

DOCKET NO. 565900

TEXAS ALCOHOLIC BEVERAGE  
COMMISSION

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BEFORE THE TEXAS

VS.

MARK S. BROWN  
D/B/A PRACTICAL TRAINING/ALCOHOL  
SELLER TRAINING SCHOOL/PROGRAM  
PROGRAM NO. 525/593  
TOM GREEN COUNTY, TEXAS  
(SOAH DOCKET NO. 458-08-0146)

ALCOHOLIC

BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this day, in the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge. The hearing convened on the 4th day of December 2008 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 the 4th day of February 2008. The 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. Petitioner filed exceptions and the Administrative Law Judge replied and recommended that no changes be made to the Proposal for Decision. Respondent's exceptions were not timely filed.

The Administrator of the Texas Alcoholic Beverage Commission, after review and due consideration of the Proposal for Decision 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.

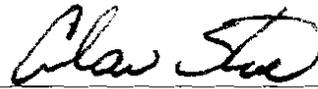
**IT IS THEREFORE ORDERED**, by the Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that your Seller Server Training School Program is hereby **SUSPENDED** for five (5) days.

**IT IS THEREFORE ORDERED** that unless the Respondent pays a civil penalty in the amount of **\$1,000.00** on or before the **25th** day of **April 2008**, all rights and privileges under the above described permits/licenses will be **SUSPENDED** for a period of **five (5) days, beginning at 12:01 A.M. on the 2nd day of May 2008.**

This Order will become final and enforceable on March 27, 2008, unless a Motion for Rehearing is filed before that date.

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

**SIGNED** this March 3, 2008, Austin, Texas.



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Alan Steen, Administrator  
Texas Alcoholic Beverage Commission

JLK\bc

The Honorable Ami L. Larson  
Administrative Law Judge  
Austin, Texas  
VIA FAX (512) 475-4994

MARK S. BROWN  
**RESPONDENT**  
d/b/a PRACTICAL TRAINING/ALCOHOL SELLER TRAINING  
117 HOWARD ST  
SAN ANGELO, TX 76901-3121

JUDITH L. KENNISON  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Server Training Division

TEXAS ALCOHOLIC BEVERAGE COMMISSION  
CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 565900

REGISTER NUMBER:

NAME: MARK S. BROWN

TRADENAME: PRACTICAL TRAINING/ALCOHOL SELLER TRAINING

ADDRESS: 117 Howard St., San Angelo, Texas 7690-3121

DATE DUE: April 25, 2008

SELLER SERVER SCHOOL PROGRAM NO. 525/593

AMOUNT OF PENALTY: \$ 1,000.00

Amount remitted \$ \_\_\_\_\_ Date remitted \_\_\_\_\_

You may pay a civil penalty rather than have your permits and licenses suspended if an amount for civil penalty is included on the attached order.

**YOU HAVE THE OPTION TO PAY THE CIVIL PENALTY ONLY IF YOU PAY THE ENTIRE AMOUNT ON OR BEFORE THE DUE DATE. AFTER THAT DATE YOUR LICENSE OR PERMIT WILL BE SUSPENDED FOR THE TIME PERIOD STATED ON THE ORDER.**

Mail this form along with your payment to:

TEXAS ALCOHOLIC BEVERAGE COMMISSION  
P.O. Box 13127  
Austin, Texas 78711

Overnight Delivery Address: 5806 Mesa Drive, Austin, Texas 78731

**You must pay by postal money order, certified check, or cashier's check. No personal or company check nor partial payment accepted. Your payment will be returned if anything is incorrect. You must pay the entire amount of the penalty assessed.**

Attach this form and please make certain to include the Docket # on your payment.

\_\_\_\_\_  
Signature of Responsible Party

\_\_\_\_\_  
Street Address                      P.O. Box No.

\_\_\_\_\_  
City              State              Zip Code

\_\_\_\_\_  
Area Code/Telephone No.

LEGAL

SOAH DOCKET NO. 458-08-0146

|                                    |   |                                |
|------------------------------------|---|--------------------------------|
| <b>TEXAS ALCOHOLIC BEVERAGE</b>    | § | <b>BEFORE THE STATE OFFICE</b> |
| <b>COMMISSION,</b>                 | § |                                |
| <b>Petitioner</b>                  | § |                                |
|                                    | § |                                |
| <b>V.</b>                          | § |                                |
|                                    | § | <b>OF</b>                      |
| <b>MARK S. BROWN D/B/A</b>         | § |                                |
| <b>PRACTICAL TRAINING/</b>         | § |                                |
| <b>ALCOHOL SELLER TRAINING</b>     | § |                                |
| <b>SCHOOL/PROGRAM NO. 525/593,</b> | § |                                |
| <b>Respondent</b>                  | § | <b>ADMINISTRATIVE HEARINGS</b> |

**PROPOSAL FOR DECISION**

The Staff of the Texas Alcoholic Beverage Commission (Staff/TABC) seeks to impose administrative penalties totaling \$4500.00 against Mark S. Brown d/b/a Practical Training/Alcohol Seller Server Training School (Respondent) for alleged violations. Specifically, Staff alleged that Respondent: (1) failed, on two occasions, to distribute training certificates to trainees as required; (2) failed, on one occasion, to timely file reports of seller training with TABC; and (3) on two occasions, administered its seller/server training program in a manner which substantially impaired the effectiveness of the program. Based on the evidence presented, the Administrative Law Judge (ALJ) finds that only one of the alleged violations was established. For that violation, the ALJ recommends that a 5-day program suspension or an administrative penalty in the amount of \$1,000 in lieu of suspension be imposed against Respondent.

**I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY**

There are no contested issues of notice<sup>1</sup> or jurisdiction. Therefore, those matters are set out in the Findings of Fact and Conclusions of Law sections below without being further addressed here.

The hearing took place in the Courtstreet Annex Building, 124 W. Beauregard Street, San Angelo, Texas, on December 4, 2007, before State Office of Administrative Hearings (SOAH)

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<sup>1</sup> It should be noted that Staff's notice of hearing did not cite to all of the particular rules on which its alleged violations were based. Respondent, however, raised no objection.

ALJ Ami L. Larson. Staff was represented by attorney Judith Kennison. Respondent appeared *pro se*. Before the hearing commenced, Staff moved to amend its notice to strike allegation V on page two. That amendment was made without objection. Evidence was presented and the record closed that same day.

## II. EVIDENCE AND ARGUMENTS PRESENTED

### A. Evidence

Staff called two witnesses and offered six exhibits into evidence. Respondent testified and offered four exhibits. The following is a summary of the evidence presented:

Respondent is certified as an approved seller training program and also as an approved trainer. His corresponding certificates were issued by TABC on June 21, 2004, and renewed on June 21, 2007. Respondent's school opened in July 2005, and he held his first training class on August 1, 2005.

Linda Ahrens, the Coordinator of Seller Training for TABC, testified that on May 14, 2007, a retailer called her to complain that one of his servers, who had completed Respondent's training in November 2006, only received a temporary certificate. Ms. Ahrens said that she then located the corresponding training report for that session in Respondent's TABC file. The name of the specific employee who was the subject of the call, however, was not included on the report. Ms. Ahrens indicated that she notified Respondent that he would need to submit a new or corrected report form for that training session. She also testified that Respondent's reports for January through May were late and had not yet been received by TABC at the time of the complaint.

Ms. Ahrens received an additional complaint on June 11, 2007, from Corie Avila, the manager of an Exxon station. Ms. Avila stated that her employee had completed Respondent's

training program on March 26, 2007, but only received a temporary certificate.<sup>2</sup> Ms. Avila further indicated that Respondent was issuing temporary cards to his trainees and would only send a photocopy of the certificate when contacted by the employer.

Ms. Ahrens notified TABC agent Larry Howard of the additional complaint because he was in the process of conducting an audit of Respondent's training program. According to Ms. Ahrens, Respondent also failed to submit a report to TABC regarding the 10 a.m. training class he held on March 26, 2007. On June 29, 2007, Ms. Ahrens sent Respondent an email notifying him of the missing report.<sup>3</sup> Her email also directed him to discontinue issuing temporary certificates and to issue regular certificates to trainees at the time they successfully completed a course pursuant to the applicable rules.<sup>4</sup>

Ms. Ahrens testified that a training school may issue temporary certificates only if it has run out of the regular forms and has already placed an order for more. Additionally, according to Ms. Ahrens, an original certificate must be issued within 5 to 7 days of the temporary certificate. Ms. Ahrens asserted that Respondent did not meet the criteria for properly issuing temporary certificates since he did not order original certificates until long after the class corresponding to their issuance had been held. According to Ms. Ahrens, Respondent, when notified of the complaints, did not seem concerned about the alleged violations and did not indicate he was unaware of the rules. Additionally, she stated that he had attended a seller-server seminar in Ft. Worth where the importance of issuing certificates and getting reports in on time had been discussed.

Ms. Ahrens explained that either TABC or business owners can mandate that employees who sell or serve alcohol be seller-server trained and certified. The timely issuance of training reports and certificates is important, she stated, because employers rely on those records when they seek to have cases restrained or to qualify for immunity concerning violations committed by their employees

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<sup>2</sup> TABC Exhibit 3.

<sup>3</sup> TABC Exhibit 4.

<sup>4</sup> TABC Exhibit 4. Ms. Ahrens cited 16 TAC §§ 50.4(p)(q) and (r) in this email to Respondent.

under the safe harbor laws.<sup>5</sup> And, according to Ms. Ahrens, a temporary certificate is not sufficient proof of training in such instances, particularly when an original certificate is not timely provided.

She further explained that TABC cannot confirm that training occurred or issue reprints of training certificates if the necessary reports are not submitted. Additionally, she noted that any reports returned to a sender with errors noted are not considered to be filed with TABC until they are resubmitted with the errors corrected. Ms. Ahrens acknowledged that TABC was in the process of converting its database and consequently had a backlog of reports that had not yet been entered into the system. Even if a report was not in the system, however, a manual check of Respondent's TABC file could be performed to confirm trainee certification as long as the training report had been properly submitted, she stated. Because of the importance of the required certificates and reports, failure to properly provide them impairs the effectiveness of the training program, Ms. Ahrens opined.

Ms. Ahrens indicated that it is TABC's standard practice to send copies of its rules and administrative policies to all new seller-server schools. She did not have any information as to what had been sent specifically to Respondent, however, since his school opened before she worked for TABC.

Ms. Ahrens also testified about the appropriate sanctions for Respondent's violations, noting that a prior civil penalty had previously been assessed against Respondent for an unrelated violation. Ms. Ahrens expressed her belief that, in light of the previously-imposed sanction, a 10-day suspension or \$1,500 administrative penalty in lieu of suspension for each current violation (for a total of \$4,500) would be warranted under the standard TABC penalty matrix.<sup>6</sup>

TABC Compliance Supervisor Larry Howard also testified. When notified of the complaints against Respondent, Mr. Howard supervised and helped conduct an inspection of Respondent's

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<sup>5</sup> § 106.14(a) of the Code.

<sup>6</sup> 16 TAC § 37.60.

training school. The dates of inspection were March 19, April 2, and June 22, 2007. An inspection of the pertinent records revealed that Respondent was not issuing certificates at or near the time students completed his training classes. Mr. Howard cited the example of a student who took Respondent's course on November 6, 2006. Respondent did not order the certificate that was ultimately issued to that student until January 10, 2007. Yet another student took the class on January 13, 2007, but Respondent did not order the certificate issued to that student until February 8, 2007. Mr. Howard confirmed that no complaints against Respondent's training class itself had ever been substantiated.

Respondent testified that he began issuing temporary certificates in February 2006 after an administrative penalty was assessed against him for issuing a certificate to a student whose test had been incorrectly graded to reflect that he passed when in fact he had not. Respondent explained that he then began issuing temporary certificates to allow him time to review all tests to make sure they had been graded correctly before he issued permanent certificates. Respondent also asserted that he had not been given a copy of the rules and policies and that he was not aware of them. He acknowledged having attended continuing education classes but did not recall hearing a discussion about the requirement to turn in reports or issue certificates to trainees.

Respondent further explained that, as the sole owner and working trainer for the school, he is constantly in and out of town. To save time, he completes and submits batches of reports at one time. He acknowledged that this causes some of reports to be submitted late but asserted that it has never caused a problem, particularly since there was a significant delay between the time TABC received reports and entered them into its system at that time due to the TABC database conversion.<sup>7</sup>

Respondent reiterated that he had been unaware of the rules and policies regarding the issuance of certificates. He stated that he had not known that a temporary certificate was considered insufficient to prove that an employee was seller-server trained. Since he became aware of the rules and policies, however, he has been issuing his reports timely and now always orders certificates in advance of his classes.

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<sup>7</sup> Ms. Ahrens confirmed that this delay in some cases was up to one year.

## B. Arguments

Staff argued that Respondent knew the rules but nonetheless failed to follow them. Moreover, Respondent's failure to timely issue training certificates and reports substantially impaired the effectiveness of his training program since employers and trainees were unable to access those documents as needed to prove the completion of seller-server training.

Respondent argued that it was unfair to penalize him for submitting late reports because TABC, due to its backlog, would not have entered them into its system upon receipt even if they had been timely submitted. He further argued that he was not aware of the administrative policy regarding temporary certificates or that such documents were not sufficient proof of training. He stated that the penalty amount sought by Staff was exorbitant for a one-operator school. Additionally he noted that he offers high-quality training and no complaints about the program itself have ever been made. He has already implemented changes in his process to address these issues and is striving to do better. Being penalized by TABC now, Respondent argued, would not serve any purpose.

## III. APPLICABLE LAW

Chapter 50 of the TABC rules establishes the procedures applicable to seller training programs. Within 30 days of the date on which a training session was held, the training school must submit official reports that contain specified information to TABC.<sup>8</sup> The trainer shall issue an official certificate that includes all required information to each trainee upon successful completion of an approved seller training program.<sup>9</sup> Certificates shall be issued on forms provided by TABC upon written request with proper remittance by the school.<sup>10</sup> Each certificate must be verified for accuracy, signed by the trainer who conducted the program, and issued to the appropriate trainee only

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<sup>8</sup> 16 TAC §§ 50.4(o)(p) and (q).

<sup>9</sup> 16 TAC § 50.8(a).

<sup>10</sup> 16 TAC § 50.4(s).

after successful completion of the program.<sup>11</sup> Failure to comply with these certificate procedures is grounds for revoking or suspending approval of the trainer and program certificates.<sup>12</sup>

The rules set forth additional grounds upon which approval of a training program may be suspended or revoked.<sup>13</sup> Those grounds include cases in which the manner used to administer the program substantially impairs the effectiveness of the program<sup>14</sup> or cases in which the program has failed to timely make a required report to TABC.<sup>15</sup> A civil penalty may be assessed in lieu of a program suspension.<sup>16</sup> The factors to be considered in determining the appropriate amount of any civil penalty assessed are as follows: the volume of training certificates issued by the program, the nature and severity of the violation, aggravating or mitigating circumstances, and any record of past violations.<sup>17</sup>

#### IV. ANALYSIS

##### A. Failure to Issue Training Certificates as Required

The ALJ finds that the preponderance of the evidence does not establish that Respondent violated the rules in this regard. Although the evidence establishes that Respondent was issuing temporary certificates to trainees who completed his programs, there is no evidence that he actually violated any rule by doing so. The temporary certificates at issue here appear to contain the required

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<sup>11</sup> 16 TAC § 50.4(q).

<sup>12</sup> 16 TAC § 50.4(r).

<sup>13</sup> 16 TAC § 50.5.

<sup>14</sup> 16 TAC § 50.5(b)(1).

<sup>15</sup> 16 TAC § 50.5(b)(4).

<sup>16</sup> 16 TAC § 50.5(e).

<sup>17</sup> 16 TAC §§ 50.5(e)(1) through (4).

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information on TABC-issued forms.<sup>18</sup> No rule was cited and the ALJ could find no rule to prohibit the issuance of temporary certificates. Staff appears to rely, as the basis for its alleged violations, on an administrative policy which requires that a permanent certificate be sent within 5-to-7 days of the issuance of a temporary certificate. That policy, however, was not provided to the ALJ. Nor was sufficient evidence about the policy offered to allow the ALJ to making a finding that it should be considered pursuant to SOAH rules.<sup>19</sup>

Accordingly, the ALJ finds that violations I and II as alleged on Staff's notice of hearing were not established by a preponderance of the evidence. Accordingly, no sanction should be imposed for these alleged violations.

**B. Failure to Issue Required Reports on Time**

The ALJ finds that the preponderance of the evidence establishes that Respondent failed to timely issue the required reports contrary to TABC rules. Respondent admitted that, at the time of the alleged violations, he had been completing his training reports in batches and submitting all of them to TABC at one time. He acknowledged that this practice resulted in some of his reports being submitted late. Accordingly, allegation III as alleged on Staff's notice of hearing was established.<sup>20</sup>

**C. Administration Of The Training Program In A Manner Which Has Substantially Impaired Its Effectiveness**

These allegations appear, based on the pleadings in Staff's notice of hearing, to be based on Respondent's alleged failure to issue permanent training certificates to its trainees. Because those

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<sup>18</sup> TABC Exhibit 3.

<sup>19</sup> 1 TAC § 155.53.

<sup>20</sup> The ALJ notes that the documentary evidence submitted by Staff does not establish a violation specifically on December 5, 2006, as alleged in the notice of hearing. Yet several other late-filed report violations that were not pled by Staff were established by the documentary evidence. The ALJ finds that Respondent's acknowledgment that he had always sent reports to TABC in groups, causing some of them to be late, combined with his lack of denial of Staff's allegation, constitutes a sufficient admission of the December 5, 2006 violation.

violations were not sufficiently established by the evidence, the ALJ finds these allegations have also not been proved.<sup>21</sup>

## V. SANCTIONS

For each of the two certificate-related allegations and the single allegation of failure timely file required reports, Staff requested the imposition of an administrative penalty in the amount of \$150 per day in lieu of a 10-day suspension (or \$1,500 for each violation). Ms. Ahrens testified that this recommendation was based on the standard penalty matrix, the severity and length of the violations, and the prior penalty assessed against Respondent.

The ALJ found that only one violation - failure to timely submit training reports - was established by the evidence. In determining the appropriate sanction for that violation, the ALJ considers the penalty matrix and other relevant factors as set forth by the rules and further discussed below.

### A. Penalty Matrix

The Commission has adopted a Standard Penalty Chart which sets forth suggested sanctions for various violations.<sup>22</sup> Although its recommendations are not binding, the penalty chart does provide some guidance in determining appropriate sanctions. For a first violation involving failure to timely file or properly prepare the required seller training report contrary to the rules, the suggested sanction is a 3-to-5 day suspension.

### B. Number of Trainee Certificates Issued in 12 Months Preceding Violation

No evidence was presented concerning this factor.

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<sup>21</sup> The ALJ does not decide whether Respondent's failure to file timely reports constitutes the separate violation of administering a program in a manner which substantially impaired the effectiveness of the program since it is not raised by Staff's pleadings in its notice of hearing.

<sup>22</sup> 16 TAC § 37.60(a).

### C. Nature and Severity of Violation

Respondent argued that his classroom instruction has always been effective and that his late filing of reports, particularly in light of TABC's backlog, does not compromise the integrity or effectiveness of his overall program. The ALJ agrees that the primary purpose of the program is to train those who serve, sell, deliver, or dispense alcoholic beverages to be responsible—to avoid violations of the Code and the Rules. However, maintaining proper documentation of training that has occurred is also a very important component of the program.

Proof of seller training is important because it is necessary for an employer to qualify for safe harbor immunity and, in some instances, may constitute grounds for a restrained case. Employers must be able to verify the certification of current or prospective employees and they cannot reliably do so if TABC does not have the required reports on file in a timely manner. Additionally, trainees sometimes lose their certificates, which may only be replaced by TABC if the official supporting documentation is on file.

The lateness of Respondent's reports could have negatively impacted those who rely on the timely filing of those reports, *i.e.*, retailers and TABC personnel. Pursuant to the Rules, "the school is an inseparable part of the seller training program. The integrity and ability of the people directly engaged in the administration, supervision and training of the curriculum to seller trainees are an integral part of the program contemplated by Code § 106.14. Therefore, a curriculum, alone, is not eligible for approval."<sup>23</sup>

Accordingly, the ALJ concludes that Petitioner's violation is serious.

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<sup>23</sup> 16 TAC § 50.3(a).

**D. Aggravating or Mitigating Circumstances**

Little evidence was presented specifically with respect to aggravating or mitigating circumstances. Based on the evidence in the record, however, the ALJ finds the following aggravating and mitigating circumstances were established:

- Respondent repeatedly filed batches of late reports (aggravating)
- Respondent minimized his conduct and did not seem to recognize its significance (aggravating)
- Respondent has changed his practices and has filed timely reports since the end of June 2007 (mitigating).

**E. Record of Past Violations**

Respondent has had one \$500 administrative penalty assessed against him in 2005, for an unrelated violation concerning a certificate that should not have been issued but was, based on an inaccurately scored test.

**VI. RECOMMENDATION**

Based on the evidence and the above-stated analysis, the ALJ recommends that a 5-day program suspension or an administrative penalty of \$1,000 in lieu of suspension (\$200 per day) be imposed against Respondent for failing to submit timely training reports contrary to TABC rules.

**VII. FINDINGS OF FACT**

1. Mark S. Brown d/b/a Practical Training/Alcohol Seller Training School (Respondent) is certified as an approved seller training program and as an approved trainer by the Texas Alcoholic Beverage Commission (TABC).
2. Respondent's certificates were issued by TABC on June 21, 2004, and renewed on June 21, 2007.

3. Respondent's school/program number is 525/593.
4. To conserve resources, as of his first training class on August 1, 2005, Respondent filled out training reports in batches and sent them to TABC on December 5, 2006, knowing that some reports were submitted more than 30 days following the class.
5. Proof of seller training is necessary for an employer to qualify for immunity from the actions of its employees and, in some cases, may constitute grounds for a restrained case.
6. On August 28, 2006, a \$500 administrative penalty was assessed against Respondent for violations of TABC rules.
7. On September 14, 2007, TABC Staff issued a notice of hearing notifying Respondent that a hearing would be held concerning allegations against him and informing Respondent of the time, place, and nature of the hearing and of the legal authority and jurisdiction under which the hearing was to be held; and including a short, plain statement of the matters asserted.
8. A hearing was held on December 4, 2007, before a State Office of Administrative Hearings Administrative Law Judge (ALJ).
9. The hearing took place in the Courtstreet Annex Building located at 124 W. Beauregard Street, San Angelo, Texas.
10. Staff was represented at the hearing by attorney Judith Kennison. Respondent appeared *pro se*.
11. At the hearing, Staff amended its notice of hearing to strike allegation V on page two without objection. After presentation of evidence and argument, the hearing concluded and the record closed on December 4, 2007.

### VIII. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. Chapter 5 and § 106.14, as well as 16 TEX. ADMIN. CODE (TAC) Chapter 50.
2. SOAH has jurisdiction over all matters related to conducting 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. Chapter 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 failed to timely file reports of seller training with TABC as required. 16 TAC §§ 50.4(o)(p) and (q).
5. TABC approval of a seller-server training program may be revoked or suspended for failing to timely make a required report to TABC. 16 TAC § 50.5(b)(4).
6. A civil penalty may be assessed in lieu of a program suspension. 16 TAC § 50.5(e).
7. Respondent's school-program number 525/593 should be suspended for 5 days or, alternatively, an administrative penalty in the amount of \$200 per day should be imposed in lieu of suspension.

**SIGNED February 4, 2008.**



**AMI L. LARSON  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge

February 4, 2008



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

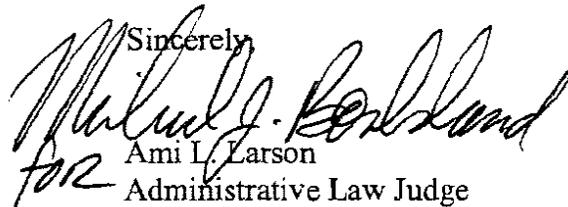
**HAND DELIVERY**

**RE: Docket No. 458-08-0146; Texas Alcoholic Beverage Commission v. Mark S. Brown d/b/a Practical Training/ Alcohol Seller Training School/ Program No. 525/593**

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,  
  
Ami L. Larson  
Administrative Law Judge

ALL/ed  
Enclosure

xc Judith Kennison, Staff Attorney, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731-  
**VIA HAND DELIVERY**  
Lou Bright, Director of Legal Services, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731-  
**VIA HAND DELIVERY**  
Mark Brown, d/b/a Practical Training, 117 Howard Street, San Angelo, TX 76901 **-VIA REGULAR MAIL**

William P. Clements Building  
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