

.....
Date August 24, 2009.....

PUBLIC HEARING ON ASSESSMENT OF A \$500.00 PENALTY
TO MGCM, LLC d/b/a THE DEN LOCATED AT 4369 MERLE HAY RD.
FOR VIOLATION OF IOWA ALCOHOLIC BEVERAGE LAWS

WHEREAS, an employee of MGCM, LLC, d/b/a The Den, sold an alcoholic beverage to a person under legal age at 4369 Merle Hay Road on 5/29/09 in violation of Iowa Code Section 123.49(2)(h); 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 is the first violation for MGCM, LLC; and

WHEREAS, Iowa Code Section 123.39(4) provides that for a first violation 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

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

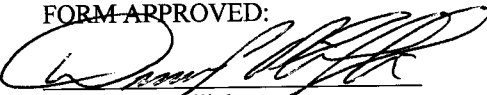
(2)

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

1. MGCM,LLC d/b/a/ THE DEN located on 4369 Merle Hay Road is assessed a civil penalty in the amount of \$500.00 for sale of an alcoholic beverage to a person 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 suspension commencing at 6:00 a.m. Thursday, September 24, 2009 and ending at 6:00 a.m. Thursday, October 8, 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. Philip
 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

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

STATE OF IOWA,
Plaintiff,
vs.

Court Case No. _____
Date of Arrest 29 MAY 09
Soc. Sec. No. _____
D.L. # _____
Date of Birth 05-27-84
Sex: M Hgt: 6-0 Eyes: BRN
Race: B Wgt: 200 Hair: BLK
Agency/Ticket No. 09-16654

ALLEN MICHAEL DEVAN
Defendant.
Address: 3420 TWANA DR.
City: DES MOINES State: IA Zip: _____

Defendant is accused of the crime(s) of SELLING ALCOHOL TO MINOR in violation of Iowa Code Section(s) 123.49(2)(H), in that defendant on the 29 day of MAY, 2009 in the City of DES MOINES, Polk County, Iowa, DEFENDANT, BARTENDER AT THE DEN - 4369 MERLE WAY RD. DID SELL A BOTTLE OF RED LIGHT TO AN UNDERAGE INFORMANT OF 17 YRS OF AGE.

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. B. Brennan #4676
 Officer Complaining Witness Assistant Polk County Attorney



Cynthia Marie Donahue on this 29 day of MAY, 2009

Judge, Fifth Judicial District

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

OFFICER T. BALLANTINI # 21946
CI # 1264

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

60

Charges, Dispositions, Sentences

Title: STATE vs. DEVAN, ALLEN MICHAEL

Case: 05771 NTA0256504 (POLK)

Citation Number: T220477

Defendant: DEVAN, ALLEN MICHAEL

Count 01

Charge

Charge: 123.49(2)(H)-D

Description: SUPPLY ALCOHOL TO PERSON
EMPLOYEE

Offense Date: 05/29/2009

Arrest Date: **Against Type:**

DPS Number:

Adjudication

Charge: 123.49(2)(H)-D

Description: SUPPLY ALCOHOL TO PERSON
EMPLOYEE

Adj.: GUILTY -
NEGOTIATED/VOLUN PLEA

Adj.Date: 06/12/2009

Adj.Judge: COPPOLA, CAROL L

Comments:

Sentence

Charge: 123.49(2)(H)-D

Description: SUPPLY ALCOHOL TO PERSON
EMPLOYEE

Sentence Date: 06/12/2009

Sentence: FINE

Appeal:

Sen.Judge: COPPOLA, CAROL L

Facility Type:

Attorney: N

Restitution: N

Drug: N **Extradition:**

Lic.Revoked: N

DDS: N **Batterer:**

Fine Amount:

Duration:

Comment: