

.....
February 23, 2009

Date

PUBLIC HEARING ON ASSESSMENT OF \$1,500.00 PENALTY AND
30-DAY SUSPENSION OF ALCOHOLIC BEVERAGE PERMIT TO
USA PETROLEUM LLC LOCATED AT 727 SE 14TH STREET
FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, an employee of USA Petroleum located at 727 SE 14th Street sold an alcoholic beverage to a person under legal age at the place of business in violation of Iowa Code Section 123.49(2)(h) on 10/16/08, and was convicted of the charge; and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city council) to suspend, revoke, or impose a civil penalty upon license/permit holders who violate the alcoholic beverage laws; and

WHEREAS, Iowa Administrative Rule 185-4.8 (123) provides that violations of the alcoholic beverage laws by any employee, agent, or servant of a license or permit holder shall be deemed the act of the licensee or permittee and subject the license or permit holder to suspension or revocation; and

WHEREAS, the violation of Iowa Code Section 123.49(2)(h) is the second violation within 2 years; A USA Petroleum employee at 727 SE 14th Street previously violated 123.49(2)(h) on 11/15/07 and USA Petroleum paid a \$500.00 civil penalty for the first violation; and

WHEREAS, Iowa Code Section 123.50(3) provides that for a second violation of Iowa code Section 123.49(2)(h) within two-years shall subject the licensee or permittee to a thirty (30) day suspension and a civil penalty in the amount of \$1,500.00; and

WHEREAS, Iowa law provides that the local authority shall retain the civil penalties where the proceeding to impose the penalty is conducted by the local authority.

★ Roll Call Number

Agenda Item Number

62

Date February 23, 2009

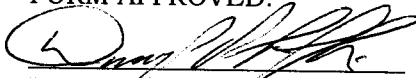
(2)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that:

1. USA Petroleum LLC located at 727 SE 14th Street is assessed a civil penalty in the amount of \$1,500.00 and shall serve a 30 day suspension of its beer permit No. BC-0028272 for sale of alcoholic beverages to persons under legal age.
2. The suspension will commence at 6:00 a.m. Monday, March 30, 2009 and end at 6:00 a.m. Wednesday, April 29, 2009.
3. The City Clerk is directed to notify the permit holder by sending through ordinary mail a copy of this resolution as soon as possible.
4. The permit holder shall pay the \$1,500.00 civil penalty to the City of Des Moines at the City Clerk's Office.
5. This City Council action may be appealed within thirty (30) days to the Administrator of Alcoholic Beverages Division of the Iowa Department of Commerce, 1918 S.E. Hulsizer, Ankeny, Iowa 50021.

MOVED BY _____ TO ADOPT

FORM APPROVED:



Douglas P. Philip
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

Mayor

City Clerk

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY
PRELIMINARY COMPLAINT

NTAO 205806

STATE OF IOWA,
Plaintiff,

vs.

RASENDRA, ASHOK, INDRAJITH
Defendant.

Address: 5019 TIMBERWOOD
City: DM State: IA Zip: _____

Court Case No. T 219 739
Date of Arrest 10-16-08
Soc. Sec. No. _____
D.L. # _____
Date of Birth 7-17-84
Sex: M Hgt: 6 00 Eyes: BRN
Race: I Wgt: 220 Hair: BLK
Agency/Ticket No. 08-38016

Defendant is accused of the crime(s) of SELL ALCOHOL TO UNDERAGE PERSON in violation of Iowa Code Section(s) 123.49(2)(b) in that defendant on the 16 day of OCTOBER, 2008, in the City of DES MOINES, Polk County, Iowa, THE DEFENDANT WAS WORKING AT THE SUPER STOP 727 SE 14TH AND SOLD A SIX PACK OF BUD LIGHT BOTTLES TO CI 1297, WF 19 WITHOUT CHECKING THE IA

- Defendant is implicated in crime by: operating motor vehicle in Polk County admissions/statements possession
- possessed drugs/paraphernalia possessed alcoholic beverages/containers near scene of crime fingerprints
- caught in act identified by witnesses possession/use of weapons caused personal injury
- caused property damage crime observed by officers other physical evidence

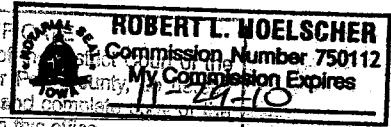
Simple

VICTIM REQUESTS A NO CONTACT ORDER

R. B. Jensen #4676 Office Complaining Witness Assistant Polk County Attorney

Subscribed and sworn to before me by R. B. Jensen on this 16 day of OCT, 2008

Notary Public in and for the State of Iowa Judge, Fifth Judicial District



NAMES & ADDRESSES OF WITNESSES: (Please designate victim(s))

D. MEUNSAFEN # 4960 DMPA
CI 1297

CERTIFICATE
I, Randy Osborn, Clerk of the District Court of the State of Iowa, in and for Polk County, My Commission Expires 11-24-10
Original instrument filed in this office.
IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the Seal of said Court at my office in Des Moines, Iowa this 17 day of January, 2009
RANDY OSBORN
Clerk of the District Court

THE COURT FINDS PROBABLE CAUSE exists to detain the defendant for the charge(s) set forth above and he/she is to be admitted to bail in the amount of \$ _____ under the following conditions: cash only cash or surety
 10% cash to the court own recognizance other conditions imposed with bail: _____

JUDGE, FIFTH JUDICIAL DISTRICT

Date 10/21/08

ORDER

Defendant pleads guilty to the crime(s) of Sell Alcohol Underage Person and is sentenced as follows:

- Defendant shall serve _____ days in the Polk County Jail. Defendant is credited with _____ days served.
- Defendant shall pay assessed court costs.
- Defendant shall pay a fine in the amount of \$ 500.00 plus surcharges and court costs.
- The fine, surcharge, and/or court costs shall be taken out of the defendant's property.
- Defendant shall abide by the attached No Contact Order.
- Defendant shall pay restitution to _____ in the amount of _____ through the Clerk of Court and the Clerk of Court shall mail payments to: _____

The pecuniary damage amount is not available at this time. The county attorney shall file a pecuniary damage statement within 30 days of this date and a copy of the statement shall be mailed by the Clerk of Court to the defendant who shall have 30 days from the date of the filing of the damage statement to contest the damages claimed, otherwise the amount of restitution shall be as stated in the pecuniary damage statement.

Defendant shall pay restitution, fines, surcharges and court costs by 11-30-2008 to the Clerk of Court, Polk County Courthouse, Room 103, 500 Mulberry Street, Des Moines, Iowa 50309. Failure to pay on time will result in an automatic referral to the Iowa Department of Revenue for collection and the imposition of a 10% penalty.

JUDGE, FIFTH JUDICIAL DISTRICT

Date 10-27-08

10/27

FILED
POLK COUNTY IA
DISTRICT COURT
OCT 21 AM 8:06
2008



ALCOHOLIC
BEVERAGES
DIVISION
State of Iowa

Chester J. Culver *Governor of Iowa*
Patty Judge *Lieutenant Governor*
Lynn M. Walding *Administrator*
Governor of Iowa

IN RE:	:	
USA Petroleum LLC	:	DOCKET NO. D-2008-00077
d/b/a Super Stop	:	
727 SE 14 th Street	:	
Des Moines, Iowa 50317	:	SATISFACTION OF
	:	ADMINISTRATIVE JUDGMENT
Beer Permit No. BC-28272	:	

NOW, on this 10th day of December, 2008, this matter comes before the Iowa Alcoholic Beverages Division Administrator's Designee. The Administrator's Designee **FINDS** that the above-captioned licensee/permittee has paid a five hundred dollars civil penalty for violation of Iowa Code section 123.49(2)(h).

The Administrator's Designee **FURTHER FINDS** that the licensee/permittee has demonstrated compliance with all the lawful requirements for the retention of liquor license/beer permit number BC-28272, pursuant to Iowa Code § 123.50(3).

IT IS THEREFORE ORDERED that the administrative judgment, ordered in this docket, is hereby SATISFIED.

DATED this 10th day of December 2008, Ankeny, Iowa.

IOWA ALCOHOLIC BEVERAGES DIVISION

Debra J. Harlan
Administrator of Hearings

Oct. 20. 2008 3:12PM

Vo. 2385 P. 2/4

STATE OF IOWA
BEFORE THE IOWA DEPARTMENT OF COMMERCE
ALCOHOLIC BEVERAGES DIVISION

In re:)	
)	
USA Petroleum LLC)	Docket No.D-2008-00077
d/b/a Super Stop)	DIA No. 08DOCBL056
727 SE 14 th Street)	
Des Moines, Iowa 50317)	Negotiated Settlement
)	Agreement
Liquor License No. BC 0028272)	


The City of Des Moines and the licensee hereby enter into the following negotiated settlement agreement, subject to the approval of the Iowa Alcoholic Beverages Division.

1. Iowa Code §123.39 permits the Administrator of the Alcoholic Beverages Division to suspend or revoke a liquor control license of any licensee who violates any of the provisions of chapter 123.
2. Iowa Administrative Rule 185-4.8(123) states that the violation of the Act (Iowa Code Chapter 123) by any employee, agent, or servant of a licensee shall be deemed to be the act of the licensee or permittee and shall subject the license to suspension or revocation.
3. Section 123.49(2)(h) provides that no licensee, licensee's agent or licensee's employee shall sell, give, or otherwise supply an alcoholic beverage, wine, or beer to a person under legal age, or permit its consumption by a person under legal age.

Oct. 20. 2008 3:12PM

No. 2385 P. 3/4

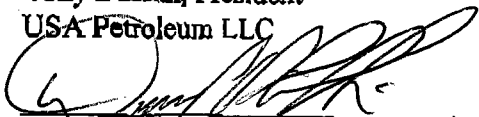
4. It has been alleged that on or about November 15, 2007, Ajay K. Vemuri, an employee of licensee, sold or dispensed an alcoholic beverage to a person under legal age.
5. In order to resolve the allegation made the licensee agrees to pay a five hundred dollar (\$500.00) civil penalty to the Iowa Alcoholic Beverages Division for the above-acknowledged violation of Iowa Code Chapter 123.
6. The civil penalty shall be paid within thirty (30) days of the acceptance of this settlement agreement by the Alcoholic Beverage Division. Failure to make payment of the civil penalty within the specified period will result in immediate suspension until payment is made to the Alcoholic Beverage Division.
7. Licensee acknowledges its right to hearing under Iowa Code § 123.39, but hereby waives that right to hearing and any right to appeal. Iowa Code § 17A.10.



 (signature)

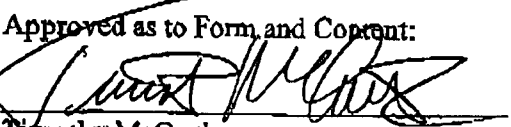
Tony Dassan, President
 USA Petroleum LLC

11/24/08
 Date



Douglas P. Philip
 Assistant City Attorney
 City of Des Moines

11/24/08
 Date

Approved as to Form and Content:


Timothy McCarthy,
 Attorney for Licensee

11-24-08
 Date