

67



# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
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2003-0556      Summons and Complaint (Licensing)      In Committee

Summons and Complaint in the matter of the complaint against Palrena, Inc., Wayne J. Paluch, Agent, d/b/a Kicks Night Club, 1900 S. 60 St. (2003-2004 Class B Tavern License no. 77).

Introduced: 9/2/2003      Controlling Body: License & Health Committee

COMMITTEE RECOMMENDATION *Place on file*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
			Barczak	✓			
			Czaplewski				
			Kopplin	✓			
			Lajsic				
			Narlock				
	✓		Reinke				
			Sengstock	✓			
		✓	Trudell	✓			
			Vitale	✓			
			Weigel				
			TOTAL	5			

SIGNATURE OF COMMITTEE MEMBER (RECORDER)

*Anthony J. Boray*  
 Chair \_\_\_\_\_ Vice-Chair \_\_\_\_\_ Member \_\_\_\_\_

COMMON COUNCIL ACTION *Place on file*

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
	✓		Barczak				
			Czaplewski				
			Kopplin				
			Lajsic				
			Narlock				
			Reinke				
			Sengstock				
		✓	Trudell				
			Vitale				
			Weigel				
			TOTAL				

*Lenora Maus*

LAW OFFICES OF  
**KOPP, ARENA & BISHOP, S.C.**

1110 North Old World Third Street  
riverfront plaza, suite 515  
MILWAUKEE, WISCONSIN 53203

MICHAEL H. KOPP  
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MICHAEL F. BISHOP  
JENNIFER A. BISHOP  
PATRICK A. HALL

(414) 645-6100  
FAX (414) 645-3500

October 2<sup>nd</sup>, 2003

West Allis City Hall  
Clerk- Treasurer  
7525 West Greenfield Av.  
West Allis, WI 53227

RECEIVED  
OCT 03 2003  
CITY OF WEST ALLIS  
CLERK/TREASURER

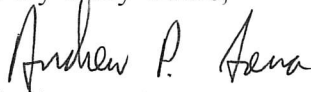
RE: In the Matter of the Complaint Against  
Palrena, Inc.

Dear Clerk:

Please file this Motion in the above referenced matter. By agreement of all attorneys involved and the committee this matter shall be taken up at the beginning of the first scheduled hearing date.

By copy of this letter I am serving a complete and conformed copy of this motion to Attorney Janilyn K. Knorr, Assistant City Attorney, and to Attorney Roger Pyzyk, special prosecutor.

Very Truly Yours,

  
Andrew P. Arena  
Attorney for Palrena, Inc.

encl.

cc: Palrena, Inc.  
Janilyn Knorr  
Roger Pyzyk

**WEST ALLIS COMMON COUNCIL  
LICENSE AND HEALTH COMMITTEE  
CITY OF WEST ALLIS**

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**IN THE MATTER OF THE  
Complaint Against**

**MOTION TO STRIKE, REMOVE AND  
DISMISS**

**Palrena, Inc.  
Wayne J. Paluch, agent,  
d/b/a Kicks Night Club  
1900 South 60<sup>th</sup> Street  
West Allis, WI 53219**

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Now Comes Palrena Inc., by its council, Kopp, Arena & Bishop, S.C., and by Andrew P. Arena, and hereby moves committee to remove the chair of the committee for this matter because it is the position of the licensee that the Chair has taken a bias position by swearing and signing the summons and complaint, and additionally the licensee believes by signing and for other reasons that the chair is a material witness and therefore should be removed from his position during the pendency of this matter. Additionally, the licensee hereby moves the committee to strike paragraph 7,8,9,10,11,12,13,17,18,19, 20 and 22 for the reasons that follow.

I. Issue 1. Removal of the Chairperson.

On the 25<sup>th</sup> of August the chairman of the committee, Gary T. Barczak, signed a summons and complaint that seeks the revocation or suspension of the licensees class B liquor license. This complaint states that it was made at the direction of the committee and was done in the complainants capacity as a third district alderman, which is not the district of the licensees premises. The City of West Allis Municipal Code 9.01(20) does not specifically address the procedure for starting a revocation proceeding. Therefore, pursuant to the Municipal Code the edicts of Chapter 125 of the State Statutes apply which stat that any adult resident may file a

complaint. However, a complaint makes allegations of fact that are sworn to and are alleged to be true by the complainant. By the very nature of swearing to these facts under oath, it is a forgone conclusion that the one making the complaint believes them to be true, and believes they form the adequate basis for disciplinary proceedings. In this case the chairman of the committee requested the licensee to appear and without allowing much explanation from the licensee stated that in his opinion revocation proceedings should be started.

It is clear from the swearing of the complaint and the statements made by Alderman Barczak it appears that he has prejudged the matter. Even the appearance of prejudgment is contrary to the due process rights of the licensee. In Marris v. City of Cedarburg, 176 Wis.2d 14 (1993) the Supreme Court held that a quasi-judicial board has to afford due process and fair play. In the Marris case statements made by the chairman that were arguably ambiguous were found to violate due process rights because they demonstrated a personal bias against Marris and therefore denied Marris from a fair hearing.

In the case at issue the complaining witness would be allowed to deliberate and vote on the allegations that he alleged in the complaint. This would be like having the victim in a case on the jury during deliberation. Clearly, this is not fair and therefore the licensee is requesting that alderman Barczak recuse himself. It is a clear mandate of law in this state that the fact finder must be neutral and unbiased. (See State V. Rochelt, 165 Wis.2d 373). Pursuant to 125.12 (b)3. the committee has to hold a hearing and make findings of fact and conclusions of law with a recommendation to the council.

Furthermore, the Council can not act arbitrarily or capriciously in revoking this license, which means that licensees in similarly situated situations must be treated the same as Wayne Paluch. This is required to allow all licensees equal protection of the law, and makes the actions



of the chairman and the committee towards other establishments relevant. Therefore, it is the licensees intention to call Alderman Barczak as a witness in this proceeding. (See Tavern League of Wisconsin v. City of Madison, 131 W.2d 477).

II. Motion to strike paragraphs 7. Through 13. of the complaint.

Wayne J. Paluch is alleged to have been an officer of Z&W Enterprises, Inc. which was the previous license holder of the establishment now known as “Kicks.” The previous establishment had a different registered agent, who was Zaim Hito. There is no allegation that Wayne Paluch, who is the registered agent of a different corporation had any control over the serving of liquor in the premises. Paragraphs 7 through 13 of the complaint all relate to a previous corporation and are irrelevant as that corporation did not renew the license after June of 1999.

Pursuant to Wisconsin Statute sec. 125.12(2)(ag)1-7. clearly states that any “resident may file a sworn written complaint with the clerk . . . alleging one or more of the following about a person holding a license . . .” Subsequently, each subsection contains the use of the term “person”. When a corporation owns a building it must designate a registered agent, who is a person that meets the legal requirements to hold a liquor license. It is that person that is responsible for the control and legal handling of the liquor. The use of the term “person” is specific to an individual and it is that individual that must knowingly violate the statute to be subject to revocation. One might argue that a Corporation could play a shell game and operate illegally. However, that argument is not relevant concerning the “revocation” of a license during the term of the license. The Corporation may always be subject to non-renewal.

Concerning Wayne Paluch and Z&W Enterprises, Mr. Paluch was not responsible for the violations of Zaim Hito. Mr. Paluch was a shareholder only and there are no allegations in the current complaint that he had any control over the premises, or knowledge of any violations. The

complaint alleges that he had constructive knowledge, but this is not enough concerning a revocation proceeding due to the use of the term "person" in the statutes. In fact 125.04 (5)(c) specifically states that requirements of an individual that would disqualify the individual do not apply if the entity has terminated its relationship with the individual. This does concern legal requirements to hold a license, but this does demonstrate the legislatures intent to make a distinction between a registered agent and the Corporation. If Zaim Hito's actions resulted in discipline to the license of Z&W, it is not related, not relevant, and should not be considered against an entirely new corporation.

Furthermore, to consider the past actions of Z&W Enterprises, Inc. against Palrena, Inc. results in the City breaching its own stipulation and agreement that was entered on June 2, 1999. In that agreement paragraph 7. States that "the allegations which form the basis of the complaint in this matter shall not bne used as grounds for any future suspension, revocation, or non-renewal proceeding, except to the extent that the facts alleged in the complaint demonstrate a pattern of conduct for Z&W Enterprises, Inc." Paragraph 8. Specifically states that "the allegations of the complaint will not form the basis for a pattern of conduct for a successor licensee to Z&W Enterprises, Inc. Therefore it would be a violation to consider any of these items against Palrena, Inc. which held the license from July of 1999 with its first registered agent and in the subsequent year Wayne Paluch became the registered agent of Palrena, Inc.

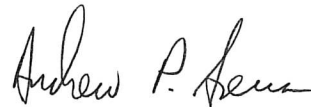
Paragraph 17.,18, and 22 of the sworn complaint should be dismissed. The allegations concern the failure of the licensee to call the Police for a disturbance of the peace on May 24, 2003. A citation for a violation of 9.02(12)(b) of the Municipal Code was issued and contested. The Municipal Court for the City of West Allis dismissed the case. There is a judicial finding that this event should not be held against the licensee and it is now a violation of his due process

rights to consider the violation against the licensee.

Paragraph. 19 concerns the presence of an underage person. A recent change in Wis. Stat. 125.12(1)(b)2. Specifically states that no violation may be considered under this section [revocations, suspensions, refusals to issue or renew.] unless the licensee or permittee has committed another violation within one year preceding the violation. Violation in 125.12(1)(b)1. Specifically means a violation of 125.07 which concerns serving to underage and presence of underage on the premises. This is the only such violation alleged within a year period and therefore must be stricken because an underage person as a basis for revocation can only be considered when there are two such violations in a one year period. The complaint herein does not contain two such complaints, therefore, the fact that there was one violation is irrelevant.

Wherefore, for the reasons stated above the Alderman Gary Barczak should recuse himself or be removed from deliberations and presiding on this committee. Additionally, all items concerning Z&W Enterprises, Inc. should be stricken which is paragraphs 7 through 13. of the complaint as well as paragraphs 18,19 and 22.

Dated this 2<sup>nd</sup> day of October, 2003.



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Andrew P. Arena, Attorney  
State Bar No. 01019417

Kopp, Arena & Bishop, S.C.  
1110 North Old World Third Street  
Suite 515  
Milwaukee, WI 53203  
(414) 645-6100  
Fax (414) 645-3500

IN THE MATTER OF: COMPLAINT AGAINST PALRENA INC.

STATE OF WISCONSIN )

) ss.

AFFIDAVIT OF SERVICE

COUNTY OF MILWAUKEE )

Cpl. Buerger, under oath, says:

1. That affiant is a citizen and resident of Milwaukee County, Wisconsin, over 18 years old, and is not a party nor in any manner interested in this proceeding.

2. That on August, 27, 2003, at 1:30 o'clock P.m.,  
(month) (day)

at 1900 s. 60 st., West Allis,  
(Address) (City)

Milwaukee County, Wisconsin, affiant served an authenticated copy of this summons and complaint on the Defendant, by person with:

a) Wayne Paluch  
(The I

Here's the original to the jacket.

b) \_\_\_\_\_  
or registered agent of defendant corpo

c) \_\_\_\_\_

charge of the office of \_\_\_\_\_  
managing agent or registered agent of

d) \_\_\_\_\_  
Defendant's family who is at least four  
as Defendant could not be found by affi

e) \_\_\_\_\_, a general partner.

3. That at the time of service, affiant informed the recipient so served regarding the contents of the summons and complaint, endorsed on the copy so served the time, place, manner of service and upon whom service was made, and signed the endorsement.

Cpl. Buerger  
(signature of person serving papers)

Subscribed and sworn to before me  
this 27th day of August, 2003.

Carol Kasperke

( \_\_\_\_\_ )

Notary Public, State of Wisconsin

My Commission: expires 6-13-04

RECEIVED

AUG 28 2003

WEST ALLIS  
CITY ATTORNEY



**WEST ALLIS COMMON COUNCIL  
LICENSE AND HEALTH COMMITTEE  
CITY OF WEST ALLIS**

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**In the Matter of the  
Complaint Against**

**SUMMONS**

**Palrena, Inc.,  
Wayne J. Paluch, agent,  
d/b/a Kicks Night Club  
1900 South 60<sup>th</sup> Street  
West Allis, Wisconsin 53219**

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STATE OF WISCONSIN        )  
  ) SS.  
COUNTY OF MILWAUKEE    )

**THE WEST ALLIS COMMON COUNCIL TO PALRENA, INC., WAYNE J. PALUCH,  
agent, d/b/a KICKS NIGHT CLUB:**

You are hereby notified that a sworn complaint, a copy of which is attached, has been duly made and filed, requesting a hearing on the suspension, revocation, or nonrenewal of your Class "B" Intoxicating Liquor and Class "B" Fermented Malt Beverage under combined Class B Tavern, Instrumental Music, and Dance Hall Licenses, pursuant to the provisions of § 125.12 of the Wisconsin Statutes, and § 9.02(20), § 9.032(7), § 9.05(2), of the West Allis Revised Municipal Code.

**NOW THEREFORE**, you, Wayne J. Paluch, are hereby summoned to appear before the License and Health Committee of the West Allis Common Council in Room 128 of the West Allis City Hall, 7525 West Greenfield Avenue, West Allis, Wisconsin, on 2<sup>nd</sup> day of


September, 2003 at 6:00 p.m., or as soon thereafter as this matter can be heard, to admit or deny the allegations in the complaint.

In the case of your failure to appear as required by this summons, the allegations in the complaint against you shall be taken as true and, if the License and Health Committee of the West Allis Common Council finds the allegations sufficient, a recommendation that your licenses be suspended, revoked, or not renewed will be made to the full Common Council. The Common Council may then vote to suspend, revoke, or not renew your licenses.

You are further notified that if you appear as required by this summons and contest the allegations in the complaint, a hearing will be scheduled at a later date before the License and Health Committee. At both the September 2<sup>nd</sup>, 2003, date and at the subsequent hearing, you may be represented by counsel. At the hearing you or your counsel may cross-examine the witnesses who testify adversely against you, and present witnesses on your own behalf. A written transcript of said hearing shall be made and you may obtain a copy of the transcript of this proceeding at your expense.

Dated at West Allis, Wisconsin, this 25<sup>th</sup> day of August, 2003.

WEST ALLIS COMMON COUNCIL

By:   
Paul M. Ziehler, CAO, Clerk-Treasurer  
City of West Allis

**WEST ALLIS COMMON COUNCIL  
LICENSE AND HEALTH COMMITTEE  
CITY OF WEST ALLIS**

**In the Matter of the Complaint Against  
Palrena, Inc., Wayne J. Paluch, agent,  
d/b/a Kicks Night Club,**

**COMPLAINT**

STATE OF WISCONSIN     )  
  ) ss.  
COUNTY OF MILWAUKEE )

Gary T. Barczak, being duly sworn, on oath, deposes and states as a complaint against Palrena, Inc., as follows:

1. That the complainant is a resident of the City of West Allis, and is the duly elected Alderperson for the Third Aldermanic District in the City of West Allis, and makes this complaint at the direction of the License and Health Committee of the West Allis Common Council.
2. That the information contained in this complaint comes from the complainant's review of official records maintained by the City of West Allis and the West Allis Police Department, which records complainant believes to be reliable and accurate.
3. That Palrena, Inc., is the holder of a Class "B" Intoxicating Liquor and Class "B" Fermented Malt Beverage License under 2003-2004 Class "B" Tavern License No. 77, and also holds Tavern Instrumental Music License No. 26, and Dance Hall License No. 56 issued by the West Allis Common Council for the license period beginning July 1, 2003, and ending June 30, 2004, for the premises located at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin, and does business under the trade name "Kicks Night Club."

4. That Palrena, Inc., was the holder of a Class "B" Intoxicating Liquor and Class "B" Fermented Malt Beverage License under 2002-2003 Class "B" Tavern License No. 71, and also held Tavern Instrumental Music License No. 22, and Dance Hall License No. 56 issued by the West Allis Common Council for the license period beginning July 1, 2002, and ending June 30, 2003, for the premises located at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin, and did business under the trade name "Kicks Night Club."
5. That Palrena, Inc., was the holder of a Class "B" Intoxicating Liquor and Class "B" Fermented Malt Beverage License under 2001-2002 Class "B" Tavern License No. 41, and also held Tavern Instrumental Music License No. 10, and Dance Hall License No. 31 issued by the West Allis Common Council for the license period beginning July 1, 2001, and ending June 30, 2002, for the premises located at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin, and did business under the trade name "Kicks Night Club."
6. That Palrena, Inc., was the holder of a Class "B" Intoxicating Liquor and Class "B" Fermented Malt Beverage License under 2000-2001 Class "B" Tavern License No. 56, and also holds Tavern Instrumental Music License No. 18, and Dance Hall License No. 45 issued by the West Allis Common Council for the license period beginning July 1, 2000, and ending June 30, 2001, for the premises located at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin, and did business under the trade name "Kicks Night Club."
7. That Wayne J. Paluch is also an officer of Palrena, Inc., and was an officer of Z&W Enterprises, Inc., the predecessor license holder at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin.
8. That the conduct of Z&W Enterprises, Inc., can be attributed to Palrena, Inc., due to Wayne J. Paluch's continuing presence as an officer of each corporation.



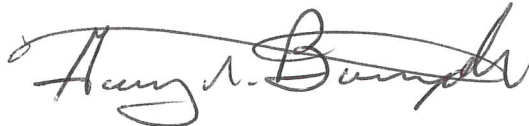
9. That a complaint was filed against Z&W Enterprises, Inc., on February 8, 1999, alleging various violations of Chapter 125 of the Wisconsin Statutes and section 9.02 of the West Allis Revised Municipal Code. A copy of said complaint is attached hereto as Exhibit A.
10. That by stipulation dated June 2, 1999, Z&W Enterprises, Inc., agreed to a fifteen (15) day suspension of its tavern license for the conduct described in the complaint. A copy of the stipulation is attached hereto as Exhibit B.
11. That Paragraph No. 7 of said stipulation states: "That the allegations which form the basis of the complaint in this matter shall not be used as grounds for any further suspension, revocation, or non-renewal proceeding, except to the extent that the facts alleged in the complaint demonstrate a pattern of conduct for Z&W Enterprises, Inc."
12. That pursuant to Paragraph No. 6 of the stipulation, Z&W Enterprises did not renew its tavern license.
13. That Palrena, Inc. applied for and was granted the license held by Z&W Enterprises, Inc., and served a portion of Z&W Enterprise's suspension, further evincing the common identity of Z&W Enterprises and Palrena, Inc.
14. That a complaint was filed against Palrena, Inc., March 20, 2001, alleging various violations of Chapter 125 of the Wisconsin Statutes and section 9.02 of the West Allis Revised Municipal Code. A copy of said complaint is attached hereto as Exhibit C.
15. That by stipulation, dated June 6, 2001, Palrena, Inc., agreed to a twenty-one (21) day suspension of its tavern license for the conduct described in the complaint. A copy of the stipulation is attached hereto as Exhibit D.
16. That Paragraph No. 6 of said stipulation states: "That the allegations which form the basis of the complaint in this matter shall not be used as grounds for any further

suspension, revocation, or non-renewal proceeding, except to the extent that the facts alleged in the complaint demonstrate a pattern of conduct for Palrena, Inc.

17. That on May 24, 2003, a disturbance of the peace occurred at Kicks Night Club, both inside and outside the licensed premises.
18. That no employee of Kicks Night Club called the police to handle the escalating violence contrary to section 9.02(12)(b) of the West Allis Revised Municipal Code.
19. That on or about May 30, 2001, an underage person was allowed to enter and remain on the licensed premises contrary to section 125.07(3)(b) of the Wisconsin Statutes.
20. That from July 1, 2001 through July 25, 2003, the West Allis Police Department received and/or responded to 20 complaints relating to noise, theft, vandalism, fights, boisterous crowds and other disorderly acts occurring at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin.
21. That Palrena, Inc., keeps or maintains a disorderly, riotous, indecent, or improper house contrary to §125.12(2)(ag)2, Wis. Stat., and said conduct is a basis for suspension, revocation, or non-renewal of the licenses issued to Palrena, Inc.
22. That Palrena, Inc., has violated the provisions of Chapter 125 of the Wisconsin Statutes and §9.02 of the West Allis Revised Municipal Code contrary to §125.12(2)(ag)1, Wis. Stat., and said conduct is a basis for suspension, revocation, or non-renewal of the licenses issued to Palrena, Inc..

WHEREFORE, Gary T. Barczak requests that Palrena, Inc., be summoned to appear before the License and Health Committee of the West Allis Common Council to answer this complaint and, if it denies the material allegations, that a hearing be held to determine whether the licenses described above should be suspended, revoked, or not renewed.

Dated this 25 day of August, 2003.



Gary T. Barczak, Chairman, License & Health Committee  
West Allis Common Council

Subscribed and sworn to before me  
this 25 day of Aug, 2003.

Scott E. Scott  
( \_\_\_\_\_ )

Notary Public, State of Wisconsin

My Commission expires: permanent

COMPLAINT-KicksTavern





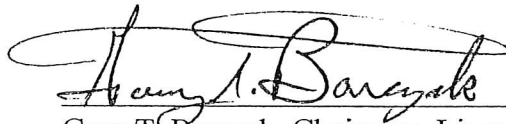
3. That Z & W Enterprises, Inc. is the holder of a Class B Intoxicating Liquor and a Class B Fermented Malt Beverage license under 1998-99 Class B Tavern License No. 55 issued by the West Allis Common Council for the license period beginning July 1, 1998, and ending June 30, 1999, for premises located at 1900 South 60<sup>th</sup> Street, West Allis, Wisconsin, and does business under the trade name "Scandals."
4. That, Zaim M. Hito is the agent for Z & W Enterprises, Inc., as provided in section 125.04(6), Wis. Stats.
5. That on November 1, 1996, Z & W Enterprises, Inc. permitted an underage person to enter and remain upon the licensed premises contrary to section 125.07(3)(b), Wis. Stats.
6. That on May 23, 1997, an assault causing injury occurred on the licensed premises. Further, that when Zaim M. Hito was informed by the injured party of the assault and injury, Zaim M. Hito failed to call the police contrary to section 9.02(12)(b), of the West Allis Revised Municipal Code.
7. That the allegations contained in paragraph Nos. 8 through 21 occurred on January 1, 1999.
8. That an underage person, Dennis Farris, was permitted to enter and remain upon the licensed premises contrary to section 125.07(3)(b), Wis. Stats.
9. That on January 1, 1999, Z & W Enterprises, Inc., employees, including agent Zaim M. Hito, experienced problems with a patron, Dennis Farris.

10. That Dennis Farris had been removed from the premises earlier in the evening/morning of December 31, 1998, to January 1, 1999, but had been allowed to return.
11. That Dennis Farris, upon return, engaged in a confrontation with another patron, including threats to physically harm and the taking off of jackets and shirts preparatory to physical confrontation, and knocking a female patron to the floor.
12. That despite the earlier ejection and renewed problems, Z & W Enterprises, Inc., failed to call the police contrary to section 9.02(12)(b), West Allis Revised Municipal Code.
13. That as employees and patrons of Scandal's escorted Dennis Farris out of the bar, Dennis Farris knocked down Zaim M. Hito, and attempted to punch a patron. Also, that during said ejection, physical force had to be used to eject Dennis Farris.
14. That as Dennis Farris was being ejected, a large crowd of people, including those Dennis Farris had the confrontation with, left the premises en masse as the word "Fight" was shouted.
15. That despite the continued and escalating problems Z & W Enterprises, Inc. still failed to call the police contrary to section 9.02(12)(b), West Allis Revised Municipal Code.
16. That once employees and patrons of Z & W Enterprises, Inc., pushed Dennis Farris outside where the group of other patrons were waiting, numerous fights occurred on the sidewalks and street in front of Scandal's.

17. That an employee or employees of Scandals participated in the fight and physical altercations occurring outside the bar.
18. That it was not until after a large fight had erupted immediately outside the licensed premises that an employee of Z & W Enterprises, Inc., called the police.
19. That during one of the numerous confrontations outside Scandals, Aurelius Williams was killed.
20. That subsequent investigation by the West Allis Police Department revealed that Dennis Farris had been inside Scandals for approximately eight hours prior to the death of Aurelius Williams.
21. That Dennis Farris was intoxicated when served alcohol beverages by Z & W Enterprises, Inc., contrary to Wisconsin Stats., section 125.07(2.)
22. That Z & W Enterprises, Inc., has violated the provisions of Chapter 125 of the Wisconsin Statutes and section 9.02 of the West Allis Revised Municipal Code.
23. That Z & W Enterprises, Inc., keeps or maintains a disorderly, riotous, indecent or improper house.

WHEREFORE, Gary T. Barczak requests that Z & W Enterprises, Inc., be summoned to appear before the License and Health Committee of the West Allis Common Council to answer this complaint and, if it denies the material allegations, that a hearing be held to determine whether the licenses described above should be suspended, revoked, or not renewed.

Dated this 8 day of February, 1999.



Gary T. Barczak, Chairman, License & Health Committee  
West Allis Common Council

Subscribed and sworn to before me  
this 8 day of February, 1999.

Hermine Couturier  
(Hermine Couturier )

Notary Public, State of Wisconsin

My Commission is permanent/expires: 10-15-00



WEST ALLIS COMMON COUNCIL  
LICENSE AND HEALTH COMMITTEE  
CITY OF WEST ALLIS

In the Matter of the Complaint  
Against Z&W Enterprises, Inc.,  
Zaim M. Hito, Agent,  
d/b/a Scandals

EXHIBIT B

STIPULATION

The West Allis City Attorney's Office and Z&W Enterprises, Inc., hereby stipulate and agree as follows:

1. That a complaint against Z&W Enterprises, Inc. ("Scandals") was filed with the City Clerk pursuant to Section 125.12(2), Wis. Stats.
2. The service of the Summons and Complaint in this matter was admitted by counsel for Scandals.
3. That Scandals concedes that the City may have sufficient grounds for the imposition of the sanctions set forth in Section 125.12(2)(b)2. Wis. Stats.
4. That Scandals waives its right under Section 125.12(2)(d), Wis. Stats., to appeal the proceedings had in this matter.
5. That no alcohol beverages shall be served at 1900 S. 60<sup>th</sup> Street, West Allis, WI, for a period of fifteen (15) consecutive days commencing June 20, 1999, at 12:01 a.m. and terminating on July 4, 1999, at 11:59 p.m.
6. That Z&W Enterprises, Inc., will not seek renewal of its tavern license and that a different applicant will apply for the 1999-2000 tavern license for the premises at 1900 S. 60<sup>th</sup> Street.

7. That the allegations which form the basis of the complaint in this matter shall not be used as grounds for any future suspension, revocation, or non-renewal proceeding, except to the extent that the facts alleged in the complaint demonstrate a pattern of conduct for Z&W Enterprises, Inc.

8. That the allegations of the complaint will not form the basis for a pattern of conduct for a successor licensee to Z&W Enterprises, Inc.

9. That this stipulation must be approved by the West Allis Common Council prior to becoming effective.

10. That, upon approval of the stipulation by the West Allis Common Council, the City of West Allis and Z&W Enterprises, Inc., are bound to the terms of the stipulation and failure to comply with said terms will result in the continuation of the hearing procedures as set forth in Section 125.12(2), Wis. Stats.

Dated this 2 day of June, 1999.

Z&W ENTERPRISES, INC.

CITY OF WEST ALLIS

By: Andrew P. Arena  
Andrew P. Arena  
Attorney for Z&W Enterprises, Inc.

By: Scott E. Post  
Scott E. Post  
Assistant City Attorney

WEST ALLIS COMMON COUNCIL  
LICENSE AND HEALTH COMMITTEE  
CITY OF WEST ALLIS

COPY

In the Matter of the Complaint Against  
Palrena, Inc., Wayne J. Paluch, agent,  
d/b/a Kicks,

COMPLAINT

STATE OF WISCONSIN     )  
                                  ) ss.  
COUNTY OF MILWAUKEE )

EXHIBIT C

Gary T. Barczak, being duly sworn, on oath, deposes and states as a complaint against Palrena, Inc., as follows:

1. That the complainant is a resident of the City of West Allis, and is the duly elected Alderperson for the Third Aldermanic District in the City of West Allis, and makes this complaint at the direction of the License and Health Committee of the West Allis Common Council.
2. That the information contained in this complaint comes from the complainant's review of official records maintained by the City of West Allis, which records complainant believes to be reliable and accurate.
3. That Palrena, Inc., is the holder of a Class "B" Intoxicating Liquor and Class "B" Fermented Malt Beverage License under 2000-2001 Class "B" Tavern License No. 56, and also holds Tavern Instrumental Music License No. 18, and Dance Hall License No. 45 issued by the West Allis Common Council for the license period beginning July 1, 2000, and ending June 30, 2001, for the premises located at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin, and does business under the trade name "Kicks."

4. That Wayne J. Paluch is also an officer of Palrena, Inc., and was an officer of Z&W Enterprises, Inc., the predecessor license holder at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin.
5. That the conduct of Z&W Enterprises, Inc., can be attributed to Palrena, Inc., due to Wayne J. Paluch's continuing presence as an officer of each corporation.
6. That a complaint was filed against Z&W Enterprises, Inc., on February 8, 1999, alleging various violations of Chapter 125 of the Wisconsin Statutes and section 9.02 of the West Allis Revised Municipal Code. A copy of said complaint is attached hereto as Exhibit A.
7. That by stipulation dated June 2, 1999, Z&W Enterprises, Inc., agreed to a fifteen (15) day suspension of its tavern license for the conduct described in the complaint. A copy of the stipulation is attached hereto as Exhibit B.
8. That Paragraph No. 7 of said stipulation states: "That the allegations which form the basis of the complainant in this matter shall not be used as grounds for any further suspension, revocation, or non-renewal proceeding, except to the extent that the facts alleged in the complaint demonstrate a pattern of conduct for Z&W Enterprises, Inc."
9. That pursuant to Paragraph No. 6 of the stipulation, Z&W Enterprises did not renew its tavern license.
10. That Palrena, Inc. applied for and was granted the license held by Z&W Enterprises, Inc., and served a portion of Z&W Enterprise's suspension, further evincing the common identity of Z&W Enterprises and Palrena, Inc.
11. That on August 19, 2000, a fight occurred at Kicks, both inside and outside the licensed premises.




12. That no employee of Kicks called the police to handle the escalating violence contrary to section 9.02(12)(b) of the West Allis Revised Municipal Code.
13. That on August 19, 2000, Palrena, Inc., served alcohol beverages to an intoxicated person contrary to section 125.07(2), Wis. Stats.
14. That on August 28, 2000, an underage person was allowed to enter and remain on the licensed premises contrary to section 125.07(3)(b), Wis. Stats.
15. That on November 4, 2000, two underage females were allowed to enter and remain on the licensed premises. That both females produced false identification but that it was unreasonable for Palrena, Inc., to allow at least one of the underage females into the tavern as the identification produced did not meet the defenses provided under section 125.07(6), Wis. Stats. That allowing an underage person on the licensed premises is contrary to section 125.07(3)(b), Wis. Stats.
16. That on December 8, 2000, Palrena, Inc., allowed an underage person to enter and remain on the licensed premises contrary to section 125.07(3)(b), Wis. Stats.
17. That on December 22, 2000, an argument occurred inside the licensed premises and that employees of Palrena, Inc., asked the participants to leave. That thereafter, a disturbance occurred just outside the licensed premises between the same people kicked out of Kicks. That Palrena, Inc., failed to call the police contrary to section 9.02(12)(b), of the West Allis Revised Municipal Code.
18. That on December 22, 2000, a fight occurred between a patron and an employee of Palrena, Inc., thereby creating a disturbance in the tavern contrary to section 125.12(2)(ag)2, Wis. Stats.

19. That on December 22, 2000, Palrena, Inc., served alcohol beverages to an intoxicated person contrary to section 125.07(2), Wis. Stats.
20. That Palrena, Inc., has violated the provisions of Chapter 125 of the Wisconsin Statutes and section 9.02 of the West Allis Revised Municipal Code.
21. That Palrena, Inc., keeps or maintains a disorderly, riotous, indecent, or improper house.

**WHEREFORE**, Gary T. Barczak requests that Palrena, Inc., be summoned to appear before the License and Health Committee of the West Allis Common Council to answer this complaint and, if it denies the material allegations, that a hearing be held to determine whether the licenses described above should be suspended, revoked, or not renewed.

Dated this 20 day of March, 2001.



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Gary T. Barczak, Chairman, License & Health Committee  
West Allis Common Council

Subscribed and sworn to before me  
this 20 day of March, 2001.

Hermine Couturier  
(Hermine Couturier)

Notary Public, State of Wisconsin

My Commission is expires: 10-10-04

WEST ALLIS COMMON COUNCIL  
LICENSE AND HEALTH COMMITTEE  
CITY OF WEST ALLIS

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In the Matter of the Complaint Against  
Palrena, Inc., Wayne J. Paluch, agent,  
d/b/a Kicks,

EXHIBIT D

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STIPULATION

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The West Allis City Attorney's Office, by Assistant City Attorney Scott E. Post, and Palrena, Inc. by its Attorney Andrew P. Arena, hereby agree and stipulate as follows:

1. That the Summons and Complaint against Palrena, Inc. was filed with the City Clerk/Treasurer pursuant to section 125.12(2), Wis. Stats.
2. That the Summons and Complaint was served in accordance with section 125.12(2)(ar), Wis. Stat.
3. That Palrena, Inc., waives its right under section 125.12(2)(d), Wis. Stat., to appeal the proceedings had in this matter.
4. That sufficient grounds are stated in the complaint for the imposition of sanctions set forth in section 125.12(2)(b)2, Wis. Stat.
5. That no alcohol beverages, shall be served at 1900 S. 60<sup>th</sup> Street, West Allis, Wisconsin for a period of 21 consecutive days commencing 12:01 a.m., June 12, 2001 and terminating 6:00 a.m. July 3, 2001.
6. That the allegations which form the basis of this complaint shall not be used as grounds for any future suspension, revocation, or non-renewal proceeding, except to the extent that the facts alleged in the complaint demonstrate a pattern of conduct for Palrena, Inc.

- 7. That Palrena, Inc., upon reopening on July 3, 2001, institute a "members only" club as set forth in the April 26, 2001, letter from Attorney Arena to Attorney Post, attached hereto as Exhibit A and made a part hereof.
- 8. That this stipulation must be approved by the West Allis Common Council prior to becoming effective.
- 9. That if the West Allis Common Council does not approve the agreement, the matter shall return to the License and Health Committee of the West Allis Common Council for hearing pursuant to section 125.12(2)(b), Wis. Stat.
- 10. That if the West Allis Common Council approves this stipulation, the City of West Allis and Palrena, Inc., are bound to the terms of the stipulation and failure to comply with said terms will result in continuation of the hearing procedures set forth in section 125.12(2)(b), Wis. Stat.

Dated: June 5, 2001 By: Andrew P. Arena  
 Andrew P. Arena  
 Attorney for Palrena, Inc.

Dated: June 6, 2001 By: Scott E. Post  
 Scott E. Post  
 Assistant City Attorney  
 City of West Allis

P. O. Address  
 7525 West Greenfield Avenue  
 West Allis, Wisconsin 53214  
 (414)302-8450

Enclosure

SEP/kp  
 L:/s/l&h/Stipulation-KicksTavern