

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge
July 31, 2015

RECEIVED

AUG -4 2015

CASO HOUSETON
LEGAL

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

VIA REGULAR MAIL

RE: SOAH Docket No. 458-15-3526; Texas Alcoholic Beverage Commission vs. VJP Group LLC d/b/a Boss Frogs

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 that reads "S. Burger".

Stephen Burger
Administrative Law Judge

SJB/mr
Enclosure

xc Sandra Patton, Staff Attorney, Texas Alcoholic Beverage Commission, 427 W. 20th Street, Suite 600, Houston, TX 77008 - **VIA REGULAR MAIL**,
Martin Wilson, 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**,
VLP Group LLC d/b/a Boss Frogs, 4107 Rocky Briar Court, College Station, TX 77845 - **VIA REGULAR MAIL**,

SOAH DOCKET NO. 458-15-3526

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE STATE OFFICE
COMMISSION,	§	
Jurisdictional Petitioner and Protestant	§	
	§	
	§	
v.	§	
	§	
	§	OF
SUPPLEMENTAL APPLICATION FOR	§	
CHANGE OF LOCATION AND	§	
TRADENAME OF VJP GROUP LLC	§	
D/B/A BOSS FROGGS	§	
PERMIT NO(s): MB845722, LB & PE,	§	
Respondent	§	
	§	
MONTGOMERY COUNTY, TEXAS	§	
(TABC CASE NO. 631532)	§	
	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Alcoholic Beverage Commission (Staff/TABC) brought this enforcement action against VJP Group LLC d/b/a Boss Froogs (Respondent), alleging that Respondent engaged in conduct prohibited by or in violation of the Texas Alcoholic Beverage Code (Code). Respondent did not appear and was not represented at the hearing. Staff's motion for default was granted. For the reasons set out in the Findings of Fact and Conclusions of Law, the Administrative Law Judge (ALJ) finds that the relief requested by Staff of the TABC should be granted on a default basis.

I. FINDINGS OF FACT

1. VJP Group LLC d/b/a Boss Froogs (Respondent) holds a Mixed Beverage Permit, a Mixed Beverage Late Hours Permit, and a Beverage Cartage Permit issued by the Texas Alcoholic Beverage Commission (TABC) for the premises located at 26210 FM 2978, Magnolia, Montgomery County, Texas 77354, and has filed an Application for Change of Location and Tradename to be located at 205 University Drive, College Station, Brazos County, Texas 77017 for the premises to

be known as Liquid Lounge, whose mailing address is 4107 Rocky Briar Court, College Station, Texas, 77845.

2. On April 23, 2015, Staff of the TABC issued a notice of hearing by certified mail, return receipt requested, to Respondent at Respondent's last known mailing address setting the hearing on the merits for June 12, 2015. The notice was received and signed for by Respondent on May 1, 2015.
3. The notice of hearing informed Respondent of the time, date, and location of the hearing; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and included a short, plain statement of the matters asserted.
4. 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 might be granted by default.
5. The hearing convened on June 12, 2015, before Administrative Law Judge Stephen Burger at the State Office of Administrative Hearings (SOAH) office in Houston, Texas. TABC was represented by Staff Attorney, Sandra K. Patton. Respondent did not appear and was not represented at the hearing.
6. Staff moved for a default, which was granted.
7. The allegations contained in the notice are deemed admitted as true.
8. Respondent participated in a device, scheme, or plan which led to the unlawful surrender and control of Schotzi's Ltd (Mixed Beverage Permit 612603) by Respondent.
9. Respondent will sell liquor in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so.

II. CONCLUSIONS OF LAW

1. TABC has jurisdiction over this matter. Code Chapter 5 and § 11.61.
2. SOAH has jurisdiction over all matters related 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 Texas Government Code Chapter 2003.
3. Proper and timely notice of the hearing was provided as required by Texas Government Code §§ 2001.051-.052.

4. Respondent participated in a device, scheme, or plan which led to the unlawful surrender and control of Schotzi's Ltd (Mixed Beverage Permit 612603) by Respondent in violation of Texas Alcoholic Beverage Code (Code) §§ 11.61(b)(2) and 109.53.
5. The place or manner in which Respondent may conduct business warrants the refusal of a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency. Code § 11.46(a)(8).
6. Respondent will sell liquor in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so in violation of Code § 11.46(a)(10).
7. Based on the foregoing Findings of Fact and Conclusions of Law, Respondent's permits should be cancelled and its application for Change of Location and Tradename of its permits should be denied.

SIGNED July 31, 2015.



STEPHEN J. BURGER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

DOCKET NO. 631532

TEXAS ALCOHOLIC BEVERAGE COMMISSION, Petitioner	§	BEFORE THE TEXAS
	§	
	§	
VS.	§	
	§	
	§	
VJP GROUP LLC D/B/A BOSS FROGGS, Respondent	§	ALCOHOLIC
	§	
	§	
PERMIT MB845722, LB, PE	§	
	§	
	§	
MONTGOMERY COUNTY, TEXAS (SOAH DOCKET NO. 458-15-3526)	§	BEVERAGE COMMISSION

ORDER

CAME ON FOR CONSIDERATION this 17th day of December, 2015, 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 Stephen J. Burger presiding. The hearing convened on June 12, 2015 and the SOAH record closed the same day. Respondent did not appear and was not represented at the hearing. The Administrative Law Judge filed a Proposal for Decision containing Findings of Fact and Conclusions of Law on July 31, 2015. 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.

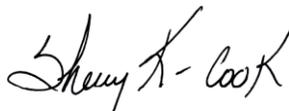
After review and due consideration of the Proposal for Decision, I adopt the Findings of Fact and Conclusions of Law of the Administrative Law Judge that are contained therein and incorporate those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated 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 Respondent's Mixed Beverage Permit MB 845722, and the associated Mixed Beverage Late Hours Permit and Beverage Cartage Permit, are hereby **CANCELLED**, and application for Change of Location and Tradename is hereby **DENIED**.

This Order will become final and enforceable on the 12th day of January, 2016, unless a Motion for Rehearing is filed by the 11th day of January, 2016.

SIGNED this the 17th day of December, 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 17th day of December, 2015.



Martin Wilson, Assistant General Counsel
Texas Alcoholic Beverage Commission

Stephen J. Burger
ADMINISTRATIVE LAW JUDGE
State Office of Administrative Hearings
2020 North Loop West, Suite 111
Houston, TX 77018
VIA FACSIMILE: (512) 322-2061

VLP Group LLC
d/b/a Boss Froogs
RESPONDENT
4107 Rocky Briar Court
College Station, TX 77845
VIA FIRST CLASS MAIL, CMRRR #70150640000460343238

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