

**DOCKET NO. 611595**

IN RE LA RUMBA INC.	§	BEFORE THE
D/B/A LA RUMBA CAFÉ	§	
PERMIT/LICENSE NOS. MB550433,	§	
LB550434, PE550435	§	TEXAS ALCOHOLIC
	§	
GALVESTON COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-05-0005)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 29th day of September, 2005, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Timothy J. Horan. The hearing convened on July 15, 2005 and adjourned on the same date. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on September 9, 2005. This Proposal For Decision (**attached 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 be **FORFEITED**.

**This Order will become final and enforceable on October 21, 2005**, unless a Motion for Rehearing is filed **before** that date.

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

SIGNED this 29th day of September, 2005.

On Behalf of the Administrator,

*Jeannene Fox*

Jeannene Fox, Assistant Administrator  
Texas Alcoholic Beverage Commission

/bc

The Honorable Timothy J. Horan  
Administrative Law Judge  
State Office of Administrative Hearings  
VIA FACSIMILE (713) 812-1001

La Rumba Inc.  
La Rumba Café  
**RESPONDENT**  
2902 Seawall Blvd.  
Galveston, TX 77550-7746  
**CERTIFIED MAIL/RRR NO. 7005 0390 0005**

Christopher G. Gee  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division

Galveston Office

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) **M. Horan**

B. Date of Delivery **10-3-05**

C. Signature *M. Horan*  Agent  Addressee

Every address different from item 1?  Yes  No

If yes, enter delivery address below:

Express Mail  Return Receipt for Merchandise  Yes

Registered Mail  C.O.D.  No

Postage Certified Fee \$ **0660**

Return Receipt Fee (Endorsement Required) \$ **0000**

Restricted Delivery Fee (Endorsement Required) \$ **0000**

Total Postage & Fees \$ **0660**

Postmark Here

7005 0390 0005 7550 4419

102595-99-M-1789

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only. No Insurance Coverage Provided)

**OFFICIAL USE**

For delivery information visit our website at [www.usps.com](http://www.usps.com)

Sent To **La Rumba Inc.**

Street Apt No. or PO Box No. **2902 Seawall Blvd.**

City, State, ZIP+4 **Galveston, TX 77550-7746**

PS Form 3800, June 2002

See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.

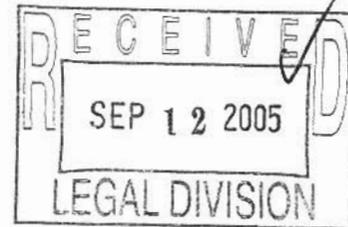
**DN-611575**

# State Office of Administrative Hearings

9-24



**Shelia Bailey Taylor**  
Chief Administrative Law Judge



September 9, 2005

Alan Steen  
Administrator  
Texas Alcoholic Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

VIA REGULAR MAIL

**RE: Docket No. 458-05-0005; La Rumba Inc. d/b/a La Rumba Cafe**

Dear Mr. Steen:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.59(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

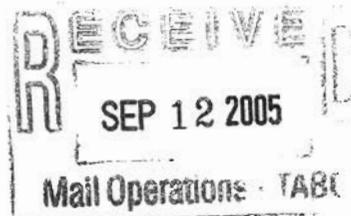
Sincerely,

A handwritten signature in black ink, appearing to read "Timothy J. Horan".

Timothy J. Horan  
Administrative Law Judge

TJH/mc  
Enclosure

xc: Christopher Gee, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, TX 78711- VIA REGULAR MAIL  
La Rumba Inc. d/b/a La Rumba Cafe, 2902 Seawall Blvd., Galveston, Texas 77550-7746 -VIA REGULAR MAIL



GG +

DOCKET NO. 458-05-0005

TEXAS ALCOHOLIC BEVERAGE  
COMMISSION

VS.

LA RUMBA INC.  
d/b/a LA RUMBA CAFE  
GALVESTON COUNTY, TEXAS  
(TABC CASE NO. 611595)

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BEFORE THE STATE OFFICE



ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

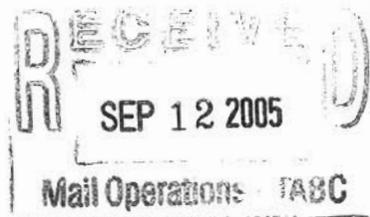
The staff of the Texas Alcoholic Beverage Commission (Commission) brought this action seeking forfeiture of the conduct surety bond of La Rumba Inc. d/b/a La Rumba Cafe (Respondent) Mixed Beverage Permit, Mixed Beverage Late Hours Permit and Beverage Cartage Permit following final adjudication of three violations by Respondent since September 1995. Following a hearing that Respondent failed to attend, the Administrative Law Judge recommends that the conduct surety bond be forfeited.

**I. PROCEDURAL HISTORY**

On July 15, 2005, a hearing convened before Administrative Law Judge (ALJ) Timothy J. Horan from the State Office of Administrative Hearings, 2020 North Loop West, Suite # 111, Houston, Texas. The Commission was represented by its staff attorney Christopher Gee. Respondent did not appear at the hearing. After the taking of evidence, Staff moved for a default pursuant to 1 TEX. ADMIN. CODE (TAC) §155.55, and the ALJ recommends that it be granted. The record closed on July 15, 2005.

**II. DISCUSSION**

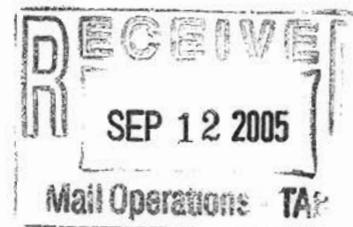
Based on the failure of Respondent to appear at the hearing, Petitioner requested that the default provisions of 1 TEX. ADMIN. CODE § 155.55 be invoked. The ALJ finds that Petitioner issued



notice in compliance with 1 TEX. ADMIN. CODE §§ 155.27 and 155.55 and TEX. ALCO. BEV. CODE ANN. § 11.63. Pursuant to 1 TEX. ADMIN. CODE § 155.55, the allegations presented in the notice of hearing are deemed admitted as true. Accordingly, the ALJ has incorporated these allegations into the Proposed Findings of Fact below. As admitted, the allegations support the conclusion that Respondent violated the TEX.ALCO. BEV. CODE as mentioned in the notice and that the penalty is appropriate.

### III. FINDINGS OF FACT

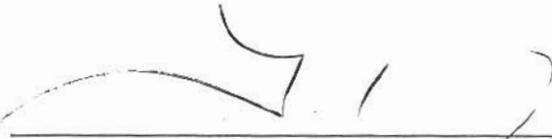
1. La Rumba Inc., d/b/a La Rumba Cafe (Respondent) held a Mixed Beverage Permit MB-550433, Mixed Beverage Late Hours Permit LB-550434 and Beverage Cartage Permit PE-550435 issued by the Texas Alcoholic Beverage Commission (Commission).
2. Respondent has committed three Alcoholic Beverage Code violations since September 1995.
3. On September 2, 2004, the Commission sent a notice to Respondent by certified mail at his last known address, alleging that because of the violations referenced in Finding of Fact No. 2, he had forfeited the full amount of his conduct surety bond.
4. Respondent signed for the notice of hearing on September 7, 2004, as evidenced by the return receipt.
5. The notice of hearing notified Respondent of the date, time, and place of the hearing; of the statutes and rules involved; and the legal authorities under which the hearing is to be held.
6. The case was continued and an Order Setting Hearing was sent to Respondent at his last known address, via first class mail, on June 21, 2005 setting the hearing date for July 15, 2005.
7. On July 15, 2005, a hearing convened before ALJ Timothy J. Horan at 2020 North Loop West, Suite # 111, Houston, Texas.
7. The notice of hearing also contained language in 12-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.
8. Respondent did not appear in this matter held July 15, 2005.



**IV. CONCLUSIONS OF LAW**

1. The Texas Alcoholic Beverage Commission (Commission) has jurisdiction over this matter pursuant to Subchapter B of Chapter 5 and §§ 6.01 and 61.71 of the TEX. ALCO. BEV. CODE (the Code).
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Service of proper and timely notice of the hearing was effected upon Respondent pursuant to the Code § 11.63; TEX. GOV'T CODE ANN. §§ 2001.051, 2001.052 and 2001.054(c); and 1 TEX. ADMIN. CODE (TAC) § 155.55.
4. Based on Findings of Fact Nos. 1 through 8, and Conclusion of Law No. 3, Staff is entitled to a default judgment against Respondent pursuant to 1 TAC § 155.55.
5. Pursuant to the Code §§ 11.11 and/or 61.13, and 16 TAC § 33.24, Respondent has forfeited the full amount of his conduct surety bond.
6. Based on the foregoing, the full amount of Respondent's conduct surety bond is forfeited to the State of Texas.

**SIGNED September 9, 2005.**

  
TIMOTHY J. HORAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

