

DOCKET NO. 607961

IN RE ENOSIS INC.	§	BEFORE THE
D/B/A THE GOOSE WEST	§	
LICENSE/PERMIT NOS. MB493961,	§	
LB493962	§	
	§	
	§	TEXAS ALCOHOLIC
	§	
TARRANT COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-04-4438)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 15th day of June, 2004, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Robert F. Jones, Jr. The hearing convened on May 21, 2004 and adjourned on May 21, 2004. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on May 24, 2004. This 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 July 6, 2004, 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.

SIGNED on this 15th day of June, 2004, at Austin, Texas.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

TEG/bc

The Honorable Robert F. Jones, Jr.
Administrative Law Judge
State Office of Administrative Hearings
VIA FACSIMILE (817) 377-3706

Enosis Inc. d/b/a The Goose West
RESPONDENT
4255 Camp Bowie Blvd.
Fort Worth, TX 76107-3948
VIA CMRRR#7000 1530 0003 1903 4392

Joe H. Soward II
ATTORNEY FOR RESPONDENT
VIA FACSIMILE (817) 870-2781

Timothy E. Griffith
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Fort Worth District Office

DOCKET NO. 458-04-4438**TEXAS ALCOHOLIC BEVERAGE
COMMISSION**§
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§**BEFORE THE STATE OFFICE****VS.****OF****ENOSIS INC. D/B/A THE GOOSE WEST
A/K/A GOOSE WEST WESTSIDE GRILL
TARRANT COUNTY, TEXAS
(TABC CASE NO. 607961)****ADMINISTRATIVE HEARINGS****PROPOSAL FOR DECISION**

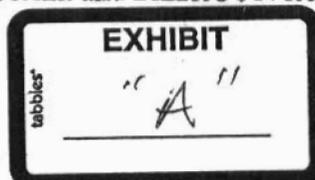
The Staff of the Texas Alcoholic Beverage Commission (Staff) brought this case against Enosis Inc. d/b/a The Goose West a/k/a Goose West Westside Grill (Respondent) seeking forfeiture of Respondent's conduct surety bond. The Administrative Law Judge (ALJ) recommends forfeiture of the conduct surety bond.

I. PROCEDURAL HISTORY

On August 19, 2003, Staff sent Respondent written notice of Staff's intent to seek forfeiture of Respondent's conduct surety bond. On September 18, 2003, Respondent requested a hearing to determine if the bond should be forfeited. This matter was referred to the State Office of Administrative Hearings (SOAH). On May 21, 2004, at 1:18 p.m., a public hearing was convened before ALJ Robert F. Jones Jr., at 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Tarrant County, Texas. Staff was represented by Timothy E. Griffith, an attorney with the Texas Alcoholic Beverage Commission's (TABC) Legal Division. Respondent failed to appear. The record was closed on May 21, 2004.

II. NOTICE & JURISDICTION

Respondent's licensed premises are located at 4255 Camp Bowie Boulevard, Fort Worth, Tarrant County, Texas. The TABC issued a mixed beverage permit and a mixed beverage late hours permit to



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Proposal For Decision

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Respondent. The Staff served its Notice of Hearing (NOH) on Respondent on April 16, 2004, by certified mail, return receipt requested, to Respondent's licensed premises. The NOH notified the Respondent that its failure to appear at the hearing would constitute a default, and the relief sought by the Staff would be granted.

Based upon Respondent's default, the ALJ recommends Respondent's conduct surety bond be forfeited.

III. FINDINGS OF FACT

1. Enosis Inc. d/b/a The Goose West a/k/a Goose West Westside Grill (Respondent) licensed premises are located at 4255 Camp Bowie Boulevard, Fort Worth, Tarrant County, Texas
2. The Texas Alcoholic Beverage Commission (TABC) issued mixed beverage permit MB493961 and mixed beverage late hours permit LB493962 to Respondent.
3. Respondent posted a conduct surety bond. The bond is Texas Alcoholic Beverage Commission Conduct Surety Bond Number XTM04364, dated April 3, 2001. Respondent executed the bond as principal. First Indemnity of America Insurance Company is the surety. The bond is in the amount of \$5,000.00 and is payable to the State of Texas.
4. On April 16, 2004, the Staff of the TABC (Staff) served its Notice of Hearing (NOH) on Respondent by certified mail, return receipt requested, to Respondent's licensed premises. The return receipt was signed by Chris Hitcherson.
5. The NOH contained a disclosure, in 12-point, bold-faced type, of the fact that upon failure of the Respondent to appear at the hearing, "the factual allegations in the notice will be deemed admitted as true, and the relief sought in the notice of hearing may be granted by default."
6. The NOH warned that the Staff would seek forfeiture of Respondent's conduct surety bond. It informed the Respondent the hearing would be held on May 21, 2004, at 1:00 p.m. at 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Tarrant County, Texas. The NOH made reference to the legal authority and jurisdiction under which the hearing was to be held, referenced the particular sections of the statutes and rules involved, and included a short, plain statement of the matters asserted.

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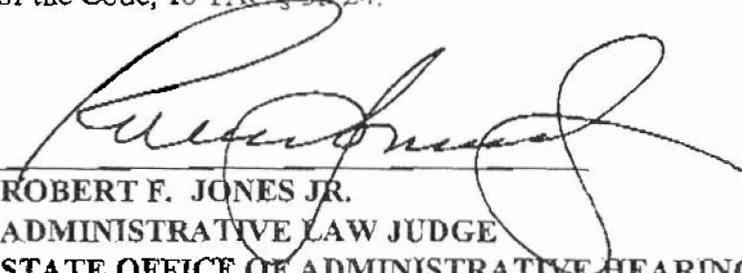
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7. On May 21, 2004, after waiting to 1:18 p.m., a public hearing was convened before Administrative Law Judge (ALJ) Robert F. Jones Jr., at 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Tarrant County, Texas. Staff was represented by Timothy E. Griffith, an attorney with the Texas Alcoholic Beverage Commission's (TABC) Legal Division. Respondent failed to appear. The record was closed on May 21, 2004.
8. Respondent committed three violations of the Texas Alcoholic Beverage Code since September 1, 1995.

IV. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter pursuant to Chapter 5 of the Texas Alcoholic Beverage Code (the Code).
2. State Office of Administrative Hearings has jurisdiction over all matters relating to the conduct of 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. ch. 2003 (Vernon 2004).
3. Notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051 and 2001.052 (Vernon 2004).
4. The factual allegations in the NOH are deemed true. 1 TEX. ADMIN. CODE (TAC) § 155.55(a).
5. Based on the foregoing findings and conclusions, Respondent's conduct surety bond should be forfeited. §§ 11.11 and 61.13 of the Code; 16 TAC § 33.24.

SIGNED May 24, 2004



ROBERT F. JONES JR.
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS