

**DOCKET NO. 593617**

IN RE COPA CABANA, INC.	§	BEFORE THE
D/B/A COPA CABANA CLUB	§	
PERMIT NOS. MB441203, LB441204	§	
	§	TEXAS ALCOHOLIC
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-01-3025)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 13th day of September 2001, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Brenda Coleman. The hearing convened and adjourned on June 20, 2001. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on August 20, 2001. This 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, Transcripts, and Exhibits, adopts the Findings of Fact and Conclusions of Law of the Administrative Law Judge, which are contained in the Proposal For Decision and incorporates those Findings of Fact and Conclusions of Law into this Order, as if such were fully set out and separately stated herein. All Proposed Findings of Fact and Conclusions of Law, submitted by any party, which are not specifically adopted herein are denied.

**IT IS THEREFORE ORDERED**, by the Assistant Administrator of the Texas Alcoholic Beverage Commission, pursuant to Subchapter B of Chapter 5 of the Texas Alcoholic Beverage Code and 16 TAC §31.1, of the Commission Rules, that Permit Nos. MB441203 and LB441204 are hereby **SUSPENDED for ten (10) days**.

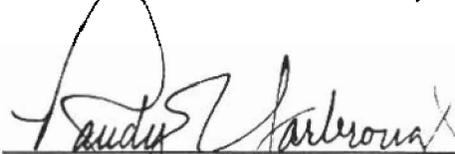
**IT IS FURTHER ORDERED** that unless the Respondent pays a civil penalty in the amount of **\$1,500.00** on or before the **6th day of December, 2001**, all rights and privileges under the above described permits will be **SUSPENDED for a period of ten (10) days, beginning at 12:01 A.M. on the 13th day of December, 2001.**

This Order will become final and enforceable on **October 4, 2001**, unless a Motion for Rehearing is filed before that date.

By copy of this Order, service shall be made upon all parties by facsimile and by mail as indicated below.

**WITNESS MY HAND AND SEAL OF OFFICE** on this the 13th day of September, 2001.

On Behalf of the Administrator,



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Randy Yarbrough, Assistant Administrator  
Texas Alcoholic Beverage Commission

TEG/bc

The Honorable Brenda Coleman  
Administrative Law Judge  
State Office of Administrative Hearings  
**VIA FACSIMILE (214) 956-8611**

Stephen F. Shaw  
**ATTORNEY FOR RESPONDENT**  
8700 N. Stemmons Frwy., Ste. 470  
Dallas, Texas 75247  
**VIA FACSIMILE (214) 920-2498 AND**  
**CERTIFIED MAIL NO. 7000 1530 0001 6413 2533**

Copa Cabana, Inc.  
d/b/a Copa Cabana Club  
**RESPONDENT**  
2829 W. Northwest Hwy., Suite 712  
Dallas, Texas 75220-6219  
**CERTIFIED MAIL NO. 7000 1530 0001 6413 2540**

Timothy E. Griffith  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division  
Dallas District Office

TEXAS ALCOHOLIC BEVERAGE COMMISSION

CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 593617

REGISTER NUMBER:

NAME: COPA CABANA, INC.

TRADENAME: COPA CABANA CLUB

ADDRESS: 2829 W NW Hwy., Suite 712, Dallas, Dallas County, Texas 75220-6219

DATE DUE: December 6, 2001

PERMITS OR LICENSES: MB441203, LB443204

AMOUNT OF PENALTY: \$1,500.00

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

If you wish to a pay a civil penalty rather than have your permits and licenses suspended, you may pay the amount assessed in the attached Order to the Texas Alcoholic Beverage Commission in Austin, Texas. **IF YOU DO NOT PAY THE CIVIL PENALTY ON OR BEFORE THE 6TH DAY OF DECEMBER 2001, YOU WILL LOSE THE OPPORTUNITY TO PAY IT, AND THE SUSPENSION SHALL BE IMPOSED ON THE DATE AND TIME STATED IN THE ORDER.**

When paying a civil penalty, please remit the total amount stated and sign your name below. **MAIL THIS FORM ALONG WITH YOUR PAYMENT TO:**

TEXAS ALCOHOLIC BEVERAGE COMMISSION

P.O. Box 13127

Austin, Texas 78711

For Overnight Delivery: 5806 Mesa Drive, Austin, Texas, 78711

**WE WILL ACCEPT ONLY U.S. POSTAL MONEY ORDERS, CERTIFIED CHECKS, OR CASHIER'S CHECKS. NO PERSONAL CHECKS. NO PARTIAL PAYMENTS.**

Your payment will not be accepted unless it is in proper form. Please make certain that the amount paid is the amount of the penalty assessed, that the U.S. Postal Money Order, Certified Check, or Cashier's Check is properly written, and that this form is attached to your payment.

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

\_\_\_\_\_  
Street Address                      P.O. Box No.

\_\_\_\_\_  
City                      State                      Zip Code

\_\_\_\_\_  
Area Code/Telephone No.



## **II. Findings of Fact**

1. Copa Cabana , Inc. d/b/a Copa Cabana Club, 2829 West Northwest Highway, Suite 712, Dallas, Dallas County, Texas holds Mixed Beverage Permit No. MB-441203 Mixed Beverage Late Hours Permit No. LB-441204, issued by the Commission on October 27, 1998, and continuously renewed thereafter.
2. On September 2, 2000, Respondent and/or its employee solicited or permitted solicitation of a person to buy drinks for consumption by Respondent and/or its employee.
3. Notice of the hearing in this matter, dated May 23, 2001, was properly addressed and sent by certified mail to Respondent at Respondent's Dallas, Texas, mailing address as listed in the Commission's records. The notice of hearing notified Respondent of the statutes and rules involved, the legal authorities under which the hearing was to be held, and the date, time and place of the hearing
4. The notice also contained language in 10-point type informing Respondent that if Respondent failed to appear at the hearing, the Staff's factual allegations would be deemed admitted as true, and the relief sought in the notice of hearing might be granted by default.
5. The hearing on the merits convened June 20, 2001, at the offices of the State Office of Administrative Hearings, Dallas, Texas, 6333 Forest Park Rd., Suite 150A. Staff was represented by attorney, Timothy E. Griffith. Respondent did not appear and was not represented at the hearing. The record closed on the same day.

## **III. Conclusions of Law**

1. The Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN §§ 6.01 and 61.71(a)(5).
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 ANN. ch. 2003.
3. Based on Finding of Fact No. 3, proper and timely notice of the hearing was effected on Respondent pursuant to the Administrative Procedure Act, TEX. GOV'T CODE ANN. ch. 2001, and 1 TEX. ADMIN. CODE § 155.55(d), which provides that service of notice of hearing shall be complete and effective if the document to be served is sent by registered or certified mail to the defaulting party's most recent address as shown in the records of the referring agency.

4. Based on Findings of Fact Nos. 4 and 5, the hearing proceeded on a default basis, as authorized by 1 TEX. ADMIN. CODE § 155.55.
5. Based on Finding of Fact No. 3, Respondent violated TEX. ALCO. BEV. CODE §§ 11.61(b)(2) and 104.01(4).
6. Based on the foregoing findings and conclusions, suspension of Mixed Beverage Permit No. MB-441203 and Mixed Beverage Late Hours Permit No. LB-441204, is warranted.

ISSUED this 20th day of August, 2001.

  
BRENDA COLEMAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS