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**Date: November 24, 2009**

**To: City of Milwaukee Clerk, Room 205 of City Hall**

**From: Schmidt, Martz & Smith, Ltd. on behalf of Rafael Molinari**

**Re: Objection to Licenses Committee Report on renewal of Class B Tavern License for the premises located at 1503 West Arthur Avenue, Milwaukee, Wisconsin ("La Borinquena") from hearing held on November 17, 2009.**

Dear City Clerk:

Rafael Molinari by his attorneys Schmidt, Martz & Smith, Ltd. hereby objects in writing to the Licenses Committee Report on renewal of Class B Tavern License for the premises located at 1503 West Arthur Avenue, Milwaukee, Wisconsin, La Borinquena, from hearing held on November 17, 2009.

Mr. Molinari objects to the Findings of Fact as follows:

The Committee finds that the activity addressed in a 2008 warning letter to Mr. Molinari, noise and drug use, continued during the current license period. The Committee based its November 17<sup>th</sup>, 3 to 2 vote for non-renewal almost entirely on the testimony of two witnesses. The Committee found the neighborhood objections adopted in the findings to be true.

One of the witnesses, Pastor Chester Schmear, testified that his objection is based primarily on, sporadic noise, mostly on Friday and Saturday but not every week. Pastor Schmear, in an August 28, 2009 e-mail to 12<sup>th</sup> District Alderman James Witkowiak, regarding the possibility of a prior proprietor of La Borinquena coming back, writes, "Things were worse then than they are now." See attached Exhibit A.

The second witness, Dawn Palma made all of the allegations adopted in the findings relating to gunshots, La Borinquena's manager being part of the problem, the "rumors" of drug dealing in La Borinquena. Ms. Palma testified that she calls City of Milwaukee Police, "two or three times a month" to complain about La Borinquena.

Despite Ms. Palma's alleged persistent calls to the City of Milwaukee Police Department there was no police report produced on this license and no police objection. Either Ms.

Palma greatly exaggerates her testimony or the City of Milwaukee Police Department is ignoring an obvious nuisance and continued criminal activity.

Pastor Schmeier's testimony is credible and should concern the Committee. Ms. Palma is not a reliable or credible person and her testimony should be disregarded. Her assertion that she calls police dozens of times, reporting serious illegal activities, without so much as a police report being submitted to the Committee is unbelievable. Other facts should raise questions regarding the motives for and veracity of her testimony.

Ms. Palma twice noted to the Committee in her testimony that she is a home owner. Ms. Palma does have an ownership interest in the property located at 2487 S. 15<sup>th</sup> Street, but not for long. Duetsche Bank obtained a judgment of foreclosure on the property on May 8, 2006 under Milwaukee County Case Number 06-CV-002286.

The foreclosure was stayed by Ms. Palma filing a Chapter 13 Bankruptcy on November 8, 2006 but the case, 06-26358-PP, was dismissed on April 6, 2009 for failure to make Chapter 13 Plan payments. The resumed foreclosure suit is scheduled for confirmation of sheriff's sale on January 19, 2010. See attached Exhibit B.

Ms. Palma's implausible allegations of police misconduct in failing to investigate dozens of her complaints might be explained by her status as a defendant in City of Milwaukee Municipal Court Case Number 09110098, where it is alleged she endangered safety by driving recklessly. The case is set for trial on January 11, 2010. See attached Exhibit C.

The committee also disregarded the fact that the number of police calls to La Borinquena has decreased from twelve (12) in 2008 to three (3) in 2009 through October 5, 2009. See attached Exhibit D.

Mr. Molinari understands he must engage the neighbors to address the problems. Mr. Molinari is willing to take measures to address the problems. Specifically, Mr. Molinari is willing to install security cameras outside of La Borinquena to make sure his exiting patrons respect the neighbors' right to peace and enjoyment of their property. Mr. Molinari will also install signs on both sides of the door(s) to La Borinquena reminding readers to please be quite and to respect the neighbors.

Mr. Molinari's counsel regrets not informing the Committee of possible remedies to the noise and other problems associated with La Borinquena's operation. Contrary to Ms. Palma's allegation to the contrary, Mr. Molinari is on premises to oversee La Borinquena.

Finally, the Committee's vote against renewal of the license is inconsistent with its treatment of other similar license holders up for renewal. Non renewal is the most serious sanction available. It is doubtful that any other Class B Tavern License holder ever lost their license without a police report or police objection.

The Lady Bug Club in downtown recently suffered a 45 days suspension but its license was renewed after allegations similar to those made in this matter were received and there was a police report and video evidence. On the same day as our hearing the Committee voted to suspend Jersey's Sports Bar's license for 45 days with a renewal after four (4) witnesses objected to renewal with complaints similar to those made against La Borinquena and there were police reports and an objection. The Committee vote to not renew La Borinquena's license is arbitrary and capricious.

La Borinquena has improved its behaviors over the last year but the Committee chose to disregard quantifiable evidence of improvement (i.e. far fewer police calls) and voted against renewal based entirely on the testimony of two witnesses. One of the witnesses, the most damning, lacks reliability and credibility and her testimony lacks documentary evidence.

Mr. Molinari respectfully objects to the Committee Findings of Fact and hopes the Common Council votes against the Committee recommendation for non-renewal of his Class B Tavern License. Mr. Molinari will take proactive measures to continue improving the operation of his business and creating better relations with his neighbors.

Mr. Molinari believes a 30 to 45 day suspension with renewal is the fair response to his neighbors concerns and complaints.

Respectfully submitted this 24th day of November, 2009.



David J. Saucedo, WI Bar No.: 1040150

Drafted by  
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Attorneys for Rafael Molinari  
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Milwaukee, WI 53220  
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BTAVN 16075 e  
" 15166 e

**Grill, Rebecca**

**From:** Witkowiak, James  
**Sent:** Friday, August 28, 2009 5:48 PM  
**To:** Grill, Rebecca  
**Subject:** FW: La Borinquena Bar, 15th and Arthur, Milw., 1503 W. Arthur

For the file re: the La Borinquena application at 1503 W. Arthur.

**From:** C & K [mailto:pchet@gnmc.us]  
**Sent:** Friday, August 28, 2009 4:23 PM  
**To:** Witkowiak, James  
**Subject:** La Borinquena Bar, 15th and Arthur, Milw.

Hello Jim and Mike,

Dawn Palma said that she would e-mail you pertinent information in regard to our concerns about the relicensing of the bar. The people who were previously running the bar, M. and C. Rodriguez, and are now wanting to be involved again, are the same people that did not control the noise and outside activities before the current licensee, Rafael Molinari. Things were worse then than they are now.

Just last Sunday, August 23, I happened to look out of my window at approx. 3:00pm in the afternoon, and saw two men just outside of the La Borinquena bar loading up and passing around a hash pipe. What they had in the pipe I could not tell, but their actions were typical. They would take a deep breath off the pipe, then hold it as long as possible, then expel a large cloud of smoke. When they were finished, they went back into the bar. This was all in broad daylight with no concern. This is not the first time this has happened.

Others are concerned that there is drug dealing going on inside the bar also. I would hope that there would be a hearing in regard to this license

8/31/2009



AUG 31 2009

**Wisconsin Circuit Court Access (WCCA)**  
**Deutsche Bank National Trust Company vs. Joel Palma et al**

**Milwaukee County Case Number 2006CV002286**

[What is RSS?](#)



<b>Filing Date</b>	<b>Case Type</b>	<b>Case Status</b>
03-09-2006	Civil	Closed
<b>Class Code Description</b>	<b>Responsible Official</b>	
Foreclosure of Mortgage	Moroney-20, Dennis P.	
<b>Branch Id</b>		
20		

**Parties**

Party Type	Party Name	Party Status
Plaintiff	Deutsche Bank National Trust Company	
Defendant	Palma, Joel	
Defendant	Palma, Dawn N	

**Future Court Activity**

Date	Time	Location	Description	Type <sup>2</sup>	Court Official
01-19-2010	08:30 am	Milwaukee County Courthouse - Room 403	Confirmation of sale	Court	Moroney-20, Dennis P.

**Party Details**

**Deutsche Bank National Trust Company - Plaintiff**

<b>Date of Birth</b>	<b>Sex</b>	<b>Race<sup>1</sup></b>
<b>Address</b>		<b>Address Updated On</b>
1610 E St Andrews Street Ste B150, c/o New Century Mortgage Corporation, Santa Ana, CA 92705		03-14-2006

**Party Attorney(s)**

**Attorney Name** GAL Entered  
Riley, Michael M No 03-09-2006

**Palma, Joel - Defendant**

<b>Date of Birth</b>	<b>Sex</b>	<b>Race<sup>1</sup></b>
<b>Address</b>		<b>Address Updated On</b>
2487 S 15th Street, Milwaukee, WI 53215		03-14-2006

**Palma, Dawn N - Defendant**

<b>Date of Birth</b>	<b>Sex</b>	<b>Race<sup>1</sup></b>
<b>Address</b>		<b>Address Updated On</b>



Case Details for 2006CV002286 in Milwaukee County

2487 S 15th Street, Milwaukee, WI 53215

03-14-2006

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<sup>1</sup> The designation listed in the Race field is subjective. It is provided to the court by the agency that filed the case.

<sup>2</sup> Non-Court activities do not require personal court appearances. For questions regarding which court type activities require court appearances, please contact the Clerk of Circuit Court in the county where the case originated.

# Wisconsin Circuit Court Access (WCCA)

## Deutsche Bank National Trust Company vs. Joel Palma et al

### Milwaukee County Case Number 2006CV002286 Court Record Events

What is RSS?



Date	Event	Court Official	Court Reporter
1 03-09-2006	Filing fee paid		
	<b>Amount</b> \$ 259.50		
	<b>Additional Text:</b> 06RV009513		
2 03-09-2006	Summons and complaint		
3 03-31-2006	Affidavit of service		
	<b>Additional Text:</b> filed.		
4 05-08-2006	Motion for default judgment	Sankovitz-29, Richard J.	Leverance, Carolyn
	<b>Additional Text:</b> Plaintiff in court by Attorney Steve Zablocki Defendant in court pro se Plaintiff's motion for default judgment heard. Court granted motion with a 6 month redemption period. Filed, Notice of Motion for Default Judgment. Filed, Affidavit of Default including Mortgage Documents. Filed, Affidavit of Nonmilitary Service. Filed, Lis Pendens. Filed, Signed Findings of Fact, Conclusions of Law and Judgment.		
5 05-08-2006	Default judgment	Sankovitz-29, Richard J.	
6 05-11-2006	Notes		
	<b>Additional Text:</b> Filed, Judgment of Foreclosure. bmb		
7 11-09-2006	Other in-court activity	Sankovitz-29, Richard J.	Off the Record
	<b>Additional Text:</b> Clerk received a call from Tina at Gray & End cancelling the Nov. 27, 2006 Confirmation hearing due to bankruptcy filed.		
8 11-18-2009	Responsible court official changed	Moroney-20, Dennis P.	



# CITY OF MILWAUKEE MUNICIPAL COURT

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### Case Details For Defendant

*Data is current as of: 11/20/09*
**Key:** [List All Cases for Defendant](#) [List All Scheduled Appearances for Defendant](#)

#### Defendant Information

**Name:** DAWN N PALMA

**Month of Birth:** 04/1966

**Sex:** Female

**Race:** White

**Last Known Address:** 2487 S 15TH ST, MILWAUKEE, WI 53215


#### Case Summary

**Case Number:** 09110098

**Status:** Active

**Type of Case:** Traffic citation

**Citation Number:** J7473896

**Deposit Amount:** \$298.00

**Violation:** Statute 346.62(2), Reckless Driving-Endanger Safety

**Violation Date and Time:** 07/29/2009 1:30 PM

**Violation Location:** On W MITCHELL, From/At S 17TH ST

**Plea:** Not Guilty

**Plea was entered by:** Defendant

**Collection?** No

**Installment Plan?** No

#### Scheduled Court Appearances

Date	Time	Branch	Reason	Courtroom Location
01/11/2010	8:30 AM	I	Trial	Milwaukee Municipal Court 951 North James Lovell Street Milwaukee, WI 53233-1449

*Click the Branch code number to view court location*

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## Call summary for: 01/01/2008 - 09/23/2008

Output for:

Click on heading to change sort order.

Call	Priority	Type	DAREA	RptDist	Unit	From	To	Location
[3/28/08]								
#080880580	3	1526	D2	6014	2125	11:29	14:09	1503 W ARTHUR AV,MKE
[7/27/08]								
#082090045	3 <i>X</i>	1636	D2	6014	4322	00:19	05:37	1503 W ARTHUR AV,MKE
#082091864	2	1607	D2	6014	D2	22:23	22:42	1503 W ARTHUR AV,MKE
[8/03/08]								
#082160070	4 <i>X</i>	1625	D2	6014	2325	00:31	01:05	1503 W ARTHUR AV,MKE
#082160141	3 <i>X</i>	1636	D2	6014	2312	01:14	02:59	1503 W ARTHUR AV,MKE
[8/23/08]								
#082360118	3 <i>X</i>	1636	D2	6014	7421	01:03	04:42	1503 W ARTHUR AV,MKE
[8/24/08]								
#082370232	1	1613	D2	6014	2324	02:20	02:59	1503 W ARTHUR AV,MKE
[9/20/08]								
#082642123	3 <i>X</i>	1636	D2	6014		23:07	04:08	1503 W ARTHUR AV,MKE

More



## Call summary for: 09/23/2008 - 12/31/2008

Output for:

Click on heading to change sort order.

Call	Priority	Type	DAREA	RptDist	Unit	From	To	Location
[9/28/08]		<i>SUN DAY</i>						
#082720238	4	1616	D2	6014	D2	01:53	02:37	1503 W ARTHUR AV,MKE
[10/12/08]		<i>SUNDAY</i>						
#082860066	4	1616	D2	6014	D2	00:30	01:18	1503 W ARTHUR AV,MKE
[10/26/08]		<i>Sunday</i>						
#083000218	<i>1510H</i>	1613	D2	6014		02:24	02:26	1503 W ARTHUR AV,MKE
[12/20/08]		<i>SAT.</i>						
#083551461	4	1616	D2	6014	2225	22:36	23:04	1503 W ARTHUR AV,MKE
[12/24/08]		<i>WED</i>						
#083591474	4	1616	D2	6014	2325	23:49	01:34	1503 W ARTHUR AV,MKE
[12/30/08]		<i>ABUSE for closed</i>						
#083650813	4	1800	D2	6014		14:37	14:37	1503 W ARTHUR AV,MKE

## Call summary for: 01/01/2009 - 10/05/2009

Output for:

Click on heading to change sort order.

Call	Priority	Type	DAREA	RptDist	Unit	From	To	Location
[4/05/09]								
#090950725	1	1520	D2	6014		11:18	11:18	1503 W ARTHUR AV,MKE
[5/24/09]								
#091440266	1	1613	D2	6014	2423	02:15	02:28	1503 W ARTHUR AV,MKE
[9/13/09]								
#092560192	4	1625	D2	6014	2320	01:04	01:36	1503 W ARTHUR AV,MKE

CITY OF MILWAUKEE  
09 NOV 24 PM 2:26  
RONALD D. LEONHARDT  
CITY CLERK