

DOCKET NO. 606097

IN RE ROBERT VALLE JR.	§	BEFORE THE TEXAS
D/B/A RJ'S LOUNGE	§	
PERMIT NO. BG494903	§	
LICENSE NO. BL494904	§	ALCOHOLIC
	§	
BEXAR COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-03-4665)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 23rd day of August, 2004, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Cyrena Benson. The hearing convened on April 20, 2004 and adjourned on April 20, 2004. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on July 12, 2004. The Proposal For Decision, attached hereto as Exhibit "A", was properly served on all parties who were given an opportunity to file Exceptions and Replies as part of the record herein. As of this date no exceptions have been filed.

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 §31.1 of the Commission Rules, that Respondent's conduct surety bond in the amount of \$5,000.00 be **FORFEITED**.

This Order will become final and enforceable on SEPTEMBER 13, 2004, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties in the manner indicated below.

SIGNED this the 23rd day of August, 2004, at Austin, Texas.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

/vr

The Honorable Tanya Cooper
Administrative Law Judge
State Office of Administrative Hearings
Fort Worth, Texas
VIA FAX (817) 377-3706

Robert Valle, Jr.
d/b/a RJ's Lounge
RESPONDENT
323 Surrels
San Antonio, Tx. 78228-5726
CERTIFIED MAIL RRR #7000 1530 0003 1902 6199

Gayle Gordon
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division
San Antonio District Office

SOAH DOCKET NO. 458-03-4665

TEXAS ALCOHOLIC BEVERAGE COMMISSION, § BEFORE THE STATE OFFICE
§
§
VS. §
§
ROBERT VALLE, JR. § OF
d/b/a RJ'S LOUNGE §
PERMIT NO. BG494903, BL494904 §
BEXAR COUNTY, TEXAS §
TABC Case No. 606097 § ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff of the Texas Alcoholic Beverage Commission (Staff, TABC) brought this enforcement action against Robert Valle, Jr., d/b/a RJ's Lounge (Respondent, Permittee) seeking forfeiture of the full amount of the Respondent's conduct surety bond. TABC alleged the Respondent committed three violations of the Texas Alcoholic Beverage Code since September 1, 1995. TABC also alleged the violations have been finally adjudicated. This Proposal for Decision finds the Respondent's conduct surety bond should be forfeited.

I. PROCEDURAL HISTORY

The hearing in this matter convened on April 20, 2004, at the State Office Of Administrative Hearings Office, 10300 Heritage, Suite 250, San Antonio, Texas, and concluded the same day. Staff's attorney Gayle Gordon appeared by telephone and represented the Petitioner. Respondent did not appear and was not represented at the hearing. Cyrena Benson, Administrative Law Judge (ALJ), presided

After the taking of evidence, Staff moved for a default judgment pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.55. Because the hearing proceeded on a default basis, Staff's factual allegations are deemed admitted as true; therefore, the ALJ has incorporated those allegations into the findings of fact without discussing the evidence.



SOAH DOCKET NO. 458-03-4665

PROPOSAL FOR DECISION

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II. FINDINGS OF FACT

1. Robert Valle, Jr. d/b/a RJ's Lounge (the Respondent), located at 4234 Culebra Road, San Antonio, Bexar County, Texas 78228, holds Permit Nos.: BG494903 and BL494904.
2. On October 4, 2000, the Respondent executed a conduct surety bond in the amount of \$5,000.00 payable to TABC.
3. On September 25, 2003, TABC sent a Notice of Hearing by certified mail, return receipt requested to Respondent at 323 Surrels, San Antonio, Texas 78228-5726. The Notice of Hearing contained information regarding the date, time, and place of the hearing; the statutes and rules involved; and the legal authorities under which the hearing would be held.
4. The Notice of Hearing also contained language in 10-point type informing Respondent that if he failed to appear at the hearing, the factual allegations against him would be deemed admitted as true, and the relief sought in the Notice of Hearing might be granted by default.
5. On March 26, 2004, an Order Resetting Hearing was mailed to Respondent at 323 Surrels, San Antonio, Texas 78228-5726.
6. The hearing on the merits was held **April 20, 2004**. Respondent did not appear at the hearing.
7. The hearing proceeded on a default basis, and the allegations contained in the Notice of Hearing were deemed admitted as true.
8. On August 29, 2001, February 6, 2003, and April 16, 2003, the Respondent signed "Agreement and Waiver of Hearing" forms regarding alleged violations of the Texas Alcoholic Beverage Code (the Code), for which TABC entered Orders finding the Respondent committed three violations of the Code and imposed either a suspension or a civil penalty on the Respondent.
9. The Respondent has committed three violations of the Code since September 1, 1995.

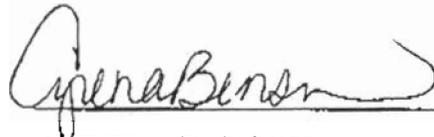
III. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission (TABC) has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. §§6.01 and 11.11.
2. The State Office of Administrative Hearings has jurisdiction to conduct the administrative hearing in this matter and to issue a proposal for decision containing proposed findings of fact and

and conclusions of law pursuant to TEX. GOV'T CODE ANN, Ch. 2003.

3. Proper and timely notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051 and 2001.052.
4. Notice of the hearing was sufficient to allow entry of default judgment under State Office of Administrative Hearings Rules, 1 TEX. ADMIN. CODE §155.55.
5. The Respondent violated the rules of TABC found at 16 TEX. ADMIN. CODE (TAC) §33.24 by committing three violations of the Texas Alcoholic Beverage Code (the Code) since September 1, 1995.
6. Based on the above Findings of Fact and Conclusions of Law, Staff is entitled to a default judgment against Respondent pursuant to 1 TAC §155.55.
7. Based on the above Findings of Fact and Conclusions of Law, TABC is permitted to forfeit the conduct surety bond of Respondent, pursuant to TEX. ALCO. BEV. CODE ANN § 11.11 and 16 TAC §33.24.
8. Based on the foregoing Findings of Fact and Conclusions of Law, the conduct surety bond executed by the Respondent should be forfeited to the state.

SIGNED July 12, _____, 2004.



**CYRENA BENSON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

August 9, 2004

Alan Steen, Administrator
Texas Alcoholic Beverage Commission

VIA FACSIMILE 512/206-3498

Robert Valle, Jr.
d/b/a RJ's Lounge
323 Surrels
San Antonio, Texas 78228-5726

VIA REGULAR MAIL

RE: Docket No. 459-04-4665; Texas Alcoholic Beverage Commission vs Robert Valle, Jr.
d/b/a RJ's Lounge (TABC Case No. 606097)

Dear Mr. Steen:

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 Gayle Gordon, attorney for Texas Alcoholic Beverage Commission, and to Robert Valle, Jr., d/b/a RJ's Lounge, Respondent. The Texas Alcoholic Beverage Commission (TABC) Staff brought this enforcement action against Robert Valle, Jr., d/b/a RJ's Lounge, Respondent (Permittee) seeking forfeiture of the full amount of the Respondent's conduct surety bond. TABC alleged the Respondent committed three violations of the Texas Alcoholic Beverage Code since September 1, 1995. TABC also alleged the violations have been finally adjudicated. This Proposal for Decision finds the Respondent's conduct surety bond should be forfeited.

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, located at 6777 Camp Bowie Blvd., Suite 400, Fort Worth, Texas 76116. A party filing exceptions, replies, and briefs must serve a copy on the other party hereto.

Sincerely,

A handwritten signature in black ink, appearing to read "Tanya Cooper", written over a circular stamp.

Tanya Cooper
Administrative Law Judge

attachments

6777 Camp Bowie Blvd., Suite 400 Fort Worth, Texas 76116
(817) 731-1733 Fax (817) 377-3706
<http://www.suah.state.tx.us>