

Underground

City of Hermosa Beach NOTICE TO APPEAR
 Traffic Nontraffic Misdemeanor **H 360948**

DATE OF VIOLATION TIME **9/1/03 1:35** A.M. P.M. DAY OF WEEK **MON** NATIONAL CLASS CODE **20117**

NAME (First, Middle, Last) **Jim Ivan Martin**

RESIDENT ADDRESS **[REDACTED] Hawthorne**

CITY **332 Hermosa** STATE **CA** CLASS **1** JUN. TEL. **90234**

SEX **M** HAIR **BK** EYES **BRN** HEIGHT **59** WEIGHT **185** RACE **B** BIRTHDATE **[REDACTED]**

VEHICLE LICENSE NO. **[REDACTED]** STATE **CA** CLASS **1** JUN. TEL. **90234**

VEHICLE YEAR MAKE MODEL BODY STYLE COLOR

REGISTERED OWNER OR LESSEE/ADDRESS SAME AS ABOVE **FA 1272**

FINANCIAL RESPONSIBILITY POLICY NO. **AB 70592** CASE NO. **DA 03-3424**

Violation(s)	Code Sections and Descriptions
<input checked="" type="checkbox"/>	2501.16-3 VEC Overcounting

LOCATION OF VIOLATION(S) **Underground 332 Hermosa Ave**

WEATHER Dry Wet Fog Road Cond. Heavy Medium Light

VIOLATIONS NOT COMMITTED IN MY PRESENCE, DECLARED ON INFORMATION AND BELIEF, I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

DATE **9-1-03** ISSUING OFFICER **Paul Ford 788**

NAME OF ARRESTING OFFICER - IF DIFFERENT FROM ABOVE

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE CHECKED BELOW.
 SIGNATURE **[Signature]**
APPEAR BEFORE A DEPUTY CLERK OF THE MUNICIPAL COURT, TRAFFIC DIVISION AT:
 625 Maple Ave., Torrance 90503 (310) 222-8061
 County Seat 506 S. Centre, San Pedro 90731 (310) 519-0018
 Appear between 8:30 and 11:30 A.M. or 1:30 to 3:30 P.M. at Juvenile Traffic Court, 3221 Torrance Blvd., Torrance 90503 (310) 222-8078
 Other

WHEN: Date **September 23, 2003**

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.
H360948 1929

City of Hermosa Beach - NOTICE TO APPEAR

Traffic Nontraffic MISDEMEANOR H 339616

DATE OF VIOLATION | TIME | A.M. | DAY OF WEEK | NATIONAL CLASS CODE
09/01/03 | 0125 | P.M. | Mon | 26117

NAME (First, Middle, Last)
Roger Thomas Smith

RESIDENCE ADDRESS
[REDACTED] Henderson Nevada
CITY / ZIP
[REDACTED] 89017

DRIVERS LICENSE NO. | STATE | CLASS | JUV. TEL.
1701687082 | NV | C | 01

SEX | HAIR | EYES | HEIGHT | WEIGHT | RACE | BIRTH DATE
[REDACTED]

VEHICLE LICENSE NO. | STATE | CLASS | BIRTH DATE
[REDACTED]

VEHICLE YEAR | MAKE | MODEL | BODY STYLE | COLOR
[REDACTED]

REGISTERED OWNER OR LESSEE SAME AS ABOVE

ADDRESS OF OWNER OR LESSEE SAME AS ABOVE

FINANCIAL RESPONSIBILITY | POLICY NO. DR 03-34
AR 70591

CORRECTABLE VIOLATION (V.C. 40510) PROOFING REQUIRED CASE NO. AR 1212

YES NO VIOLATION(S) CODE SECTION DESCRIPTION
 2501.16-3 UFC - Overcrowding

LOCATION OF VIOLATION(S)
Underground
1332 Hermosa Ave, Hermosa Beach

SPEED | APPROX. | P.F. MAX | VEN. LMT. | SAFE | INVOLVED BY ACCIDENT

WEATHER | Road Cond. | TRAFFIC
 Dry Wet Fog Heavy Medium Light

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: 9/1/03 ISSUING OFFICER: J. Crawford

NAME OF ARRESTING OFFICER - IF DIFFERENT FROM ABOVE

WITHOUT ADMITTING GUILT I PROMISE TO APPEAR AT THE TIME AND PLACE CHECKED BELOW

SIGNATURE [Signature]

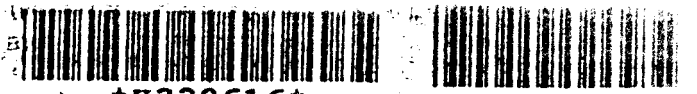
APPEAR BEFORE A DEPUTY CLERK OF THE MUNICIPAL COURT, TRAFFIC DIVISION AT:
 425 4th Ave., next to Arco building, Torrance 90503 (310) 222-8081
 County Seat 505 S. Centre, San Pedro 90731 (310) 519-8018

Appear between 8:30 and 11:29 A.M. or 1:30 to 3:30 P.M. at Juvenile Traffic Court
3221 Torrance Blvd., Torrance 90503 (310) 222-8878
Parent or guardian must accompany juvenile to court.

Other

WHEN: Date: Sept. 23rd, 2003 at 08:30 A.M.

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.



Form approved by the Judicial Council of California
Rev. 1-1-80 V.C. 40500(b), 40513(b), 40522 P.C. 853.9

COURT COPY

BUSINESS SYSTEMS CORP. (800) 969-9706

26117

HERMOSA BEACH FIRE DEPT. FR# 03-1272 & (RELATED # 03-1271)
HERMOSA BEACH POLICE DEPT. CR# 03-3424 / AR# 03-70591 & 70592
1332 HERMOSA AVENUE, #15, HERMOSA BEACH, CALIFORNIA 90254
SEPTEMBER 01, 2003 0103 HOURS

HAZARDOUS CONDITIONS / OVERCROWDING INVESTIGATION REPORT

SUMMARY OF INCIDENT

On September 1, 2003, Hermosa Engine 11 responded to a reported assault victim at the UNDERGROUND BAR AND GRILL (The UNDERGROUND). Upon arrival overcrowding and life safety hazards were present. Owner and doorman of bar are contacted, a head count is conducted, and citations are issued to the Manager ROGER THOMAS SMITH and Doorman TIM IVAN MARTIN. Headcount determined that the bar was 121 persons (67 %) over the maximum allowable by law.

DETAILS

On September 1, 2003, at 0036 hours, I responded to a reported assault victim / medical emergency at THE UNDERGROUND (Incident # 03-1271). I initially responded as a crewmember of Hermosa Engine 11 and was subsequently reassigned to investigate the overcrowding / life safety hazards at the time of our response (Incident # 03-1272).

Upon entering the UNDERGROUND to treat the assault victim, it was immediately apparent to myself and Captain Crawford that overcrowding / hazardous conditions were present. While standing outside the main, North entrance, on Palm Drive, I could feel an overwhelming amount of heat coming from the inside, due to extreme number of patrons in the bar. As I entered the doorway, patrons were so tightly packed into the bar that I could not see any clear space between the bar patrons and there were no visible exit pathways. Additionally, due to the overcrowding condition and the absence of legally required illuminated exit signs, I could not see the overhead exit signage. Based on my observations, I advised Captain Crawford of the hazardous conditions present. Captain Crawford reassigned me from the medical alarm and directed me to abate the overcrowding conditions.

I began the hazard abatement by requesting to speak to the doorman in charge of the occupant load count. An unknown bouncer was standing at the main entrance. I asked the unknown doorman what the total count was and he responded with, "183." I asked the doorman what method he was using to count patrons entering and exiting? He said, "I have one clicker." I asked him how he could keep count if he did not count patrons when they exited. The unknown bouncer did not respond to my question. I ordered the bouncer to produce the one doorman-in-charge that was keeping the total count for the entire bar.

The unknown doorman brought to me the head doorman, later identified as TIM IVAN MARTIN. MARTIN identified himself as the doorman in charge. I ordered MARTIN to provide me with personal identification, he refused my order. MARTIN questioned why I needed his I.D. and told me "I don't have one." I asked MARTIN if he knew what the total number of persons were in the bar. He answered, "I know we're not over, there's no way we're over." I asked MARTIN to produce his "clickers" to show me the number of patrons in the bar. MARTIN produced one clicker that read "131" (the exact number allowed in the UNDERGROUND). I once again requested MARTIN to produce some form of I.D., he again refused. I then summoned Sergeant L. Heard to my location. I advised Sergeant Heard of MARTIN'S refusal. Sergeant Heard escorted MARTIN away from the bar for purposes of establishing his identity.

Next, an older, gray-haired, white male approached me while I was standing at the main entrance. This individual was later identified as ROGER THOMAS SMITH. SMITH asked, "What's the problem?" I immediately requested that he identify himself. He said he was the manager and part owner of the bar. I ordered SMITH to produce some form of personal identification. SMITH refused my order, asking why I needed his I.D. After several requests, SMITH eventually produced a Nevada driver's license. I advised SMITH of the suspected overcrowding conditions and ordered him to take immediate steps to abate the hazard. When I asked SMITH what the occupant load count was, he didn't know. Then SMITH said, "I know we're not over, I can tell by looking, I control the count by walking around inside all night, I know we're not over." SMITH had no mechanical means of counting patrons in his possession.

I ordered SMITH to deny entry to any further persons, turn on all interior lights, stop all music, and have all patrons exit the main door so they could be counted on the way out. Police assistance was provided at every door of the bar. Patrons were counted out of the bar at the two doors exiting onto Palm Drive. I counted at the North door and Sergeant Heard counted at the South door. At my door I counted out 260 patrons, Sergeant Heard counted out 31 patrons, and there were ten employees left inside for a total of 301 persons in the occupancy. The legally allowable combined occupant load for both bars operating, as THE UNDERGROUND is, 180 persons. I advised SMITH that he and MARTIN would both be receiving citations for allowing a hazardous condition / overcrowding situation to exist. At this point, I was rejoined by Captain Crawford, who assisted by issuing citations to SMITH and MARTIN. Also, Captain Crawford informed me that he had previously cited SMITH, for overcrowding conditions at THE UNDERGROUND.

Prior to allowing patrons to re-enter the bar, I conducted a focused Fire Prevention inspection, concentrating on exit ways and exiting requirements. During my inspection I observed the following violations: locked exit door (Southwest corner, THE UNDERGROUND), exit door not opening in correct direction (Southwest corner), no occupant load sign posted in "Club Metro", exit signs burned out in CLUB METRO, and exit pathways not lit between two bars. At the conclusion of the inspection, I advised SMITH of my findings, ordered him to take immediate actions to correct violations and informed him that I would return during the same week to complete a follow-up

inspection with the city's building official. SMITH was then allowed to let patrons re-enter the bar with the understanding that he was to stay under the maximum allowable occupant load. SMITH agreed and counted back into the bar a total of 38 persons.

After Sergeant Heard provided Captain Crawford and I with identifying information on MARTIN, we began the citation process, while seated at a table inside THE UNDERGROUND BAR & GRILL. At that time, both defendants, SMITH and MARTIN were standing outside the bar, on Palm Drive.

While Captain Crawford and I were completing required paperwork, MARTIN re-entered the bar and confronted us. MARTIN was yelling at us, asking, "Why am I getting a citation, why are you picking on me, I wasn't even at the door." He continued, "Why don't you give it to one of the other guys, there's ten other guys in here, why am I being singled out?" I explained, that he was identified by other employees and himself, as being the doorman in charge, therefore he is ultimately responsible for controlling the occupant load in the bar. MARTIN immediately responded by saying, "Well maybe I really don't work here, maybe I won't show up to court so you can't hold me responsible, maybe I didn't give the police my right name." I advised MARTIN that not showing for court would be his decision and we would have Sergeant Heard handle the issue of providing false information.

MARTIN was ordered to exit the bar and go with us to Sergeant Heard's location outside. Captain Crawford and I began to escort MARTIN outside the bar, I was last in line, Captain Crawford in front of me and MARTIN in front of him. As we entered the main North exit doorway, MARTIN turned and faced Captain Crawford. I ordered Martin to continue walking outside. He refused and "assaulted Captain Crawford" by giving him a "chest shove", while trying to re-enter the bar. In effort to assist Captain Crawford, I took hold of MARTIN'S tricep and continued to escort him out the door. Immediately upon exiting the bar, MARTIN began flailing his arms, breaking loose from my grip. In the presence of MARTIN, I advised Sergeant Heard of the comments made by MARTIN while in the bar. MARTIN began yelling at Captain Crawford and I, saying, "You guys are liars, I never said that, You guys are racists, the only reason your doing this is because I'm black." MARTIN was taken into custody by Sergeant Heard and transported to the Hermosa Beach Jail.

Citations were completed by Captain Crawford and issued to SMITH at the UNDERGROUND. MARTIN'S citation was issued to him, by Captain Crawford, at the Hermosa Beach Jail

On September 4, 2003, I returned to the UNDERGROUND BAR & GRILL with Code Enforcement Officer Roy Bronold for the purposes of conducting a Fire Prevention inspection. During the inspection, I noted sixteen (16) separate Fire Code violations. I presented the completed Inspection Notice to the Bar owner, STEVEN P. DELK. DELK was given thirty days to make corrections and is scheduled for re-inspection on October, 3, 2003.

VIOLATIONS OBSERVED

CALIFORNIA FIRE CODE
SECTION 2501.16.3 UFC
PERMITTING OVERCROWDING

CALIFORNIA FIRE CODE
SECTION 1211.1 UFC
EXITS SIGNS INOPERATIVE
& BLOCKED FROM VIEW

CALIFORNIA FIRE CODE
SECTION 103.4.4 UFC
FAILURE TO ABATE HAZARD

CALIFORNIA FIRE CODE
SECTION 2501.16.1
OCCUPANT LOAD SIGNS
NOT POSTED

CALIFORNIA FIRE CODE
SECTION 2501.9.1 UFC
EXITS AND PATHWAYS BLOCKED

H.B.M.C.
SECTION 15.20.010
ADOPTED FIRE CODE

ATTACHMENTS

- 1) Hazardous Conditions Incident Report – (2 Pages)
- 2) Fire Dispatch Sheet - #FR 03-1171 – Assault victim medical alarm - (1 Page)
- 3) Fire Dispatch Sheet - #FR 03-1172 – Overcrowding incident - (1 Page)
- 4) Occupant Load Sign – The Underground- (1Page)
- 5) Occupant Load Sign – BBC / “Club Metro” – (1 Page)
- 6) Citation # H360948 – Photocopy - Defendant Martin – (1 Page)
- ★ 7) Criminal History Report – Defendant Martin – (7 Pages)
- 8) Citation # H339616 – Photocopy - Defendant Smith – (1 Page)
- ★ 9) Criminal History Report – Defendant Smith – (3 Pages)
- 10) Fire Safety Inspection Report – Underground Pub & Grill – (1 Page)

DISPOSITION

This report is being forwarded to the Hermosa Beach City Prosecutor’s office for filing of criminal charges against defendants SMITH and MARTIN.

Additionally, I would recommend the City Prosecutor file similar charges against bar owner, STEVEN DELK for allowing hazardous conditions to persist in his establishment.

**DARRYL L. POWERS
INVESTIGATOR
HERMOSA BEACH FIRE DEPARTMENT**

**Hermosa Beach Fire Dept.
Hermosa Beach Police Dept.
1332 Hermosa Ave. #15, Hermosa Beach, California 90254
September 01, 2003**

**FR# 03-1272 & (Related # 03-1271)
CR# 03-3424 / AR# 03-70591 & 70592**

HERMOSA BEACH FIRE DEPARTMENT SUPPLEMENTAL NARRATIVE

Incident Details

On September 1, 2003 at 0036 hours Hermosa Fire units were dispatched to The Underground Bar for a rescue call of an assault victim. Upon entering the location (1332 Hermosa Ave.) it was immediately evident that there was a possible overcrowding problem as well. We had difficulty trying to get to the patient because there were so many people, and no isles or exit pathways. At this point I asked Engineer Powers to handle the doormen regarding the overcrowding as I attempted to get the assault victim treated and out of the establishment. After finally getting to the patient, initial treatment and removing him, I returned to Engineer Powers to see how the overcrowding issue was being alleviated.

When I approached Engineer Powers, he was talking to a doorman who stated that he was in charge and his count was that there were only 131 patrons inside. I advised the doorman (later identified as Tim Ivan Martin) that there were probable closer to 230 people inside. Since we had such a discrepancy in our opinions of the occupant load, and since they were not counting people going in and out, Engineer Powers advised the manager (later identified as Roger Thomas Smith) that he needed to turn on the lights, turn off the music, and we would count the customers going out. Police officers were sent to cover the other exits, and the patrons were counted as they exited the business. The legal occupant load for both parts of the business is 180 people. A total of 291 patrons were counted as they exited and 10 employees remained inside. Engineer Powers and I decided that both the head doorman and the manager would be cited for allowing a hazardous condition / overcrowding situation to exist.

While the patrons were outside, Engineer Powers did a brief inspection of the interior of the business and found numerous Fire Code violations. Mr. Smith was advised that we would return later in the week with a Hermosa Beach Building Official to conduct a safety inspection. The manager was allowed to let patrons re-enter the business, and Engineer Powers and I began writing the citations. While writing the citations, we were approached by Mr. Martin who was very agitated and began arguing with us as to why he was getting a ticket. Martin stated " maybe I won't show up in court for it." He was advised that a warrant would be issued then. Mr. Martin then stated " maybe I gave the Officer the wrong information." At this point we began exiting the bar to speak with Sgt. Heard about the statements. When exiting the business Martin began stating that we were

liars and racists, then shoved me down two steps with his chest. Sgt. Heard then took Mr. Martin into custody, and Powers and I finished citing Mr. Smith at the location. I returned to the Hermosa Beach Police Department and cited Mr. Martin before he was released from custody.

**JAMES CRAWFORD
CAPTAIN/INVESTIGATOR
HERMOSA BEACH FIRE DEPARTMENT**

