

DOCKET NO. 592708

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner	§	BEFORE THE TEXAS
	§	
VS.	§	
	§	
SANSONES LTD. D/B/A SANSONE'S WEST OAKS BAR, Respondent	§	ALCOHOLIC
	§	
PERMIT NOS. MB617321, LB & PE	§	
	§	
HARRIS COUNTY, TEXAS (SOAH DOCKET NO. 458-11-0892)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this **10** day of August, 2011, the above-styled and numbered cause.

After proper notice was given, this case was heard by the State Office of Administrative Hearings (SOAH), with Administrative Law Judge Timothy Horan presiding. The hearing convened on January 7, 2011 and the SOAH record closed the same date. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on March 1, 2011. 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. 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, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained in the Proposal for Decision, with the following exceptions:

Finding of Fact No. 7 in the Proposal for Decision is deleted, and the following Finding of Fact No. 7 is substituted in its stead:

Finding of Fact No. 7. On or about July 2, 2009, Respondent's agent, servant or employee was intoxicated on the licensed premises.

Conclusion of Law No. 5 in the Proposal for Decision is deleted, and the following Conclusion of Law No. 5 is substituted in its stead:

Conclusion of Law No. 5. Because an agent, servant or employee of Respondent was intoxicated on the licensed premises, Respondent violated Alcoholic Beverage Code §§104.01(5), 11.61(b)(13) and 11.61(b)(2).

These changes are made pursuant to Government Code §2001.058(e)(1) and (3).

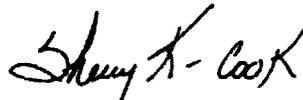
The Findings of Fact and Conclusions of Law set forth in the Proposal for Decision, as modified by this Order, are incorporated into this Order, as if such were fully set out and separately stated herein. All motions, requests for entry of Proposed Findings of Facts and Conclusions of Law, and any other requests for general or specific relief submitted by any party are denied, unless specifically adopted herein.

IT IS THEREFORE ORDERED that Respondent pay a civil penalty in the amount of **\$6,000.00** on or before **September 6, 2011**. If the civil penalty is not paid when due, the privileges granted by the Commission and activities authorized under the above permits by the Code will be **SUSPENDED** beginning at 12:01 A.M. on **September 14, 2011**, and shall remain suspended for **TWENTY (20)** consecutive days.

If this Order is appealed and judgment is issued affirming the Order, Respondent shall pay the civil penalty in the amount of **\$6,000.00** on or before the **TENTH (10th)** day following the date the judgment is signed. If not paid by that date, the privileges granted by the Commission and activities authorized under the above permits by the Code will be **SUSPENDED** beginning at 12:01 A.M. on the **EIGHTEENTH (18th)** day following the date the judgment is signed and shall remain suspended for **TWENTY (20)** consecutive days.

This Order will become final and enforceable on the 5th day of September, 2011, unless a Motion for Rehearing is filed **before** that date.

SIGNED this the 10 day of August, 2011, at Austin, Texas.



Sherry K-Cook, Assistant Administrator
Texas Alcoholic Beverage Commission

CERTIFICATE OF SERVICE

I certify that the persons listed below were served with a copy of this Order in the manner indicated below on this the 10th day of August, 2011.



Martin Wilson, Assistant General Counsel
Texas Alcoholic Beverage Commission

Timothy Horan
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
2020 North Loop West, Suite 111
Houston, Texas 77018
VIA FACSIMILE: (512) 322.0474

Sansones Ltd.
d/b/a Sansone's West Oaks Bar
RESPONDENT
14144 Westheimer
Houston, Texas 77077
VIA REGULAR MAIL

Lisa Crissman
ATTORNEY FOR PETITIONER
TABC Legal Division
VIA EMAIL: lisa.crissman@tabc.state.tx.us

TEXAS ALCOHOLIC BEVERAGE COMMISSION
CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 592708

REGISTER NUMBER:

NAME: SANSONES LTD.

TRADENAME: SANSONE'S WEST OAKS BAR

ADDRESS: 14144 WESTHEIMER, HOUSTON, TEXAS 77077

DUE DATE: SEPTEMBER 6, 2011

PERMITS OR LICENSES: MB617321, LB & PE

AMOUNT OF PENALTY: \$6,000

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 with your payment to:

TEXAS ALCOHOLIC BEVERAGE COMMISSION
P.O. Box 13127
Austin, Texas 78711
Overnight Delivery Address: 5806 Mesa Dr., 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.

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

March 1, 2011

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

VIA REGULAR MAIL

**RE: Docket No. 458-11-0892; Texas Alcoholic Beverage
Commission v. Sansones Ltd. D/b/a Sansone's West Oak Bar**

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,

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

Timothy Horan
Administrative Law Judge

TH/rlm
Enclosure

xc: Docket Clerk, State Office of Administrative Hearings- **VIA REGULAR MAIL**
Lisa Crissman, Staff Attorney, 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**
Sansones Ltd. d/b/a Sansones' West Oak Bar, 14144 Westheimer Rd., Suite 20, Houston, TX 77077 -**VIA
REGULAR MAIL**

2020 North Loop West Suite 111 Houston, Texas 77018
713.957.0010 (Telephone) 713.812.1001 (Fax)

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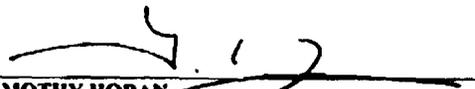
**TABU HOUSTON
LEGAL**

5. The Respondent did not appear at the scheduled hearing and was not represented at the hearing.
6. The referring agency's staff moved for a default, which was granted.
7. The factual allegations set out in the notice of hearing are deemed admitted and are incorporated by reference into this Finding of Fact.

CONCLUSIONS OF LAW

1. 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 findings of fact and conclusions of law. TEX. GOV'T CODE ch. 2003.
2. The referring agency has jurisdiction over this matter.
3. Proper and timely notice was provided to the Respondent in accordance with TEX. GOV'T CODE ch. 2001 and 1 TEX. ADMIN. CODE ch. 155.
4. The allegations in the notice of hearing were properly deemed admitted. 1 TEX. ADMIN. CODE § 155.501.
5. The referring agency staff has established the basis for sanction alleged in the notice of hearing, which is incorporated into this Conclusion of Law.
6. The referring agency is entitled to the relief requested and Respondent's Permit should be suspended for a period of twenty days, or in lieu of a suspension, the Respondent should be permitted to pay a civil penalty of \$6000.

SIGNED March 1, 2011.


TIMOTHY HORAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS
