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Date August 24, 2009

PUBLIC HEARING ON ASSESSMENT OF A \$1,500.00 PENALTY AND 30-DAY
SUSPENSION OF LIQUOR LICENSE FOR
SOUTHPORT CENTER SPORTS BAR, LLC. LOCATED AT
1101 ARMY POST ROAD FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, an employee of Southport Center Sports Bar, LLC located at 1101 Army Post Road 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 2/12/09, and plead guilty to 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 civil penalty, suspension or revocation; and

WHEREAS, the violation of Iowa Code Section 123.49(2)(h) is the second conviction within 2 years; An employee of Southport Center Sports Bar, LLC at 1101 Army Post Road was previously convicted of violating 123.49(2)(h) which offense occurred on 9/6/07; and

WHEREAS, Iowa Code Section 123.50(3) and Des Moines Ordinance 10-13(C)(2) provide that for a second conviction of Iowa Code section 123.49(2)(h) in a two-year period a local authority shall impose a civil penalty in the amount of \$1,500.00 in addition to a 30 day suspension of license/permit; 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.

Date August 24, 2009

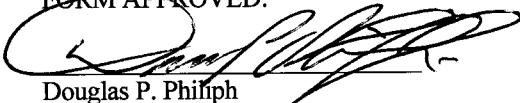
(2)

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

1. Southport Center Sports Bar, LLC located on 1101 Army Post Road is assessed a civil penalty in the amount of \$1,500.00 and shall serve a 30 day suspension of its Liquor License No. LC-0031095 for sale of an alcoholic beverage to a person under legal age.
2. The suspension is proposed to commence at 6:00 a.m. Monday August 31, 2009 and end at 6:00 a.m. Wednesday September 30, 2009.
3. The City Clerk is directed to notify the license holder by sending through ordinary mail a copy of this resolution as soon as possible.
4. 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

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

MOTION CARRIED

APPROVED

Mayor

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.

City Clerk

NOTICE OF SUSPENSION

LIQUOR LICENSE NO. LC0031095

The City of Des Moines with authority through the Iowa Alcoholic Beverages Division hereby gives notice that the above stated liquor license issued to:

Southport Center Sports Bar, LLC
d/b/a Southport Sports Bar
1101 Army Post Rd.
Des Moines, Iowa 50315

is suspended for thirty (30) consecutive days, beginning 6:00 a.m., Monday, August 31, 2009 and ending 6:00 a.m., Wednesday, September, 30, 2009 for the following reason:

Second violation of Iowa Code section 123.49(2)(h) - - by selling, dispensing or giving an alcoholic beverage to a person under the legal drinking age.

*The above thirty (30) day suspension is in addition to a \$1500.00 civil penalty.

T.M. Franklin Cownie
Mayor, City of Des Moines

Removal of this notice before expiration of the above mentioned suspension dates by any person without approval of the Alcoholic Beverages Division or the Local Authority, is a violation of 185 Iowa Administrative Code section 4.15.

PTC
3-17-09
9:30

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

STATE OF IOWA,
Plaintiff,

vs.

SEAN JAM MURPHY
Defendant.
Address: 3314 UNIVERSITY
City: DES MOINES State: IA Zip: _____
988-5638

Court Case No. T 220/05
Date of Arrest 12 FEB 09
Soc. Sec. No. _____
D.L. # _____
Date of Birth 9-23-67
Sex: M Hgt: 5-11 Eyes: BRN
Race: W Wgt: 200 Hair: BRN
Agency/Ticket No. 09-4704

Defendant is accused of the crime(s) of SELLING ALCOHOL TO UNDRAGE PERSON in violation of Iowa Code Section(s) 123.49(2)(h), in that defendant on the 12 day of FEB, 2009, in the City of DES MOINES, Polk County, Iowa, THE DEFENDANT WAS WORKING AT SOUTHPORT BAR, 1101 ARMY POST, AS THE BARTENDER, AND SOLD C.I. WFT17 # 1264, A BOTTLE OF BUD216HT.

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 Single

VICTIM REQUESTS A NO CONTACT ORDER

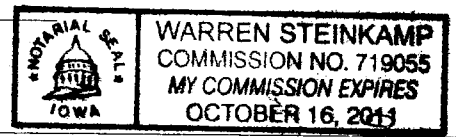
R. Blawie #4676
 Officer

Complaining Witness

Ray Blawie
 Assistant Polk County Attorney

Subscribed and sworn to before me by R. Blawie on this 12 day of FEB, 2009.

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



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

A. BALLANTINE #4946 DAND
C.I. # 1264

FILED
FEB 18 2009
POLK COUNTY

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: _____

[Signature]
JUDGE, FIFTH JUDICIAL DISTRICT
Date 2/18/09

PLEAD - NG / TRIAL
DATE: 3-17-09

Defendant pleads guilty to the crime(s) of Selling to
 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 \$ _____ 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: _____

TIME: 9:30 AM
ROOM: 102

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 to the 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.
 Defendant shall pay restitution, fines, surcharges and court costs by _____ in an automatic referral to the Iowa Department of Revenue for collection and the imposition of a _____% penalty. 2009

RANDY OSORN
Clerk of the District Court
By [Signature] Deputy

JUDGE, FIFTH JUDICIAL DISTRICT Date

424

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IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

STATE OF IOWA/ CITY OF DES MOINES
Plaintiff,

CRIMINAL NO(S) T220105

vs.

SEAN IAN MURPHY
Defendant.

SIMPLE MISDEMEANOR
PLEA AND SENTENCING ORDER

OFFENSE DATE(S) 2-12-09

FILED
POLK COUNTY, IA
MAR 17 PM 2:30
CLERK DISTRICT COURT

Now on 3-17-09, The Defendant appears (in person) with counsel and interpreter on the charge(s) of SELLING ALCOHOL TO MINOR, in violation of Iowa Code Section 123.49(2)(h)

DEFENDANT ENTERS A GUILTY PLEA to the above charge(s). The Court is satisfied the Defendant understands the charges, the penal consequences, the Constitutional rights being waived and finds there is a factual basis for the plea and the plea is voluntary. The plea is accepted. IT IS THEREFORE ORDERED:

DEFENDANT IS ADJUDGED GUILTY of above offense.

Defendant shall pay a \$ 200 fine plus surcharge(s) and court costs by MAY 30, 2009.

Defendant shall serve _____ days in the Polk County Jail. Credit for _____ days served.

Sentence is suspended / Judgment is deferred. If deferred, Defendant shall pay a \$ _____ civil penalty by _____.

Defendant is placed on PROBATION for a period of _____ months to be supervised by the Department of Correctional Services pursuant to the Intermediate Criminal Sanctions Program. A violation of any paragraph herein is a violation of probation. Defendant shall sign-up in Room B-40 of the Courthouse, immediately following sentencing. If the probation office is closed the Defendant shall report by 10:00 the following working day. Probation will provide reasonable protection of the public and maximum opportunity for rehabilitation of the Defendant. Defendant shall pay all probation fees.

Complete _____ hours of Community Service within _____ days from the date of this Order. Defendant shall report to Room B-40 of the Polk County Courthouse immediately following sentencing. Defendant shall pay the required fee for placement.

Pay restitution in the amount of \$ _____ to _____ by _____.

Defendant shall appear on _____ at 2:30 p.m. for a Contempt hearing in Room 109 of the Polk County Courthouse.

Defendant shall call 286-3057 within 3 days to register for the Victim Offender Reconciliation Program (VORP) and shall complete VORP within 30 days. Restitution shall be determined in the session and the amount incorporated in a Supplemental Restitution Order. If restitution cannot be resolved in the session, the County Attorney shall file a statement of damages. Defendant shall have 30 days from the filing to contest the damages claimed.

Complete the BAD CHECK CLASS. Call 1-877-593-2875 (10 a.m.-6 p.m. Mon-Fri) within three working days to enroll. The Defendant shall pay the fee and complete the class within 60 days.

Complete FIRST TIME OFFENDER CLASS ASSAULTIVE BEHAVIOR CLASS. Defendant shall call 964-6385 within three days to register for the class. The Defendant shall pay the class fee and complete the class within 90 days from today.

Pay for, cooperate with and complete a substance abuse evaluation at one of the following: Employee and Family Resources, 1446 Martin Luther King, Des Moines, IA. 243-4200 OR Alternative Interventions, 3116 Ingersoll Ave., Des Moines, Des Moines, IA., 778-7989 OR Lloyd's Counseling, Inc., 3832 1/2 Douglas Ave., Des Moines, IA, 277-2205 OR Assessment Services, Inc., 309 Court Ave., Des Moines, IA, 875-4894 OR Center for Interpersonal Effectiveness 2525 Ankeny Blvd. Ste 113, Ankeny, IA 289-9136 OR Urban.Dreams, 1410 6th Ave., Des Moines, IA., 288-4725 OR Center for Behavioral Health Iowa 1200 University, Des Moines, IA (244-2500). Defendant is to complete any treatment/education and aftercare.

Defendant shall pay any Court costs, restitution, fines, civil penalty, surcharges, and law enforcement surcharges within 90 days if a date is not set forth above. Pay to: Clerk of Court, Polk County Courthouse, Room 103, 500 Mulberry, Des Moines, Iowa 50309. Call 286-3917 with any questions as to the amounts owed.

Other _____

Sean Murphy
Defendant

JUDGE, FIFTH JUDICIAL DISTRICT OF IOWA

3312
Address

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 _____ day of _____, 2009.

515-988-5638
Home Phone #

Probation Cty. Atty. Cnty Atty Def. Def. Atty. PCJ

3-17-09
PN

RANDY OSPORN
Clerk of the District Court
By [Signature] Deputy

Ad Murphy Co
9-23-67
Moore VORP Gaila (2-08)

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

STATE OF IOWA,
Plaintiff,

vs.

MARK CONRAD MESSER
Defendant.
Address: 6500 SW 9TH #12
City: DES MOINES State: IA Zip: _____

Court Case No. _____
Date of Arrest 6 SEPT. 07
Soc. Sec. No. _____
D.L. # _____
Date of Birth 4-7-58
Sex: M Hgt: 6-0 Eyes: GRN
Race: W Wgt: 180 Hair: BRN
Agency/Ticket No. 07-34944

Defendant is accused of the crime(s) of SELLING ALCOHOL TO UNDERAGE PERSON in violation of Iowa Code Section(s) 123.49(2)(a), in that defendant on the 6 day of SEPT., 2007, in the City of DES MOINES, Polk County, Iowa, DEFENDANT EMPLOYED AS BARTENDER AT SOUTH POINT, 1101 SW ARMY POST DID SELL A BOTTLE OF HEINEKEN BEER TO A UNDERAGE PERSON WITHOUT CHECKING FOR I.D.

- 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

[Signature]
 Officer Complaining Witness Assistant Polk County Attorney
Subscribed and sworn to before me by REBEY EVANS on this 6 day of SEPT., 2007.

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

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

OFFICER RANN BJORNSEN #4676 DMPO
OFFICER TRACY RHOADES 4905 DMPO

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 _____

ORDER

Defendant pleads guilty to the crime(s) of _____ 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 \$ _____ 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 _____ 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 _____

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Charges, Dispositions, Sentences
Title: STATE vs. MESSER, MARK CONRAD
Case: 05771 NTT218663 (POLK)

Defendant: MESSER, MARK CONRAD

Count 01

Charge

Charge: 123.49(2)(H)-D

Description: SUPPLY ALCOHOL TO PERSON UNDER AGE-EMPLOYEE

Offense Date: 09/06/2007

Arrest Date: **Against Type:**

Adjudication

Charge: 123.49(2)(H)-D

Description: SUPPLY ALCOHOL TO PERSON UNDER AGE-EMPLOYEE

Adj.: GUILTY - NEGOTIATED/VOLUN PLEA

Adj.Date: 09/18/2007

Adj.Judge: ,

Comments:

Sentence

Charge: 123.49(2)(H)-D

Description: SUPPLY ALCOHOL TO PERSON UNDER AGE-EMPLOYEE

Sentence Date: 09/18/2007

Sentence: FINE

Appeal:

Sen.Judge: ,

Facility Type:

Attorney:

Restitution:

Drug: **Extradition:**

Lic.Revoked:

DDS: **Batterer:**

Fine Amount:

Duration:

Comment:

CN=kevansci,O=JUDICIAL

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