

**DOCKET NO. 590343**

THE TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE TEXAS
COMMISSION	§	
	§	
VS.	§	
	§	ALCOHOLIC
JENNIFER RENAE HILL YOUNG	§	
D/B/A JENNIE'S PLACE	§	
LICENSE NO. BE446892	§	
	§	
MENARD COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-01-0861)	§	BEVERAGE COMMISSION

**O R D E R**

**CAME ON FOR CONSIDERATION** this 26th day of March 2001, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge John H. Beeler. The hearing convened telephonically on January 3, 2001. The hearing was concluded on January 3, 2001. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on February 28, 2001. 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. 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.

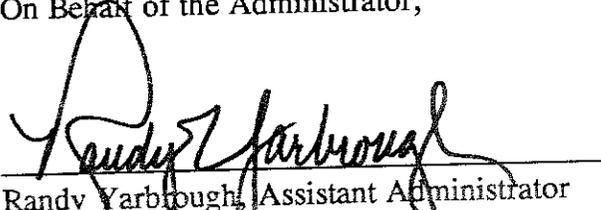
**IT IS THEREFORE ORDERED**, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1 of the Commission Rules, that Respondent's conduct surety bond in the amount of \$5,000.00 be **FORFEITED immediately**.

**This Order will become final and enforceable on April 16, 2001**, 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 26th day of March, 2001.

On Behalf of the Administrator,

  
Randy Yarbrough, Assistant Administrator  
Texas Alcoholic Beverage Commission

CB/bc

The Honorable John H. Beeler, ALJ  
State Office of Administrative Hearings  
Austin, Texas  
**BY FAX (512) 475-4994**

Jennifer Renae Hill Young  
d/b/a Jennie's Place  
**RESPONDENT**  
P.O. Box 511  
Menard, Texas 76859  
**CERTIFIED MAIL NO. 7000 0520 0024 8847 2025**

Christopher Burnett  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division  
Abilene District Office



- (b) Respondent was issued Beer Retailer's on Premise License BE446892 by TABC on March 21, 2000.
- (c) On May 25, 1999, Respondent signed a document entitled "Agreement and Waiver of Hearing" which includes the following language, "Respondent, without admitting the violations described herein occurred, waives hearing in the matter and accepts the penalty... and acknowledges that the signing of this waiver may result in the forfeiture of any related conduct surety bond."
- (d) The waiver document listed two violations, Breach of Peace and Failure to Report a Breach to the Commission.
- (e) On June 2, 1999, TABC entered a waiver order stating that Respondent violated the Code as set out in the waiver signed by Respondent and imposed a 12-day suspension or a civil penalty of \$1,800.00 on Respondent.
- (f) On May 17, 2000, Respondent signed a document entitled "Agreement and Waiver of Hearing" which includes the following language, "Respondent, without admitting the violations described herein occurred, waives hearing in the matter and accepts the penalty... and acknowledges that the signing of this waiver may result in the forfeiture of any related conduct surety bond."
- (g) The waiver document listed a permit breach (simple) on licensed premises.
- (h) On May 31, 2000, TABC entered a waiver order stating that Respondent violated the Code as set out in the waiver signed by Respondent and imposed a 15-day suspension or a civil penalty of \$2,250.00 on Respondent.

### III. STATUTORY AUTHORITY

The rules of TABC, at 16 TEX. ADMIN. CODE (TAC) §33.24(j) provide:

- (1) When a license or permit is canceled, or a final adjudication that the licensee or permittee has committed three violations of the Alcoholic Beverage Code since September 1, 1995, the commission shall notify the licensee or permittee, in writing, of its intent to seek forfeiture of the bond.

(2) The licensee or permittee may . . . request hearing on the question of whether the criteria for forfeiture of the bond, as established by the Alcoholic Beverage Code, §11.11 and §61.13 and this rule have been satisfied.

The applicable statutory provisions at TEX. ALCO. BEV. CODE ANN. §§11.11(b)(2) state:

. . . the holder of the permit agrees that the amount of the bond shall be paid to the state if the permit is revoked or on final adjudication that the holder violated a provision of this code. . . .

### III. RECOMMENDATION

Based on a preponderance of the evidence, Respondent committed at least three violations of the Code since September 1, 1995, in violation of Texas Alcoholic Beverage Commission rules, 16 TAC §33.24. As a consequence, the full amount of the conduct surety bond, or any instrument serving in place of a conduct surety bond (including, but not limited to certificates of deposit and letters of credit), should be forfeited.

### IV. FINDINGS OF FACT

1. Jennifer Renae Hill Young d/b/a Jennie's Place (Respondent) is the holder of Beer Retailer's on Premise License BE446892, issued by the Texas Alcoholic Beverage Commission (TABC) on March 21, 2000.
2. On February 17, 1999, Respondent executed a conduct surety bond in the amount of \$5,000.00 payable to TABC.
3. On November 6, 2000, the staff of TABC (Staff) sent a Notice of Hearing by certified mail, return receipt requested, to Respondent asserting that TABC was seeking to forfeit the Respondent's surety bond. Respondent timely received the notice letter.
4. The hearing on the merits was held on by telephone January 3, 2001. Christopher Burnett appeared and represented the Staff. Respondent appeared *pro se*. John H. Beeler, Administrative Law Judge (ALJ), presided.
5. On May 25, 1999, Respondent signed an "Agreement and Waiver of Hearing" regarding two alleged violations of the Texas Alcoholic Beverage Code (Code), for which TABC entered an Order finding Respondent committed two violations of the Code and imposed a 12-day suspension or a civil penalty of \$1,800.00 on Respondent.

6. On May 17, 2000, Respondent signed an "Agreement and Waiver of Hearing" regarding one alleged violation of the Code, for which TABC entered an Order finding Respondent committed one violation of the Code and imposed a 15-day suspension or a civil penalty of \$2,250.00 on Respondent.
7. Respondent has committed three violations of the Code since September 1, 1995.

#### **V. 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 findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. Ch. 2003.
3. Notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051 and 2001.052.
4. Respondent violated the rules of TABC found at 16 TEX. ADMIN. CODE §33.24 by committing three violations of the Texas Alcoholic Beverage Code (Code) since September 1, 1995.
5. TABC is permitted by TEX. ALCO. BEV. CODE ANN. §11.11 and 16 TEX. ADMIN. CODE §33.24 to forfeit the conduct surety bonds of permittees who commit three or more violations of the Code since September 1, 1995.
6. Based on the foregoing Findings of Fact and Conclusions of Law, the conduct surety bond executed by Respondent should be forfeited to the State.

SIGNED this <sup>10</sup>27 day of February, 2001.

  
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**JOHN H. BEELER**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**