> <p>VS.</p> <p>VICTOR LUIS MIRANDA dba BLUE ROOM PERMIT NO. BG-431329 LICENSE NO. BL-431330 EL PASO COUNTY, TEXAS</p>	<p>§</p>	<p>BEFORE THE STATE OFFICE</p> <p>OF</p> <p>ADMINISTRATIVE HEARINGS</p>
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PROPOSAL FOR DECISION

The TEXAS ALCOHOLIC BEVERAGE COMMISSION (TABC), Petitioner, brought this action against VICTOR LUIS MIRANDA dba BLUE ROOM, Respondent, to determine whether the conditions had been met for the forfeiture of Respondent's conduct surety bond.

At the hearing, there was a stipulation by the parties to the evidence

FINDINGS OF FACT

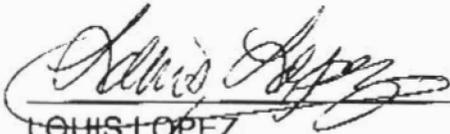
1. Victor Luis Miranda dba The Blue Room is located at 8149 Alameda Avenue, El Paso, El Paso County, Texas. Respondent was issued Wine and Beer Retailer's Permit No. BG-431329 and Retail Dealer's On-Premise Late Hours License No. BL-431330 by the Texas Alcoholic Beverage Commission (TABC) on May 1, 1998, and these have been regularly renewed.
2. On September 8, 1999, a hearing was held before Administrative Law Judge Louis Lopez in El Paso. Petitioner was represented by attorney Gayle Gordon, and Respondent was represented by attorney Luis Aguilar. The parties stipulated to the sufficiency of jurisdiction and that the notice of hearing was proper. The Respondent stipulated to the admission of exhibits offered by Petitioner and did not present any evidence.
3. Respondent committed violations of the Code on respective dates as follows: (a) sold an alcoholic beverage between the hours of 2 a.m. and 12 noon on Sunday, July 25, 1998; (b) permitted consumption during prohibited hours on September 13, 1998; and (c) permitted a minor to possess an alcoholic beverage on September 13, 1998.

CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to any or all of the following: Texas Alcoholic Beverage Code [Code] Sections 5.31--5.44, 6.01, 11.61, 61.71, and 32.01.

2. Service of proper notice of the hearing was made on Respondent pursuant to Code Section 11.63 and the Administrative Procedure Act, Texas Government Code Sections 2001.051 and 2001.052.
3. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding pursuant to Code Section 5.43(a) and the Tex. Govt. Code Chapter 2003.
4. Based on Respondent's three violations of the Code since September 1, 1995, as set out in Finding of Fact No. 3, the criteria have been met for the forfeiture of Respondent's conduct surety bond in accordance with Texas Alcoholic Beverage Commission Rule 33.24(j)(1).

SIGNED this 21st day of October, 1999.



LOUIS LOPEZ
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS