

PURCHASING AND LICENSING COMMITTEE

11-0400R

RESOLUTION IN THE MATTER OF THE ON SALE INTOXICATING LIQUOR LICENSE OF CURLY'S BAR, INC. (CURLY'S BAR), 2013 WEST SUPERIOR STREET.

CITY PROPOSAL:

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

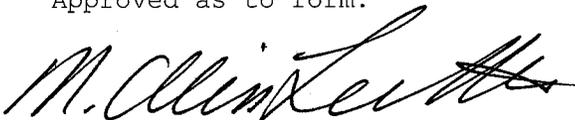
(a) On July 6, 2011, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Curly's Bar, Inc., (Curly's Bar), 2013 West Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. \_\_\_\_\_;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on August 15, 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 Curly's Bar, Inc., (Curly's Bar), 2013 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 penalty for the first violation on June 28, 2010, and a \$750 penalty and one day suspension for the second violation on November 20, 2010, with the one day suspension stayed for one year pending no same or similar violations, and that payment of the \$1,250 penalty be made within 60 days of final council action.

Approved as to form:



Attorney

CLERK JJC:mao 7/26/2011

STATEMENT OF PURPOSE: The alcohol, gambling and tobacco commission (AGTC) held a hearing on July 6, 2011, regarding the liquor license of Curly's Bar. On June 28, 2010, the bartender was cited for selling alcohol to an underage individual. On November 20, 2010, the bartender was cited for selling and serving alcohol to an intoxicated person. The licensee is responsible for the actions of its employees and was also cited for both violations. Section 8-9 provides that the presumptive penalty for a first offense is a \$500 penalty, and a second offense within two years is a \$750 penalty and a one day suspension. Since these incidents, the licensee has been working with the community police officers to address the problem areas. Because the Licensee has been proactive in working with the police department, the City Attorney's office and the licensee presented a penalty agreement to the AGTC recommending a \$500 fine for the first violation, \$750 fine for the second violation and staying the one day suspension for one year pending no further violations with the \$1250 fine payable within 60 days of council action. The AGTC unanimously approved this agreement and is recommending approval to the city council.

CITY OF DULUTH  
ALCOHOL, GAMBLING AND TOBACCO COMMISSION

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**REPORT TO THE CITY COUNCIL**

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IN THE MATTER OF: **CURLY'S BAR, INC.**, d/b/a Curly's Bar, 2013 W. Superior Street,  
Duluth, Minnesota 55806.

The above-entitled matter came on for hearing before the Duluth Alcohol, Gambling and Tobacco Commission on July 6, 2011, in the City Council Chambers in Duluth, Minnesota. The hearing record closed on July 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 waived its appearance via written communication from its attorney, Jeremy Downs.

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 intoxicating liquor "on-sale" at the premises located at 2013 W. Superior Street, Duluth, Minnesota.
2. On June 28, 2010, Rocky Wrazidlo, an employee of Licensee, sold and served beer to an underage person at Licensee's business establishment known as Curly's Bar. Wrazidlo was cited for the violation and convicted on December 6, 2010, paying a \$200 fine.

3. Licensee was cited under Duluth City Code section 8-35 for the unlawful sale and convicted of this offense on May 20, 2011. Licensee paid a \$200.00 fine.
4. On November 20, 2010, Bobby Dale Robinson, an employee of Licensee, sold and served intoxicating liquor to an intoxicated person at the Licensee's business establishment known as Curly's Bar. Robinson was cited for the violation and convicted on February 25, 2011.
5. Licensee was cited under Duluth City Code section 8-35 for the unlawful sale and convicted of this offense on December 13, 2010, paying a \$200 fine.
6. The Commission then issued its Notice of Hearing and set a hearing date of July 6, 2011.
7. 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.
8. Pursuant to Duluth City Code Section 8-9, absent aggravating or mitigating circumstances, the presumptive penalty for each of the current violations is:  
Regarding the June 28, 2010 violation: a \$500 civil penalty.  
Regarding the November 20, 2010 violation: a \$750 civil penalty and a one-day license suspension. However, the City and the Licensee reached a settlement whereby the \$500 and \$750 civil penalties would be paid within sixty days of final council action, but the one-day license suspension would be stayed for a period of one year on the condition of no same or similar violations. This Commission approves the settlement agreement based on the following mitigating factors: Joel Baker, owner of Curly's Bar, has been working with community police officers to address the problem areas. Over the last year, Mr. Baker has developed community equity with the Duluth Police Department and has been proactive in helping to find more effective solutions to the past problems. This recommended penalty recognizes Mr. Baker's willingness to take

responsibility for these matters and provides him with incentive to continue down this path, given the difficult economic times.

### **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 June 28, 2010 and November 20, 2010.
3. Section 8-9(c) of the Duluth City Code provides that the presumptive penalty for the June 28, 2010 violation is a \$500.00 civil penalty. The presumptive penalty for the November 20, 2010 violation is a \$750.00 civil penalty and a one-day license suspension. However, the City and the Licensee reached a settlement agreement whereby the one-day license suspension would be stayed for a period of one year on the condition of no same or similar violations. The \$500.00 and \$750.00 civil penalties, totaling \$1,250.00 would be paid within sixty days of final council action. This Commission approves the settlement agreement, which is based on the following mitigating factors: Joel Baker, owner of Curly's Bar, has been working with community police officers to address the problem areas. Over the last year, Mr. Baker has developed community equity with the Duluth Police Department and has been proactive in helping to find more effective solutions to the past problems. This recommended penalty recognizes Mr. Baker's willingness to take responsibility for these matters and provides him with incentive to continue down this path, given the difficult economic times.

## RECOMMENDATION

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

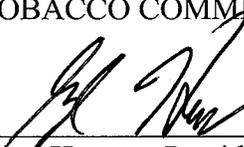
1. For the June 28, 2010 violation, payment of a \$500.00 penalty;
2. For the November 20, 2010 violation, payment of a \$750.00 penalty and a one-day license suspension;
3. That the one-day license suspension be stayed for a period of one year on the condition of no same or similar violations; and
4. That payment of \$1,250.00 be made within 60 days of final council action.

Dated: \_\_\_\_\_

7/14/11

DULUTH ALCOHOL, GAMBLING  
AND TOBACCO COMMISSION

By: \_\_\_\_\_

  
George Hanson, President

**THE DOWNS LAW FIRM**  
200 ALWORTH BUILDING  
306 WEST SUPERIOR STREET  
DULUTH, MINNESOTA 55802-1973

**TIMOTHY N. DOWNS**  
EMAIL: downslawfirm@hotmail.com  
**JEREMY M. DOWNS**  
EMAIL: downs\_jeremy@hotmail.com

July 6, 2011

TELEPHONE  
(218) 727-7221  
FAX  
(218) 727-8819

Ms. Terri L. Lehr  
Assistant Duluth City Attorney  
411 West 1<sup>st</sup> Street  
410 City Hall  
Duluth, MN 55802

Re: *Curly's Bar, Inc.*

Dear Ms. Lehr,

This letter will confirm our discussions regarding a resolution of the above matter which is to be heard by the Alcohol, Gambling and Tobacco Commission on July 6, 2011. Under the terms of this resolution, my client will not contest the violations set forth in the Notice of and Order for Hearing dated June 1, 2011. Regarding the penalties for these two violations, your office will be recommending to the Commission that Curly's Bar, Inc. receive a \$500.00 penalty for the Duluth City Code violation on June 28, 2010 and a \$750.00 penalty for the Duluth City Code violation on November 20, 2010. The one-day license suspension that would typically accompany a second violation within a year would be stayed for one year on the condition of no same or similar violations. The two penalties totaling \$1,250 would be paid within sixty days of final city council action.

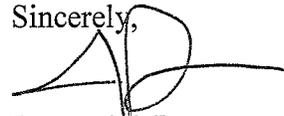
This agreement is based on these mitigating circumstances: Mr. Joel Baker, owner of Curly's Bar, has been working with the community police officers to address the problem areas. Over the last year, Mr. Baker has developed community equity with the Duluth Police Department and has been proactive in helping to find more effective solutions to the past problems. This recommendation recognizes Mr. Baker's willingness to take responsibility for these matters and provides him with incentive to continue down this path, given the difficult economic times.

This will also acknowledge that you have advised me that the Commission is free to adopt, modify or reject your recommendation and that the City Council is free to do the same.

In light of this agreement, neither Mr. Baker nor I will attend the July 6, 2011 hearing. I understand that you will provide a copy of this letter to the Commissioners for their review and consideration.

If you have any questions please call.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Downs', with a long horizontal flourish extending to the right.

Jeremy M. Downs

cc: Mr. Joel Baker

**Alcohol, Gambling, and Tobacco Hearing**  
**July 6, 2011**  
**Curly's Bar, Inc., d/b/a Curley's, 2013 West Superior Street**

Oswald: There's one more hearing in front of you tonight and that's Curley's, 2013 West Superior Street.

Hanson: So, it appears they have settled. They have reached a plea agreement, and they're not going to appear and unless anybody has any problems with the terms of this agreement, I think we can just recommend approval of it and pass it on or recommend disapproval. Whatever the gentlemen please here. I need to hear a motion.

Birchland: I would make a motion that we approve the settlement agreement between the City and Curley's Bar.

Hammack: I'll second that.

Hanson: Motion's made and seconded. Any discussion or recommendations? Then hearing none, all in favor say "Aye".

Hanson: Motion passes unanimously.

CITY OF DULUTH  
ALCOHOL, GAMBLING AND TOBACCO COMMISSION

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**NOTICE OF AND ORDER FOR HEARING**

\* \* \* \* \*

TO: **CURLY'S BAR INC.** d/b/a Curly's Bar, 2013 W. Superior St., Duluth, MN 55806

PLEASE BE ADVISED that on **July 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 thru §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 2013 W. Superior Street, Duluth, Minnesota.
2. On or about June 28, 2010, Rocky Wrazidlo, an employee of the Licensee, sold and served intoxicating liquor to an underage person at Licensee’s business establishment known as Curly’s Bar. Wrazidlo was cited for the violation and convicted on December 6, 2010. *See City Docs. No. 1-3 (Duluth Police Department Report ICR# 10-311525; City of Duluth Ordinance Violation Ticket No. LP10001755; and Hearing Officer’s Decision dated December 6, 2010.)*
3. Licensee was cited under Duluth City Code section 8-35 for the unlawful sale and convicted of this offense on 5/20/2011. *See City Docs. No. 4-5 (City of Duluth Ordinance Violation Ticket No. LP10004056; and Proof of Payment of \$200.00 fine on 5/20/2011.)* (Note: The Licensee was initially cited with a district court ticket, but because it was in “limbo” for several months in the

court system, the City Attorney's Office dismissed it. Ticket No. LP10004056 was then issued in its place.)

4. On November 20, 2010, Bobby Dale Robinson, employee of Licensee, sold and served intoxicating liquor to an intoxicated person at the Licensee's business establishment known as Curly's Bar. Robinson was cited for the violation and convicted on February 25, 2011. *See City Docs. No. 6-8 (Duluth Police Department Report ICR# 10-410039; District Court Citation; and Register of Actions in court file 69DU-VB-10-14269.)*
5. Licensee was cited under Duluth City Code section 8-35 for the unlawful sale and convicted of this offense on December 13, 2010. *See City Docs. 9-10 (City of Duluth Ordinance Violation Ticket No. LP10001762; and Proof of Payment of \$200 fine.)*
6. Pursuant to City Code Sections 8-9(a) and (b)(1) the Alcohol, Tobacco and Gambling Commission will consider whether the violations alleged are good cause for suspension or revocation of the liquor license or for the imposition of a civil penalty.
7. This is not the Licensee's first violation. A prior offense occurred on June 30, 2008 with a conviction date of August 5, 2008. In the 2008 case, the Commission recommended a \$500 civil penalty, but stayed one-half of the penalty for one year on the condition of no same or similar offenses. *See City Doc. No. 11 (Resolution 09-0010R approved on January 12, 2009).* However, this 2008 offense is outside of the look-back period for purposes of the presumptive penalty for the current two violations.
8. Pursuant to Duluth City Code Section 8-9, absent aggravating or mitigating circumstances, the presumptive penalty for the current violations is:  
Regarding the June 28, 2010 violation: a \$500 civil penalty  
Regarding the November 20, 2010 violation: a \$750 civil penalty and a one

day license suspension.

( Records Supporting This Notice Are Attached AS CITY DOCS. NOS. 1-11).

Dated: June 1, 2011

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

and

Terri L. Lehr  
TERRI L. LEHR (0191668)  
Assistant City Attorney

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

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**Duluth Police Department**  
Main Office

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Reported Date: 06/28/2010 Time: 01:14 Case No.: 10311525  
Code: DUS.27 Crime: DPD-LIQUOR-CONSUMPTION BY MINORS PROHIBITED  
Class: M4140 Occurrence Date: 06/28/2010  
Location: 2013 SUPERIOR ST W, 1DU, DULUTH (CITY), , ,

===== NARRATIVE =====

Synopsis:

On 06/28/2010, I, Officer Barrett, investigated the report of an underage person being served at Curly's Bar. SARAH BETH MORGAN, dob 11/21/1989, was located and issued a citation for consumption. Information is forwarded to the Licensing Officer for additional follow up with the Liquor Control Board. This report will detail my investigation of the incident.

Narrative:

On 06/28/2010 at approximately 0156 hours, Officers Diver (Squad 35) and I, Barrett (Squad 25), both of the Duluth Police Department, responded to Curly's Bar, 2013 W Superior St, in reference to a report from a person who wanted to remain anonymous there was an underage person identified as SARAH LNU being served alcohol at Curly's. The reporting party, who did provide a telephone number, described SARAH as a 20 year old white female with long brown hair in a ponytail, wearing a black "skinny fit" t-shirt, khaki cargo-type capris pants. The reporting party also described SARAH's vehicle as a black Honda with custom chrome taillights, tinted windows, and Montana license 7C4820D.

As I pulled into the parking lot, I observed a vehicle matching the description with the same license number. As I went into the bar, I saw the bartender working was ROCKY ALLEN WRAZIDLO, dob 12/31/1960. As I looked around the bar, I observed a female matching the description for SARAH on the upper side of the bar. I asked WRAZIDLO if he had been carding people tonight and he said he had. I then pointed toward the female who matched the description and asked WRAZIDLO if he had seen her ID. WRAZIDLO stated he has seen her ID in the past.

The female began walking around the bar and was walking toward the front. I made contact with her and asked her if she had her ID with her. She told me she did not, but said she has cashed checks at Curly's before. She then pointed toward WRAZIDLO and said he knows who she is.

Due to the loud volume level in the bar I asked the female to step outside with us so I could better hear her. As we went outside, I asked her if she had been drinking at the bar and she said she had not. She verbally identified herself as SARAH BETH MORGAN, dob 11/21/1987. I asked MORGAN why she did not have her ID with her if she was going to be at the bar. She again said how she had not been drinking there. She said she did not have her ID because she had to flee Montana because of a bad relationship and said how she had filed an Order for Protection against her ex-boyfriend/husband and she

left her ID behind. I asked MORGAN how could she cash checks at Curly's and the bartender have seen her ID if she did not have it as she had left it in another state. MORGAN did not have an answer.

I went to my squad car and checked the name and date of birth MORGAN had given. She was not on file in Minnesota; however, I did receive the Order for Protection information in NCIC. Upon checking the OFP, I saw her birth date was listed as 11/21/1989. I also checked her name in Montana and found the birth date listed on her Montana driver's license as 11/21/1989.

With this new information I asked MORGAN again about her birth date and she admitted she had given me an incorrect birth date and it was in fact 11/21/1989. I asked MORGAN if she had been drinking at the bar. She said she had two drinks. She told me she had purchased one kamikaze from WRAZIDLO; the second drink was a glass of beer from a pitcher of beer. She said WRAZIDLO didn't serve her the beer but she was served by somebody who must have purchased the beer. MORGAN did not recall who that was.

Officer Diver administered a Preliminary Breath Test to MORGAN the results were .040. The PBT was from Squad 25, calibration checked on 06/02/2010.

MORGAN told me she has been served on other occasions at Curly's Bar and said she had been served by the owner JOEL BAKER on another occasion. She did not say if anybody had ever asked for her identification.

I issued MORGAN an administrative citation for Underage Consumption, ordinance 8-27, and she was released.

I went and spoke with WRAZIDLO, who told me MORGAN had been served one or two drinks. WRAZIDLO again said how he believes he has seen MORGAN's ID before and was describing it as being a different ID than a MN identification. When I told him she had a Montana driver's license, he nodded his head yes and indicated that was the type of ID he thought he had seen before. I advised WRAZIDLO I would be forwarding the matter to the License Control Officer and the Alcohol Board. I then cleared the scene.

Case Status:

Case referred to Licensing Officer for additional follow up and charges.

**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<br><b>10-311525</b>   |                  | Date/Time Issued<br><b>10-7-2010 @ 0840</b>  |                |
|--|------------------|--|----------------|
| Alleged Violator's Name<br><b>Rocky Allen Wrazidlo</b>   |                  |  |                |
| Address<br><b>2823 W 2<sup>nd</sup> St #4 Duluth, MN 55806</b>   |                  | City   | State Zip Code |
| DOB<br><b>12-31-1960</b>   |                  | Phone Number   |                |
| Vehicle Information  |                  |  |                |
| <del>License No.</del>   | <del>State</del> | <del>Reg. Expires</del>  |                |
| <del>Vehicle Make</del>  | <del>Model</del> | <del>Color</del>   |                |
| Violation Information  |                  |  |                |
| Date of Violation<br><b>6-28-2010</b>  |                  | Time of Violation<br><b>0200</b>   |                |
| Location<br><b>2013 W. Superior St</b>   |                  |  |                |
| Charge<br><b>Sales to Minors</b>   |                  | Ordinance No.<br><b>8-28</b>   |                |
| Description<br><b>Wrazidlo sold Alcohol to person under 21 years of age without Identifying/verifying.</b> |                  |  |                |
| Officer Signature<br><b>Cha Vang</b>   |                  |  |                |
| Officer Name (Print)<br><b>Cha Vang</b>  |                  | Badge No.<br><b>375</b>  |                |
| Served: In person <input type="checkbox"/><br>By mail <input checked="" type="checkbox"/>                  |                  | Positively Identified <input type="checkbox"/>   |                |
| Date Due:<br><b>10-21-2010</b>   |                  | Minimum Fine Amount Due:<br><input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00<br><input type="checkbox"/> \$400.00 |                |
| Ticket Number: <b>LP10 001755</b>  |                  |  |                |

STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH  
ADMINISTRATIVE COURT

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City of Duluth, a municipal corporation,  
Respondent,

vs.

**HEARING OFFICER'S DECISION**

Rocky Wrazidlo,  
Appellant,

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| <b>CHARGE:</b>              | <b>ORDINANCE NO.:</b> | <b>VIOLATION DATE:</b> |
|-----------------------------|-----------------------|------------------------|
| (1) Alcohol sales to minor. | 8-28                  | 6/28/2010              |

The undersigned hearing officer received testimony regarding this matter at a hearing held at 411 West First Street, Duluth, Minnesota 55802 on December 3, 2010 commencing at 9:00 a.m. Based on this testimony and all of the evidence presented, the hearing officer determines the following:

**FINDINGS OF FACT**

1. Appellant does not deny the information contained in the attached police report which Officer John Barrett testified from at the Hearing on December 3, 2010.
2. Appellant admits not carding the minor in question and selling her an alcoholic beverage on June 27, 2010 at Curly's Bar while working as a bartender.
3. Appellant contends that three (3) or four (4) months earlier the minor presented at Curly's to cash a check from T-Bones bar, another bar in the area. Appellant assumed that since the minor was employed there, she was twenty-one (21) years of age or older. He asked for identification since he had had problems with bad checks.

4. The minor showed him a driver's license from some other state indicating that she was the person to whom the check was made out to. He carded her for identification purposes at the time that she wanted to cash a check, not for purposes of determining her age.
5. Appellant never carded the minor again even though she frequented Curly's one or more times since her initial appearance and purchased and consumed alcoholic beverages from the Appellant.
6. As to the charge: Violation occurred.

#### **CONCLUSIONS OF LAW**

1. Section 8-28 of the Duluth City Ordinance does not provide any latitude in its enforcement, meaning that if a minor is sold an alcoholic beverage for any reason whatsoever, the person selling it is in violation of its provisions.
2. Put another way, Section 8-28 must be strictly construed.
3. Based on Appellant's admission that Officer Barrett's rendition of the incident which occurred at Curly's Bar on June 27, 2010 was true and correct, and that Appellant did not require proof of identification of the minor on that evening before selling her an alcoholic beverage, the Appellant is found in violation of Section 8-28.
4. Appellant shall pay to the City of Duluth a fine totaling \$200.00, of which \$100.00 has already been paid, and the remaining balance of \$100.00 shall be paid by January 4, 2011.

Dated: December 6, 2010.

  
\_\_\_\_\_  
Kenneth D. Butler, Hearing Officer

**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<br><b>10-311525</b> | Date/Time Issued<br><b>5-2-2011 @ 1000</b> |
|--------------------------------|--|

Alleged Violator's Name  
**Curly's Bar, Inc**

|                                       |                       |                    |                          |
|---------------------------------------|-----------------------|--------------------|--------------------------|
| Address<br><b>2013 W. Superior St</b> | City<br><b>Duluth</b> | State<br><b>MN</b> | Zip Code<br><b>55806</b> |
|---------------------------------------|-----------------------|--------------------|--------------------------|

|     |              |
|-----|--------------|
| DOB | Phone Number |
|-----|--------------|

**Vehicle Information**

|             |       |              |
|-------------|-------|--------------|
| License No. | State | Reg. Expires |
|-------------|-------|--------------|

|              |       |       |
|--------------|-------|-------|
| Vehicle Make | Model | Color |
|--------------|-------|-------|

**Violation Information**

|                                       |                                  |
|---------------------------------------|----------------------------------|
| Date of Violation<br><b>6-28-2010</b> | Time of Violation<br><b>0200</b> |
|---------------------------------------|----------------------------------|

Location  
**2013 W. Superior St**

|                                  |                              |
|----------------------------------|------------------------------|
| Charge<br><b>licensee liable</b> | Ordinance No.<br><b>8-35</b> |
|----------------------------------|------------------------------|

Description  
**employee sold to underage licensee liable for sale.**

Officer Signature  
*Cha Vang*

|   |                         |
|---|-------------------------|
| Officer Name (Print)<br><b>Cha Vang</b> | Badge No.<br><b>325</b> |
|---|-------------------------|

|  |  |
|--|--|
| Served: In person <input type="checkbox"/> By mail <input checked="" type="checkbox"/> | Positively Identified <input type="checkbox"/> |
|--|--|

|                               |   |
|-------------------------------|---|
| Date Due:<br><b>5-19-2011</b> | Minimum Fine Amount Due:<br><input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> \$400.00 |
|-------------------------------|---|

Ticket Number: **LP10 004056**



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**Duluth Police Department  
Main Office**

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Reported Date: 11/20/2010 Time: 15:46 Case No.: 10410039  
Code: DU8.26 Crime: DPD-LIQUOR-SALE OF ALCOHOL TO INTOXICATED PERSON  
Class: M4111 Occurrence Date: 11/20/2010  
Location: 2013 W SUPERIOR ST, 1DU, DULUTH, MN, , 55806, CURLYS

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===== NARRATIVE =====

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**SYNOPSIS:**

On 11/20/2010 at 1546 hours, I, Officer M. Tinsley/410, (squad 35) and Officer Lepak, (squad 25) responded to a report at Curly's Bar at 2013 W. Superior Street of an intoxicated person. The reporting party who wished to remain anonymous reported that there was a male identified as WAYNE ALLEN JOHNSON, dob:07/17/72 at that location and stated that he was on probation. That reporting party also stated that the male was described as "totally smashed". I responded to the location with Officer Lepak and we located JOHNSON. JOHNSON was sitting at the bar drinking a beer. He was brought out where he was given a PBT which registered a .396. He was very intoxicated and obviously too intoxicated to remain on the premises as well as being served at that location. JOHNSON was brought to Duluth detox and it was learned that he was in fact on probation with Johnnie Walker. I identified the bartender that had over served JOHNSON. He was identified as BOBBY DALE ROBINSON, dob:01/30/52. ROBINSON admitted to serving JOHNSON at that location a pitcher of beer and admitted that JOHNSON was in fact intoxicated. He was issued a citation and left on the premises. See body of report for further details.

**NARRATIVE:**

On 11/20/2010 at 1546 hours, I, Officer M. Tinsley/410, (squad 35) responded to 2013 W. Superior Street, otherwise known as Curly's Bar on an information call. Information on the call was that an anonymous party had called in stating that there was a male at that location on probation identified as WAYNE ALLEN JOHNSON, dob:07/17/72. This reporting party who wished to remain anonymous stated that this male was "totally smashed" and said that his probation officer would want to be aware of this.

I arrived on scene with Officer Lepak, (squad 25). We had seen a picture from MRAP involving JOHNSON and walked in and saw JOHNSON sitting on the east side of the bar. JOHNSON appeared to be drinking from a jar type mug and I could clearly see that it was beer. Officer Lepak made contact with JOHNSON and asked him to step outside and to identify himself. At this moment I could see that JOHNSON was very intoxicated as he appeared confused. Once he was able to stand up he had a strong sway in his balance and needed the assistance of Officer Lepak in order to walk out of the bar.

JOHNSON was brought out to a bench in front of Curly's Bar and he sat at down. I could see that he had bloodshot watery eyes and very slurred speech. I also could smell a strong odor of alcoholic beverage on his breath. I asked JOHNSON what his name was and he identified himself as WAYNE JOHNSON. I asked him if he was on probation and he stated that he was and he told me that he was not supposed to be drinking and was on probation with Johnnie Walker. I asked him where he was drinking, he stated "in there", he then pointed back to the bar. I asked him what he was drinking and he told me beer.

This conversation was very difficult as JOHNSON was extremely intoxicated. Officer Lepak brought a PBT out of his car and offered JOHNSON an opportunity to give a sample. JOHNSON did complete a sample and gave a very poor sample of breath. This registered a .396. Officer Lepak then transported JOHNSON to Duluth detox. I informed Officer Lepak that I was going to investigate the over serving at this location.

I went and saw the same bartender that was in front of JOHNSON when he was sitting there. I asked him for his ID and he identified himself with a Minnesota ID as BOBBY DALE ROBINSON, dob:01/30/52. I told ROBINSON that I was investigating over serving and asked him if he knew who the male was in the purple Vikings sweatshirt that Officer Lepak had escorted out. He stated "that was WAYNE". I asked him if there was any other bartender at this location and he stated he was the only bartender and had gotten there at 1400 hours. I asked ROBINSON how much he had served JOHNSON. He stated "a pitcher" of beer and added that he had been sipping on it for over an hour. I

asked ROBINSON if he believed JOHNSON was sober or intoxicated. He stated "I would not say that he was sober".

I explained to ROBINSON that JOHNSON was close to 5 times the legal limit to drive. He stated that he has known JOHNSON for several years and knows that he does not drive. I told ROBINSON that this was beside the point since JOHNSON was so intoxicated. I explained to him that even he observed that JOHNSON was having trouble talking and walking. ROBINSON did not answer or say anything.

I explained to ROBINSON that I would be issuing him a citation for serving an obviously intoxicated person. I went out to my squad car where I issued ROBINSON a citation for City ordinance, sale of alcohol to intoxicated persons prohibited, 8.26. I gave him a copy of the citation along with information on how to pay it and appear for it. I also gave ROBINSON a copy of the City ordinance governing this type of activity. ROBINSON reiterated that JOHNSON is a customer that he has known for several years. I explained to him that even though he knew JOHNSON as well as he did it is not okay to serve him when he is intoxicated. I also reiterated that he should have known that JOHNSON was intoxicated because he knew him for so many years.

I then cleared the scene. Officer Lepak contacted probation officer Walker and left a message about the current state of his client.

COURT COPY

Citation Number: 6910692741032401



ICR Number: PD10410039 Grid Number:

Jurisdiction:

Defendant: BOBBY DALE ROBINSON

DOB: 01/30/1952 Race:

Address: 2013 W SUPERIOR ST

DULUTH MN 55806

Address Verified: YES Construction Zone: NO

Height: 510 Weight: 240 Eyes: BRN Sex: M Hair:

DL Number: S0591B3557814 Issue State: MN DL Class: I

Vehicle Plate: State: Exp: Make:

Vehicle Year: Model: Type: Color:

VIN Number:

Driver: Passenger Operate: X Parked: Owner:

Unsafe Conditions: Endangered Life:

Accident Code: 0 - No Accident

Did unlawfully on: 11/20/2010 AT 1546 HRS.

At: 2013 SUPERIOR ST W {1DU}

CITY OF DULUTH

AND COMMITTED THE FOLLOWING OFFENSE(S):

Statute #1: DUB.26 Subd. ORD

Description: DPD-LIQUOR-SALE OF ALCOHOL TO INTOXICA

Statute #2:

Description:

Statute #3:

Description:

Statute #4:

Description:

Statute #5:

Description:

Statute #6:

Description:

Delivery Method: LEFT W/DEFENDANT

Juvenile: NO

Court Date:

100 N. 5th Ave.W.#109,Duluth MN 55802

Phone: 218-726-2464

Officer: TINSLEY M

Badge: 1DU410

Agency: DULUTH PD

State of Minnesota  
County of St. Louis

SUMMONS DISTRICT COURT-CRIMINAL DIVISION

Citation Number:

Road Conditions: Dry

Visibility: Normal

Weather Conditions: Clear

Additional Vehicle Information:

MotorCycle: HazMat:

Comm. Vehicle:

Additional Violation Information:

Disobey Device:

ID'd By: MN ID

Number of Passengers:

Radar Information:

Squad Number: s53

Officer Comments:

See dictated report involving overserving Wayne Allen Johnson 071772.

Suspect Admissions:

Logout My Account Search Menu New Criminal/Traffic/Petty Search Refine  
Search Back

Location : All MNCIS Sites - Case Search Help

**REGISTER OF ACTIONS**  
CASE No. 69DU-VB-10-14269

State of Minnesota vs BOBBY DALE ROBINSON

69DU-VB-10-14269

Case Type: **Crim/Traf Non-Mand**  
Date Filed: **12/28/2010**  
Location: **- St. Louis-Duluth**

**PARTY INFORMATION**

|                     |   |                         |  |
|---------------------|---|-------------------------|--|
| <b>Defendant</b>    | <b>ROBINSON, BOBBY DALE</b><br>2013 W Superior ST<br>Duluth, MN 55806 | Male<br>DOB: 01/30/1952 | <b>Lead Attorneys</b>                  |
| <b>Jurisdiction</b> | State of Minnesota<br>NONE  |                         | <b>MARY E ASMUS</b><br>218-730-5490(H) |

**CHARGE INFORMATION**

| Charges: ROBINSON, BOBBY DALE                       | Statute | Level             | Date       |
|---|---------|-------------------|------------|
| 1. DPD-LIQUOR-SALE OF ALCOHOL TO INTOXICATED PERSON | DU8.26  | Petty Misdemeanor | 11/20/2010 |

**EVENTS & ORDERS OF THE COURT**

**DISPOSITIONS**

01/25/2011 **Plea** (Judicial Officer: Johnson, David M.)  
1. DPD-LIQUOR-SALE OF ALCOHOL TO INTOXICATED PERSON  
Not guilty

02/25/2011 **Amended Plea** (Judicial Officer: Sweetland, Heather L. ) Reason: Plea agreement  
1. DPD-LIQUOR-SALE OF ALCOHOL TO INTOXICATED PERSON  
Guilty

02/25/2011 **Disposition** (Judicial Officer: Sweetland, Heather L. )  
1. DPD-LIQUOR-SALE OF ALCOHOL TO INTOXICATED PERSON  
Convicted

02/25/2011 **Sentenced** (Judicial Officer: Sweetland, Heather L. )  
1. DPD-LIQUOR-SALE OF ALCOHOL TO INTOXICATED PERSON  
11/20/2010 (PMD) DU8.26 (ALCOHOL)

Fee Totals:

|                 |        |                  |
|-----------------|--------|------------------|
| Fine \$         | 500.00 |                  |
| Stay \$         | 400.00 | Until 02/25/2012 |
| Imposed Fine \$ | 100.00 |                  |

|   |                 |
|---|-----------------|
| Law Library Fees                          | \$10.00         |
| Municipality Fines 2/3                    | \$100.00        |
| Crim/Traffic Surcharge<br>(once per case) | \$75.00         |
| <b>Fee Totals \$</b>                      | <b>\$185.00</b> |

Condition - Adult:

1. No same or similar, 02/25/2011, Active 02/25/2011

Level of Sentence:

Convicted of a Misdemeanor

**OTHER EVENTS AND HEARINGS**

12/28/2010 **Citation E-Filed**

01/25/2011 **Arraignment** (1:15 PM) (Judicial Officer Johnson, David M.)  
Result: Held

01/25/2011 **Acknowledgement of Rights** (Judicial Officer: Johnson, David M. )

01/28/2011 **Returned Mail**  
*Notice of Arraignment / returned Not Deliverable as Addressed*

02/25/2011 | **Sentencing** (1:30 PM) (Judicial Officer Sweetland,Heather L. , )  
Result: Held  
02/25/2011 | **Plea Agreement** (Judicial Officer: Sweetland,Heather L. , )  
02/25/2011 | **Payment Plan**

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**FINANCIAL INFORMATION**

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|            |  |               |
|------------|--|---------------|
|            | <b>Defend ant ROBINSON, BOBBY DALE</b> |               |
|            | Total Financial Assessment             | 185.00        |
|            | Total Payments and Credits             | 0.00          |
|            | <b>Bal ance Due as of 02/28/2011</b>   | <b>185.00</b> |
| 02/25/2011 | Transaction Assessment                 | 185.00        |

**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<br><b>10-410039</b> | Date/Time Issued<br><b>11-30-2010@0600</b> |
|--------------------------------|--|

Alleged Violator's Name  
**Curly's Bar, Inc.**

|  |                       |                    |                          |
|--|-----------------------|--------------------|--------------------------|
| Address<br><b>2013 W. Superior St Duluth, MN</b> | City<br><b>Duluth</b> | State<br><b>MN</b> | Zip Code<br><b>55806</b> |
|--|-----------------------|--------------------|--------------------------|

|                     |                              |
|---------------------|------------------------------|
| DOB<br><b>_____</b> | Phone Number<br><b>_____</b> |
|---------------------|------------------------------|

**Vehicle Information**

|                         |                  |                         |
|-------------------------|------------------|-------------------------|
| <del>License No.</del>  | <del>State</del> | <del>Reg. Expires</del> |
| <del>Vehicle Make</del> | <del>Model</del> | <del>Color</del>        |

**Violation Information**

|  |  |
|--|--|
| Date of Violation<br><b>11-20-2010</b> | Time of Violation<br><b>1546 hours</b> |
|--|--|

Location  
**2013 W. Superior St**

|                                  |                              |
|----------------------------------|------------------------------|
| Charge<br><b>licensee liable</b> | Ordinance No.<br><b>8.35</b> |
|----------------------------------|------------------------------|

Description **Bartender served to intoxicated individual, licensee cited for licensee liable.**

Officer Signature  
*Cha Vang*

|   |                         |
|---|-------------------------|
| Officer Name (Print)<br><b>Cha Vang</b> | Badge No.<br><b>375</b> |
|---|-------------------------|

|  |  |
|--|--|
| Served: In person <input type="checkbox"/> <b>X</b><br>By mail <input checked="" type="checkbox"/> | Positively Identified <input type="checkbox"/> |
|--|--|

|                                |   |
|--------------------------------|---|
| Date Due:<br><b>12-10-2010</b> | Minimum Fine Amount Due:<br><input type="checkbox"/> \$50.00 <input checked="" type="checkbox"/> \$200.00 <input type="checkbox"/> \$400.00 |
|--------------------------------|---|

Ticket Number: **LP10001762**



- Main Formats
- Query
- Other
- Permit Maintenance
- Officer Maintenance
- Daily Ticket Report
- Increase Fine
- Decrease Fine
- Ticket Notes
- Plate Notes
- Alternate Name
- Reprint HH Ticket
- Vehicle Tow Formal
- Local Ordinance
- Web Payment Formal
- Letters
- Totals
- Dispositions

Local Ordinance Ticket System - Version 1.0

Ticket #000

Client/Agent Info

|                       |                      |     |       |
|-----------------------|----------------------|-----|-------|
| Drivers Lic/State/DOB |                      |     |       |
| Name Last/First/Mi    | CURLY'S BAR          | INC |       |
| Street Address        | 2013 W. SUPERIOR ST. |     |       |
| City/State/Zip        | DULUTH               | MIN | 55805 |

Ticket Detail

|               |            |
|---------------|------------|
| Ticket Number | LP10001762 |
| Issue Date    | 11/20/2010 |
| Issue Time    | 15:45      |

|                |            |                   |            |
|----------------|------------|-------------------|------------|
| Fine Amount:   | 200.00     | Paym. Entered:    | 12/14/2010 |
| Penalty:       | 50.00      | Return Date:      |            |
| Miscellaneous: | .00        | Notice1 Date:     | 12/07/2010 |
| Bad Check Fee: | .00        | Notice2 Date:     |            |
| Paid Amount:   | 200.00     | Notice3 Date:     |            |
| Dismissed:     | 50.00      | Notice4 Date:     |            |
| Amount Due:    | .00        | Partial Notice    |            |
| Disposition:   | RT         | Collection Letter |            |
| Disp.Date:     | 12/13/2010 | Ticket Type:      | Manual     |
| Tkt. Entered:  | 12/02/2010 | Ticket Status:    | REDUCED    |

PURCHASING AND LICENSING COMMITTEE

09-0010R

RESOLUTION IN THE MATTER OF THE ON SALE INTOXICATING LIQUOR LICENSE OF CURLY'S BAR, INC. (CURLY'S BAR), 2013 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 November 5, 2008, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Curly's Bar, Inc. d/b/a Curly's Bar, 2013 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 January 12, 2009, 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 Curly's Bar, Inc. d/b/a Curly's Bar, 2013 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 they city council impose a \$500 civil penalty and that payment of \$250 of the penalty be stayed for a period of one year and be abated if no same or similar violations occur during

that one year period, and that payment of \$250 of the penalty be payable within 60 days of final council action.

Approved as to form:

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Attorney

AGTC/CLK JJC/MAO:mao 12/18/2008

Alcohol, gambling and tobacco commission discussion: the alcohol, gambling and tobacco commission (AGTC) held a hearing on November 5, 2008, regarding the on sale intoxicating liquor license of Curly's Bar, Inc. (Curly's Bar), 2013 West Superior Street. The police department conducted alcohol compliance checks on June 30, 2008, at several on and off sale intoxicating liquor license establishments. 17 establishments were written tickets for selling alcohol to an underage individual. This was the first offense for Curly's and the AGTC fined the licensee \$500 payable in 60 days, but stayed \$250 of the fine if no same or similar violations occur during a one year period which is in accordance with the guidelines set forth in Section 8-9 of the City Code.