

Underground

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

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

NAME (First, Middle, Last) Jim Ivan Martin

RESIDENT ADDRESS [REDACTED] Hawthorne CA ZIP CODE 90230

CITY 332 Hermosa HB CA STATE CLASS JUN. TEL. CA

SEX (M) F HAIR BK EYES BRN HEIGHT 59 WEIGHT 185 RACE B BIRTHDATE 1/59  
VEHICLE LICENSE NO. STATE CA

VEHICLE YEAR MAKE MODEL BODY STYLE COLOR

REGISTERED OWNER OR LESSEE/ADDRESS SAME AS ABOVE FA 1272

FINANCIAL RESPONSIBILITY POLICY NO. AB 70592

VIOLATIONS CHECKED  TICKETING REQUIRED CASE NO. DA 03-3424

Table with 2 columns: Violation(s) Code Sections and Descriptions. Row 1: 2501.16-3 VEC Overcounting

LOCATION OF VIOLATION(S) 332 Hermosa Ave Hermosa CA

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: E Crawford 788

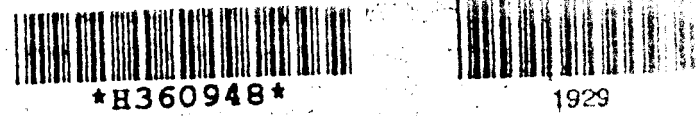
NAME OF ARRESTING OFFICER - IF DIFFERENT FROM ABOVE

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE CHECKED BELOW.  
X 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  
 Parent or guardian must accompany juvenile to court.  
 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

1332 Hermosa Ave Hermosa Beach 94017  
DRIVERS LICENSE NO. | STATE | CLASS | JUN. TEL.  
1701687082 | NVC | [ ]

SEX | HAIR | EYES | HEIGHT | WEIGHT | RACE | BIRTH DATE  
VEHICLE LICENSE NO. | STATE | BODY STYLE  
VEHICLE YEAR | MAKE | MODEL | BODY STYLE | COLOR

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  
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

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: 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 Main Ave., next to Arnel 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.

\*H339616\* 1829

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**



**HAZARDOUS CONDITIONS  
INCIDENT REPORT**

DATE OF REPORT 09 / 01 / 2003

BUSINESS UNDERGROUND BAR & GRILL / CLUB METRO  
ADDRESS 1332 HERMOSA AVE  
OWNER / (MANAGER) ROGER THOMAS SMITH  
PHONE [REDACTED]

CITATION # H339616 (DEF. SMITH) & H360948 (DEF. MARTIN)  
FR # 03-1272 (03-1271 ADDITIONAL REFERENCE)  
CR # 03-3424  
AR # 70591 (DEF. SMITH) & 70592 (DEF. MARTIN)

VIOLATION

UNIFORM FIRE CODE SECTION (S) 103.4.4 / HBMC SEC 15.20.010

ON 09/01/03 AT APPROXIMATELY 01:05 HOURS I  
ENTERED THE PREMISES KNOWN AS UNDERGROUND BAR & GRILL  
FOR THE PURPOSE OF INSPECTION. UPON ENTERING THE A PREMISES I  
OBSERVED THE FOLLOWING HAZARDOUS CONDITION (S):

(CHECK ALL THAT APPLY)

- EXIT ACCESS, PATHWAYS AND DISCHARGES BLOCKED BY OVERCROWDING CONDITION(S) SECTION - 2501.9.1 UFC
- EXIT ACCESS, PATHWAYS AND DISCHARGES BLOCKED BY STORAGE AND OBSTRUCTIONS SECTION - 2501.9.1 UFC
- LOCKS AND LATCHES PRESENT ON DOORS WITH REQUIRED PANIC HARDWARE SECTIONS 1207.3 & 2501.8.2 UFC
- USE OF UNAPPROVED DECORATIVE MATERIALS CAUSING INCREASED FIRE LOAD - SECTION 1103.3.3.1 UFC
- ILLUMINATED EXIT SIGNS AND EXITWAYS INOPERATIVE OR BLOCKED FROM VIEW DUE TO OVERCROWDING - SECTION 1211.1 UFC
- OCCUPANT LOAD SIGNS NOT POSTED AS REQUIRED - SECTION 2501.16.1 UFC
- PATRONS SMOKING IN AREAS DESIGNATED "NO SMOKING" - SECTION 1109.4.1 UFC
- OVERCROWDING CONDITIONS PRESENT - SECTION 2501.16.3 UFC

IN ADDITION TO THE ITEMS PREVIOUSLY INDICATED, I OBSERVED THESE ADDITIONAL HAZARDOUS CONDITIONS ALSO PRESENT:

- 1) A LOCKED EXIT DOOR - CONTAINING ILLEGAL LOCKING HARDWARE (WEST DOOR IN UNDERGROUND BAR)
- 2) BURNED-OUT EXIT SIGNS IN CLUB METRO.
- 3) IN CLUB METRO - PRIMARY ENTRANCE BEING USED AS AN EXIT. THIS ENTRANCE IS NOT A LEGAL EXIT.

I CONTACTED THE OWNER / DOORMAN / MANAGER } TIM IVAN MARTIN  
AND ASKED HIM / HER TO PRODUCE IDENTIFICATION. I WAS , WAS NOT  GIVEN IDENTIFICATION. I ALSO CONFIRMED THE OWNERS / MANAGERS IDENTITY BY ASKED MR. SMITH MULTIPLE TIMES BEFORE HE WOULD PRODUCE I.D.  
② DEFENDANT MARTIN REFUSED TO PRODUCE I.D.

THE OWNER / MANAGER ACKNOWLEDGED , DENIED  THE OVERCROWDING SITUATION AND ESTIMATED THE OCCUPANT LOAD TO BE 183 PERSONS INSIDE AND N/A PERSONS OUTSIDE. I ADVISED THE OWNER / MANAGER THAT I ESTIMATED THE TOTAL OCCUPANT LOAD TO BE 301 PERSONS. I ESTIMATED THE OCCUPANT LOAD BY USING THE FOLLOWING METHOD: REQUIRING LIGHTS TO BE TURNED ON, MUSIC STOPPED AND ALL PATRONS TO EXIT DOOR ON PALM AVE. ALL PATRONS WERE "COUNTED OUT" BY MYSELF AND SGT. HEARD.

THE POSTED OCCUPANT LOAD FOR THE NAMED BUSINESS IS 131 PERSONS INSIDE AND 49 PERSONS OUTSIDE.  
(THE UNDERGROUND) (CLUB METRO) (180 TOTAL)

AFTER ADVISING THE OWNER / MANAGER OF THE HAZARDOUS CONDITION, A CITATION WAS ISSUED. > CITATIONS ISSUED BY CAPTAIN CRAWFORD TO MANAGER SMITH AND DOORMAN MARTIN

SEE ATTACHED:

CITATION

CRIMINAL HISTORY PRINTOUT(S)

RELATED REPORTS (OCCUPANT LOAD SIGNS, INSPECTION FORMS, DISPATCH SHEETS (2))

CRAWFORD

ISSUING OFFICER

POWERS

# 182

ID / EMPLOYEE #

# 185