

NAME (First, Middle, Last) Owner's Responsibility (Veh. Code, § 40001)

MICHAEL SANTOMIERT

ADDRESS

CITY HERMOSA BCH CA STATE ZIP CODE 90254 JUVENILE (Phone No.)

DRIVER STATE CLASS CA C COMMERCIAL Yes No AGE 53 BIRTH DATE

SEX M HAIR BLK EYES BRN HEIGHT 5-07 WEIGHT 160 RACE W OTHER DESCRIPTION OWNER

VEH. LIC. NO. or VIN STATE REG. MO/YR COMMERCIAL VEHICLE (Veh. Code, § 15210b)

YR. OF VEH. MAKE MODEL BODY STYLE COLOR HAZARDOUS MATERIAL (Veh. Code, § 253)

EVIDENCE OF FINANCIAL RESPONSIBILITY POLICY NUMBER

REGISTERED OWNER OR LESSEE SAME AS DRIVER

ADDRESS SAME AS DRIVER

CITY STATE ZIP CODE

Correctable Violation (Veh. Code, § 40810) Booking Required (see reverse) Misdemeanor or Infraction (Circle)

107.6 CFC / 15.20.010 HDMC (M) I

OVERCROWDING M I

107.5 CFC / CREATING (M) I

ALLOWING HAZARD M I

Speed Approx. Radar Continuation From Issued N

Location of Violation(s) SAN ANTONIO - 68 PIER - LAGO W E

WEATHER Dry Wet Fog ROAD COND. Heavy Medium Light TRAFFIC ACCIDENT

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 the foregoing is true and correct.

Executed at (place) Violation location 185

D. POWERS Arresting or Citing Officer Serial No. 5173 Date Off

Date Name of Arresting Officer, if different from Citing Officer Serial No. Date Off

WITHOUT ADMITTING GUILT, SIGNATURE PLACE INDICATED BELOW. X Signature

WHEN: ON OR BEFORE THIS DATE: 5/13/08 08:15 AM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.

WHERE: 825 Maple Ave., Torrance 90508 (213) 742-8800

County Seat 505 S. Centre, San Pedro 90731 (213) 742-1804

Juvenile Traffic Court, Apper 08:30 AM or 1:30 PM at 3221 Torrance Blvd., Torrance, CA 90503 (310) 222-8878

Parent or guardian must accompany juvenile to court.

Other To be notified: You may arrange with the clerk to appear at a night session of the court.



1929

**IN THE SUPERIOR COURT OF THE SOUTHWEST JUDICIAL DISTRICT
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA**

The People of the State of California,)
) MC No.
) CP No.
 Plaintiff,)
) DR#
)
)
 v.)
)
 MICHAEL SANTOMIERI)
)
)
 Defendant,)
)
)
 DR# H377135 (08-1019))

INFORMAL DISCOVERY NOTICE

TO THE ABOVE-NAMED DEFENDANT(S) AND/OR ATTORNEY(S) FOR DEFENDANT(S):
Plaintiff, The People of the State of California, Hereby Requests Discovery/Disclosure From the Defendant(s) and his or her Attorney(s) in this case pursuant to Penal Code Section 1054.3 and 1054.5.

YOU ARE HEREBY NOTIFIED that if complete Disclosure is not made within 15 days of this request, Plaintiff will seek on or before the next court date, or as soon as practicable thereafter a Court Order enforcing the Provisions of Penal Code Section 1054.5, Subdivision (B) and (C). This is an ongoing request for any of the listed items which become known to the Defendant(s) and his or her Attorney(s) after the date of Compliance.

Office of the City Prosecutor

**HERMOSA BEACH FIRE DEPT.
SANGRIA, 68 PIER AVENUE,
APRIL 05, 2008**

**DR #08-1019 CITATION # H 377135
HERMOSA BEACH, CA. 90254
2355 HOURS**

OVERCROWDING / HAZARDOUS CONDITIONS INVESTIGATION REPORT

SUMMARY OF INCIDENT

On April 5, 2008, at 2355 hours, Hermosa Beach Police Officers Sellan, Kansaku and Fire Investigator Powers responded to Sangria Restaurant for a Fire Code / Life Safety Inspection. Upon entering the business, overcrowding conditions were observed in the Main Restaurant. **After an occupant load count established there were 201 persons inside the Main Restaurant portion of the business, it was determined that Sangria was 45% (63 persons) over the posted maximum allowable occupant load of 138 persons.** Citation number H 377135 was issued to owner Michael A. Santomieri for violation of California Fire Code section 107.6- Overcrowding.

DETAILS

In the course of conducting Fire Code / Life Safety Inspections, our attention was drawn to Sangria by the large amount of patrons both inside the business and waiting in line.

At approximately 2345 hours, upon arriving at the business, Officers Sellan, Kansaku and I, contacted the doorman known to us as BYRON, and advised him of the nature of our inspection and requested a current occupant load count. Byron responded with, "330, grand total, including the patio." We then advised Byron that we would be conducting a fire code inspection and then entered the business.

Upon entering the interior Main Restaurant area of the business, Officers Sellan, Kansaku and I, observed overcrowding conditions present. Our inspection began with a walk-through of all areas of Sangria and then we returned to the Main Restaurant area to conduct an occupant count in the room we believed to be overcrowded.

INTERIOR OCCUPANT LOAD COUNT

Officer Sellan and I conducted an occupant load count of the Main Restaurant area using mechanical clickers, while Officer Kansaku provided security. Officer Sellan and I conducted independent counts, starting at the rear (South) exit door and worked our way to the main (North) entrance/exit door. All officers experienced difficulties walking unimpeded through the bar due to the fact patrons were blocking, dancing and drinking in the exit pathways. Initially, security personnel were not maintaining the exit pathways. At

some point after we started the occupant load count, security personnel attempted to clear the exit pathways by using their flashlights to move patrons along.

Upon completion of the occupant load count, Officer Sellan reported to me that he counted 200 occupants in the Main Restaurant area of Sangria. I counted 201 occupants in the same portion of the business.

Based on occupant load counts at the time of our inspection, Officer Sellan and I determined the Main Restaurant area occupant load to be 201 persons, 63 persons (45%) over the posted maximum allowable occupant load of 138 persons. Officers Sellan, Kansaku and I then exited Sangria to locate an Owner/Manager for issuance of an overcrowding citation.

Once outside, I asked doorman Byron if the owner MIKE was there. Byron indicated that Mike was and said he would go inside and bring Mike to us. After sometime had passed, Byron returned without Mike. When I asked where Mike was, I was told that he could not find Mike. I then ordered Byron to bring the on-duty manager to my location for issuance of a citation. Approximately ten minutes passed and then Byron returned with the on-duty manager know to us as FRANCESCA. I explained to Francesca that overcrowding conditions were present and I would be issuing her a citation. Upon requesting Francesca's identification, she told me she would have to get it from her car. I directed Francesca to retrieve her identification and she left my location shortly thereafter.

While waiting for manager Francesca to return with her identification, Officer Sellan reentered Sangria in an attempt to locate Sangria owner Mike Santomieri. While inside, Officer Sellan contacted employee MELISSA FRERE and asked for the location of owner Mike. According to Officer Sellan, Frere responded, **"He ran out the back door, down Hermosa Avenue, towards Mama D's, when he saw you guys walk in the front."** Additionally, later in the evening, Frere made a similar statement in my presence, when she said, **"Mike was there and left when you showed-up."**

When Officer Sellan returned to my location at the front of Sangria on Pier Plaza, He told me that manager Francesca was on her cell phone inside the business, trying to get Mike to return to Sangria, so she would not receive the citation. Approximately five minutes after that, manager Francesca returned to my location with her identification and within a few minutes, Sangria owner Mike walked down Lower Pier Avenue from Hermosa Avenue to my location in front of Sangria.

OWNER INTERVIEW

Once Sangria owner MIKE A. SANTOMIERI, DOB [REDACTED], CDL [REDACTED], was located and responded to my location, I interviewed him regarding the overcrowding conditions in his business. When Santomieri arrived at my location on Pier Plaza, he appeared very upset and immediately became argumentative regarding the overcrowding situation.

Santomieri first turned facing Sangria and pointed to the Main Restaurant area stating, **“ This is overcrowding? We’re not overcrowded! There’s not two hundred people in there!”** I explained to Santomieri that at the time Officer Sellan and I conducted the occupant load count, the Main Restaurant had 201 occupants present. Furthermore, I explained to Santomieri that approximately twenty minutes had passed since the occupant load count was conducted and abatement measures were already in progress.

Santomieri then turned to his doorman Byron and asked, “What do you have on your clicker?” Byron responded, “ 350.” I then explained to Santomieri that it was not the overall business occupant load count that was in violation, rather the maximum occupant load count in the Main Restaurant. Also, I reminded Santomieri that on numerous occasions, Officer Sellan and I had issued warnings and conducted hazard abatement in each room of his business because he and/or his staff had not complied with the posted maximum occupant loads for each room. Additionally, Officer Sellan and I have advised Santomieri, to have security at each room to control the number of occupants, to alleviate the possibility of overcrowding.

Santomieri responded to my reminder by stating, **“I know, I respect those warnings, as far as I’m concerned I’ve worked here for thirteen years and I can eyeball it and there’s not 200 people inside!”** I once again stated to Santomieri, “ You are not looking at what we saw when we first walked in.” Santomieri responded, **“You’re right, I wasn’t here.”**

Santomieri then became even more confrontational and stated, **“No one wants to listen to us, Judges don’t like this kind of stuff, I’ve had experience with this, and I don’t want to do that with you guys.”** Santomieri continued, **“People are moving back and forth, I know what’s happening, they’re sending you down here, you’re gonna get a fucking load of crap come Monday, somebody’s gonna do something!”**

At that point, Officer Sellan once again offered suggestions to Santomieri regarding controlling maximum occupant loads in each room within Sangria. Officer Sellan recommended additional security be put in place to control access to each room, “As we have suggested at least thirty times before.” Santomieri responded to Office Sellan by stating, **“ It makes it sound like I’m defying you, I thought about doing that but it is so hard, people have their tabs, they’ve got their drinks, they’ve got stuff.”**

I then asked Santomieri to produce identification for issuance of an overcrowding citation. Santomieri refused to produce identification, stating, **“I do not have one on me.”** It shall be noted, that on a previous occasion when Santomieri was cited for overcrowding by Fire Engineer S. Osekowsky, Santomieri refused to produce identification to the citing officer. In both cases, Santomieri’s identification had to be established by running his name through the Hermosa Beach Police dispatch center.

Upon completion of writing the citation, I asked Santomieri to sign the citation, which he initially refused to do and then stated, **“Why don’t you just cite these guys**

employees) and not me.” I explained to Santomieri that the City Prosecutor has mandated we cite the owner(s) when present. I once again presented the citation to Santomieri for signature and he refused stating, “ Do I have to sign it with my name? I don’t know why you can’t give it to them (again pointing at employees), the guys that did it!” I explained to Santomieri by signing the citation he was not admitting guilt, and if he did not do so, he would be arrested. Santomieri eventually signed the citation.

HAZARD ABATEMENT ACTIONS

Immediately following the initial occupant load count by Officer Sellan and I, and during the citation issuance process, Officer Kansaku supervised the overcrowding hazard abatement. Upon issuing the citation and prior to all officers leaving the location, we confirmed that the occupant load was reduced to below the maximum allowable.

VIOLATIONS OBSERVED

2007 CALIFORNIA FIRE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9
SECTION 107.6
PERMITTING OVERCROWDING

2007 CALIFORNIA FIRE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 9
SECTION 107.5
CREATING AND ALLOWING HAZARDOUS CONDITIONS – OWNER
RESPONSIBLE

PRIOR CITATIONS AND WARNINGS

A review of Sangria’s Fire Prevention File maintained at the Hermosa Beach Fire Department revealed that two prior citations had been issued for overcrowding and eight Fire Prevention Violation notices issued for not maintaining exits to Code.

DATE: 09/25/99
DR#: 99-2911
COUNT: 322 (260 ALLOWED)-62 PERSONS OVER
CITING
OFFICER: ENGINEER S. OSEKOWSKY
DEFENDANT: MICHAEL A. SANTOMIERI (OWNER)
DISPOSITION: DISMISSED-NO FINES-NO PROBATION

DATE: 08/20/99
DR#: UNKNOWN
COUNT: 252 (208 ALLOWED)-44 PERSONS OVER
CITING
OFFICER: FIRE CAPTAIN E. CHESSON
DEFENDANT: KEVIN BERRY (OWNER)
DISPOSITION: UNKNOWN

In addition to the above listed citations, Officers Sellan, Kansaku, and I, have repeatedly warned Santomieri about overcrowding conditions and fire code violations, during previous inspections over the last six months. The last warning issued to Santomieri occurred on March 13, 2008, when we found the same room that is the subject of this report, 50 persons over the posted maximum allowable occupant load. On that night, after abating the hazard, we advised Santomieri that there would be no further warnings and all future life safety violations would result in issuance of a misdemeanor citation for overcrowding.

ATTACHMENTS

1. Maximum Allowable Occupant Load Sign-Main Restaurant- (1 Each)
2. Photographs- Building Exterior - (1 Each)
3. Photographs- Overcrowded Conditions- Main Restaurant- (2 Each)
4. Citation # H 377135 - (1 Each Copy)

DISPOSITION

This case is being submitted to the Hermosa Beach City Prosecutors' Office for prosecution of the previously stated misdemeanor violations of the 2007 California Fire Code, California Code of Regulations, Title 24, Part 9.

D. POWERS, ID # 185
INVESTIGATOR
HERMOSA BEACH FIRE DEPARTMENT

CC: Hermosa Beach Fire Chief J. Gomez



**MAXIMUM
OCCUPANCY
LOAD - 138
MAIN RESTAURANT**

**SANGRIA
60/68 Pier Avenue**

HERMOSA BEACH FIRE DEPARTMENT COMMUNITY DEVELOPMENT DEPARTMENT
POST IN CONSPICUOUS PLACE NEAR MAIN EXIT OCCUPANT LOAD APPROVED

JANUARY 22, 2004 *[Signature]* Fire Dept. *[Signature]* Comm. Dev. Dept.

5 2008

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