

**CITY OF MADISON  
OFFICE OF THE CITY ATTORNEY  
Room 401, CCB  
266-4511**

Date: September 28, 2015

**MEMORANDUM**

**TO:** Alcohol License Review committee  
**FROM:** Assistant City Attorney Jennifer Zilavy  
**RE:** **AMENDED** B.A.T., Inc. Conviction Report

Madhatters  
322 W. Gorham Street  
Madison, WI 53703

On or about August 6, 2015 Ted Gervasi, as agent for B.A.T., Inc., pled "no contest" to Eighteen counts in a thirty-one (31) count complaint filed in Madison Municipal Court. Thirteen counts were dismissed pursuant to routine case settlement negotiations.

The Madhatters convictions span eight (8) different dates and in some cases there are multiple violations occurring on the same date in the course of one incident. Madison General Ordinance Sec. 38.10(4)(d) states that demerit points may not be assessed for multiple ordinance and/or statute violations resulting from a single incident. In these cases, the penalty shall be based only upon the violation that carries the higher demerit point assessment.

I have amended the layout of the report dated August 19, 2015 in an attempt to make it clear what the maximum point violation is per incident.

**Date of Violation: March 9, 2015**

**Offense:** 4 Counts Permit Underage Person On Premise (10 points per count)

One Count Selling To Underage (25 points)

**Maximum Point Assessment for 3/9/2015: 25**

**Date of Violation: March 15, 2013**

**Offense:** One Count Permit Underage on Premise (10 Points)

**Maximum Point Assessment for 3/15/2013: 10**

**Date of Violation: July 7, 2013**

**Offense:** 4 Counts Permit Underage On Premise (10 points per count)

**Maximum Point Assessment for 7/7/2013: 10**

**Date of Violation: August 20, 2013**

**Offense:** One Count Permit Underage On Premise (10 points)

**Maximum Point Assessment for 8/20/2013: 10**

**Date of Violation: September 6, 2013**

**Offense:** Unlawfully exceeded Patron Capacity (25 points for capacity violation of less than 30% of lawful capacity and 50 points for capacity violation exceeding 30% of lawful capacity)

On September 6, 2013, Madison Police Officers counted 256 people on the second floor of Madhatters and found the first floor to be at legal capacity. The lawful capacity for the second floor is 150. Madhatters was **70% over lawful capacity** on September 6, 2013.

**Maximum Point Assessment for 9/6/2013: 50**

**Date of Violation: September 8, 2013**

**Offense:** 4 Counts Permit Underage On Premise (10 points per count)

One Count Selling to Underage (25 points)

**Maximum Point Assessment for 9/8/2013: 25**

**Date of Violation: August 22, 2014**

**Offense:** 5 Counts Permit Underage On Premise (10 points per count)

One Count Unlawfully exceeding Patron Capacity (25 points for capacity violation of less than 30% of lawful capacity and 50 points for capacity violation exceeding 30% of lawful capacity)

On August 22, 2014, Madison Police officers counted 258 people on the second floor and found first floor to be at capacity. Madhatters was **72% over lawful capacity** on August 22, 2014.

**Maximum Point Assessment for 8/22/2014: 50**

**Date of Violation: August 28, 2014**

**Offense:** 2 Counts Permit Underage On Premise (10 points per count)

**Maximum Point Assessment for 8/28/2014: 10**

**Total maximum demerit point assessment for this case is 190.**

Forfeiture of \$8314 paid.

Staff has regularly attended Tavern Safety Training.

Two ALERT meetings in past 4 years.

Prior prosecutions: February 2003: 12 counts permitting underage on premise. \$2642 forfeiture and 5 days suspension.

November 2008: 1 count underage on premise (\$172 forfeiture)

Permit Underage on premises – 4 counts 6/1999 (\$867.25 forfeiture).

Formal expression of concern in August 1993.

Various other prosecutions in 1992, 1993, 1994 and 1996.