

DOCKET NO. 590998 & 591007

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner	§	BEFORE THE TEXAS
	§	
VS.	§	
	§	
DODIE'S PLACE LLC D/B/A DODIE'S PLACE SPORTS GRILLE & PUB, Respondent	§	ALCOHOLIC
	§	
PERMIT NO. RM717322, FB, LB & PE	§	
	§	
COLLIN COUNTY, TEXAS (SOAH DOCKET NO. 458-11-1576)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 15TH day of **AUGUST**, 2012, 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 (ALJ) Jerry Van Hamme presiding. The hearing convened on July 12, 2011 and the SOAH record closed on August 15, 2011. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on October 14, 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. Exceptions were filed by Respondent on October 24, 2011. The ALJ responded to the exceptions on November 2, 2011, recommending that no changes be made to the Proposal for Decision.

After review and due consideration of the Proposal for Decision and the Exceptions, I adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained in the Proposal for Decision, and incorporate those Findings of Fact and Conclusions of Law 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.

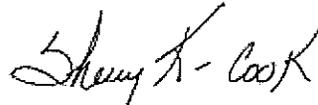
IT IS THEREFORE ORDERED that the privileges granted by the Commission and activities authorized under the above permits by the Code will be **SUSPENDED** beginning at

12:01 A.M. on 26TH DAY OF SEPTEMBER, 2012, and shall remain suspended for **Twenty Five (25)** consecutive days, **UNLESS** Respondent pays a civil penalty in the amount of **\$7,500.00** on or before 18TH DAY OF SEPTEMBER, 2012.

If this Order is appealed and judgment is issued affirming the Order, 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 Five (25)** consecutive days, **UNLESS** Respondent pays the civil penalty in the amount of **\$7,500.00** on or before the **TENTH (10th)** day following the date the judgment is signed.

This Order will become final and enforceable on the 11TH DAY OF SEPTEMBER, 2012, unless a Motion for Rehearing is filed on or before the 10TH DAY OF SEPTEMBER, 2012.

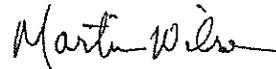
SIGNED this the 15TH DAY OF AUGUST, 2012, at Austin, Texas.



Sherry K-Cook, 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 15TH DAY OF AUGUST, 2012.



Martin Wilson, Assistant General Counsel
Texas Alcoholic Beverage Commission

Jerry Van Hamme
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
6333 Forest Park Road, Suite 150A
Dallas, Texas 75235
VIA FACSIMILE: 512.322.0471

Dodie's Place LLC
d/b/a Dodie's Place
RESPONDENT
190 E Stacy Rd #1320
Allen, Texas 75002
VIA REGULAR MAIL

Timothy E. Griffith
ATTORNEY FOR RESPONDENT
101 East Park Blvd., Suite 600
Plano, Texas 75054
VIA FACSIMILE: 469.742.9521

Judith Kennison c/o Matthew M. Clark
ATTORNEY FOR PETITIONER
TABC Legal Division
VIA EMAIL: JUDITH.KENNISON@TABC.STATE.TX.US

TEXAS ALCOHOLIC BEVERAGE COMMISSION
CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 590998 REGISTER NUMBER:

NAME: DODIE'S PLACE LLC

TRADENAME: DODIE'S PLACE SPORTS GRILLE & PUB

ADDRESS: 190 E STACY RD #1320, ALLEN, TEXAS 75002

DUE DATE: 9/18/2012

PERMITS OR LICENSES: RM717322, FB, LB & PE

AMOUNT OF PENALTY: \$7,500

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.

discussion here.

On July 12, 2011, a public hearing was held before Jerry Van Hamme, ALJ, at the State Office of Administrative Hearings (SOAH), 6333 Forest Park Road, Dallas, Texas. Staff was represented by Matthew Clark, attorney. Respondent was represented by Timothy Griffith, attorney. The record remained open for receipt of post-hearing briefs, and was closed on August 15, 2011.

II. LEGAL STANDARDS AND APPLICABLE LAW

TEX. ALCO. BEV. CODE ANN. § 22.12. BREACH OF PEACE. The Texas Alcoholic Beverage Commission (Commission) or administrator may suspend or cancel a package store permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

TEX. ALCO. BEV. CODE ANN. § 28.11. BREACH OF PEACE. The Commission or administrator may suspend or cancel a mixed beverage permit after giving the permittee notice and the opportunity to show compliance with all requirements of law for the retention of the permit if it finds that a breach of the peace has occurred on the licensed premises or on premises under the control of the permittee and that the breach of the peace was not beyond the control of the permittee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

TEX. ALCO. BEV. CODE ANN. § 32.24. BREACH OF PEACE. The Commission or administrator may suspend or cancel a private club registration permit after giving the holder notice and the opportunity to show compliance with the requirements of law for the retention of the permit if the commission or administrator finds that:

(1) a breach of the peace has occurred on the premises covered by the permit or on a premises under the control of the holder; and

(2) the breach of the peace resulted from the holder's improper supervision of a person who was allowed on the premises covered by the permit or on a premises under the holder's control.

TEX. ALCO. BEV. CODE ANN. § 69.13. BREACH OF PEACE: RETAIL ESTABLISHMENT. The Commission or administrator may suspend or cancel the license of a retail beer dealer after giving the licensee notice and the opportunity to show compliance with all requirements of law for retention of the license if it finds that a breach of the peace has occurred on the licensed premises or on premises under the licensee's control and that the breach of the peace was not beyond the control of the licensee and resulted from his improper supervision of persons permitted to be on the licensed premises or on premises under his control.

TEX. ALCO. BEV. CODE ANN. § 11.61(b)(14). CANCELLATION OR SUSPENSION OF PERMIT. The Commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that the permittee sold or delivered an alcoholic beverage to an intoxicated person.

III. EVIDENCE

A. Petitioner's Evidence: Service to Intoxicated Person

1. Officer Kaleb McMillan

Officer Kaleb McMillan, Allen police department, testified that he was dispatched to a traffic stop at approximately 1:07 a.m. on October 15, 2009, and made contact with Mr. Spallin who was the driver of the vehicle stopped for a traffic violation. He testified that Mr. Spallin exhibited sufficient indicia of intoxication to warrant being arrested for driving while intoxicated. Mr. Spallin

told the officer that he was coming from Respondent's establishment and had consumed alcoholic beverages there.

2. Office Justin Arsenault

Officer Justin Arsenault testified that he was the intoxilyzer operator for the Allen police department on the date Mr. Spallin was arrested. The intoxilyzer results were offered into evidence by Staff but objected to by Respondent for lack of foundation. The objection was sustained. No other evidence was presented showing Mr. Spallin's intoxilyzer results.

3. Teresa Hall

Teresa Hall, a Commission enforcement agent, testified that, in her opinion, Mr. Spallin must have been intoxicated when he was at Respondent's establishment because of the signs of intoxication Mr. Spallin exhibited when he was stopped by the police, the number and size of drinks purchased by Mr. Spallin while at Respondent's establishment, and the fact that Mr. Spallin had only left Respondent's establishment approximately 20 minutes prior to the stop. Accordingly, she, therefore, opined that Mr. Spallin must also have been served alcoholic beverages by Respondent's employees while Mr. Spallin was intoxicated, and that although she did not know whether Mr. Spallin exhibited any signs of intoxication while at Respondent's establishment, everyone who has a blood alcohol content of .08 percent per 210 liters of breath will, in her opinion, exhibit sufficient indicia of intoxication to alert sellers to re-evaluate whether they should sell alcohol beverages to that person.

4. James Spallin

James Spallin testified that on October 14, 2009, he consumed one or two beers starting at 5:30 p.m., drank two more beers at the Stars game, had one more at a club after the game, and three or four more at Respondent's establishment. He testified he was trading beers with his friend, so the

number of drinks that his tab shows he purchased may not be the actual number of drinks he consumed. To his recollection, he drank nine or ten beers between 5:30 p.m. and 1:00 a.m. and also ate dinner. He testified that, while at Respondent's location, he had no problem walking, balancing, or communicating; no difficulty paying his bill; did not feel out of control; did not feel he had had too much to drink; knew he could get a ride home if he needed it; and had a friend with him who would have told him if he had had too much to drink, and who said nothing to him. In his opinion, based on his recollection of his appearance and behavior, none of the employees at Respondent's establishment would have considered him intoxicated.

B. Petitioner's Evidence: Breach of the Peace

1. Tim Birdwell

Tim Birdwell testified that on October 14, 2009, he was sitting at the bar in Respondent's establishment when he observed a group who were, in his opinion, acting like "kids" and acting "stupid." He left the bar and went outside to the establishment's patio, where he was followed by two or three men from this group. The men confronted Mr. Birdwell, he texted the bartender for assistance, and the bartender intervened, physically placing himself between the group and Mr. Birdwell. However, one of the men reached around the bartender and hit Mr. Birdwell. This resulted in Respondent's employees escorting the assailant from Respondent's establishment. Mr. Birdwell, however, was allowed by Respondent's employees to return to the bar.

After returning to the bar, Mr. Birdwell was approached by yet another man, who Mr. Birdwell did not recognize and who he did not know was part of the first group. The man became verbally confrontational with Mr. Birdwell causing one of the bartenders to tell the man to "shut up." Mr. Birdwell turned his back to the man, whereupon the man stabbed Mr. Birdwell in the back with a pocket knife. The attacker was wrestled to the ground by a bartender and patrons, the police were called, and the man was arrested.

2. Jeremy Eaves

Jeremy Eaves testified he was seated next to Mr. Birdwell at Respondent's bar when Mr. Birdwell was stabbed. In his opinion, the verbal sparring between Mr. Birdwell and his assailant went on for some time before the stabbing occurred and the assailant was probably intoxicated. He also testified that, as one who has been TABC certified and employed in restaurants in the past, he believed Respondent's employees reacted appropriately when the stabbing occurred, but that the situation should have been better controlled before it got to that point.

3. Lt. Jeffrey Gladden

Lt. Jeffrey Gladden, with the Commission enforcement office, testified that licensees are informed by the Commission that at the first sign of an argument all parties involved need to be asked to leave the establishment. (TABC Ex. No. 14). In his opinion, most breaches of the peace involve intoxicated persons, and once the incident between Mr. Birdwell and his assailants occurred on the patio, all parties, including Mr. Birdwell, should have been asked to leave. Letting one of the parties remain, even if that party was the innocent victim, runs the risk that the assailant may still have friends in the establishment who will continue the confrontation with the victim.

4. Charles Lunenschloss

Charles Lunenschloss testified that on October 14, 2009, he was the shift manager/bartender at Respondent's establishment when the confrontation between Mr. Birdwell and his assailant occurred on the patio. He was texted by Mr. Birdwell to come to his assistance, went to the patio, placed himself between Mr. Birdwell and the other party, and observed the other party reached around him and hit Mr. Birdwell. He testified that he believed Mr. Birdwell was the victim of the confrontation. Mr. Lunenschloss did not know if the assailant had any friends still inside the establishment when he allowed Mr. Birdwell to return to the bar.

C. Respondent's Evidence: Serving an Intoxicated Person and Breach of the Peace**1. Ashlie Jeansonne**

Ashlie Jeansonne testified that she was employed at Respondent's establishment on October 14 and 15, 2009, that she did not recall having seen any patron on the premises who appeared intoxicated, and did not recall seeing Mr. Spallin at all.

2. Bryan White

Bryan White testified that he was employed at Respondent's establishment as the bar manager on October 14 and 15, 2009, he and Ms. Jeansonne were working the bar on October 14, 2009, both Mr. Birdwell and the person who stabbed him were regulars at the bar, and neither appeared intoxicated. He further testified that one of his duties is to walk through the establishment looking for intoxicated persons. He also testified that he did not know Mr. Spallin.

3. Kyle McPherson

Kyle McPherson testified that he owns Respondent's establishment and hires security to maintain order in the bar at a cost of \$7,000 – \$9,000 per month. He also testified that if a disturbance or confrontation occurs in the bar he does not, as a policy, eject the victim of the confrontation from the establishment.

4. John Busby

John Busby, a former sergeant with Commission enforcement, testified that he believes Respondent's employees acted properly in dealing with the confrontations relating to Mr. Birdwell. The stabbing was spontaneous and, therefore, not under Respondent's control, and, based on his understanding of Commission policy, the Commission does not require that the victims of

confrontations must be removed from an establishment. Besides, none of the confrontations involving Mr. Birdwell fell, in Mr. Busby's opinion, within the provisions of the Commission policy, because that policy was directed towards parties to an argument. In the instant case there was only one party that was arguing: the respective assailant; Mr. Birdwell did not argue. Mr. Birdwell was the victim, not the trouble-maker, and therefore, according to Mr. Busby, did not come within the proscription envisioned by this policy. In addition, he further testified that in order to hold a seller liable for selling alcoholic beverages to an intoxicated person the intoxicated person must exhibit signs of intoxication before being served.

IV. ANALYSIS

A. Breach of the Peace

A breach of the peace on a licensee's premises is not, alone, sufficient to warrant disciplinary action against the licensee. Disciplinary action is warranted when the breach of the peace was within the licensee's control, such as when it results from the licensee's improper supervision of persons the licensee has permitted on its premises.

Mr. Birdwell's stabbing in the instant case constituted a breach of the peace. Staff argues that this breach of the peace resulted from Respondent's improper supervision of the persons it allowed on its premises, in particular Mr. Birdwell.

This was Mr. Birdwell's second altercation at Respondent's location on that date. Mr. Birdwell had had an earlier confrontation with two other patrons. Those two patrons were, as a result, removed by Respondent's employees from the premises. Mr. Birdwell, however, was allowed to remain. By permitting Mr. Birdwell to remain on the premises after the first altercation, the subsequent stabbing was made possible, because, Staff argues, had Mr. Birdwell been removed from the establishment after his first altercation he would not have been present for the second one.

Staff's policy informs licensees that "at the first sign of trouble between your customers, you should require those customers involved to immediately leave the premises..." (TABCFx. No. 14). This, according to Staff, includes everyone involved in the altercation, whether perpetrator or victim. Accordingly, Staff argues, Respondent violated this policy by failing at the first sign of trouble between Mr. Birdwell and the other customers to require all the customers, including Mr. Birdwell, to immediately leave the premises. By failing to do so the resulting breach of the peace, i.e. the stabbing, occurred.

Respondent's failure to follow Staff's policy does not constitute a *per se* grounds for disciplinary action. This policy is neither a statute nor a regulation and has no sanction or authority directly related to its non-compliance. It only sets forth Staff's interpretation of what constitutes "improper supervision of persons permitted to be on the licensed premises" by the licensee, and only comes into play if a person is not removed from the premises who, under the policy, should have been removed because of an earlier altercation, and who, then, is subsequently involved in another altercation that rises to the level of a breach of the peace.

While Staff's policy is neither a statute nor a regulation, an agency's policy interpretation of its own statute is accorded great weight, particularly where, as here, the sale of alcoholic beverages is a highly-regulated industry, Staff has expertise in this industry, Staff's policy is reasonable, and Respondent was informed of Staff's policy prior to this event. When a licensee knows that a particular patron has already been involved in an altercation, and likewise knows that the state licensing agency strongly suggests that such patrons should be removed from the premises, and then chooses, instead, to allow that patron to remain on the premises, the licensee willingly takes the risk that if that patron is involved in yet another confrontation and that confrontation rises to the level of a breach of the peace, then that breach of the peace is the result of the licensee's failure to properly supervise persons it has allowed on its premises, and thus was within the licensee's control.

The likelihood of a person who was involved in a confrontation being involved in another is so great that Staff warns its licensees to avoid this likelihood by removing all parties to the

confrontation from the premises. Given Respondent's knowledge of Staff's policy, Respondent was on notice that such behavior might well be repeated, and that if it escalated to a breach of the peace Respondent would be held responsible. Based on the evidence in the record, Respondent failed to adhere to Staff's policy, and as a result conducted its business in a manner as to allow an aggravated breach of the peace — with serious bodily injury and involving a deadly weapon — to occur on its premises in violation of TEX. ALCO. BEV. CODE §§ 22.12, 28.11, 69.13 and 71.09.

B. Sale to an Intoxicated Person

On October 15, 2009, Mr. Spallin arrived at Respondent's establishment at approximately 11:00 p.m. Mr. Spallin had consumed one or two beers starting at approximately 5:30 p.m., and had then attended a Stars game where he consumed two more beers. He afterwards went to a club for an additional beer and then to Respondent's establishment, where he had three or four 15-ounce schooners.

Mr. Spallin left Respondent's establishment at approximately 12:48 a.m. At approximately 1:23 a.m. he was stopped for a traffic violation and subsequently arrested for driving while intoxicated

Prior to leaving Respondent's establishment, Mr. Spallin did not exhibit signs of intoxication that would have led a reasonable person to believe he was intoxicated. He had no problem walking, balancing, or communicating, no problem paying the bill, did not feel he had had too much to drink, knew he could get a ride home if he needed it, and a friend who was with him and who would have told him if he had had too much to drink said nothing to him and did not stop him from leaving. Mr. Spallin did not exhibit sufficient signs of intoxication to lead a reasonable person to conclude that he had lost the normal use of his mental or physical faculties by reason of the introduction of alcohol.

Respondent should only be subject to sanctions when it is shown that the seller served alcohol to an individual who a reasonable person could see had lost the normal use of his or her

mental or physical faculties by reason of the introduction of alcohol. Respondent should not be held accountable for serving an intoxicated person if that person did not exhibit outward manifestations of impairment sufficient to alert Respondent's employees to that person's intoxicated condition. To do otherwise would create strict liability upon licensees. Accordingly, Respondent's employees did not act unreasonably in failing to determine whether Mr. Spallin was intoxicated.

V. RECOMMENDATION

The ALJ recommends, pursuant to 16 TAC § 34.2, that Respondent's permits and certificates be subject to a suspension for 25 days or a civil fine of \$300 per day for conducting business in a manner as to allow an aggravated breach of the peace with a serious bodily injury or involving a deadly weapon to occur on its premises in violation of TEX. ALCO. BEV. CODE §§ 22.12, 28.11, 69.13 and 71.09. Although Staff requested a longer suspension and that Respondent not be allowed to pay a civil fine, the higher sanction does not appear warranted in this matter. The ALJ further recommends that Respondent should not be subject to a suspension or civil fine for selling alcoholic beverages to an intoxicated person.

VI. FINDINGS OF FACT

1. On October 14, 2009, Dodie's Place LLC d/b/a Dodie's Place Sports Grille & Pub (Respondent) held a Mixed Beverage Restaurant Permit with F.B., Beverage Cartage Permit, Food and Beverage Certificate, and Mixed Beverage late Hours permit.
 2. On that date, Tim Birdwell was a patron at Respondent's establishment. Two other patrons of the establishment initiated a verbal confrontation with Mr. Birdwell on the patio of Respondent's establishment, causing Mr. Birdwell to request the assistance of the manager.
 3. The manager arrived and physically intervened between Mr. Birdwell and the other two patrons, whereupon one of the two patrons reached around the manager and hit Mr. Birdwell. The assailant was physically removed from the premises by the manager and a bouncer. The other patron associated with the assailant also left the premises.
 4. Staff policy informs licensees that "at the first sign of trouble between your customers, you should require those customers involved to immediately leave the premises."
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5. Mr. Birdwell was not asked by Respondent's employees to leave the premises. He, therefore, returned to the bar.
 6. Shortly thereafter another man initiated a conversation with Mr. Birdwell at the bar. The conversation escalated into a verbal confrontation, whereupon Muriel Bailey, one of Respondent's bartenders, intervened, grabbed the man by his collar and told him to "shut up."
 7. The man then attacked Mr. Birdwell, stabbing him in the back with a pocketknife.
 8. The assailant was wrestled to the ground by another bartender, Ray Feinberg, along with other bar patrons, and the knife taken away. The police were called and the man was arrested.
 9. This attack would not have occurred had Mr. Birdwell been asked to leave the premises after the first altercation occurred, as suggested by Staff policy.
 10. Respondent had been informed of the Staff policy suggesting that "at the first sign of trouble between your customers, you should require those customers involved to immediately leave the premises."
 11. On October 15, 2009, James Spallin arrived at Respondent's establishment at approximately 11:00 p.m. Mr. Spallin had begun drinking that day, starting with one or two beers, at approximately 5:30 p.m., and had then attended a Stars game where he drank two more beers. Afterwards he went to a club for an additional beer and then to Respondent's establishment where he had three or four 15-ounce schooners before leaving at approximately 12:48 a.m.
 12. Mr. Spallin may have been trading beers with a friend of his on his friend's tab, so the number of drinks purchased by Mr. Spallin while at Respondent's location may not be the same as the number of drinks he actually consumed there.
 13. Prior to leaving Respondent's premises, Mr. Spallin had no balance problems, no communication problems, no problems paying the bill, no problems walking, did not feel he had had too much to drink, knew he could get a ride home if he needed it, and his friend who was with him and would have told him if he had had too much to drink said nothing to him and did not stop him from leaving.
 14. At approximately 1:23 a.m. Mr. Spallin was stopped for a traffic violation and subsequently arrested for driving while intoxicated.
 15. Mr. Spallin did not exhibit apparent signs of intoxication while at Respondent's
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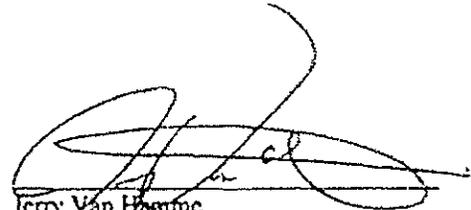
establishment.

16. Respondent's employees did not observe apparent signs of Mr. Spallin's intoxication while he was at the establishment.
17. Respondent's employees did not act unreasonably in failing to determine whether Mr. Spallin was intoxicated.

VII. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE Ann. Subchapter B of Chapter 5, §§ 6.01.
2. SOAH has jurisdiction to conduct the 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 ch. 2003.
3. Proper and timely notice of the hearing was affected on all parties pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ch. 2001, and 1 TEX. ADMIN. CODE § 155.401.
4. Respondent's employees failed to properly supervise persons permitted to be on the licensed premises which resulted in a breach of the peace. TEX. ALCO. BEV. CODE Ann. §§ 22.12, 28.11, 69.13 and 71.09.
5. Respondent's employees did not sell alcoholic beverages to an intoxicated customer. TEX. ALCO. BEV. CODE ANN. § 11.61(b)(14).

SIGNED 14 day of October, 2011.



Jerry Van Hamme
Administrative Law Judge
State Office of Administrative Hearings