

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

SIGNED this the 13 day of July 2010
at Austin, Texas.

On behalf of the Administrator,


Sherry K-Cook, Assistant Administrator
Texas Alcoholic Beverage Commission

CERTIFICATE OF SERVICE

I certify that each party or person with an interest in the above matter has been notified of the agency order in the manner indicated below on July 14, 2010.


Joan Bates TH
Texas Alcoholic Beverage Commission
Legal Services Division

Judge Timothy Horan
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
2020 North Loop West, Suite 111
Houston, Texas 77018
VIA FACSIMILE: (713) 812-1001

The Neutral-Zone Tavern Lounge Inc.
d/b/a The Neutral Zone
RESPONDENT
3225 Gulfway Drive
Port Arthur, Texas 77642
VIA U.S. REGULAR MAIL

Ramona M. Perry
ATTORNEY FOR PETITIONER
TABC Legal Section

Licensing Division

Lt. Debra Jones-Enforcement Division

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

RECEIVED

JUN 10 2010

**TABC HOUSTON
LEGAL**

June 9, 2010

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

VIA REGULAR MAIL

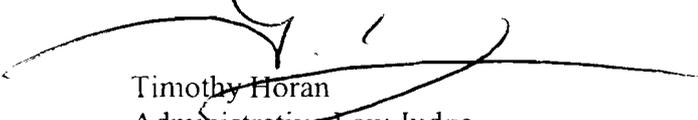
RE: Docket No. 458-10-3722; Texas Alcoholic Beverage Commission v. The Neutral Zone Tavern Lounge, Inc. d/b/a The Neutral Zone

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 § 155.507, a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,


Timothy Horan
Administrative Law Judge

TH:rlm
Enclosure

cc: Docket Clerk, State Office of Administrative Hearings- **VIA REGULAR MAIL**
Ramona Perry, Texas Alcoholic Beverage Commission, 427 W 20th Street, Suite 600, Houston, TX 77008- **VIA REGULAR MAIL**
Emily Helm, Director of Legal Services, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731- **VIA REGULAR MAIL**
The Neutral Zone Tavern Lounge, Inc. d/b/a The Neutral Zone, 3225 Gulfway Drive, Port Arthur, TX 77642 -**VIA REGULAR MAIL**

Tavern Lounge d/b/a The Neutral Zone, 3225 Gulfway Drive, Port Arthur, Texas 77642 via certified mail, return receipt requested, to Respondent's last known mailing address and it was returned to TABC as "return to sender-vacant." After the taking of evidence, Staff moved for a default judgment pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.501. Because the hearing proceeded on a default basis, Staff's factual allegations contained in the Notice of Hearing are deemed admitted as true; therefore, the ALJ has incorporated those allegations into the findings of fact without further discussion of the evidence.

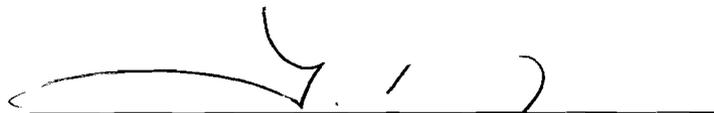
II. FINDINGS OF FACT

1. The Neutral Zone Tavern Lounge, Inc. d/b/a The Neutral Zone (Respondent), located at 3225 Gulfway Drive, Port Arthur, Jefferson County, Texas, holds Mixed Beverage Permit MB-488062, which includes the Beverage Cartage Permit and the Mixed Beverage Late Hours Permit.
2. On April 26, 2010, staff of the Texas Alcoholic Beverage Commission (TABC) timely sent a Notice of Hearing by certified mail, return receipt requested, to Respondent's last known mailing address at 3225 Gulfway Drive, Port Arthur, Texas 77642. The Notice of Hearing contained information regarding the date, time, and place of the hearing; the statutes and rules involved; and the legal authorities under which the hearing would be held; and the matters asserted.
3. The Notice of Hearing also contained language in 12-point, bold-face type informing Respondent that if it failed to appear at the hearing, the factual allegations against it would be deemed admitted as true, and the relief sought in the Notice of Hearing might be granted by default.
4. The hearing on the merits convened on May 14, 2010. Respondent did not appear at the hearing and the record was closed on the same day.
5. The hearing proceeded on a default basis, and the allegations contained in the Notice of Hearing were deemed admitted as true.
6. Respondent has not paid delinquent ad valorem taxes due on the permitted premises or due from a business operated on that premises to any taxing authority in the county of the premises.

III. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to Subchapter B of Chapter 5, § 11.61 of the Texas Alcoholic Beverage Code, TEX. ALCO. BEV. CODE ANN. § 1.01 *et seq.*
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 proposed findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. Ch. 2003.
3. Proper and timely notice of the hearing was provided as required by 1 TEX. ADMIN. CODE (TAC) §§ 155.401 and 155.501; and TEX. ALCO. BEV. CODE ANN. § 11.63.
4. Notice of the hearing was sufficient to allow entry of default judgment under State Office of Administrative Hearings Rules, 1 TAC §155.501.
5. Based on the above Findings of Fact, Respondent violated TEX. ALCO BEV. CODE ANN. §11.38 (e).
6. Based on the above Findings of Fact and Conclusions of Law, Staff is entitled to a default judgment against Respondent pursuant to 1 TAC § 155.501.
7. Based on the foregoing Findings of Fact and Conclusions of Law, the cancellation of Respondent's permits is warranted.

SIGNED June 9, 2010.



TIMOTHY HORAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS