

draft for the purchase of beer that was dishonored when presented for payment.

Conclusion of Law No. 5 is modified to read:

Based on Finding of Fact No. 7, Respondent violated Alcoholic Beverage Code §§26.03(b), 61.71(a)(1), 61.73 and 102.31(b) & (c), and 16 Texas Administrative Code §45.131.

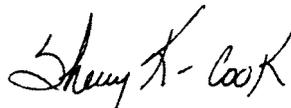
The changes to Finding of Fact No. 7 and Conclusion of Law No. 5 are non-substantive and are made so that the ordering documents in the record will state the violations that are the basis of the penalty assessed.

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 August 26, 2015** and shall remain suspended for **THIRY (30) DAYS, UNLESS** a civil penalty in the amount of **\$9000.00 is paid ON OR BEFORE August 18, 2015.**

This Order will become final and enforceable on the 4th day of August, 2015, unless a Motion for Rehearing is filed by the 3rd day of August, 2015.

SIGNED this the 10th day of July, 2015, 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 10th day of July, 2015.



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, TX 77018
VIA FACSIMILE: (512) 322-2061

Marina Business Inc.
d/b/a Super 7
RESPONDENT
4100 Avenue F
Bay City, TX 77414
VIA FIRST CLASS MAIL, CMRRR # 70090960000121491018

Sandra Patton
ATTORNEY FOR PETITIONER
TABC Legal Division
VIA E-MAIL: sandra.patton@tabc.texas.gov

**TEXAS ALCOHOLIC BEVERAGE COMMISSION
CIVIL PENALTY REMITTANCE**

DOCKET NUMBERS: 629031, 629032, 639036

REGISTER NUMBER:

NAME: Marina Business Inc.

TRADENAME: Super 7

ADDRESS: 4100 Avenue F, Bay City, Texas

DUE DATE: August 18, 2015

PERMITS OR LICENSES: BQ785972

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.

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge
May 11, 2015

RECEIVED

MAY 13 2015
TABCO HOUSTON
LEGAL DEPT.

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

VIA REGULAR MAIL

RE: SOAH Docket No. 458-15-2339; Texas Alcoholic Beverage Commission vs. Marina Business Inc. d/b/a Super 7

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Horan", with a long horizontal line extending to the right.

Timothy Horan
Administrative Law Judge

TH/mr

Enclosure

xc Sandra Patton, Texas Alcoholic Beverage Commission, 427 W. 20th 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**
Marina Business Inc., d/b/a Super 7, 4100 Avenue F, Bay City, TX 77414 - **VIA REGULAR MAIL**

SOAH DOCKET NO. 458-15-2339

**TEXAS ALCOHOLIC BEVERAGE
COMMISSION**

Petitioner

V.

**MARINA BUSINESS INC.
D/B/A SUPER 7
PERMIT NO(s). BQ-785972
MATAGORDA COUNTY, TEXAS
(TABC CASE NO(s). 629031, 629032,
629036)**

Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

This matter was scheduled for hearing at the request of the Texas Alcoholic Beverage Commission. Despite being sent proper notice, the Respondent did not appear and was not represented at the hearing. For the reasons set out in the Findings of Fact and Conclusions of Law, the Administrative Law Judge finds that the relief requested by the referring agency should be granted on a default basis.

FINDINGS OF FACT

1. Notice of the hearing was mailed to the Respondent at the Respondent's address of record at least ten days prior to the scheduled hearing.
2. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.
3. The notice of hearing contained a statement in at least 12-point, boldface type that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice of hearing might be granted by default against a party that failed to appear at the hearing.

4. The hearing was held and the record closed on April 10, 2015.
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 thirty (30) days, or in lieu of a suspension, the Respondent should be permitted to pay a civil penalty of \$9000.

SIGNED May 11, 2015.


TIMOTHY HORAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS