

In the Matter of the Cigarette/Tobacco –
Product Shop License held by Bright Star
Inc. d/b/a Tom and Joe’s Market for the
premises located at 684 Western Avenue
in St. Paul
License No. 20190003653

**BRIGHTSTAR’S STATEMENT OF
FACTS, CONCLUSION
OF LAW AND PROPOSED
RECOMMENDATIONS**

Bright Star Inc. d/b/a Tom and Joe’s Market, by and through its attorney Derek Thoofft, respectfully petitions the City Council of the City of St. Paul.

STATEMENT OF FACTS

1. Husham Alko Furajiji is the owner of Bright Star, which operates a convenience store located at 684 Western Avenue North, Saint Paul. Bright Star holds a city-issued cigarette/tobacco license for the convenience store, Tom and Joe’s Market.
2. Bright Star is a family-centered business and Tom and Joe’s Market. The Furajiji family and the family of the manager relies upon the business to provide for their basic living needs.
3. Mr. Furajiji came to Minnesota from Iraq in 2016 to be a successful businessperson Further, he has worked hard to open and operate Tom and Joe’s Market to be a successful, thriving business.
4. Mr. Furajiji relies on Tom and Joe’s Market to provide for himself here in Minnesota, but also his family back in Iraq. Without the income from the store, there would be substantial economic harm to the Furajiji family.
5. Additionally, the manager of the store, a close family friend, relies on the job at Tom and Joe’s Market and relies on the business doing well to support his family. The manager supports not only himself, but also his wife and five children. Further, two of those children are in college, the rest are between elementary age and high school age. Without the income from working at the store, there would be substantial economic harm to the manager’s family.
6. Bright Star only has one other adverse action that occurred on or about March 16, 2020. That was the first adverse action against Bright Star and was deemed a “First Violation.” Further, the First Violation did not involve flavored tobacco products.
7. Mr. Furajiji does not dispute that the flavored tobacco products and flavored products were in the store. However, Mr. Furajiji was informed by the distributor the products that were found were fine to sell in the store. Further, the location where Department Inspector Kaozouapang Yang found the flavored tobacco products were storage locations for Tom and Joe’s Market.
8. Subsequent to the violation BrightStar has implemented policies and procedures to ensure compliance with all city codes and ordinances. These policies and procedures include

weekly meetings to review all product, multiple checks when ordering products, an immediate return of any products which violate or may violate city ordinances.

9. BrightStar has incurred significant financial detriment by voluntarily returning all of the products which were in violation of St. Paul ordinances and cancelling future orders that would in any way violate the ordinance.
10. Mr. Furajiji, while initially being confused by the product definitions and ordinances as evidenced in his hearing, has taken it upon himself and his staff to educate everyone to the numerous ordinances.

CONCLUSION OF LAW

1. Saint Paul Legislative Code § 324.10(b) provides presumptive penalties for licensees of tobacco licenses when a violation occurs. The first violation shall be a 10-day suspension and the second violation shall be a revocation.
2. Based upon the penalty matrix in Code § 324.10(b), this is first violation of possessing flavored tobacco product in the store, and the first penalty is a suspension. We are respectfully asking the City Council to suspend the license instead of taking an upward departure for a revocation of the license.
3. Alternatively, if the Council decides the appropriate penalty is revocation, then Code § 324.10(b) states that “the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons which make it appropriate to do so.”
4. Bright Star has shown substantial and compelling reasons to make it appropriate to deviate from a revocation. Mr. Furajiji relies on the income made from Tom and Joe’s Market to support his family. Revocation of the cigarette/tobacco license for Tom and Joe’s Market would cause detrimental effects on the Furajiji family as they will be unable to support themselves.

PROPOSED RECOMMENDATIONS

Respondent respectfully asks the City Council to not invoke the revocation of the cigarette/tobacco license for Tom and Joe’s Market. Additionally, Respondent agrees the City Council should impose a \$5,000 fine as well as a 30-day suspension. When and if there is another violation, Respondent will not contest a revocation of the license at that time.

Date: 09/13/2022

THOFT LAW, LLC

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