

**DOCKET NO. 591065**

IN RE ZLATKO JOHN SKRLEC	§	BEFORE THE
D/B/A BROTHERS PIZZA & SPORT BAR	§	
PERMIT NO. BG474064	§	
	§	TEXAS ALCOHOLIC
	§	
BEXAR COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-01-1517)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 21st day of May 2001, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Leah Davis Bates. The hearing convened and adjourned on April 3, 2001. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on April 24, 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 No. BG474064 shall be **SUSPENDED**.

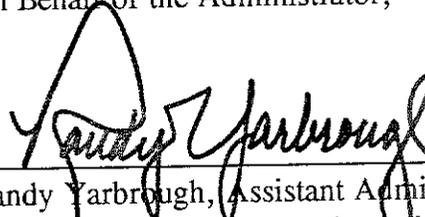
**IT IS FURTHER ORDERED** that unless the Respondent pays a civil penalty in the amount of **\$1,200.00** on or before the **21st day of August, 2001**, all rights and privileges under the above described permit will be **SUSPENDED** for a period of **eight (8) days, beginning at 12:01 A.M. on the 28th day of August, 2001**.

**This Order will become final and enforceable on June 11, 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 21st day of May, 2001.

On Behalf of the Administrator,



Randy Yarbrough, Assistant Administrator  
Texas Alcoholic Beverage Commission

CB/bc

The Honorable Leah Davis Bates  
Administrative Law Judge  
State Office of Administrative Hearings  
San Antonio, Texas  
**VIA FACSIMILE (210) 308-6854**

Zlatko John Skrlec  
d/b/a Brothers Pizza & Sport Bar  
**RESPONDENT**  
9214 Greens Point  
San Antonio, Texas 78250  
**CERTIFIED MAIL NO. 7000 1530 0002 0152 6844**

Christopher Burnett  
**ATTORNEY FOR PETITIONER**  
TABC Legal Section

Licensing Division  
San Antonio District Office

TEXAS ALCOHOLIC BEVERAGE COMMISSION

CIVIL PENALTY REMITTANCE

DOCKET NUMBER: 591065

REGISTER NUMBER:

NAME: ZLATKO JOHN SKRLEC

TRADENAME: BROTHERS PIZZA & SPORT BAR

ADDRESS: 8425 Bandera Road, Suite 106, San Antonio, Texas 78250

DATE DUE: August 21, 2001

PERMITS OR LICENSES: BG474064

AMOUNT OF PENALTY: \$1,200.00

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

If you wish to 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 21ST DAY OF AUGUST 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

**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.

SOAH DOCKET NO. 458-01-1517

TEXAS ALCOHOLIC BEVERAGE  
COMMISSION, Petitioner

VS.

ZLATKO JOHN SKRLEC  
d/b/a Brothers Pizza & Sports Bar  
Permit No. BG474064  
Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

The staff of the Texas Alcoholic Beverage Commission (Staff, Commission) brought this enforcement action against Zlatko John Skrlec, d/b/a Brothers Pizza & Sport's Bar (Respondent) alleging that on August 13, 2000, the Respondent sold or delivered an alcoholic beverage to an intoxicated person, in violation of TEX. ALCO. BEV. CODE ANN. § 61.71 (a)(6). Respondent failed to attend the hearing, either in person or through counsel. Staff recommended that Respondent's permits be suspended for sixteen days. The Administrative Law Judge (ALJ) recommends that the Respondent's permits be suspended for sixteen days.

**I. PROCEDURAL HISTORY**

The hearing in this matter convened on April 3, 2001, at the State Office Of Administrative Hearings Office, 1015 Jackson-Keller, San Antonio, Texas, and concluded the same day. Staff's attorney Christopher Burnett represented the Petitioner. Respondent did not appear and was not represented at the hearing. Leah Bates, Administrative Law Judge with the State Office of Administrative Hearings (ALJ), presided. After the taking of evidence, Staff moved for a default judgment pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.55. Because the hearing proceeded on a default basis, Staff's factual allegations are deemed admitted as true; therefore, the ALJ has incorporated those allegations into the findings of fact without discussing the evidence.

**II. FINDINGS OF FACT**

1. Zlatko John Skrlec d/b/a Brother's Pizza & Sports Bar (Respondent) holds a Wine and Beer Retailer's Permit, BG474064, issued by the Texas Alcoholic Beverage Commission (TABC) on June 13, 2000, for the business known as Brothers Pizza & Sports Bar, located at 8425 Bandera Road, Suite 106, San Antonio, Bexar County, Texas.

2. On January 19, 2001, TABC timely sent a Notice of Hearing by certified mail, return receipt requested to Respondent at 9214 Greens Point, San Antonio, Texas 78250. The Notice of Hearing contained information regarding the date, time, and place of the hearing; the statutes and rules involved; and the legal authorities under which the hearing would be held.
3. The Notice of Hearing also contained language in 10-point type informing Respondent that if he failed to appear at the hearing, the factual allegations against him would be deemed admitted as true, and the relief sought in the Notice of Hearing might be granted by default.
4. The hearing on the merits was held April 3, 2001. Respondent did not appear at the hearing.
5. The hearing proceeded on a default basis, and the allegation contained in the Notice of Hearing was deemed admitted as true.
6. On August 13, 2000, Respondent, Zlatko John Skrlec, sold or delivered an alcoholic beverage to an intoxicated person.

### III. CONCLUSIONS OF LAW

1. The Texas Alcoholic Beverage Commission has jurisdiction over this matter pursuant to Subchapter B of Chapter 5, §§ 6.01 and 11.61 of the Texas Alcoholic Beverage Code, TEX. ALCO. BEV. CODE ANN. §1.01 *et seq.*
2. The State Office of Administrative Hearings has jurisdiction to conduct the administrative hearing in this matter and to issue a proposal for decision containing proposed findings of fact and conclusions of law pursuant to TEX. GOV'T CODE ANN. Ch. 2003.
3. Proper and timely notice of the hearing was provided as required by the Administrative Procedure Act, TEX. GOV'T CODE ANN. §§2001.051, 2001.052 and 2001.054(c); 1 TEX. ADMIN. CODE (TAC) § 155.55; and TEX. ALCO. BEV. CODE ANN. § 11.63.
4. Notice of the hearing was sufficient to allow entry of default judgment under State Office of Administrative Hearings Rules, 1 TEX. ADMIN. CODE §155.55.
5. Based on the above Finding of Facts, Respondent violated Texas Alcoholic Beverage Code § 61.71(a)(6), on or about August 13, 2000, by selling or delivering an alcoholic beverage to an intoxicated person.

6. Based on Findings of Facts and Conclusions of Law, Staff is entitled to a default judgment against Respondent pursuant to 1 TAC § 155.55.
7. Based upon the foregoing Findings of Fact and Conclusions of law, a sixteen day suspension of Respondent's Wine and Beer Retailer's Permit BG474064 is warranted.

SIGNED this 24<sup>th</sup> day of April, 2001.

  
LEAH DAVIS BATES  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS