

February 23, 2009

Date

PUBLIC HEARING ON ASSESSMENT OF \$500.00 PENALTIES
TO N.L.S. LLC and JOE SAN MORIS, INC. FOR VIOLATION
OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, employees of alcoholic beverage license/permit holders of N.L.S. LLC and Joe San Moris, Inc. have sold alcoholic beverages to persons under legal age at their respective places of business in violation of Iowa Code Section 123.49(2)(h) and have been convicted of this charge; and

WHEREAS, Iowa Code Section 123.39 permits a local authority (city counsel) 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 violations are first violations for each of the listed license/permit holders; and

WHEREAS, Iowa Code section 123.39(4) and Des Moines Code section 10-13(c)(1) provides that for a first conviction of Iowa Code section 123.49(2)(h) a local authority shall impose a civil penalty in the amount of \$500.00 in lieu of a suspension and that failure to pay will result in automatic suspension of license or permit for 14 days; 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

63

February 23, 2009

Date

(2)

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

1. N.L.S, LLC d/b/a The Edge, license no. LC0036447; and Joe San Moris, Inc. d/b/a Joeseppe's, license no. LC0033620, are hereby assessed a civil penalty in the amount of \$500.00 for sale of alcoholic beverages to persons under legal age.
2. Failure to pay the \$500.00 civil penalty within 30 days of this resolution will result in an automatic 14-day liquor license/permit suspension commencing at 6:00 a.m on the 27th day of March 2009 and ending at 6:00 a.m. on the 10th day of April 2009.
3. The \$500.00 civil penalty is due and owing even if the automatic 14-day suspension is served.
4. The City Clerk is directed to notify the license/permit holders, except those that have already paid, by sending through ordinary mail a copy of this resolution as soon as possible.
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. Philiph
Assistant City Attorney

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

NTA02124
T219834

STATE OF IOWA,
Plaintiff,

vs.
AMANDA SUE MARTINSON
Defendant.
Address: 1800 GRAND APT. #167 PK 36(263D)
City: DES MOINES State: IA Zip: _____

Court Case No. NTA T219834
Date of Arrest 13 NOV. 08
Soc. Sec. No. _____
D.L. # _____
Date of Birth 01-14-87
Sex: F Hgt: 5-2 Eyes: HAZ
Race: W Wgt: 105 Hair: BRN
Agency/Ticket No. 08-41742

Defendant is accused of the crime(s) of SELLING ALCOHOL TO AN UNDERAGE PERSON in violation of Iowa Code Section(s) 123.49(2)(h), in that defendant on the 13 day of NOV., 2008, in the City of DES MOINES, Polk County, Iowa, DEFENDANT, EMPLOYED AS A BARTENDER AT THE "EDGE" 508 INDIANOLA. DID SERVE AN UNDERAGE INFORMANT OF 19 YRS OF AGE A BOTTLE OF MICHELOB GOLDEN LIGHT

- | | | |
|---|---|--|
| <input type="checkbox"/> operating motor vehicle in Polk County | <input type="checkbox"/> admissions/statements | <input type="checkbox"/> possession |
| <input type="checkbox"/> possessed drugs/paraphernalia | <input type="checkbox"/> near scene of crime | <input type="checkbox"/> fingerprints |
| <input checked="" type="checkbox"/> caught in act | <input type="checkbox"/> possession/use of weapons | <input type="checkbox"/> caused personal injury |
| <input type="checkbox"/> caused property damage | <input checked="" type="checkbox"/> identified by witnesses | <input type="checkbox"/> other physical evidence |
| <input checked="" type="checkbox"/> crime observed by officers | | |

VICTIM REQUESTS A NO CONTACT ORDER

R. Johnson
Officer
Subscribed and sworn to before me by AMANDA SUE MARTINSON
Marie Donahue
Notary Public in and for the State of Iowa

Tony Blod
Assistant Polk County Attorney

Complaining Witness
on this 13 day of NOV., 2008

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

OFFICER DOA MEUNSAVENS DMPD #4960
CJ # 1297

Simple
I, Randy Osborn, Clerk of the District Court of the State of Iowa, in and for Polk County, do hereby certify that this is a true and complete copy of the Original Instrument filed in this office.
Witness my hand and Great Seal of said Court at my office in Des Moines, Iowa this 22 day of January, 2008.
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 property

Michelle [Signature]
JUDGE, FIFTH JUDICIAL DISTRICT
Date 11/18/08

ORDER
Defendant pleads guilty to the crime(s) of Selling Alcohol to minor 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 + 50.00 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 12-31-08 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.

[Signature]
Date 11-24-08

FILED
POLK COUNTY IA.
NOV 18 AM 9:17
DISTRICT COURT

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

Simple
63

STATE OF IOWA,
Plaintiff,

PK3051497

Court Case No. SM 298345
Date of Arrest 5-29-08
Soc. Sec. No. [REDACTED]
D.L. # _____
Date of Birth 7-13-78
Sex: F Hgt: 5-6 Eyes: GRN
Race: W Wgt: 147 Hair: BLD.
Agency/Ticket No. 08-18887

vs.

AMBER S. IRELAND
Defendant.
Address: 5900 JORDAN DR.
City: DES MOINES State: IA Zip: _____

Defendant is accused of the crime(s) of SELLING ALCOHOL TO UNLAWFUL PERSON in violation of Iowa Code Section(s) 123.49(a)(1), in that defendant on the 29 day of MAY, 2008, in the City of DES MOINES, Polk County, Iowa, THE DEFENDANT WAS WORKING AT JOSEPPES, 1930 S E 14TH, AND SERVED AN UNLAWFUL (WFA) IN FRONT OF A BOTTLE OF BUDWEISER BEER.

- 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 _____

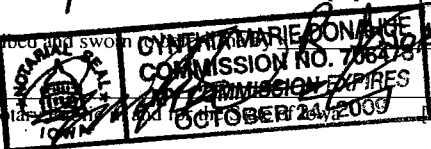
VICTIM REQUESTS A NO CONTACT ORDER

R. Bauman 4676
[Signature]

[Signature]
Assistant Polk County Attorney

Officer Complaining Witness

Subscribed and sworn to on this 29 day of MAY, 2008.



CERTIFICATE
I, Randy Osborn, Clerk of the District Court of the State of Iowa, in and for Polk County, do hereby certify that this is a true and complete copy of the 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 27 day of January, 2009.
RANDY OSBORN
Clerk of the District Court

Notary Public and for _____ Judge, Fifth Judicial District

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

John Scarlett DWAS 4937
CI. # 1297

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 \$ 3000 under the following conditions: cash only cash or surety 10% cash to the court own recognizance other conditions imposed with bail: _____

Sandra Moise 6-308
JUDGE, FIFTH JUDICIAL DISTRICT Date

Defendant pleads guilty to the crime(s) of Selling Alcohol to Unlawful 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 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 9/15/08 to the Clerk of Court, Polk County Courthouse, Room 108, 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.

[Signature]
JUDGE, FIFTH JUDICIAL DISTRICT Date 6/17/08

FILED
POLK COUNTY, IA
08 JUN -3 9:13
CLERK DISTRICT COURT

4
JM

1/13