

PURCHASING AND LICENSING COMMITTEE

11-0238R

RESOLUTION IN THE MATTER OF THE ON SALE INTOXICATING LIQUOR LICENSE OF KEGLER'S, INC. (INCLINE STATION), 601 WEST SUPERIOR STREET.

CITY PROPOSAL:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

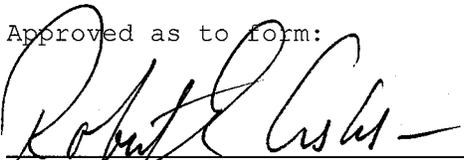
a) On April 6, 2011, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Kegler's Inc., (Incline Station), 601 West Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. _____;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on May 9, 2011, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. _____ regarding any suspension, revocation and/or civil penalty relating to the on sale intoxicating liquor license of Kegler's Inc., (Incline Station), 601 West Superior Street are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the city council impose a \$500 civil penalty payable within 30 days of final council action, and that payment of \$250.00 of the penalty be stayed for a period of one year on the condition that the Licensee have no same or similar violations.

Approved as to form:



Attorney

CLERK JJC:mao 5/2/2011

STATEMENT OF PURPOSE: The alcohol, gambling and tobacco commission (AGTC) held a hearing on April 6, 2011, regarding the liquor license of the Incline Station. On November 2, 2010, the police department conducted an alcohol compliance check at this location. The bartender was cited for selling alcohol to a minor (Section 8-35), which is a violation of city code. This is the first offense for the licensee, and Section 8-9 provides that the presumptive penalty for a first offense is a \$500 penalty. The recommendation of the AGTC is to impose a civil penalty of \$500 payable within 30 days of council action, and that payment of \$250.00 of the penalty be stayed for a period of one year on the condition that the Licensee have no same or similar violations.

CITY OF DULUTH

ALCOHOL, GAMBLING AND TOBACCO COMMISSION

REPORT TO THE CITY COUNCIL

IN THE MATTER OF: KEGLER'S INC., d/b/a Incline Station, 601 W. Superior Street, Duluth, Minnesota 55802.

The above-entitled matter came on for hearing before the Duluth Alcohol, Gambling and Tobacco Commission on April 6, 2011, in the City Council Chambers in Duluth, Minnesota. The hearing record closed on April 6, 2011, upon completion of the hearing.

Terri L. Lehr, Assistant City Attorney, City of Duluth, Office of the City Attorney, 410 City Hall, Duluth, Minnesota, 55802, appeared on behalf of the City licensing staff. Licensee appeared through its managing agent, Timothy Sorensen.

This Report is a recommendation, not a final decision. The Duluth City Council will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions and Recommendations contained herein. Pursuant to Minn.Stat. §14.61, the final decision of the Council shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by the Report to file exceptions and present argument to the City Council. Parties should contact the City Clerk to ascertain the procedure for filing exceptions or presenting argument.

FINDINGS OF FACT

The commission makes the following findings of fact:

1. Licensee is licensed by the City of Duluth to sell intoxication liquor "on-sale" at a premises located at 601 W. Superior Street, Duluth, Minnesota.
2. On November 2, 2010, Stephanie A. Olson, an employee of Licensee, sold and served intoxicating liquor to an underage person at Licensee's business establishment known as the Incline Station. Olson was cited for the violation and convicted on November 17, 2010.

3. Licensee was cited under Duluth City Code section 8-35 for the unlawful sale and convicted of this offense on November 16, 2010.
4. The Commission then issued its Notice of Hearing and set a hearing date of April 6, 2011.
5. Section 8-9(b)(1) of the Duluth Legislative Code provides that grounds for disciplinary action include the operation of the liquor establishment in violation of any law. Section 8-35 provides that every licensee shall be responsible for the conduct of the licensee's place of business and that any violation of Chapter 8 of the Duluth Legislative Code committed on the licensed premises by an employee of the licensee shall be deemed the act of the licensee as well as the employee.
6. This is the Licensee's first violation for purposes of the presumptive penalty. Mitigating circumstances include the following: Timothy Sorensen provided the Commission with three exhibits: 1. Incline Station's written policy on the sale and service of alcoholic beverages; 2. A reference letter from Robert Poplam from Loss Control Services, Inc.; and 3. An outline of the seminar taught annually by Loss Control Services at the Incline Station. In addition, this is a family-oriented business that includes a bowling alley, where minors are allowed to enter. Licensee has been in operation for 18 years and this is the first violation during that time period.

CONCLUSIONS

Based upon these facts, the commission makes the following conclusions:

1. That the violations alleged in the Notice of Hearing occurred.
2. That the Licensee is liable for the violations occurring on its licensed premises on November 2, 2010.
3. Section 8-9(c) of the Duluth City Code provides that the presumptive penalty for a first offense is a \$500.00 civil penalty. However, mitigating circumstances exist as follows: Timothy Sorensen provided the Commission with three exhibits:

1. Incline Station's written policy on the sale and service of alcoholic beverages;
2. A reference letter from Robert Poplam from Loss Control Services, Inc.; and
3. An outline of the seminar taught annually by Loss Control Services at the Incline Station. In addition, this is a family-oriented business that includes a bowling alley, where minors are allowed to enter. Licensee has been in operation for 18 years and this is the first violation during that time period.

RECOMMENDATION

It is the recommendation of the Duluth Alcohol, Gambling and Tobacco Commission that the Duluth City Council impose the following civil penalty:

1. Payment of a \$500.00 penalty; and
2. That payment of \$250.00 of the penalty be stayed for a period of one year on the condition that the Licensee have no same or similar violations; and
3. That payment of \$250.00 of the penalty be made within 30 days of final council action.

Dated: April 28, 2011

DULUTH ALCOHOL, GAMBLING
AND TOBACCO COMMISSION

By: 
George Hanson, President

Alcohol, Gambling, and Tobacco Hearing
April 6, 2011
Kegler's Inc., d/b/a Incline Station, 601 West Superior Street

Oswald: Now the next one is the Kegler's Inc., Incline Station at 601 West Superior Street.

Sorenson: I'm Tim Sorenson, the President of Kegler's Inc.

Hanson: Counselor Lehr.

Lehr: Thank you, President Hanson. This case is similar to the first one. We actually spoke on the phone after the Notice of Hearing went out, and Mr. Sorenson is not disputing the allegations that are in the Notice of Hearing. He acknowledges that a minor was served at his place of business on November 2, 2010. The employee was ticketed. That ticket was paid and then the licensee was also ticketed and that ticket was paid as well. What Mr. Sorenson told me was that he wanted to submit some information to the Commissioners regarding remedial efforts and the policies and practices that they have in place and it's my understanding from talking to Ms. Oswald, that that information has been provided the Commissioners. Do you have that?

Hanson: Yes.

Lehr: Okay. So, with that then I would simply rest on the Notice of Hearing and the attachment to the Notice.

Hanson: And, do you have a recommendation?

Lehr: Yes. The Police Department is recommending that this be treated as a first offense with a \$500.00 presumptive penalty.

Hanson: Thank you.

Sorenson: I have been the owner and operator since 1992 when we bought it from the bankruptcy court from the previous owners. So for the last 18 years I have been in charge with all daily operations, management, training. My wife also works there full time with me. This is our only job. This is what we do. We have the Incline Station Bowling Center side and the restaurant is now called the Spot Sports Bar and Grill. All one license. We take our training very seriously because we are a family orientated business and we are in kind of a unique situation where minors can be in our establishment while we're serving.

So, that's why I included these exhibits. The first one being our written policy that's been around for the whole 18 years I've been there that all employees sign and read, of course, and I actually sit with all new employees and go through every point. In addition to that, we do annual training, usually in October because most of our hiring is done in August and September for the next bowling season and sadly enough, the girl in question here that served was at our October class before the November deal and I have her paper work. She wanted to come here today and explain. Like what are you gonna explain? I didn't card directly against our number eight on our policy. So that wouldn't be helpful to me I said but we'll use this as a kind of a..... for the rest of the staff to say it really can happen. You gotta do it all the time.

Hanson: Yes. It has to be all the time.

Sorenson: Yeah. We don't train to pass compliance tests. We train to do the right thing. Exhibit 2 is from the guy that does our annual training. When I told him what happened and, you know, what to expect and all that kind of thing, he emailed me this letter cause he's been doing my training for 15 years.

Hanson: He seems to be pretty impressed with you.

Sorenson: He comes up every year. I don't do the on-line training. I don't let them, you know, say they had it at another bar. All of my staff does it and the third exhibit was just kind of an outline of what he teaches when he's there. He's kind of a scared straight guy. I like when he comes in person cause he'll pick out somebody in the class that is a little, thinks they know everything. He'll kind of pound on them and he really is waking up for them. Again, we're a family-oriented business. We do lots of things to make sure that, you know, our biggest concern is not so much serving the minors cause we are crazy on carding, you can't get a beer from the Spot side and take it to the bowling side. You have to get it on that side. I mean, I don't know what happened that day.

Hanson: Well, with minors in the establishment, I don't know any other way you could do that. You have to card about every time.

Sorenson: We don't sell pitchers to individuals.

Hanson: I think that's a good policy. Very good policy for that place.

Sorenson: And, again, it's 18 years, we've passed other compliance checks. In fact, I even hang our letter from the City when we pass one in the entry way.

Hanson: Is this the first violation you've had?

Sorenson: Ever. I guess what I was hoping to ask the Board to consider our past record of 18 years, our current training program that we do annually at no cheap cost. He's about \$300.00-\$400.00 every year he comes up depending how many kids are in it. To offset some of the costs, he will send a mailing around to other bars and if I can get another bar to come join our class with us,

Hanson: Sure.

Sorenson: He'll knock a hundred dollars off of mine but I rarely, rarely get participants from other bars. I think I'm the only one doing the physical seminars at the Center.

Hanson: Well, you might track the City Council actions and the ones that have penalties, you might give them a call.

Sorenson: Okay. There you go. And, we've, of course as she stated, we've paid our \$200.00 ticket. In fact, the bartender in question offered to pay mine. But I said, "No. That's not your deal." With these poor economic times, I didn't even know there would be an additional fine. I thought....that was our first offense and I'm supposed to pay the ticket and I paid it. Then, the letter came later that I would be going through this process.

So I was hoping that maybe the first offense \$500 rule could be waived somehow with the \$300 to \$400 I spend a year on the training and the perfect 18 year record shot.

Hanson: 107 years is pretty tough to beat. All right. Questions. Comments.

Birchland: Comments would be, from the time I've been here, this is a pretty impressive document here of what they do to try to ensure this and if it's been 18 years and that's a pretty active place down there. That's a pretty good record.

Hanson: Commissioner Donahue.

Donahue: No, I'd just like to say, the type of business, I just want to be on record of saying I commend you for not having any violations in the 18 years that you've been owning this business.

Hanson: Go ahead.

Sorenson: I go every day if I'm in town at least some part of every day or evening.

My wife is there every morning. She opens. It's very hands on. We're not like absentee owners that don't watch. Like I said, I do all the hiring, all the training.

Hanson: How many people do you have in your employ?

Sorenson: I probably have 25 employees but probably 12 that serve between the waitresses and the bartenders and the bowl desk can serve, too, so they go through the class.

Hanson: So with the turnover each year you've got a pretty good sized group when you do these trainings every year.

Sorenson: Yah. We...It's amazing. I do have a lot of staff that has been there for years. In fact, the bowling center manager has been there longer than me. He came with the building. I have three employees that have been there when I bought it and probably eight that have been there more than 10 years. The turnover and again I think we're helping the community, is giving the college kids jobs when they're in town for the season. That's our busy season. We're slower in the summer and that's when they go home from school.

Hanson: Sure. All right. Did you do anything exceptional with the person that actually served?

Sorenson: Boy. That was tough because I'd never had this happen before. I thought, "Boy, if I don't fire her.... Then I thought, "Oh, they're gonna think one warning, too", you know but it was really tough. This particular gal is not a student and she lives in Duluth. In fact, her dad worked for me years ago.

Hanson: I mean, was there anything that she could have done or you'd suggest to her to try make sure it doesn't happen again with her so she knows?

Sorenson: She just went brain dead. I mean she just was turning around and she said he sat down and she's trying to be quick and grabbed a beer and sat it in front of him. Now, she's like crazy and she paid her own \$200.00 ticket which is a lot for her finances I know.

Hanson: So the odds of her doing this again are like slim to none.

Sorenson: Well, it would be none cause we did sit down, and she did sign an agreement that if any other policies of our company that you don't follow, I mean whatever the policy is, she can't do any other policies.

Hanson: Okay. So you did discuss it. That's what I was after.

Sorenson: Yes.

Hanson: Okay. Gentlemen.

Birchland: I would make a motion that we reduce the penalty to \$250.00 payable 30 days after Council action and with no similar violations within the next year reasons being, again the documentation provided history of the establishment and continued working on the problem.

Hanson: Okay. So the fine is \$500.00 but you're staying \$250.00

Birchland: Right.

Hanson: assuming no same or similar. And did you want that payable within 30 days or 60 days of Council action?

Birchland: Isn't it normally 30 days that we've been doing?

Hanson: Okay. 30. All right. All right. Do I hear a second?

Hammack: Second.

Hanson: Commissioner Hammack seconded. Any further discussion? Does the City have anything to add, Counselor?

Lehr: I have nothing to add. No, thank you.

Hanson: All right. Seeing there is no further discussion, we'll have a vote. All in favor say "Aye".

Hanson: Motion passes unanimously. I would encourage you to plan on going to the City Council meeting the night that you're on the agenda. Martha will send you a letter. Usually these actions wind up on the Consent Agenda but, in the past, they have been pulled off. Okay. That was prior to us explaining what the mitigating circumstances were.

Sorenson: Okay.

Hanson: So, I guess prior to this we always just thought if we just recommended something less than \$500.00 there were mitigating circumstances but I guess they wanted to hear what they are. So now we're making sure they are.

Sorenson: Okay.

Hanson: So, you want to be there.

Sorenson: Okay. Thank you very much.

Hanson: All right. Good luck, sir.

CITY OF DULUTH

ALCOHOL, GAMBLING AND TOBACCO COMMISSION

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NOTICE OF AND ORDER FOR HEARING

* * * * *

TO: KEGLERS, INC., d/b/a Incline Station, 601 W. Superior Street, Main Floor, Duluth, MN 55802

PLEASE BE ADVISED that on **April 6, 2011**, at 4:45 p.m. in the Council Chambers at City Hall in the City of Duluth, the Duluth Alcohol, Gambling and Tobacco Commission will hold a hearing, pursuant to Minnesota Statutes §340A.415 and Section 8-9 of the Duluth City Code, to consider what, if any, disciplinary action, including suspension or revocation or a civil fine of not to exceed \$2,000, will be recommended to the Duluth City Council with respect to your intoxicating liquor license.

If you do not appear at said hearing, the Alcohol, Gambling and Tobacco Commission may, in your absence, recommend that the Duluth City Council consider the allegations contained herein to be true.

At the above-mentioned hearing, you may, at your option, be represented by legal counsel.

The Rules for Contested Case Hearings Minnesota Rules Chapter 1400, Part 5550, et.seq, to the extent applicable, and Minnesota Statutes §14.57 through §14.69 govern. Copies of these laws and rules may be obtained at the Duluth Public Library or online from the official web site of the State of Minnesota.

The City will present its case, and then you will have an opportunity to present your case. At the time of the hearing, you should be prepared to produce any evidence and arguments you feel are relevant to the issues raised. You or your attorney will be allowed

to cross-examine all adverse witnesses. If needed, subpoenas are available (Minnesota Rules 1400.7000).

You must advise the Commission if you seek to admit evidence that is classified not public. If data that is not public is admitted, it may become public. Relief is available under Minnesota Statutes §14.60, subd. 2. If an interpreter is needed, you must inform the Commission and one will be appointed.

A notice of appearance must be filed with the City Clerk within 20 days of the date of service of the notice of hearing if you intend to appear at the hearing.

The person representing the City, who you should contact to discuss settlement or other concerns is Terri L. Lehr, Assistant City Attorney.

The hearing will be open to the public.

The following facts give rise to the inquiry and hearing mentioned above:

1. Licensee is licensed by the City of Duluth to sell intoxicating liquor “on-sale” at a premises located at 601 W. Superior Street, Main Floor, Duluth, Minnesota.
2. On or about November 2, 2010, Stephanie A. Olson sold and served intoxicating liquor to an underage person at Licensee’s business establishment known as the Incline Station. Olson was cited for the violation and convicted on November 17, 2010. *See City Docs. No. 1-3 (Duluth Police Department Report ICR# 10-399222; City of Duluth Ordinance Violation Ticket No. LP10000333; and Proof of Payment of Ticket).*
3. Licensee was cited under Duluth City Code section 8-35 for the unlicensed sale and convicted of this offense on November 16, 2010. *See City Docs. No. 4-5 (City of Duluth Ordinance Violation Ticket No. LP10001760; and Proof of Payment of Ticket).*
4. Pursuant to City Code Sections 8-9(a) and (b)(1) the Alcohol, Tobacco and Gambling Commission will consider whether the violation alleged is good

cause for suspension or revocation of the liquor license or for the imposition of a civil penalty.

5. This is the Licensee's first offense for purposes of the presumptive penalty schedule provided for in Duluth City Code section 8-9..
6. Pursuant to Duluth City Code section 8-9, absent aggravating or mitigating circumstances, the presumptive penalty for a first offense is a \$500.00 civil penalty.

(Records Supporting This Notice Are Attached As City Docs. Nos. 1-5).

Dated: 3/4/11

JEFFREY J. COX, Secretary
Alcohol, Gambling and Tobacco
Commission

and



TERRI L. LEHR (0191668)
Assistant City Attorney

Gunnar B. Johnson, City Attorney
Attorneys for the Alcohol, Gambling and
Tobacco Commission

Duluth Police Department
Main Office

Reported Date: 11/02/2010 Time: 18:46 Case No.: 10399222
Code: DU8.28 Crime: DPD-LIQUOR-SALES TO MINORS PROHIBITED
Class: M4199 Occurrence Date: 11/02/2010
Location: 601 W SUPERIOR ST, 1DU, DULUTH, MN

===== NARRATIVE =====

On 11/02/10 at approximately 1845 hours, I, Officer McGovern (Squad 64) and Officer J. Hansen (Squad 75), while working a special detail for alcohol compliance checks in the city of Duluth did send our decoy, CODY JAMES LUMKE, DOB: 09/17/1990 (~~17 years old~~), to the Incline Station/Spot Bar located at 601 West Superior Street for a compliance check. LUMKE was served by a white female in her 20's that was bartending who was later identified and cited. Her name was STEPHANIE ANN OLSON, DOB: 04/25/1987. OLSON had served the decoy, without checking his ID, a bottle of Bud Light beer. The decoy paid \$3.50 for the beer and paid with a \$10.00 bill, U. S. currency and received \$6.50 change.

Shortly thereafter, Officer Hansen-311 and myself, Officer McGovern-383, approached the bartender and asked if we could speak with her in a private setting. She then led us to another room where we explained we were conducting alcohol compliance checks and she had just sold alcohol to a 20-year old decoy and did not attempt to ID him or ID him properly. An Administration Citation was written, #LP10000333 and issued to STEPHANIE ANN OLSON, DOB: 04/25/1987. She was positively identified as her and she did produce a Minnesota driver's license for identification purposes. After citing OLSON we explained the citation and the importance of identifying people properly. We then departed the property.

**CITY OF DULUTH
CITY ORDINANCE VIOLATION**

This Citation charges you with a violation
of a Duluth City Ordinance.

For more information, see the reverse side of this ticket.

ICR Number		Date/Time Issued	
10-399222		11/02/10 1849 Hrs	
Alleged Violator's Name			
Stephanie Ann Olson			
Address		City	State Zip Code
2528 Hutchinson Rd Duluth		Duluth	55811
DOB	Phone Number		
04-25-87	218-541-0747		
Vehicle Information			
License No.	State	Reg. Expires	
Vehicle Make	Model	Color	
Violation Info			
Date of Violation		Time of Violation	
11/02/10		1845 Hrs	
Location			
Incline Station 601 W Superior			
Charge		Ordinance No.	
Sale of Alcohol to minor		828	
Description			
OLN 127163920810			
Officer Signature			
<i>Shawn McGovern</i>			
Officer Name (Print)		Badge No.	
Shawn McGovern		383	
Served: In person <input checked="" type="checkbox"/>		Positively Identified <input type="checkbox"/>	
By mail <input type="checkbox"/>			
Date Due:		Minimum Fine Amount Due:	
11/12/10		<input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> \$400.00	
Ticket Number:		LP10 000333	

Local Ordinance Ticket Inquiry 2 Version 1.0.4

Ticket Info

Ticket Number

LP10000333

Issue Date

11/02/2010

Issue Time

18:45

Prior Page

Cancel

Defendant Info

Drivers Lic/State/DOB

04/25/1987

Name Last/First/Mi

OLSON STEPHANIE A

Street Address

2528 HUTCHISON ROAD

City/State/Zip

DULUTH MN 55811

Ticket Detail

Fine Amount: 200.00

Paym. Entered: 11/17/2010

Penalty: .00

Return Date:

Miscellaneous: .00

Notice1 Date:

Bad Check Fee: .00

Notice2 Date:

Paid Amount: 200.00

Notice3 Date:

Dismissed: .00

Notice4 Date:

Amount Due: .00

Partial Notice

Disposition: PF

Collection Letter

Disp. Date: 11/17/2010

Ticket Type: Manual

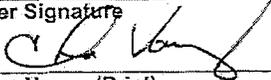
Tkt. Entered: 11/04/2010

Ticket Status: PAID

**CITY OF DULUTH
CITY ORDINANCE VIOLATION**

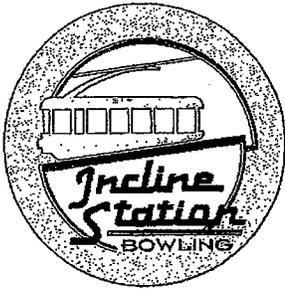
This Citation charges you with a violation
of a Duluth City Ordinance.

For more information, see the reverse side of this ticket.

ICR Number 10-399222		Date/Time Issued 11-9-10 @ 0850	
Alleged Violator's Name Keglers, Inc.			
Address 601 W. Superior St		City Duluth, MN	Zip Code 55802
DOB _____	Phone Number (218) 722-0671		
Vehicle Information			
License No.	State	Reg. Expires	
_____	_____	_____	
Vehicle Make	Model	Color	
_____	_____	_____	
Violation Information			
Date of Violation 11-2-2010		Time of Violation 1845	
Location 601 W. Superior St			
Charge Licensee liable		Ordinance No. 8-35	
Description Sale to underage by employee of Keglers, Inc.			
Officer Signature 			
Officer Name (Print) Cha Vang		Badge No. 375	
Served: In person <input type="checkbox"/> By mail <input checked="" type="checkbox"/>		Positively Identified <input type="checkbox"/>	
Date Due: 11-22-2010		Minimum Fine Amount Due: <input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> \$400.00	
Ticket Number:		LP10001760	

Local Ordinance Ticket Inquiry 2 Version 1.0.4

Ticket Info Ticket Number: LP10001760 Issue Date: 11/02/2010 Issue Time: 18:45		Defendant Info Drivers Lic/State/DOB: [] [] [] Name Last/First/Mi: INC. KEGLERS [] Street Address: 601 W. SUPERIOR ST. City/State/Zip: DULUTH MN 55802																																									
<input type="button" value="Prior Page"/> <input type="button" value="Cancel"/>		Ticket Detail <table border="0"> <tr> <td>Fine Amount:</td><td>200.00</td> <td>Paym. Entered:</td><td>11/22/2010</td> </tr> <tr> <td>Penalty:</td><td>.00</td> <td>Return Date:</td><td>[]</td> </tr> <tr> <td>Miscellaneous:</td><td>.00</td> <td>Notice1 Date:</td><td>11/18/2010</td> </tr> <tr> <td>Bad Check Fee:</td><td>.00</td> <td>Notice2 Date:</td><td>[]</td> </tr> <tr> <td>Paid Amount:</td><td>200.00</td> <td>Notice3 Date:</td><td>[]</td> </tr> <tr> <td>Dismissed:</td><td>.00</td> <td>Notice4 Date:</td><td>[]</td> </tr> <tr> <td>Amount Due:</td><td>.00</td> <td>Partial Notice:</td><td>[]</td> </tr> <tr> <td>Disposition:</td><td>PF</td> <td>Collection Letter:</td><td>[]</td> </tr> <tr> <td>Disp.Date:</td><td>11/16/2010</td> <td>Ticket Type:</td><td>Manual</td> </tr> <tr> <td>Tkt. Entered:</td><td>11/14/2010</td> <td>Ticket Status:</td><td>PAID</td> </tr> </table>		Fine Amount:	200.00	Paym. Entered:	11/22/2010	Penalty:	.00	Return Date:	[]	Miscellaneous:	.00	Notice1 Date:	11/18/2010	Bad Check Fee:	.00	Notice2 Date:	[]	Paid Amount:	200.00	Notice3 Date:	[]	Dismissed:	.00	Notice4 Date:	[]	Amount Due:	.00	Partial Notice:	[]	Disposition:	PF	Collection Letter:	[]	Disp.Date:	11/16/2010	Ticket Type:	Manual	Tkt. Entered:	11/14/2010	Ticket Status:	PAID
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Amount Due:	.00	Partial Notice:	[]																																								
Disposition:	PF	Collection Letter:	[]																																								
Disp.Date:	11/16/2010	Ticket Type:	Manual																																								
Tkt. Entered:	11/14/2010	Ticket Status:	PAID																																								



Incline Station Bowling Center

601 West Superior Street
Duluth, MN 55802
218-722-0671



City of Duluth
Attorney's Office
Attn: Terri L. Lehr—Assistant City Attorney
411 West First Street
Room 210
Duluth, MN 55802-1198

Dear Ms. Lehr,

Attached, please find materials I will be discussing at the hearing being held April 6, 2007.

- Exhibit 1. Incline Station's written policy on the sale and service of alcoholic beverages.
- Exhibit 2. Reference letter from Robert Poplam from Loss Control Services Inc.
- Exhibit 3. Outline of the seminar taught annually by Loss Control Services at the Incline Station.

Please forward these to the appropriate people and advise if you need anything more from me before the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Sorensen".

Tim Sorensen
President
Kegler's Inc.

Exhibit 1

INCLINE STATION/SPOT SPORTS BAR & GRILL

POLICY ON THE SALE & SERVICE OF ALCOHOLIC BEVERAGES

Our business is committed to the safe sale and service of alcoholic beverages. This establishment maintains a consistent, firm, written policy on the service and sale of alcoholic beverages to the public. We have developed this policy to ensure that we never knowingly serve or sell alcohol to underage (under 21) or intoxicated customers. Referring to this policy can help you appropriately check identification and refuse service or sale when necessary. Management will support you in checking I.D. and refusing service. This policy is an important part of protecting yourself and our business. Both the employee and management can be held responsible and punished for illegal sales. Failure to follow this policy may result in suspension or immediate termination.

1. Alcoholic beverages will be served or sold only by **designated employees** who have been trained to find out if patrons are of legal age and who have been trained to determine if a patron is visibly impaired.
2. No employee will serve or sell alcohol to a patron who is under the legal drinking age. All employees must adequately check identification which means:
 - **Expiration date (no expired I.D. is valid)
 - **Comparing the picture on the I.D. with the customer
 - **Checking the birth date
 - **Examining the card for signs of falsification or tampering
3. We will discourage possible impairment. No employee will serve any person who looks or acts visibly impaired, even if he/she is taking a taxicab or has a "designated driver". This includes employees and regular customers.
4. When a customer has been refused service or been denied a purchase because he or she is under-aged or appears possibly impaired, all employees will help prevent this customer from possessing or consuming any alcoholic beverages.
5. Once someone has been denied service or sale of alcohol, or "cut off," he or she remains "cut off" for the day. If someone is asked to leave, they have to leave with a friend if possible. Management will support every employee's decision to refuse a sale or terminate service to any customer.
6. Reasonable efforts will be made to prevent a patron who is obviously impaired from driving upon leaving our establishment. This may include calling a taxi or finding other transportation. If any employees feel any patron is unable to drive responsibly, he or she will notify management who may call the police, if necessary.
7. It is our policy that we do not sell pitchers of beer to an individual for individual consumption. Single customers drinking tap beer must be sold by the glass. The strongest drink we sell has no more than 2 oz. of liquor (black Russian, long island's). There can be no mixing of drinks or shots with more than 2 oz. of liquor.
8. It is our policy that we card anyone that looks under the age of 35. Absolutely no employee may vouch for a customer's age to another employee. Employees must do their own carding and customer must have their I.D.

**Policy on the Sale and Service of Alcoholic Beverages
Employee Agreement**

I understand that Minnesota state law prohibits the sale of alcoholic beverages to minors less than twenty-one (21) years of age and to obviously intoxicated individuals. Selling alcoholic beverages to a person under the age of 21 or to an intoxicated person may result in the suspension or loss of the establishment's license to sell alcoholic beverages.

By signing this form I agree to the following statements:

I understand that our business is dedicated to the safe and responsible sale of alcoholic beverages.

I have read the materials distributed to me related to the sale of alcoholic beverages to minors and intoxicated persons including, Incline Station/Spot Sports Bar & Grill Policy on the Sale and Service of Alcoholic Beverages and understand their requirements.

I understand that it is against the law to sell alcoholic beverages to any person under the age of 21.

I understand that if a younger person gives me a form of identification, I must carefully check to determine if he or she is 21 years of age or older. I must refuse to sell alcoholic beverages to anyone under the age of 21.

I will discourage intoxication, and not serve any person who looks or acts intoxicated, even if they are taking a taxicab or have a designated driver.

Employees signature

Date

Managers signature

Date

Exhibit 2

Servingalcohol@aol.Com
Loss Control Services, Inc.
ALCOHOL AWARENESS SEMINARS
16500 43RD AVENUE NORTH
PLYMOUTH, MN 55446
Robert Pomplun President 763-545-5981

Kegler's and Incline Station
601 West Superior Street
Duluth, Mn 218-722-0671

To whom it may concern:

Tim Sorensen, the owner of Incline Station / Kegler's Bowling Center has been one the most caring and diligent owner of a alcohol serving establishment that I have ever had the pleasure to work with. He allows me train employees every year three to four hours to update old and new employees on laws, policy, and procedures to card people's identification and check levels of possible impairment. Mr. Sorensen is a concerned owner that will do everything to protect the safety of the community and his customers' and employees with responsible alcohol serving policy. I can only tell you that Tim as a owner has done everything he can to give his employees the tools to protect the community and themselves from making a illegal sale. I believe Mr. Sorenson is one of the most responsible persons I have ever had the opportunity to work with and we have trained his employee every year for least 15 years if not more. I strongly believe he a good, and caring owner with public safety as first and most important priority.

If I can be of any assistance please call 763-545-5981.

Sincerely Yours,

Robert Pomplun

Exhibit 3

Serving Alcohol.com
Alcohol Awareness Server Training
Robert W. Pomplun, C.E.O.
763-545-5981
Lcserv@aol.com

An Introduction to Our Program

Serving Alcohol.com, is a comprehensive training program that educates alcohol servers with the knowledge to direct and control customers' unwanted behaviors.

The goal of this program is to develop, promote, and help you to execute your knowledge as a responsible alcohol server. This will enhance your ability to provide professional customer service strategies that promote responsible drinking. You will also learn your legal responsibilities as an alcohol server. As an employee you will avoid criminal charges and high administrative penalties, and as an owner you will know that your business is protected from lawsuits.

Responsible alcohol service promotes responsible alcohol consumption. Together, we can help save lives, reduce liability, and promote professionalism throughout the alcohol service industry. A well-trained employee is your biggest asset! Employees who prevent alcohol service to intoxicated people can be responsible for reducing the devastation caused by impaired car accidents and other alcohol related tragedies. Employee interventions will result in the reduction of human suffering and policing costs.

Serving Alcohol.com, Inc. is a comprehensive interactive training course that covers:

- Alcohol awareness that increases staff professionalism and enhances the skills of your employees. A safe and friendly atmosphere is good for business because it enhances the reputation of your establishment.
- Corporate and individual server responsibilities and the ability to comply with state and local regulations.
- Employee interventions that create reasonable protection from possible alcohol liability lawsuits.
- Prevention techniques that will decrease the opportunity for employees to incur possible alcohol violations.
- Education regarding State Alcohol Laws which will prevent underage drinkers from illegally entering the premises.
- Valid identification checking education and strategies to prevent underage drinkers who may attempt to enter illegally. Employees will be able to utilize prevention skills to detect false, altered, or borrowed identification to prevent underage drinking and illegal I.D. usage.
- Education designed to alert staff about the warning signs of illegal drug use on the premises, i.e. symptoms of overdose, psychological and physiological effects of drugs.
- Employees actions when enforcing underage drinking laws will reduce alcohol related harm in the community.
- Develop employees' awareness of customers' alcohol use, i.e. social drinking vs. obvious intoxication.
- Teaching employees to "**SCAB**" customers (rating Speech, Coordination, Apppearance, and Behaviors) to prevent possible sales to intoxicated patrons and provide a reasonable action defense.
- Insurance companies may give insurance discounts to establishments whose employees are trained

in prevention programs.

Why Choose Us?

The increasing strictness of alcohol laws throughout the country has created a need for educating alcohol servers to assist customers to engage in risk avoidance/risk reduction consumption behaviors through safe service. Serving Alcohol.com, Inc. has the unique capability to create individual programs applicable to each state and city's ordinances and laws. The empowerment of trained employees, servers, managers, and owners will help to reduce future risks and losses to the community.

The alcohol serving establishments have an outstanding opportunity to create a safer environment for customers to enjoy themselves. The more controls implemented in the alcohol serving environment; the fewer the opportunities for unwanted risks and losses to occur. You cannot predict when a tragic risk may occur, nor the capabilities of a person associated with that risk. The only thing that is controllable is the creation of a safe entertainment environment where responsible drinking can take place and is reinforced by pro-active policies managed and operated by a well trained staff. A server's lack of response will dramatically increase possible liability directly related to the incident. Serving Alcohol.com, Inc. emphasizes employee accountability and intervention and prevention strategies to reduce criminal exposures resulting from negligent service. Controlling the point of sale by the server is the basis for all criminal and civil liability and possible defenses.

Choosing Serving Alcohol.com, Inc. to train your staff about responsible service of alcohol policies will be the best investment you make. We can come to your restaurant or bar and train your entire staff at a **very reasonable cost.**

Strengths of Serving Alcohol.com, Inc.:

The broad and extensive experience and expertise of lead instructor, Robert W. Pomplun.

The diversity of slide presentations that are tailored to fit the needs of a particular establishment. These include DWI statistics, teenage drinking, state proof of age statutes, state dram shop statutes, the three types of liability (administrative, civil, and criminal), false I.D.'s, mail order I.D.'s, interventions, signs of intoxication, role playing, and case law.

Serving Alcohol.com, Inc. teaches by using video training tapes, slides, and lectures on prevention policy, current compliance checks operation, the 7 signs of possible customer impairment, and current at-risk loss situations.

Serving Alcohol.com Inc. provides a 100 page employee training manual on intoxication, identification, laws, and posters on house policy. **Serving Alcohol.com, Inc. philosophy states that a proactive intervention reduces the possibility of reactive liability losses.** All policies should be goal oriented with flexibility as to the individual procedures by servers to incorporate the strengths of risk-reduction interventions and problem solving within the establishment.

Serving Alcohol.com, Inc. distributes information dealing with personal drinking checklists and risk avoidance/risk reduction drinking behaviors for individual consumers. Server training should be coordinated with responsible consumption courses presented to the younger alcohol consumers who are still in the formative stages of developing responsible adult consumption behaviors. Intermittent drinking will help to create responsible consumption behaviors.

Serving Alcohol.com, Inc. recognizes that some people may have higher tolerances for alcohol and may not show signs of possible impairment when consuming alcohol. Serving Alcohol.com, Inc. promotes safe and responsible alcohol consumption. Serving Alcohol.com is working on projects that deal with reducing risk in bars with prevention groups and judges in by **promoting safe public transport to customers and the Posting House Policy as a condition of entry.**

EXPERIENCE: Robert Pomplun is President and Founder of Serving Alcohol.com, Inc. founded in 1986, specializing in security and alcohol server training in Minnesota. He has over 42 years experience in the hospitality industry as a consultant, manager, and bartender. He has a B.S. in Psychology, Health, & Physical Education from Mankato State University. He has personally taught close to 6000 live seminars and trained over 200,000 people throughout the states of Minnesota, North Dakota, Iowa, South Dakota, and Wisconsin since 1987. He has testified several times before the Minnesota State Legislative Judiciary and Transportation Committees helping to enact new legislation.

Robert W. Pomplun, C.E.O.
Lcserv@aol.com
763-545-5981
Serving Alcohol.com