

**DOCKET NO. 592227**

IN RE B.H.W.T. OF DALLAS INC.	§	BEFORE THE
D/B/A LOGAN'S ON BELTLINE	§	
PERMIT NOS. MB463802, LB463803	§	
	§	TEXAS ALCOHOLIC
	§	
DALLAS COUNTY, TEXAS	§	
(SOAH DOCKET NO. 458-01-1963)	§	BEVERAGE COMMISSION

**ORDER**

**CAME ON FOR CONSIDERATION** this 4th day of June, 2001, the above-styled and numbered cause.

After proper notice was given, this case was heard by Administrative Law Judge Jerry Van Hamme. The hearing convened and adjourned on March 8, 2001. The Administrative Law Judge made and filed a Proposal For Decision containing Findings of Fact and Conclusions of Law on May 1, 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. MB463802 and LB463803 shall be **SUSPENDED**.

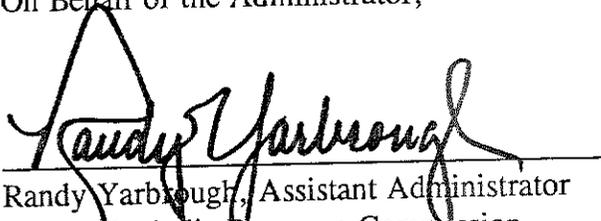
**IT IS FURTHER ORDERED** that unless the Respondent pays a civil penalty in the amount of **\$5,000.00** on or before the **4th** day of **September, 2001**, all rights and privileges under the above described permits will be **SUSPENDED** for a period of **twenty (20) days**, beginning at **12:01 A.M. on the 11th day of September, 2001**.

**This Order will become final and enforceable on June 25, 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 4th day of June, 2001.

On Behalf of the Administrator,

  
Randy Yarbrough, Assistant Administrator  
Texas Alcoholic Beverage Commission

TEG/bc

The Honorable Jerry Van Hamme  
Administrative Law Judge  
State Office of Administrative Hearings  
**VIA FACSIMILE (214) 956-8611**

Joe Bendetti  
B.H.W.T. of Dallas Inc.  
d/b/a Logan's on Beltline  
**RESPONDENT**  
200 E. 6th Street, Ste. A  
Austin, Texas 78701-3648  
**CERTIFIED MAIL NO. 7000 1530 0002 0152 6905**

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

Licensing Division  
Dallas District Office

**TEXAS ALCOHOLIC BEVERAGE COMMISSION**

**CIVIL PENALTY REMITTANCE**

**DOCKET NUMBER: 592227**

**REGISTER NUMBER:**

**NAME: B.H.W.T. OF DALLAS INC.**

**TRADENAME:**

**ADDRESS: 5290 Belt Line Road, Suite 150, Addison, Texas 75240-7571**

**DATE DUE: September 4, 2001**

**PERMITS OR LICENSES: MB463802, LB463803**

**AMOUNT OF PENALTY: \$5,000.00**

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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 4TH DAY OF SEPTEMBER 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.



The Notice of Hearing informed Respondent of the date, time, and place of the hearing, the statutes and rules involved, and the legal authorities under which the hearing was to be held.

3. The Notice of Hearing also contained language in 10-point type stating 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 may be granted by default.
4. The hearing on the merits convened March 8, 2001, at the offices of the State Office of Administrative Hearings, 6333 Forest Park Rd., Suite 150-A, Dallas, Texas, 75235. 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.
5. On or about October 5, 2000, Respondent sold or delivered an alcoholic beverage to an intoxicated person.

### III. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to TEX. ALCO. BEV. CODE ANN. Subchapter B of Chapter 5, §§ 6.01 and 11.61(b)(2) (Vernon 1995 and Supp. 2001).
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 (Vernon 2000).
3. Based on Findings of Fact Nos. 2 and 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 (Vernon 2000), and 1 TEX. ADMIN. CODE § 155.55(d) (2000), 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 Finding of Fact No. 4, a default judgment should be entered against Respondent pursuant to 1 TEX. ADMIN. CODE § 155.55 (2000).
5. Based on Finding of Fact No. 5, Respondent violated TEX. ALCO. BEV. CODE ANN. § 11.61(b)(14) (Vernon 1995 and Supp. 2001).
6. Based on the foregoing findings and conclusions, the Commission is warranted in suspending Respondent's permits for a period of 20 days, or, in lieu of suspension, assessing a civil penalty of \$5,000.

SIGNED this 1 day of May, 2001.

  
JERRY VAN HAMME  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

