

DOCKET NO. 613363

IN RE SUPER VENTURES INC.	§	BEFORE THE
D/B/A J MART	§	
PERMIT/LICENSE NOS. BQ467946	§	
	§	TEXAS ALCOHOLIC
	§	
HOOD COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-05-4060)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 19th day of April, 2005, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Phyllis Cranz. The hearing convened on March 11, 2005, and adjourned on the same day. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on March 23, 2005. 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 in this cause.

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 permits be **SUSPENDED**.

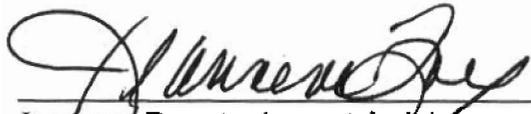
IT IS THEREFORE ORDERED that unless Respondent pays a civil penalty in the amount of \$1,050.00 on or before the **22nd day of June, 2005**, all rights and privileges under the above described permits will be **SUSPENDED for a period of seven (7) days, beginning at 12:01 A.M. on the 29th day of June, 2005.**

This Order will become final and enforceable on May 10, 2005, 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 19th day of April, 2005.

On Behalf of the Administrator,



Jeannene Fox, Assistant Administrator
Texas Alcoholic Beverage Commission

TEG\bc

The Honorable Phyllis Cranz
Administrative Law Judge
State Office of Administrative Hearings
VIA FACSIMILE (817) 377-3706

Super Ventures Inc.
d/b/a J Mart
RESPONDENT
4505 Highway 377 East
Granbury, Texas 76049-7425
CERTIFIED MAIL/RRR NO. 7000 1530 0003 1930 1821

Timothy E. Griffith
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Fort Worth District Office

TEXAS ALCOHOLIC BEVERAGE COMMISSION

CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 613363

REGISTER NUMBER:

NAME: SUPER VENTURES INC.

TRADENAME: J MART

ADDRESS: 4505 HWY 377 EAST, GRANBURY, HOOD COUNTY, TEXAS 76049-7425

DATE DUE: June 22, 2005

PERMITS OR LICENSES: BQ467946

AMOUNT OF PENALTY: \$1,050.00

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 JUNE 2005, 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 4-7



Shelia Bailey Taylor
Chief Administrative Law Judge

March 23, 2005

Alan Steen, Administrator
Texas Alcoholic Beverage Commission

VIA FACSIMILE 512/206-3498

RE: Docket No. 458-05-4060; Texas Alcoholic Beverage Commission vs Super Ventures, Inc.
d/b/a J. Mart (TABC Case No. 613363)

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 Timothy Griffith, attorney for Texas Alcoholic Beverage Commission, and to Super Ventures, Inc. d/b/a J. Mart, Respondent. The Texas Alcoholic Beverage Commission (TABC) Staff brought this disciplinary action against Super Ventures, Inc. d/b/a J. Mart (Respondent), alleging that Respondent and/or its agent, employee, and/or servant, or some other person with a criminal negligence, sold, served or delivered an alcoholic beverage to a minor on the licensed premises. A hearing was scheduled and convened, however, the Respondent did not appear and was not represented. The Administrative Law Judge (ALJ) finds that the TABC Staff's allegations are true and recommends that Respondent's permits be suspended for a period of seven days, or in lieu of any suspension, that Respondent pay a civil penalty in the amount of \$1,050.00.

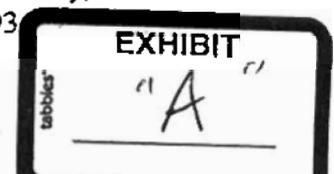
Pursuant to the Administrative Procedure Act, each party has the right to file exceptions to the proposal, accompanied by supporting briefs. Exceptions, replies to the exceptions, and supporting briefs must be filed with the Commission according to the agency's rules, with a copy to the State Office 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,

Phyllis W. Cranz
Administrative Law Judge

cc: Super Ventures, Inc. d/b/a J. Mart, Respondent, 4505 Highway 377 E., Granbury, TX 76049
Timothy Griffith, TABC Staff Attorney, VIA FACSIMILE 972/547-5093

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



DOCKET NO. 458-05-4060

**TEXAS ALCOHOLIC BEVERAGE
COMMISSION, Petitioner**

V.

**SUPER VENTURES, INC.
d/b/a J Mart,
Respondent
HOOD COUNTY, TEXAS
(TABC No. 613363)**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Alcoholic Beverage Commission (TABC) Staff brought this disciplinary action against Super Ventures, Inc. d/b/a J Mart (Respondent), alleging that Respondent and/or its agent, employee, and/or servant, or some other person with criminal negligence, sold, served or delivered an alcoholic beverage to a minor on the licensed premises. A hearing was scheduled and convened, however, the Respondent did not appear and was not represented. The Administrative Law Judge (ALJ) finds that TABC Staff's allegations are true and recommends that Respondent's permits be suspended for a period of seven days, or in lieu of any suspension, that Respondent pay a civil penalty in the amount of \$1,050.00.

I. PROCEDURAL HISTORY

On February 7, 2005, TABC Staff issued a notice of hearing to Respondent at its mailing address of record reflected on Respondent's permits: 4505 Highway 377 East, Granbury, Texas, 76049-7425. The notice of hearing set the hearing for March 11, 2005, at 11:00 a.m. at the Fort Worth Field Office of the State Office of Administrative Hearings located at 6777 Camp Bowie Boulevard, Fort Worth, Texas. The notice of hearing was sent by certified mail (7000 1530 0003 1930 1029), return receipt requested. The notice of hearing was received at that address on February 9, 2005 by Respondent's agent, as evidenced by the "green card" returned to TABC Staff by the U.S. Postal

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PROPOSAL FOR DECISION

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Service.

A hearing was convened as scheduled before ALJ Phyllis Crazz on March 11, 2005. TABC Staff was represented at the hearing by Timothy Griffith, a TABC Staff Attorney. Respondent did not appear and was not represented at the hearing.

During the hearing, documents were admitted into evidence to support a recommendation for default against Respondent. The hearing concluded on March 11, 2005, and the record closed on that same day.

II. REASONS FOR PROPOSED DECISION

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

TABC Staff requested that the ALJ recommend suspension of Respondent's permit for a period of seven days, or in lieu of suspension, that Respondent be allowed to pay a civil penalty in the amount of \$1,050.00. TABC Staff provided a copy of Respondent's licensing history, which is maintained by TABC Staff, in support of its penalty request.

III. FINDINGS OF FACT

1. Super Ventures, Inc. (Respondent) holds a Wine and Beer Retailer's Off-Premise Permit, BQ-467946, issued by the Texas Alcoholic Beverage Commission (TABC), for the premises located at 4505 Highway 377 East, Granbury, Hood County, Texas.
2. On February 7, 2005, the TABC Staff issued a notice of hearing to Respondent at its mailing address of record reflected on Respondent's permits: 4505 Highway 377 East, Granbury, Texas, 76049-7425. This notice was sent by certified mail ((7000 1530 0003 1930 1029),

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PROPOSAL FOR DECISION

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- return receipt requested, and was received at that address by Respondent's agent, on February 9, 2005, as evidenced by the "green card" returned to TABC Staff by the U.S. Postal Service.
3. The notice of hearing contains a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a statement of the matters asserted.
 4. The notice of hearing also properly disclosed in at least twelve-point, bold-face type that upon Respondent's failure to appear at the hearing, the factual allegations in the notice will be deemed as true, and the relief sought may be granted by default.
 5. On March 11, 2005, a hearing was convened as scheduled before ALJ Phyllis Cranz at the State Office of Administrative Hearings, 6777 Camp Bowie Boulevard, Suite 400, Fort Worth, Texas, TABC Staff was represented at the hearing by Timothy Griffith, TABC Staff Attorney. Respondent did not appear and was not represented at the hearing.
 6. Respondent, through its agent, servant, or employee, on September 9, 2004, sold, served or delivered an alcoholic beverage to a minor on the licensed premises.
 7. Respondent's licensing history maintained by TABC Staff reflects that this is their first violation of the Texas Alcoholic Beverage Code and TABC rules.

IV. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this proceeding pursuant to TEX. ALCO. BEV. CODE ANN. ch. 5 and §§6.01 and 11.61.
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 proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Based upon Findings of Fact Nos. 2 - 4, Staff issued its notice of hearing in compliance with 1 TEX. ADMIN. CODE §§ 155.27 and 155.55 and TEX. ALCO. BEV. CODE ANN § 11.63.
4. Based upon Findings of Fact Nos. 2 - 5, the hearing proceeded on a default basis as authorized by 1 TEX. ADMIN. CODE § 155.55.
5. Based upon Finding of Fact No. 6, Respondent violated TEX. ALCO. BEV. CODE ANN §§ 61.73 and 102.31.
6. Based upon Findings of Fact Nos. 6 and 7, Conclusion of Law No. 5, and TEX. ALCO. BEV.

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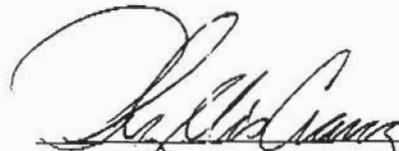
PROPOSAL FOR DECISION

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CODE ANN. §§ 11.61(b)(2) and 106.03, 61.71 (a) (5), and 106.13, Respondent's permits should be suspended for a period of seven days.

7. Based upon Conclusion of Law No. 6 and TEX. ALCO. BEV. CODE ANN. § 11.64, Respondent should be permitted to pay a civil penalty in the amount of \$1,050.00 in lieu of suspension of its permits.

ISSUED March 23, 2005.



PHYLLIS ORANZ, ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

**6777 Camp Bowie Blvd.
Ft. Worth, Texas 76116
Phone (817) 731-1733
Fax (817) 377-3706**

SERVICE LIST

AGENCY: TEXAS ALCOHOLIC BEVERAGE COMMISSION
CASE: Super Ventures, Inc. d/b/a J Mart
DOCKET NUMBER: 458-05-4060
AGENCY CASE NO: 613383

Timothy Griffith
Staff Attorney
Texas Alcoholic Beverage Commission
Fax: 972/547-5093
Ph: 972/547-5092

AGENCY COUNSEL
BY FAX

Super Ventures, Inc.
d/b/a J. Mart
4505 Highway 377 E.
Granbury, Texas 76049

RESPONDENT
BY MAIL

As of March 23, 2005