

**DOCKETS 619275 & 621092**

<b>TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner</b>	§	<b>BEFORE THE TEXAS</b>
	§	
	§	
<b>VS.</b>	§	
	§	
	§	
<b>13335 DULUTH RESTAURANT AND BAR LLC. D/B/A LA CHATTE, Respondent</b>	§	<b>ALCOHOLIC</b>
	§	
	§	
<b>PERMIT MB566538, LB</b>	§	
	§	
	§	
<b>HARRIS COUNTY, TEXAS (SOAH DOCKET NO. 458-14-0898)</b>	§	<b>BEVERAGE COMMISSION</b>

**ORDER DENYING MOTION FOR REHEARING**

**CAME ON FOR CONSIDERATION** this 21st day of October, 2014, 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 Rex A. Shaver presiding. The hearing convened on February 7, 2014 and the SOAH record closed on that same date. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on April 2, 2014. 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. No exceptions were filed.

After review and due consideration of the Proposal for Decision, I issued an Order on September 12, 2014 adopting the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained in the Proposal for Decision and incorporating those Findings of Fact and Conclusions of Law into that Order, as if such were fully set out and separately stated therein. The Order required suspension of Respondent's permits for 30 days, but Respondent was given the option of paying a civil penalty in the amount of \$9,000.00.

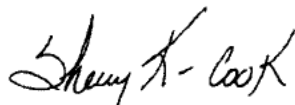
A timely Motion for Rehearing was filed by respondent on October 5, 2014. Petitioner responded on October 13, 2014.

Having considered Respondent's Motion for Rehearing and Petitioner's response thereto, the Motion for Rehearing is **DENIED**.

**IT IS THEREFORE ORDERED** that the privileges granted by the Commission and the activities authorized under the above permit by the Code will be **SUSPENDED beginning at 12:01 a.m. on November 11, 2014** and shall remain suspended for **THIRTY (30) CONSECUTIVE DAYS, UNLESS** a civil penalty in the amount of **\$9,000.00 is paid ON OR BEFORE November 5, 2014**.

**If this Order is appealed and judgment is issued affirming the Order**, the privileges granted by the Commission and the activities authorized under the above permit by the Code will be **suspended** beginning at 12:01 a.m. on the **eighteenth (18<sup>th</sup>)** day following the date the judgment is signed and shall remain suspended for thirty (30) consecutive days, unless a civil penalty in the amount of \$9,000.00 is paid on or before the **tenth (10<sup>th</sup>)** day following the date the judgment is signed.

**SIGNED** this the 21st day of October, 2014, at Austin, Texas.



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Sherry K-Cook, Executive Director  
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 21st day of October, 2014.



---

Martin Wilson, Assistant General Counsel  
Texas Alcoholic Beverage Commission

Rex A. Shaver  
**ADMINISTRATIVE LAW JUDGE**  
State Office of Administrative Hearings  
2020 North Loop West, Suite 111  
Houston, Texas 77018  
**VIA FACSIMILE: (512) 322-2061**

13335 Duluth Restaurant and Bar L.L.C.  
d/b/a La Chatte  
**RESPONDENT**  
P.O. Box 541998  
Houston, TX 77254-1998  
**VIA FIRST CLASS MAIL, CMRRR # 70050390000575497087**

Paul Decuir Jr.  
**ATTORNEY FOR RESPONDENT**  
P.O. Box 9687  
Houston, Texas 77213-0687  
**VIA FIRST CLASS MAIL, CMRRR# 70050390000575497094**  
**AND**  
**VIA FACSIMILE: (713) 450-2773**

Sandra K. Patton  
**ATTORNEY FOR PETITIONER**  
TABC Legal Division  
**VIA E-MAIL: [sandra.patton@tabc.texas.gov](mailto:sandra.patton@tabc.texas.gov)**

**TEXAS ALCOHOLIC BEVERAGE COMMISSION  
CIVIL PENALTY REMITTANCE**

**DOCKET NUMBER: 619275 and 621092      REGISTER NUMBER:**

**NAME: 13335 Duluth Restaurant and Bar LLC**

**TRADENAME: La Chatte**

**ADDRESS: P.O. Box 541998, Houston, Texas**

**DUE DATE: November 5, 2014**

**PERMITS OR LICENSES: MB566538, LB**

**AMOUNT OF PENALTY: \$9,000.00**

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 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.		



**DOCKETS 619275 & 621092**

<b>TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner</b>	§	<b>BEFORE THE TEXAS</b>
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<b>VS.</b>	§	
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<b>13335 DULUTH RESTAURANT AND BAR LLC. D/B/A LA CHATTE, Respondent</b>	§	<b>ALCOHOLIC</b>
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	§	
<b>PERMIT MB566538, LB</b>	§	
	§	
	§	
<b>HARRIS COUNTY, TEXAS (SOAH DOCKET NO. 458-14-0898)</b>	§	<b>BEVERAGE COMMISSION</b>

**ORDER**

**CAME ON FOR CONSIDERATION** this 12th day of September, 2014, 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 Rex A. Shaver presiding. The hearing convened on February 7, 2014 and the SOAH record closed on that same date. The Administrative Law Judge made and filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on April 2, 2014. 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. No exceptions were filed.

After review and due consideration of the Proposal for Decision, 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.

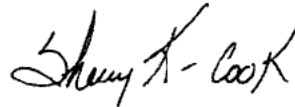
All motions, requests for entry of Proposed Findings of Fact and Conclusions of Law, and any other requests for general or specific relief submitted by any party are denied, unless specifically adopted herein.

**IT IS THEREFORE ORDERED** that the privileges granted by the Commission and the activities authorized under the above permit by the Code will be **SUSPENDED beginning at 12:01 a.m. on October 22, 2014** and shall remain suspended for **THIRTY (30) CONSECUTIVE DAYS, UNLESS** a civil penalty in the amount of **\$9,000.00 is paid ON OR BEFORE October 15, 2014.**

**If this Order is appealed and judgment is issued affirming the Order,** the privileges granted by the Commission and the activities authorized under the above permit by the Code will be **suspended** beginning at 12:01 a.m. on the **fourteenth (14<sup>th</sup>)** day following the date the judgment is signed and shall remain suspended for thirty (30) consecutive days, unless a civil penalty in the amount of \$9,000.00 is paid on or before the **seventh (7<sup>th</sup>)** day following the date the judgment is signed.

**This Order will become final and enforceable on the 7th day of October, 2014, unless a Motion for Rehearing is filed by the 6th day of October, 2014.**

**SIGNED** this the 12th day of September, 2014, at Austin, Texas.



---

Sherry K-Cook, Executive Director  
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 12th day of September, 2014.



---

Martin Wilson, Assistant General Counsel  
Texas Alcoholic Beverage Commission

Rex A. Shaver  
**ADMINISTRATIVE LAW JUDGE**  
State Office of Administrative Hearings  
2020 North Loop West, Suite 111  
Houston, Texas 77018  
**VIA FACSIMILE: (512) 322-2061**

13335 Duluth Restaurant and Bar L.L.C.  
d/b/a La Chatte  
**RESPONDENT**  
P.O. Box 541998  
Houston, TX 77254-1998  
**VIA FIRST CLASS MAIL, CMRRR # 70120470000133008590**

Paul Decuir Jr.  
**ATTORNEY FOR RESPONDENT**  
P.O. Box 9687  
Houston, Texas 77213-0687  
**VIA FIRST CLASS MAIL, CMRRR#70120470000133008606**  
**AND**  
**VIA FACSIMILE: (713) 450-2773**

Sandra K. Patton  
**ATTORNEY FOR PETITIONER**  
TABC Legal Division  
**VIA E-MAIL: [sandra.patton@tabc.texas.gov](mailto:sandra.patton@tabc.texas.gov)**



**TEXAS ALCOHOLIC BEVERAGE COMMISSION  
CIVIL PENALTY REMITTANCE**

**DOCKET NUMBER: 619275, 621092**

**REGISTER NUMBER:**

**NAME: 13335 Duluth Restaurant and Bar LLC**

**TRADENAME: La Chatte**

**ADDRESS: P.O. Box 541998, Houston, TX 77254-1998**

**DUE DATE: October 15, 2014**

**PERMITS OR LICENSES: MB566538, LB**

**AMOUNT OF PENALTY: \$9,000.00**

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

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**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.**

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

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
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City

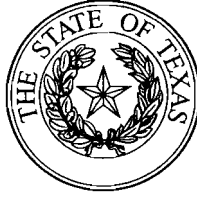
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Area Code/Telephone No.



# State Office of Administrative Hearings



RECEIVED

APR 3 2014

HOOVER  
LEGAL

Cathleen Parsley  
Chief Administrative Law Judge

April 2, 2014

Sherry Cook  
Administrator  
Texas Alcoholic Beverage Commission  
5806 Mesa Drive  
Austin, Texas 78731

VIA REGULAR MAIL

**RE: SOAH Docket No. 458-14-0898; Texas Alcoholic Beverage Commission vs. 13335 Duluth Restaurant and Bar L.L.C. d/b/a La Chatte**

Dear Ms. Cook:

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(c), a SOAH rule which may be found at [www.soah.state.tx.us](http://www.soah.state.tx.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Rex A. Shaver".

Rex A. Shaver  
Administrative Law Judge

RAS/mr  
Enclosure

xc Sandra Patton, Texas Alcoholic Beverage Commission, 427 W. 20<sup>th</sup> Street, Suite 600, Houston, TX 77008  
- **VIA REGULAR MAIL**  
Emily Helm, General Counsel, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731- **VIA REGULAR MAIL**  
Judith Kennison, Senior Attorney, Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Austin, TX 78731 - **VIA REGULAR MAIL**  
Paul Decuir, Attorney at Law, P.O. Box 9687, Houston, TX 77213-0687 - **VIA REGULAR MAIL**

2020 North Loop West Suite 111 Houston, Texas 77018  
713.957.0010 (Telephone) 713.812.1001 (Fax)  
[www.soah.state.tx.us](http://www.soah.state.tx.us)

**TEXAS ALCOHOLIC BEVERAGE  
COMMISSION,  
Petitioner**

v.

**13335 DULUTH RESTAURANT  
AND BAR L.L.C.  
D/B/A LA CHATTE  
PERMIT NO. MB566538, LB  
Respondent**

**HARRIS COUNTY, TEXAS  
(TABC CASE NO. 619275,621092)**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

Staff of the Texas Alcoholic Beverage Commission (TABC) brought this enforcement action against 13335 Duluth Restaurant and Bar L.L.C. d/b/a La Chatte (Respondent), alleging that on or about May 5, 2013, Respondent's agent, servant, or employee, sold, served, or delivered an alcoholic beverage to an intoxicated person, and on September 8, 2013, Respondent's agent, servant, or employee was intoxicated on the licensed premises. Both of those acts violate the Texas Alcoholic Beverage Code (Code). The Administrative Law Judge (ALJ) finds that Staff proved the charges. Staff recommended Respondent's permit be suspended for 30 days or pay a fine of \$300 per day in lieu of suspension. The ALJ agrees with Staff's recommendation.

**I. PROCEDURAL HISTORY**

The hearing in this matter convened on February 7, 2014, before State Office of Administrative Hearings (SOAH) ALJ Rex Shaver. Sandra K. Patton, staff attorney, represented Staff at the hearing. Paul Decuir, Jr., attorney, represented Respondent. The hearing concluded and the record closed the same day.

There are no contested issues of notice or jurisdiction in this case. Therefore, notice and jurisdiction are addressed in the findings of fact and conclusions of law without further discussion.

## II. DISCUSSION

### A. Applicable Law

The Commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found that the licensee sold or delivered an alcoholic beverage to an intoxicated person. Tex. Alco. Bev. Code (Code) § 61.71 (a)(6).

The Commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found that the licensee, or licensee's agent, servant, or employee was intoxicated on the premises. Tex. Alco. Bev. Code (Code) §§ 104.01(5), 11.61 (b)(13), and 11.61(b)(2).

"Intoxication," is defined as not having normal use of one's mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, or a combination of two or more of those substances into the body. Tex. Penal Code § 49.01(2)(A).

### B. Evidence

On October 15, 2004, TABC issued Mixed Beverage Permit MB-566538 which included a Mixed Beverage Late Hours Permit for Respondent's premises located at 13335 Duluth, Houston, Harris County, Texas.

**(1) May 15, 2013 Allegation**

Agent Christopher Rodriguez, an enforcement Agent for TABC, testified that on May 5, 2013, he conducted an investigation of Respondent's premises to check for compliance with the Code.

Agent Rodriguez testified that while undercover, he entered Respondent's establishment and observed a violation of the Code, the sale or delivery to an intoxicated person. He observed an Hispanic male wearing a red button-up shirt and a green cap walking into the center of the club and up to the stage where dancers performed. Agent Rodriguez was 6 feet from the patron observed him to be unsteady on his feet, using chairs for support, swaying while standing and having difficulty extracting cash from his wallet to tip the dancers. The patron then began throwing money at other patrons. The patrons became angry and the patron was pulled away from the stage and taken back to his table. Agent Rodriguez then reported his observations to the team of other agents waiting outside of the premises.

Agent Robert Hardcastle, an enforcement Agent for TABC, testified that that on May 5, 2013 he along with other agents were waiting outside La Chatte. They received a text message from the undercover team inside La Chatte, advising them that the undercover team had observed a sale of alcoholic beverage to an intoxicated person. The person served the alcoholic beverage was described as an Hispanic male wearing a red button-up shirt and a green hat. Upon entering the premises Agent Hardcastle observed a patron meeting the description provided by Agent Rodriguez. Agent Hardcastle observed a waitress bring a dark colored drink to the patron and receive payment for that drink. Agent Hardcastle was about 4 feet away when the transaction took place. He observed the patron to have the odor of alcoholic beverage from his breath and person, being unsteady on his feet, having red, watery and bloodshot eyes, fumbling with his wallet and having slurred speech. He believed the patron to be intoxicated. The agent asked the patron what he was drinking and the patron said bourbon and coke. Agent Hardcastle was unable to recall the name of the allegedly intoxicated patron. He related that while he did not have the drink tested for alcohol content he has consumed bourbon and coke himself and this drink smelled like bourbon and coke. He further testified that the patron's information was taken

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down and the patron was sent home in a cab. Agent Hardcastle denied meeting with the intoxicated patron in the parking lot and denied calling a cab. He testified that there was a cab in the parking lot, but he did not know who called for the cab. Agent Hardcastle confirmed that the intoxicated patron was not arrested. The witness confirmed that he did not ask the patron if he suffered from any disability that might have caused the physical signs he interpreted as intoxication.

**(2) September 8, 2013 Allegation**

Agent Gerald Sherk, an enforcement agent for TABC, testified that on September 8, 2013, he along with Agent Darden conducted an open investigation of Respondent's premises to check for compliance with the Code. He had been to this establishment several times and was known by management. At 12:10 a.m. the agents entered the premises and met with Richard Mahaffey, the manager on duty. The premises contain several private or V.I.P. rooms where dancers can entertain customers. Mr. Mahaffey and Agent Darden stayed in the main public area while Agent Sherk went into the V.I.P. rooms. Agent Sherk testified that in one of these rooms he found a female passed out or asleep on a bench. She was dressed as a dancer. He brought Agent Darden and Mr. Mahaffey into the room. Agent Sherk had difficulty waking the female. When she did wake, she was very lethargic and began dancing as if the men in the room were customers. The female fell against the wall and Mr. Mahaffey caught her to keep her from falling down. She had the odor of alcohol on her breath. The female was later identified by her driver's license as Jacqueline Ortiz Ramirez, born August 20, 1994. Mr. Mahaffey told Agent Sherk that Ms. Ramirez had come to the premises to work that evening; however he noticed she was "messed up" so he had her go lie down to sleep it off. Mr. Mahaffey said she was off duty. She was still dressed in dancer attire. Ms. Ramirez was not arrested and Mr. Mahaffey arranged for another employee to take her home.

**(3) Respondent's Response to Both Allegations**

Rustos Konstantinos testified that he is the owner of the premises doing business as La Chatte. He is present at the premises every night. On September 8, 2013, he instructed

Mr. Mahaffey to send Ms. Ramirez home because she took pills before she came to work. He stated that she was not working at the time the TABC agents entered the premises.

Mr. Konstantinos stated that on May 5, 2013, the team first encountered the Hispanic male outside the premise. He did not recall the Hispanic male being inside the premises. He did not see any drinks served to the man and had never seen him before. He did not recall the name of the waitress who allegedly served the intoxicated patron. A video recording was entered into evidence showing events outside of the premise on September 8, 2013. The agents and Ms. Ramirez are shown in the parking lot and driveway.

In regard to the May 5, 2013 allegation Respondent argued that the testimony of the agents clearly showed that they could not be certain as to what the unidentified man had been served. There was no proof that the patron being served was intoxicated. There were no tests performed to indicate intoxication. There was no testimony that the patron had lost the use of his faculties. The agents did not know if the patron suffered any disability that might have caused the signs they took as evidence of intoxication. If the patron was intoxicated he was not so intoxicated that the agents would arrest him.

As to the September 8, 2013 allegation Respondent argued that when the agents observed Ms. Ramirez she had been sent home from work because management recognized some problem. Ms. Ramirez was off duty and was not an agent or employee at the time the agents approached her. The photograph of Ms. Ramirez does not show she had red and watery eyes.

TABC argues that on May 5, 2013, the TABC agents observed many signs of intoxication and smelled the odor of bourbon. No laboratory test were needed or required because the agent related the signs of intoxication to his experience with the odor of alcoholic beverage such as bourbon. As to September 8, 2013, TABC argues that Ms. Ramirez was on the premises and was a. admittedly an employee whether she was on duty or not.



### III. ANALYSIS AND RECOMMENDATION

In the May 5, 2013, case both TABC agents, Rodriguez and Hardcastle made independent visual observations of the unnamed patron. Agent Rodriguez testified that he observed the patron had poor balance, swayed, used furniture for support, had difficulty extracting money from his wallet and when he got the money out of the wallet, he threw it at other customers. Agent Hardcastle observed the waitress serve a drink to that patron that looked and smelled like bourbon and coke, and the patron identified it as bourbon and coke. The waitress took money from the patron in exchange for the drink. The evidence on the record is sufficient to establish that the Respondent served an alcoholic beverage to an intoxicated person in violation of § 61.71 (a)(6) of the Code.

In the September 8, 2013 case Agent Sherk observed Ms. Ramirez asleep or unconscious on a bench in a private room in the premises. She was dressed in dancer attire and when she woke she began dancing as if the agents were customers. Her balance was so bad that she fell against a wall and needed help standing. The manager, Mr. Mahaffey, was aware that she was under the influence of something and he told her to go sleep it off. Agent Sherk determined that Ms. Ramirez was only 19 years old. He testified that he smelled alcoholic beverage on her breath. Mr. Konstantinos admitted that he had instructed the manager to send Ms. Ramirez home because she was using some drug, but the manager had not yet acted on those instructions. The evidence on the record is sufficient to establish that the licensee, or licensee's agent, servant, or employee was intoxicated on the premises. §§ 104.01(5), 11.61 (b)(13), and 11.61(b)(2)of the Code.

The administrative violations record indicates that a prior violation of an intoxicated licensee occurred in May of 2010 and that three additional serious violations occurred between 2009 and 2012. The ALJ recommends that the Respondent's licenses/permits be suspended for a period of 30 days, or in lieu of any suspension, that the Respondent pay a civil penalty in the amount of \$9,000.

#### IV. FINDINGS OF FACT

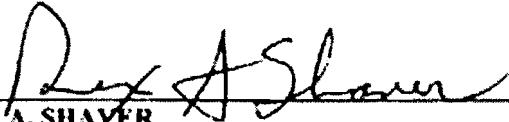
1. 13335 Duluth Restaurant and Bar L.L.C. d/b/a La Chatte (Respondent) holds a Mixed Beverage Permit, MB-566538 which includes the Mixed Beverage Late Hour Permit, issued by the Texas Alcoholic Beverage Commission (TABC) for the premises located at 13335 Duluth, Houston, Harris County, Texas.
2. The permit was originally issued on October 15, 2004.
3. On May 5, 2013, Respondent's waitress served an alcoholic beverage to a patron in the Respondent's establishment.
4. At that time, the patron exhibited signs of intoxication. Specifically the patron, swayed while standing, was unsteady on his feet, used chairs and used furniture for support. The patron had the odor of alcoholic beverage on his breath, was unsteady on his feet, had slurred speech and red, watery bloodshot eyes.
5. On September 8, 2013, one of Respondent's employees was asleep or unconscious in a private dance room at the licensed premise. It was difficult to wake her, she fall against a wall, she had the odor of alcoholic beverage on her breath.
6. The employee had lost the use of her mental or physical faculties by reason of introduction of alcohol, a controlled substance, a drug or a combination of two or more of those substances into the body.
7. On December 9, 2013, 2013, Staff issued a notice of hearing informing all parties of the hearing in this matter. Staff's notice to the parties contained the time, place, and nature of the hearing; stated the legal authority and jurisdiction under which the hearing was to be held; referenced the particular sections of the statutes and rules involved; and included a short, plain statement of the matters asserted.
8. The hearing in this matter convened on February 7, 2014, before State Office of Administrative Hearings (SOAH) ALJ Rex Shaver. Sandra K. Patton, staff attorney, represented TABC's Staff at the hearing. Paul Decuir, Jr., attorney, represented Respondent. The hearing concluded and the record closed the same day.

#### V. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter under Texas Alcoholic Beverage Code (Code) ch. 5 and §§ 11.61 (b)(2) and 61.71 (a)(1).

2. The State Office of Administrative Hearings has jurisdiction over all matters relating 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 ch. 2003.
- 3 Respondent received notice of the proceedings and hearing, pursuant to Tex. Gov't Code §§ 2001.051 and 2001.052 and 1 Tex. Admin. Code ch. 155.
4. Respondent violated Code. §§ 104.01(5), 11.61 (b)(13), and 11.61(b)(2 )and Tex. Penal Code § 49.01(2)(A)
5. Respondent sold, served or delivered an alcoholic beverage to an intoxicated person Code § 61.71 (a) (6).
6. Based on the findings of fact and conclusions of law, Respondent's permit should be suspended for a period of 30 days, or in lieu of any suspension, Respondent should be ordered to pay a civil penalty in the amount of \$300 per day.

**SIGNED APRIL 2, 2014.**

  
\_\_\_\_\_  
**REX A. SHAYER**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**