

BEFORE THE CITY OF MADISON  
ALCOHOL LICENSE REVIEW  
STATE OF WISCONSIN COMMITTEE DANE COUNTY

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CITY OF MADISON,

Plaintiff,

v.

LWS INVESTMENTS TWO, LLC  
a Wisconsin Limited Liability Company  
57 S. Stoughton Road  
Madison, WI 53714,

Respondent.

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**STIPULATION OF THE PARTIES**

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NOW COMES the City of Madison, by Steven C. Brist, Assistant City Attorney, and LWS Investments Two, LLC, by Rick (Marinus) J.W. Petri of Murphy Desmond S C., who hereby agree and stipulate as follows:

1. On March 11, 2008, a thirteen-count Complaint was signed and sworn to by Assistant City Attorney Steven Brist alleging violations of Chapter 38 of the Madison General Ordinances and seeking revocation or suspension of the alcohol beverage license issued to Respondent. Respondent acceded to jurisdiction by stipulation.
2. The Complaint alleges various violations of Chapter 38 for the timeframe covering December 2, 2006 through January 17, 2008.
3. Pursuant to the provisions of Section 38.10(1)(b)(2), Plaintiff and Respondent come before you seeking approval of a Stipulation of the Parties resolving this matter. The

parties jointly recommend to the Alcohol License Review Committee approval of the Stipulation as follows:

- a. That the alcohol beverage license for the premises shall be suspended for a period of 10 days, 6 days of which shall be served from Monday, November 24 at 2:00 a.m. until Sunday, November 30 at 2:30 a.m.. Respondent agrees that during that period of time, the business will be completely closed for all purposes including the sale of food. The parties further agree that 4 days shall be held in abeyance for a period of 12 months from the date of approval of the Stipulation by the ALRC in the discretion of the Captain of the City of Madison East Police District. The Captain of the East Police District would impose the 4 days held in abeyance if in the Captain's judgment a "significant incident" were to occur. If the East District Captain believes such an incident has occurred, the Captain shall notify the ALRC and attorneys for Plaintiff and Respondent in writing with respect to the nature of the incident, as well as elucidating a basis for concluding that the incident was "significant." Licensee could then request a hearing before the ALRC on the sole issue relating to the question as to whether the incident was "significant," and only if Respondent so requested an ALRC review within 10 days of the written notification by the Captain.
- b. Respondent agrees to promptly inform the East District Captain of any management personnel changes of the establishment during this 12-month period of time. Respondent further agrees to submit the names of potential management personnel to the East District Captain for approval.
- c. Respondent agrees to perform CCAP criminal background checks on all employees prior to hiring. With the exception of employees who are cooks, custodians or maintenance workers, all other employees shall comply with the standards applicable to operator's license holders pursuant to the provisions of Chapter 125, Wis. Stats.
- d. No employee of any status whatsoever may be upon the licensed premises, whether or not on duty, while under the influence of an intoxicant as defined in Section 38.01, Madison General Ordinances.
- e. Respondent agrees to have incorporated into its license conditions the LWS Investments Two, LLC Employee Policy Manual, including its Addendum to Policy Manual and Voluntary Alcohol License Conditions, as attached hereto and incorporated herewith. In addition

thereto, Respondent acknowledges the right of the Chief of Police to impose additional security plan provisions pursuant to Section 38.07(13) of the Madison General Ordinances and will not oppose the imposition of such provisions if within the scope of authority granted by said section.

4. Respondent agrees to the following dispositions currently pending in Madison Municipal Court which were an outgrowth of some of the violations alleged in the Complaint seeking revocation or suspension of the alcohol beverage license as follows:

- a. With respect to Case No. 08-MOR-1286, Respondent will plead no contest to counts I and III. Count II will be dismissed.
- b. Case No. 08-MOR-2621 will be dismissed.
- c. In Case No. 08-MOR 2161, Respondent will plead no contest.
- d. The total forfeitures and costs with respect to these pleas will total \$2,250.00 and Respondent may enter into a payment plan acceptable to the Madison Municipal Court.

5. The parties request the opportunity to argue to the Committee why this Stipulation should be approved.

**MURPHY DESMOND S.C.**  
Attorneys for the Respondent

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

By: \_\_\_\_\_  
Rick (Marinus) J.W. Petri

**CITY OF MADISON**  
Attorney for Plaintiff

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

By: \_\_\_\_\_  
Assistant City Attorney Steven C. Brist

**LWS INVESTMENTS TWO, LLC**  
**EMPLOYEE POLICY MANUAL**

LWS Investments Two, LLC has an alcohol beverage license issued by the City of Madison as well as a food and drink permit. Stringent regulations govern the dispensing of alcohol and the preparation and service of food. It is imperative for the continued viability of our business operation that you strictly comply with all of these regulations. To the extent that you have questions regarding these, you are strongly encouraged to contact your supervisor or the owners, Larry or Tracy Schmock.

In addition to using good sense and courtesy in all of your dealings with fellow employees and customers as well as owners of LWS Investments Two, LLC, the following rules are applicable to you at all times you are on duty:

1. If you are required to have a bartender's or manager's license, either by the City of Madison or because your employer requires it, you shall keep said license in good standing, not only by virtue of your conduct, but to take all necessary and reasonable steps to keep your license in good standing.
2. You are required to be appropriately dressed and groomed. Remember that your behavior and physical appearance has a direct relationship to the quality of our customer base.
3. Clothing shall be neat and clean and t-shirts are not permitted without prior approval. In addition, no printed material should be visible on the clothing with the exception of the words "security" or "staff" for security personnel denominated by the employer.
4. Theft is a material violation of your duty to your employer and includes, among other things:
  - a. The taking of money which does not belong to you;
  - b. Removing anything of value from the premises without prior approval by your employer;
  - c. Taking any goods off premises such as food or drink;
  - d. Giving away food or drink for nothing or for less than the advertised purchase price;
  - e. You are expected to use due care in determining whether individuals on the premise are of legal drinking age. Legal drinking age in Wisconsin

is age 21. Individuals under the age of 21 may be on the premises and may be served alcohol only in the immediate presence of their parents;

- f. It is a violation of Madison law for any liquor license establishment to serve alcohol beverages to a person who is intoxicated. It is also a violation of Madison law to allow an intoxicated person to remain on the premises. Intoxication means the following which is part of the Madison General Ordinances governing all liquor license holders: "Under the influence means not only all the well known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging to any degree in alcohol beverages and which tends to deprive a person of the clearness of intellect and control of himself or herself which he or she would otherwise possess." As a practical matter, what this means is not serving people whose speech is slurred, those who cannot maintain their balance, those who stagger, and those who you know by virtue of having served them have consumed too much alcohol to meet the definitions stated above.
- g. In the event of a physical or verbal altercation between patrons or between a staff member and patrons, you should exercise good judgment in terms of trying to deflate the situation. If efforts to do so are unsuccessful, you are to call 911 immediately. The Madison Police Department has informed us that in case of disturbances which cannot be reasonably controlled, that they wish to be called as quickly as possible.
- h. You are absolutely forbidden from coming to work with alcohol in your system and you are forbidden to consume alcohol while on duty. If a customer insists upon buying you a drink, respectfully decline. If you encounter an equipment failure, lack of product or problems with a customer or fellow employee, you are encouraged to call Larry or Tracy Schmock at 235-8149.
- i. Attached hereto is a list of alcohol beverage license conditions that we have informed the City of Madison are conditions to which we shall adhere. You must read and understand all of these conditions and enforce them with everyone on a regular and consistent basis. Failure to do so will be considered a material breach of your obligations as an employee. To the extent that you have any questions regarding any of these conditions, you must discuss those conditions with your employers Larry or Tracy Schmock.

### ADDENDUM TO POLICY MANUAL

38.06(10) Unruly Patron. It is unlawful for any person who has engaged in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance and who has been ordered by a Madison Police Officer not to enter or remain on a licensed premises to so enter or remain during any period after having been ordered not to enter or remain by a Madison Police Officer. Such order prohibiting entry may be for up to six months. Upon conviction, the person is subject to a forfeiture of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

In addition, the following ordinance prohibiting unlawful trespass may also apply to individuals who are not to be on the premises but have not been previously cited for unruly behavior under the ordinance listed above. The Police Department may issue a citation for unlawful trespass.

23.07(2) Unlawful Trespass. It shall be unlawful for any person to enter or remain on any property of another or to enter or remain in any building of another after having been notified by the owner or occupant not to enter or remain on such premises.

No Drug Atmosphere. LWS Investments Two, LLC does not tolerate an atmosphere conducive to the use or transfer of controlled substances. Employees are to be on the lookout for behaviors consistent with such conduct such as frequent accompanied trips to the restrooms, the parking lot or the less public locations conducive to the use or sale of controlled substances. If such conduct occurs, the police are to be called and your observations are to be shared with the police. Employees are expected to periodically monitor the lot, restrooms and other convenient locations for such activity. The sale and use of controlled substances are crimes.

Age Verification. The legal drinking age is 21. Wait staff, bartenders and security shall ask for photo identification of individuals who appear to be under the age of 25. Many times individuals will present photo I.D.'s which include a photo as well as physical descriptions including dates of birth, height and weight. Do not rely upon the photo alone; check the data to see if it matches the person holding the I.D. LWS Investments Two, LLC is legally responsible for serving underage individuals and could lose its alcohol beverage license for such violations. If you have a reasonable basis for concluding that a patron's I.D. is fake, you may seize it and give it to the police department at the earliest opportunity. However, do not engage in a physical altercation with a patron who demands his/her I.D. back but call the police about the incident.

VOLUNTARY ALCOHOL LICENSE CONDITIONS

1. Video cameras will be mounted so as to cover the entire premises with monitors located in the office and tapes will be made available upon request to MPD.
2. Licensee, its agents and employees may not sell, dispense or give away alcohol to any person who is under the influence of alcohol beverages as that term is defined in sec. 38.02, M.G.O., nor shall such a person be permitted to be on the premises.
3. Licensee will produce written policy manuals. These documents will include, but not be limited to: use of the unruly patron ordinance; guidance on determining when a person is under the influence of alcohol as defined in sec. 38.02, M.G.O., and the refusal to serve or allow such person on the premises; guidance on when to call the police; procedures and responsibilities assigned to create a "no drugs" atmosphere; and specific training on determining a patrons age.
4. Staff shall maintain an incident log and transmit such log to the Madison Police Department on a weekly basis.
5. The bar manager shall be approved by the A.L.R.C. prior to being so employed.
6. On a monthly basis, licensee shall meet with Madison Police Department East District to discuss issues of operational concern to either party.
7. Licensee shall conspicuously post in its parking lot area the following signage:

**NO TRESPASSING / LOITERING**

Section 23.07(2), Madison General Ordinances, makes it unlawful for any person to enter or remain on any property of another or to enter or remain in any building of another after having been notified by the owner or occupant not to enter or remain on such premises. Any violator is subject to a penalty of not less than \$50 nor more than \$300 plus costs.

Madison Police Officers are authorized to arrest any person violating this provision without any further additional warning or notice to you.

If you are **NOT** a patron or **NOT** here on official business with the owner or the owner's agent or you are a patron but you are loitering in the parking area, leave the parking area immediately.

8. Familiarize all staff with the provisions of Sec. 38.06(10), M.G.O., the unruly patron ordinance, and when a patron acts in a manner that is violent, abusive, indecent, profane, boisterous or otherwise disorderly, immediately contact the police and request the police to invoke the provisions of the ordinance. The police will be called immediately anytime licensee or staff is aware, or has been made aware, that a crime is occurring, has occurred, or is about to occur in or about the premises. Licensee will pay particular attention to this condition in the training of all staff.

I hereby acknowledge that I have read and understand the LWS Investments Two, LLC Employee Policy Manual and that to the extent that I have any questions regarding the contents hereof, that I have discussed those questions with either the manager or Larry or Tracy Schmock.

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Please Print

Name: \_\_\_\_\_

Signature