

STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)


Shawn McDonald, being first duly sworn, deposes and says that on March 6, 2020, he served the attached **NOTICE OF VIOLATION AND REQUEST FOR REVOCATION** and a correct copy thereof in an envelope addressed as follows:

Checkers Bar Inc
992 Arcade Street
Saint Paul, MN 55106

Mai Her
695 County Rd B2 East
Little Canada, MN 55117

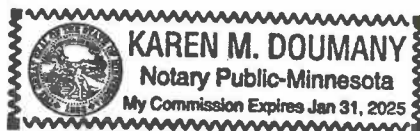
Twin State Music Incorporated
1811 Okeefe Road
Hudson, WI 54016-7218

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Shawn McDonald

Subscribed and sworn to before me
This 6th day of March 2020


Notary Public



OFFICE OF THE CITY ATTORNEY

Lyndsey M. Olson, City Attorney



CITY OF SAINT PAUL

Mayor Melvin Carter

Civil Division
400 City Hall and Court House
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102

Telephone: 651 266-8710
Facsimile: 651 298-5619

March 6, 2020

NOTICE OF VIOLATION AND
REQUEST FOR REVOCATION

Checkers Bar Inc
992 Arcade Street
Saint Paul, MN 55106
Attn: Mai Her

RE: Liquor On-Sale, Liquor On-Sale Sunday and Entertainment B licenses held by Mai Her d/b/a Checkers Bar Inc for the premises located at 992 Arcade Street in Saint Paul
License ID #: 20100003374

Dear Licensee:

The Department of Safety and Inspections (“Department”) is recommending adverse action against the Liquor On-Sale, Liquor On-Sale Sunday and Entertainment B licenses held by Mai Her (“Licensee”) for the premises known as Checkers Bar Inc located at 992 Arcade Street in Saint Paul. (“Licensed Premises”).

The Department is recommending revocation of your Liquor On-Sale and Liquor On-Sale Sunday licenses under Saint Paul Legislative Code 409.26 (b)(1) and an upward departure one step on the penalty matrix under Saint Paul Legislative Code 305 to revocation.

Under the penalty matrix laid out in Saint Paul Legislative Code §409.26(b)(1) revocation is the appropriate penalty for commission of a felony related to the licensed activity.

A felony was committed related to the licensed activity by Tou Mo Cha. Tou Mo Cha is the husband of the Licensee and was working at the Licensed Premises when he committed the felony. On December 7, 2018 Tou Mo Cha was charged with Felony Assault in the 2nd degree with a dangerous weapon, Assault in the 2nd degree with a dangerous weapon and Assault in the 3rd degree, substantial bodily harm arising from an incident which took place at the Licensed Premises on June 17, 2018. On August 28, 2019 Tou Mo Cha plead guilty to Assault in the 3rd degree – substantial bodily harm. Tou Mo Cha was sentenced on October 30, 2019.

The criminal complaint details the facts surrounding the incident. There was a gathering of family members at the Licensed Premises and a fight broke out. A video recording system in a Saint Paul Police Department squad car captured a male down on all fours. This male was later identified as the victim, “SV”. SV later told police that he was on the sidewalk when he was pepper-sprayed by Tou Cha. After being pepper-sprayed, he was struck, then hit by Tou Cha with a baton. SV was taken to the

hospital where he was treated for a concussion and had to have two significant lacerations in his head closed with seven and seventeen staples. One laceration was on the top of his head and the other on the back, meaning they were not caused by the same blow.”

The Department asserts that in addition to the commission of the felony related to the licensed activity, these additional violations support revocation under Saint Paul Legislative Code §310.05:

Failure to provide video within 48-hours of a request by the SPPD or Department of Safety and Inspections in accordance with License Condition #1:

On January 15, 2019, A Department of Safety and Inspections employee hand-delivered a letter to the licensed premises. The letter requested video surveillance for January 12, 2019 from 11:00 p.m. to 1:00 a.m. on January 13, 2019. This request for video was made in conjunction with an assault that took place at the Licensed Premises on January 13, 2019 and was reported under CN #19-009-378. The letter directed the Licensee to submit a copy of the video surveillance in a readable format no later than 4:30 p.m. on January 18, 2019. On January 23, 2019, the Department of Safety and Inspections received a copy of surveillance video with a hand-written note at the bottom of the letter requesting the video which stated “Sorry for late response. Went on vacation Jan. 13th through Jan. 23rd”. A second copy of surveillance video was received on January 28, 2019.

Video from January 12, 2019 which shows violations of License Conditions #3, #4, #5, #8 and #9.

License condition #3 requires that (3) clearly identifiable security personnel be assigned to each entrance starting at 9 PM when entertainment is offered and that they remain until all patrons have left the licensed premises, that security personnel "wand" (using a metal detector) each patron and check all handbags and packages carried by patrons. The requirement to wand patrons includes those who are returning to the bar.

License condition #4 requires that “Security personnel shall verify the age of patrons by checking state or federally issued identification cards (no picture I.D., no entrance).

License condition #5 prohibits trash or bottle dumping after 9PM or before 8AM

License condition #8 prohibits use of the outdoor patio area by employees, customers, and/or patrons for activities such as smoking, drinking (either alcoholic or non-alcoholic beverages), and/or food service/consumption.

License condition #9 prohibits patrons from entering the Licensed Premises after 12:30 a.m.

The Department believes that substantial and compelling reasons exist to support its recommendation for revocation of all licenses held by the licensee. Those reasons include but are not limited to:

The failure of the Licensee to provide the video in a timely manner.

The number of and variety of licensing violations within a short timeframe shown on the video provided by the Licensee.

The felony level crime committed by Tou Mo Cha.

The prior adverse actions, including instances of failure to provide video in response to requests by Saint Paul Police and the Department.

Evidence that Tou Mo Cha (husband of the Licensee) pepper sprayed patrons while working at the Licensed Premises.

Evidence which shows that the Licensee, or any person whose conduct may by law be imputed to the licensee, has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.

Evidence which shows that the activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, and that the licensee performs or has performed his or her work or activity in an unsafe manner.

Evidence which shows that the licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public.

Applicable Saint Paul Legislative Code Provisions:

- Saint Paul Legislative Code §409.26 (b)(1) lays out a penalty of revocation for the commission of a felony related to the licensed activity.
- Saint Paul Legislative Code §310.05 (m)(1) supports adverse action and provides a presumptive penalty for a violation of a provision of the legislative code related to the license.
- Saint Paul Legislative Code §310.05 (m)(2) supports adverse action and provides a presumptive penalty for violations of a provision of the legislative code related to violations of conditions placed on a license.
- Saint Paul Legislative Code §310.05 (m)(6) supports adverse action and provides a presumptive penalty for commission of a felony on the premises by a licensee or employee.
- Saint Paul Legislative Code §310.06 (b)(6)(c) supports adverse action when “the Licensee, or any person whose conduct may by law be imputed to the licensee, has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn”.
- Saint Paul Legislative Code §310.06 (b)(7) supports adverse action when “the activities of the licensee in the licensed activity created or have created a serious danger to the public health, safety or welfare, and that the licensee performs or has performed his or her work or activity in an unsafe manner”.
- Saint Paul Legislative Code §310.06 (b)(8) supports adverse action when “the licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public”.
- Saint Paul Legislative Code §310.17 states that “Any act or conduct by an clerk, employee, manager or agent of a licensee, or by any person providing entertainment or working for or on behalf of a licensee, whether compensated or not, which act or conduct takes place either on the licensed premises or in any parking lot or other area adjacent to (or under the lease or control of) the licensed premises, and which act or conduct violates any state or federal statutes or regulations, or any city ordinance, shall be

considered to be and treated as the act or conduct of the licensee for the purpose of adverse actions against all or any of the licenses held by the licensee.”

- Presumptive Penalty – Under Saint Paul Legislative Code §409.26(b)(1) the presumptive penalty for a first-time commission of a felony related to the licensed activity is revocation.
- Presumptive Penalty – Under Saint Paul Legislative Code §310.05 (m)(1) and (m)(2) the presumptive penalty for a third violation of the legislative code related to the licensed activity and violations of license conditions are a \$2,000 fine and a ten (10) day suspension.
- Authority to deviate - Saint Paul Legislative Code §310.05 (m) states that penalties are “presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so.”

This is the third adverse action against the License within a 24-month period. The previous two actions included:

- On May 2, 2017 a Notice of Violation was sent to the licensee with a recommendation for a \$500 matrix penalty after the Licensee failed to provide access to video to the Saint Paul Police. The Licensee paid the \$500 matrix penalty on May 11, 2017.
- On September 6, 2018 a Notice of Violation was sent to the Licensee with a recommendation for a \$1,000 matrix penalty after the Licensee failed to comply with a request for surveillance video. The Licensee paid the \$1,000 matrix penalty on October 15, 2018.

As the Licensee you have three (3) options:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **March 20, 2020**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on a City Council Consent Agenda for revocation of your License.
2. If you wish to admit the facts but you contest the upward departure to revocation, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing no later than **March 20, 2020**. The matter will then be scheduled before the City Council to determine whether to revoke your licenses. You will have an opportunity to appear before the Council and make a statement on your own behalf.
3. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **March 20, 2020**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing, per Saint Paul Legislative Code § 310.05 (k).

March 6, 2020

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If you have not contacted me by March 20, 2020, I will assume that you do not contest the Department's recommendation for an upward departure to revocation. In that case, the matter will be placed on a City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact Shawn McDonald, my Legal Assistant at (651) 266-8729.

Sincerely,



Therese Skarda
Assistant City Attorney
License No.: 0240989

cc: Mai Her; 695 County Rd B2 East; Little Canada, MN 55117
Twin State Music Incorporated 1811 Okeefe Road, Hudson, WI 54016-7218

Attachments:

MNCIS Printout showing criminal conviction for Tou Mo Cha.

Felony Complaint and Summons issued against Tou Mo Cha.

License Group Comments Text and License History from ECLIPS.

STAMP ownership/zoning inquiry.

January 15, 2019 letter from Kristina Schweinler requesting video by January 18, 2019.

January 15, 2019 letter from Kristina Schweinler requesting video by January 18, 2019 (with notes from Licensee).

January 15, 2019 letter from Kristina Schweinler requesting video by January 18, 2019 (with notes regarding two sets of discs).

Report of inspector Joseph Voyda regarding violations he observed on the discs produced by Licensee.

July 22, 2019 Star Tribune article regarding history of Licensed Premises.

May 2, 2017 Notice of Violation for first matrix penalty.

September 20, 2018 Notice of Violation for second matrix penalty.

DSI receipt for \$1,000 second matrix penalty.

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Location - Ramsey Criminal/Traffic/Petty [Help](#)

REGISTER OF ACTIONS
CASE NO. 62-CR-18-8788

State of Minnesota vs TOU MO CHA

62-CR-18-8788

Case Type: **Crim/Traf Mandatory**
 Date Filed: **12/07/2018**
 Location: **Ramsey Criminal/Traffic/Petty**
 Downtown
 Judicial Officer: **Grewing, Sara R**

PARTY INFORMATION

Defendant	CHA, TOU MO St Paul, MN 55103	Male DOB: 10/18/1968	Lead Attorneys JACK GREGORY RICE <i>Retained</i> 612-227-1339(W)
Jurisdiction	State of Minnesota		DANIEL ROBERT RAIT 651-266-2749(W)

CASE INFORMATION

Charges: CHA, TOU MO	Statute	Level	Date	Disposition	Level of Sentence
1. 609.222.1 - Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm	609.222.2	Felony	06/17/2018	10/30/2019 Dismissed	
2. Assault-2nd Degree-Dangerous Weapon	609.222.1	Felony	06/17/2018	10/30/2019 Dismissed	
3. Assault-3rd Degree-Substantial Bodily Harm	609.223.1	Felony	06/17/2018	08/28/2019 Convicted	10/30/2019 Convicted of a Felony

EVENTS & ORDERS OF THE COURT

DISPOSITIONS

04/30/2019 **Plea** (Judicial Officer: Harris, JaPaul J)
 1. 609.222.1 - Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm
 Not guilty
 2. Assault-2nd Degree-Dangerous Weapon
 Not guilty
 3. Assault-3rd Degree-Substantial Bodily Harm
 Not guilty

08/28/2019 **Amended Plea** (Judicial Officer: Grewing, Sara R) Reason: Plea agreement
 3. Assault-3rd Degree-Substantial Bodily Harm
 Guilty

08/28/2019 **Disposition** (Judicial Officer: Grewing, Sara R)
 3. Assault-3rd Degree-Substantial Bodily Harm
 Convicted

10/30/2019 **Disposition** (Judicial Officer: Grewing, Sara R)
 1. 609.222.1 - Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm
 Dismissed
 2. Assault-2nd Degree-Dangerous Weapon
 Dismissed

10/30/2019 **Sentenced** (Judicial Officer: Grewing, Sara R)
 3. Assault-3rd Degree-Substantial Bodily Harm
 06/17/2018 (FEL) 609.223.1 (6092231)

Commit to Commissioner of Corrections - Adult:
 MN Correctional Facility - St. Cloud 15 Mo
 Stay for 5 Yr
 Status: Active 10/30/2019

Local Confinement:
 Agency: Ramsey County Correctional Facility
 Term: 90 Days
 Time To Serve: 90 Days
 Duration: 11/13/2019 9:00 AM
 Stay 0 Yr 0 Mo 0 Days
 Credit For Time Served: 1 Days
 Serve As:
 Home Detention/Electronic Monitoring (If Eligible)
 Comment: May not have to TSI if set up for Community Monitoring Program; May be allowed to attend any cultural new years celebration
 Status: Active 10/30/2019

Monitoring - Adult:
 Type: Supervised probation
 Agency: Ramsey County Probation



Term of 5 Yr
 10/30/2019 - 10/30/2024
 Status: Active 10/30/2019
 Fee Totals:

Law Library Fees	\$10.00
Victim Assist-Sheriff Ramsey County Surcharge	\$100.00
Crim/Traffic Surcharge (once per case)	\$75.00
Fee Totals \$	\$186.00

Condition - Adult:

1. Follow all State and Federal criminal laws., 10/30/2019, Active 10/30/2019
2. Contact your probation officer as directed., 10/30/2019, Active 10/30/2019
3. Tell your probation officer within 72 hours if you have, contact with law enforcement. 10/30/2019, Active 10/30/2019
4. Tell your probation officer within 72 hours if you are, charged with any new crime. 10/30/2019, Active 10/30/2019
5. Tell your probation officer within 72 hours if you change, your address, employment, or telephone number. 10/30/2019, Active 10/30/2019
6. Sign releases of information as directed., 10/30/2019, Active 10/30/2019
7. Give a DNA sample when directed., 10/30/2019, Active 10/30/2019
8. Do not use or possess firearms, ammunition or explosives, or toy/replica guns 10/30/2019, Active 10/30/2019
9. Do not register to vote or vote until discharged from, probation and your civil rights are fully restored. 10/30/2019, Active 10/30/2019
10. Restitution reserved, Amount TBD by probation within 90 days 10/30/2019 - 01/28/2020, Active 10/30/2019
11. No contact with victim(s), 10/30/2019, Active 10/30/2019
12. Anger management, 10/30/2019, Active 10/30/2019

Level of Sentence:

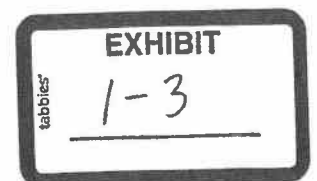
Convicted of a Felony

OTHER EVENTS AND HEARINGS

12/07/2018 E-filed Comp-Summons Index # 1
 12/07/2018 Interim Condition for CHA, TOU MO
 - Summoned
 12/07/2018 Summoned-Own Recognizance
 12/07/2018 Notice of Appearance Index # 2
 12/19/2018 Returned Mail Index # 3
 01/07/2019 Hearing (1:20 PM) (Judicial Officer Ireland, Mark)
 Result: Held
 01/07/2019 Court Clerk Minutes Index # 4
 01/07/2019 Fail to Appear at a hearing
 01/07/2019 Warrant Issued Index # 5
 01/07/2019 Interim Condition for CHA, TOU MO
 - Pay bail
 \$20,000.00
 01/24/2019 Warrant Cleared by Arrest
 01/24/2019 First Appearance (1:20 PM) (Judicial Officer Tilsen, Judith M.)
 Result: Held
 01/24/2019 Certificate of Representation Index # 6
 01/24/2019 e-Service
 State of Minnesota Served 01/24/2019
 01/24/2019 Interim Condition for CHA, TOU MO
 - No contact with victim(s)
 - Released on own recognizance
 01/24/2019 Court Clerk Minutes Index # 7
 01/24/2019 Notice of Appearance Index # 8
 01/24/2019 No Contact Order Index # 9 (Judicial Officer: Tilsen, Judith M.)
 01/24/2019 Bail or Release Report Index # 10
 01/24/2019 Released Own Recognizance
 01/25/2019 Notice of Evidence and Identification Procedures Index # 11
 02/12/2019 Discovery Disclosure Index # 12
 02/21/2019 Hearing (1:20 PM) (Judicial Officer: Diamond, Patrick C.)
 02/21/2019 Reset by Court to 02/21/2019
 Result: Held
 02/21/2019 Court Clerk Minutes Index # 13
 02/21/2019 Notice of Appearance Index # 14
 02/21/2019 Substitution of Counsel Index # 15
 02/21/2019 e-Service
 State of Minnesota Served 02/21/2019
 02/21/2019 e-Service
 CHA, TOU MO Served 02/21/2019
 02/21/2019 Certificate of Representation Index # 16
 02/21/2019 e-Service
 CHA, TOU MO Served 02/21/2019
 02/21/2019 e-Service
 State of Minnesota Served 02/21/2019
 02/25/2019 Discovery Disclosure Index # 17
 03/05/2019 Notice of Withdrawal of Counsel Index # 18



03/05/2019	e-Service CHA, TOU MO	Served	03/05/2019
03/05/2019	e-Service State of Minnesota	Served	03/05/2019
03/06/2019	Hearing (1:20 PM) (Judicial Officer Diamond, Patrick C.) <i>03/06/2019 Reset by Court to 03/06/2019</i>		
	Result: Held		
03/06/2019	Court Clerk Minutes Index # 19		
03/06/2019	Notice of Appearance Index # 20		
03/20/2019	Court Clerk Minutes Index # 21		
03/20/2019	Notice of Appearance Index # 22		
03/25/2019	Order to Recuse Index # 23 (Judicial Officer: Yang,Adam ,)		
04/08/2019	Notice of Appearance Index # 24		
04/30/2019	Omnibus Hearing (1:20 PM) (Judicial Officer Harris, JaPaul J) <i>03/20/2019 Reset by Court to 03/20/2019</i> <i>03/20/2019 Reset by Court to 03/28/2019</i> <i>03/28/2019 Reset by Court to 04/09/2019</i> <i>04/09/2019 Reset by Court to 04/30/2019</i> <i>04/30/2019 Reset by Court to 04/30/2019</i>		
	Result: Held		
04/30/2019	Court Clerk Minutes Index # 25		
04/30/2019	Pre-Trial Order Index # 26 (Judicial Officer: Harris, JaPaul J)		
04/30/2019	Probable Cause Found		
05/14/2019	Witness List Index # 27		
05/14/2019	e-Service CHA, TOU MO	Served	05/14/2019
05/20/2019	Notice of Defense and Defense Witnesses Index # 28		
05/20/2019	e-Service CHA, TOU MO	Served	05/20/2019
05/20/2019	e-Service State of Minnesota	Served	05/20/2019
05/20/2019	e-Service State of Minnesota	Served	05/20/2019
05/23/2019	Motion Index # 29		
05/23/2019	Request for Disclosure Index # 30		
05/23/2019	e-Service CHA, TOU MO	Served	05/23/2019
05/23/2019	e-Service State of Minnesota	Served	05/23/2019
05/23/2019	e-Service State of Minnesota	Served	05/23/2019
05/23/2019	e-Service State of Minnesota	Served	05/23/2019
05/23/2019	e-Service State of Minnesota	Served	05/23/2019
05/23/2019	e-Service CHA, TOU MO	Served	05/23/2019
05/24/2019	Notice of Appearance Index # 31		
06/24/2019	Notice of Motion and Motion Index # 32		
06/24/2019	Proposed Order or Document Index # 33 (Judicial Officer: Grewing, Sara R)		
06/24/2019	e-Service CHA, TOU MO	Served	06/24/2019
06/24/2019	e-Service CHA, TOU MO	Served	06/24/2019
06/28/2019	Rule 9.03 Sealed Order - In Camera Review Index # 34		
06/28/2019	e-Service CHA, TOU MO	Served	06/28/2019
06/28/2019	e-Service State of Minnesota	Served	06/28/2019
06/28/2019	e-Service State of Minnesota	Served	06/28/2019
07/09/2019	Rule 9.03 Sealed Order - In Camera Review Index # 35		
07/09/2019	e-Service CHA, TOU MO	Served	07/09/2019
07/09/2019	e-Service State of Minnesota	Served	07/09/2019
07/09/2019	e-Service State of Minnesota	Served	07/09/2019
07/15/2019	Hearing (9:00 AM) (Judicial Officer Grewing, Sara R) <i>05/24/2019 Reset by Court to 07/15/2019</i>		
	Result: Held On the Record		
07/15/2019	Notice of Appearance Index # 36		
08/26/2019	Hearing (9:00 AM) (Judicial Officer Grewing, Sara R) Result: Held On the Record		
08/26/2019	Notice of Appearance Index # 37		
08/26/2019	Rule 9.03 Sealed Order - In Camera Review Index # 38 (Judicial Officer: Grewing, Sara R)		
08/26/2019	e-Service CHA, TOU MO	Served	08/26/2019
08/26/2019	e-Service State of Minnesota	Served	08/26/2019
08/26/2019	e-Service		



08/28/2019	State of Minnesota	Served	08/26/2019
	Plea Hearing (9:00 AM) (Judicial Officer: Grewing, Sara R)		
	Result: Held On the Record		
08/28/2019	Notice of Appearance Index # 39		
08/28/2019	Petition to Enter Guilty Plea Index # 40		
08/28/2019	Order-Presentence Investigation Index # 41 (Judicial Officer: Grewing, Sara R)		
08/28/2019	Rule 9.03 Sealed Order - In Camera Review Index # 42		
08/28/2019	e-Service		
	CHA, TOU MO	Served	08/28/2019
08/28/2019	e-Service		
	State of Minnesota	Served	08/28/2019
08/28/2019	e-Service		
	State of Minnesota	Served	08/28/2019
10/25/2019	Victim Impact Statement Index # 43		
10/25/2019	Presentence Investigation Report Index # 44		
10/25/2019	e-Service		
	CHA, TOU MO	Served	10/25/2019
10/25/2019	e-Service		
	State of Minnesota	Served	10/25/2019
10/25/2019	e-Service		
	State of Minnesota	Served	10/25/2019
10/29/2019	Notice of Motion and Motion Index # 45		
10/29/2019	e-Service		
	CHA, TOU MO	Served	10/29/2019
10/29/2019	e-Service		
	State of Minnesota	Served	10/29/2019
10/29/2019	e-Service		
	State of Minnesota	Served	10/29/2019
10/30/2019	Sentencing (9:00 AM) (Judicial Officer: Grewing, Sara R)		
	Result: Held On the Record		
10/30/2019	Interim Condition for CHA, TOU MO		
	- No contact with victim(s)		
10/30/2019	Sentencing Order Index # 46 (Judicial Officer: Grewing, Sara R)		
10/30/2019	No Contact Order Index # 47 (Judicial Officer: Grewing, Sara R)		

FINANCIAL INFORMATION

	Defendant CHA, TOU MO		
	Total Financial Assessment		186.00
	Total Payments and Credits		186.00
	Balance Due as of 11/04/2019		0.00
10/30/2019	Transaction Assessment		186.00
10/30/2019	Counter Payment Receipt # TVB62-2019-08592	CHA, TOU MO	(186.00)



State of Minnesota
County of Ramsey

District Court
2nd Judicial District

Prosecutor File No. 0620408971
Court File No. 62-CR-18-8788

State of Minnesota,
Plaintiff,

COMPLAINT

Summons

vs.

TOU MO CHA DOB: 10/18/1968

4322 Marigold Ave
Vadnais Heights, MN 55127

Defendant.

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: 609.222.1 - Assault-2nd Degree-Dangerous Weapon-Substantial Bodily Harm

Minnesota Statute: 609.222.2, with reference to: 609.11.4, 609.05.1

Maximum Sentence: 10 years or \$20,000 or both, mandatory minimum 1 year and 1 day in prison

Offense Level: Felony

Offense Date (on or about): 06/17/2018

Control #(ICR#): 18131797

Charge Description: On or about June 17, 2018, in Ramsey County, Minnesota, Tou Mo Cha, aiding and abetting and being aided and abetted by others, assaulted SV with a dangerous weapon consisting of a baton, and inflicted substantial bodily harm,

COUNT II

Charge: Assault-2nd Degree-Dangerous Weapon

Minnesota Statute: 609.222.1, with reference to: 609.11.4, 609.05.1

Maximum Sentence: 7 years or \$14,000 fine or both; mandatory minimum 1 year and 1 day in prison

Offense Level: Felony

Offense Date (on or about): 06/17/2018

Control #(ICR#): 18131797

Charge Description: On or about June 17, 2018, in Ramsey County, Minnesota, Tou Mo Cha, aiding and abetting and being aided and abetted by another, assaulted SV with a dangerous weapon consisting of a baton

COUNT III

Charge: Assault-3rd Degree-Substantial Bodily Harm

Minnesota Statute: 609.223.1, with reference to: 609.05.1

IMAGE



Maximum Sentence: 5 years or \$10,000 fine, or both
Offense Level: Felony

Offense Date (on or about): 06/17/2018

Control #(ICR#): 18131797

Charge Description: On or about June 17, 2018, in Ramsey County, Minnesota, Tou Mo Cha, aiding and abetting and being aided and abetted by others, assault SV, and inflicted substantial bodily harm,



STATEMENT OF PROBABLE CAUSE

On 06-17-2018, there was a gathering of family members at Checker's Pizza in Saint Paul, Ramsey County. A fight broke out. Police responded and dispersed the crowd. One of the responding squad cars left the immediate area but parked, with its lights off, across the street.

Another fight broke out and, as the squad car approached the crowd, the video recording system in the squad car captured a male down on all fours, later identified as SV, on the sidewalk outside the bar. An unidentified male in all white struck SV with his fists. The video showed that the male in all white was empty-handed. Another male wearing a camouflage muscle-shirt, later identified as Tou Cha, then swung a baton over his head and brought the baton down on SV, who was completely defenseless.

Apparently noticing the approaching squad car, Tou Cha and the other male moved away, as members of the crowd moved in to help SV.

SV later told police that he was on the sidewalk when he was pepper-sprayed by Tou Cha. After being pepper-sprayed, he was struck, then hit by Tou Cha with a baton. SV was taken to the hospital where he was treated for a concussion and had to have two significant lacerations in his head closed with seven and seventeen staples, respectively. One laceration was on the top of his head and the other on the back, meaning they were not caused by the same blow. SV's head had to be shaved to treat his lacerations. His injuries were photographed and he told police that he was terrified of retaliation from Tou Cha.

AV, mother of SV, told investigators she saw Tou Cha strike her son on the head with a baton.

When interviewed, Tou Cha, who owns Checker Pizza, showed the investigator surveillance video. Cha told the investigator that he was going to hit someone with a baton, but instead accidentally knocked a bouncer into the street. The video he showed the investigator documented that, but did not show the area where SV was struck. Cha said the camera in that area didn't work. The video did show Tou Cha, wearing a camouflage muscle shirt, and swinging a baton.

NOTICE: Pursuant to Minnesota Statute 609.49, subd. 1 (a) A person charged with or convicted of a felony and released from custody, with or without bail or recognizance, who intentionally fails to appear when required after having been notified that a failure to appear for a court appearance is a criminal offense, or after having been released on an order or condition that the release personally appear when required with respect to the charge or conviction, is guilty of a crime for failure to appear and may be sentenced to not more than one-half of the maximum term of imprisonment or fine, or both, provided for the underlying crime for which the person failed to appear, but this maximum sentence shall, in no case, be less than a term of imprisonment of one year and one day or a fine of \$1,500, or both.



SIGNATURES AND APPROVALS

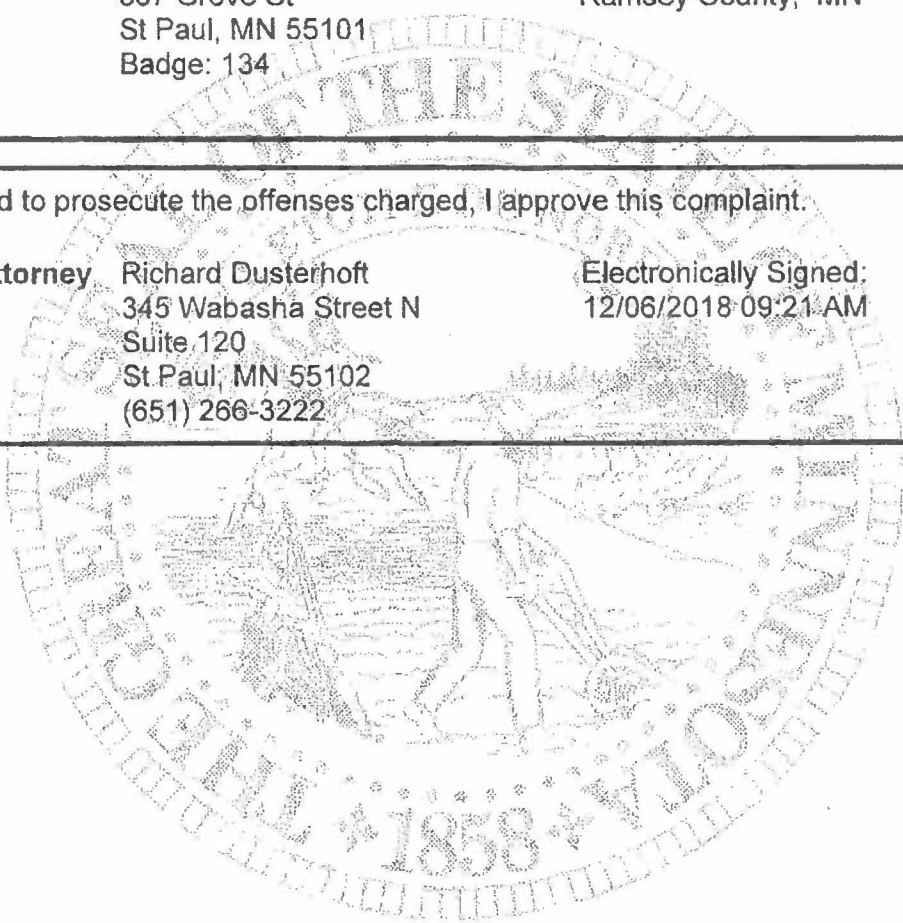
Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant	Thomas Arnold Sergeant 367 Grove St St Paul, MN 55101 Badge: 134	Electronically Signed: 12/06/2018 10:37 AM Ramsey County, MN
--------------------	--	--

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney	Richard Dusterhoft 345 Wabasha Street N Suite 120 St Paul, MN 55102 (651) 266-3222	Electronically Signed: 12/06/2018 09:21 AM
-----------------------------	--	---



FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear on **January 7, 2019 at 1:20 PM** before the above-named court at 15 W Kellogg Blvd, St Paul, MN 55102 to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only

Execute Nationwide

Execute In Border States

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: December 6, 2018.

Judicial Officer

Sara Grewing
Judge

Electronically Signed: 12/06/2018 11:05 AM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF RAMSEY
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Tou Mo Cha

Defendant

LAW ENFORCEMENT OFFICER RETURN OF SERVICE
*I hereby Certify and Return that I have served a copy of this
Summons upon the Defendant herein named.*

Signature of Authorized Service Agent:



License Group Comments Text

Licensee: Checkers Bar Inc

DBA: Checkers Bar

License #: 20100003374

2/12/2019 Finished viewing surveillance Video's JNV and DC

1/28/19 Received second surveillance videos KS

1/23/19 Received Surveillance Video KS

1/15/19 Letter hand delivered by DC at 5:20 given to a Panhia (kitchen staff) KS

1/15/19 Letter sent requesting video for 1/12/19 2300 to 0100 due by 1/18/19. KS

10/5/18 - \$1000 fine paid - EVH

7/30/18 Cn 18075855 sent to CAO for violation of condition on 4/19/18. KS

4/19/18 video recd. given to RS (SPPD) for review. KS

4/16/18 Letter requesting video from 4/14/18 from 2300 to 0030 on 4/15/18 to be submitted by 4/20/18 KS

4/14/18 CN18075855 SPPD report on an assault video requested for viewing not available. KS

11/13/17 Video recd. KS

11/6/17 Letter requesting video for a complaint on 11/4/17 with a 11/13/17 date. KS

05/11/2017 Rcvd \$500.00 or fine. AMW

5/1/17 to CAO for adverse action. Failure to provide video to SPPD upon request in violation of license condition #1 CN 17. KS

04/21/2014 Auth. to adjust submitted to remove customer hold so license will print and be invoiced for next year renewal. LAB/jwf

04/12/2016 Auth. to adjust submitted to remove late fees totaling \$1,054. JWF

04/11/2016 Rec'd \$3,536.00 in payment of license fees and NSF charge. LAB

04/05/2016 Orders issued submit license payment and NSF fee for bounced check by 04/15/2016 or all late fees will be assessed. As of 04/05/2016 amount owed is \$3,536 (including \$30 NSF penalty). JWF

11/30/2015 \$500 fine paid. ES

11/19/2015 - Sent to CAO for adverse action for violation to license condition #1 (failure to maintain video surveillance and failure to provide video to SPPD upon request). JAK

08/10/2015 Orders issued submit payment of delinquent 2nd 1/2 liq. lic. fee, 08/21/2015 response date. JWF

07/03/2014 CN 14134925 Dave O. has asked for surv. vid. on this event. KS

05/24/2014 CN 14101358 & 14100269 (05/23/2014) indicating that customers are urinating and vomiting in neighbor's yards late at night KS



04/14/2014 Licensee called, reminded her of the conditions on her license and her agreement to have staff clean up alley failure to adhere to conditions will result in adverse action KS

04/08/2014 sent e-mail to licensee, no response to phone call KS

04/07/2014 recd complaint from neighbor and Council aide. Left message for Mai to call me KS

11/25/2013 Met with the owners of bar. Discussed limiting the # of smokers and having security remind them that they are in a neighborhood, time stamp must be on video, and cleaning up at bar close and early morning around the establishment. KS

11/12/2013 Video was received and reviewed. Letter to Mai Her telling her that video must have date and time stamps in the future in order to be complaint with license conditions. In addition, she is to call KS by 11/20/2013 to set up a meeting with the neighbor to discuss noise and disturbance complaints at bar close. CAR

10/15/2013 spoke to Mai she will try another prog.KS

10/15/2013 2nd request for info on video KS

10/3/2013 sent e-mail requesting software for playing surveillance video KS

09/25/2013 Sent congratulation letter for passing liquor compliance check done by SPPD on 09/18/2013. ml

09/23/2013 Rcvd \$500.00 for fine. AMW

09/13/2013 Letter from CAR requesting video from 8/31/13. Due in DSI by 09/30/2013. CAR

09/12/2013 Sent Fine letter (\$500 due 9/20/13). LAB

08/21/2013 Council file #13-206 imposes \$500 matrix penalty for failure to provide video recording to DSI relating to an incident occurring on 05/04/2013, as per condition #1 on license, and orders payment of \$500 penalty within 30 days. JWF

08/09/2013 Notice of Council hearing sent CAR

05/31/2013 To CAO for adverse action. \$500 matrix penalty. CAR

05/21/2013 Per email from owner, video only goes back for 12 days in violation of license conditions. CAR

05/14/2013 Letter sent to bar owner requesting video from 05/04/2013 as a check on license conditions. Video due at DSI on 05/24/2013.CAR

05/04/2013 CN 13087062 Indicates that a fight took place in the bar CAR

09/29/2011 Rec'd Alcohol Awareness Roster. Server training was completed on 9/12/2011. LAB

09/29/2011 2011-7% Liquor Discount applied to full paid fee. \$393.00 refund due. LAB

09/07/2011 Rec'd check for \$500.00 matrix penalty. Paid fine with check# 2056. KRD

08/26/2011 Notice of Violation from CAO for failing alcohol compliance check (CN #11170189) and allowing an underage person to serve alcohol at the bar (MN Stat 340A.412 subd.10). \$500 matrix penalty. Response due 09/06/2011. VMS

08/22/1011 To CAO for adverse action. CAR



08/16/2011 CN11170189 Failed alcohol compliance check conducted by SPPD. Compliance failure to result in a warning letter issued. Must take alcohol awareness training by 09/30/2011. In addition, in response to complaints, age of bartender was checked. Bartender is under 18, a violation of state law and city ordinance(310.05(m).) \$500 matrix penalty. CAR

06/01/2011 \$191 computer added to prorated Rest-2 removed and put on 2nd half fee. LAB

03/24/2011 Per email from Steve Parsons (SPPD) they have met his recommendations per the security system. JWF

02/28/2011 Letter sent unmet requirements (see letter for details). JWF

01/19/2011 council File #10-1643 approves license with conditions. JWF

12/10/2010 Paid \$360.00 to upgrade liquor from 101-180 to 181-290 (\$310 check & \$50 refund from cancelled 2 AM license). LAB

11/23/2010 Letter sent, return revised signed condition affidavit, submit payment of \$310 to upgrade liquor license application to 181-290 seats, return signed withdrawal request for 2AM Closing license (NOTE: returned State 2AM application and check payable to State). Response date 12/03/2010. JWF

11/18/2010 License conditions revised per Nhia Vang, Leg. Hearing Officer. Per applicant they have agreed to withdraw Liquor On Sale - 2AM Closing request. JWF

11/01/2010 Objections received to notification, legislative hearing scheduled for 11/18/2010. JWF

09/14/2010 License notification sent, 98M/35EM, response date 10/29/2010. JWF



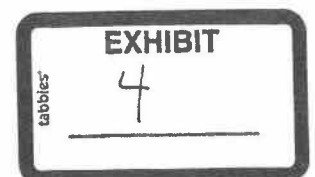
License Group Conditions Text

Licensee: Checkers Bar Inc

DBA: Checker Bar

License #: 20100003374

1. The licensee shall maintain video surveillance cameras inside and outside the establishment. The video recordings shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department immediately upon request. In addition, if the SPPD responds to a call at the licensed premises, and due to the serious nature of the crime, requests that a copy of the surveillance footage be immediately provided, license holder shall have technology available to make the copy at the time of the request and shall have it for the police without delay. In other cases, if the SPPD or the Department of Safety and Inspections requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies.
2. A camera and lighting placement plan shall be submitted to the SPPD to review for adequate coverage. Lighting and camera placement (and number) language will be added after review by SPPD.
3. Clearly identifiable security personnel shall be assigned to each entrance starting at 9 PM when entertainment is offered and shall remain until all patrons have left the licensed premises. Security personnel shall "wand" (using a metal detector) each patron and check all handbags and packages carried by patrons. The requirement to wand patrons includes those who are returning to the bar.
4. Security personnel shall verify the age of patrons by checking state or federally issued identification cards (no picture I.D., no entrance).
5. No trash or bottle dumping after 9PM or before 8AM.
6. Licensee shall make sure that all refuse and trash that is on the premises and/or surrounding sidewalks is removed on a daily basis.
7. The basement is to be used only as office and storage space. Customers and/or patrons shall not be permitted in the basement area.
8. There shall be no use of the outdoor patio area by employees, customers, and/or patrons for activities such as smoking, drinking (either alcoholic or non-alcoholic beverages), and/or food service/consumption. Smokers shall be directed to smoke outside the Arcade Street entrance. The patio area may only be used for the placement of trash and recycling containers, with employees directed to take as little time as possible when disposing of trash and/or recyclable items.
9. This establishment shall make last call at 12:30 a.m.. No patrons will be allowed to enter after 12:30 a.m. Liquor sales and service shall discontinue by 1:00 a.m. Liquor consumption must stop by 1:30 a.m. and all patrons shall be off the premises by 1:30 a.m.
10. There shall be no amplified or DJ music after 12:30 a.m.



Properties For License 992 ARCADE ST

Pay Print Warn Hist Summ

Licensee: CHECKER BAR INC
DBA: CHECKER BAR

License Licensee Lic. Types Insurance Bond Requirements

Licensee Name: CHECKER BAR INC Browse...
 DBA: CHECKER BAR Properties...
 Sales Tax Id: ***** Non-Profit: Worker's Comp: 02/01/2020
 AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
 AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses

Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date
			NSF	N	03/17/2016

Financial Hold Reasons

Contacts for this Licensee

Last Name	First Name	Title	Bus. Phone	Home Phone	Contact Address
HER	MAI	MAIL TO ADDR () -			695 COUNTY ROAD E
HER	MAI	OWNER	(651) 772-1020	(651) 329-4959	992 ARCADE ST
HER	MAI	OWNER	(651) 329-4959	(651) 329-4959	4322 MARIGOLD AVE
HER	MAI	OWNER	(651) 329-4959	(651) 329-4959	992 1/2 ARCADE ST #

Background Check Required Contact Properties...

License # 100003374 Save Changes to History OK Cancel Help

#OONOLVHG0EGMV7v1



Properties For License 992 ARCADE ST

Pay Print View Hist Submit

Licensee: CHECKER BAR INC
DBA: CHECKER BAR

License Licensee Lic. Types Insurance Bond Requirements

Licensee Name: CHECKER BAR INC Browse...
 DBA: CHECKER BAR
 Sales Tax Id: ***** Non-Profit: Worker's Comp: 02/01/2020 Properties...
 AA Contract Rec'd: 00/00/0000 AA Training Rec'd: 00/00/0000
 AA Fee Collected: 00/00/0000 Discount Rec'd:

Other Agency Licenses				Financial Hold Reasons		
Other Licensing Agency Name / License Type	License #	Expiration	Reason	Active	Date	
			NSF	N	03/17/2016	

Contacts for this Licensee

Contact Address	City	Zip	DOB	Last Check	Driv
895 COUNTY ROAD B2 E	LITTLE CANADA	55117	00/00/0000	00/00/0000	
992 ARCADE ST	ST PAUL	55106	08/05/1971	00/00/0000	X35421
4322 MARIGOLD AVE	VADNAIS HTS	55127	08/05/1971	00/00/0000	X35421
992 1/2 ARCADE ST #1	ST PAUL	55106	08/05/1971	00/00/0000	X35421

Background Check Required Contact Properties...

License # 100003374 Save Changes to History

OK Cancel Help

#OONOLVHG0EGMV7v1



STAMP - Ownership / Zoning Information

[New Search](#)

[Help using this report](#)



Run Date: 02/12/19 01:31 PM
House#: 992
Street Name: Arcade

Last updated from Ramsey County data on: 07/07/2018

Click on "Other Application" links below to access GISmo, MapIT, and Ramsey County Info

992 Arcade St - Checker Board Pizza - 55106-3202 - [Other Applications](#)

PIN: 282922230175

Census Tract: 31600

Census Block: 3001

Council Ward: 6

District Council: 5

Year Built:

Foundation Sq Feet:

Loan Company:

Land Value: 64500

Building Value: 237400

Unverified Usage: 13- COMMERCIAL/APARTMENT- B- Commercial

ISP: Payne Phalen

Units: 2

Zoning: T2

Heritage Preservation: HP Inventory #: RA-SPC-0101 / HP Property Name: commercial building / HP Date Built: ca. 1900 / HP Address: 992 ARCADE ST N

Legal Desc: E. M. MACKUBIN'S 2ND ADDITION S 52 09/100 FT OF LOTS 16 17 AND 18 ALSO EX THE E 5 FT THE S 52 FT OF LOT 19 BLK 1

Owner:

Twin State Music Incorporated
1811 Okeefe Rd
Hudson WI 54016-7218
651-774-2955

Certificate of Occupancy Responsible Party:

Twin State Music Incorporated
1811 Okeefe Rd
Hudson WI 54016-7218
651-774-2955



CITY OF SAINT PAUL

375 Jackson Street, Suite 220
St Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

January, 15, 2019

Checker Bar Inc.
Mai Her
992 Arcade St.
St Paul, MN 55106

Ms. Her,

In response to a complaint and in compliance with the conditions of your license, I am requesting a copy of all interior and exterior video camera surveillance for the following date and times:
January 12, 2019 from 2300 (11:00) P.M. to 0100 (1:00) A.M. on January 13, 2019.

Please deliver this copy in a readable format to the Department of Safety and Inspections at 375 Jackson St. Suite 200 no later than 4:30 P.M. on January 18, 2019.

Please contact me with any questions. I can be reached at (651) 266-9110, or kristina.schweinler@ci.stpaul.mn.us.

Respectfully,

Kristina Schweinler
Sr. License Inspector

Cc: Eric Hudak, License Manager
Therese Skarda, Asst. City Atty.

Mai Her
4322 Marigold Ave.
Vadnais Hts. MN 55127





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Kristina Schweinler
Sr. License Inspector

Cc: Eric Hudak, License Manager
Therese Skarda, Asst. City Atty.

Mai Her
4322 Marigold Ave.
Vadnais Hts. MN 55127

*Sorry for late response. went on vacation
Jan. 13th through Jan. 23rd.*





CITY OF SAINT PAUL

375 Jackson Street, Suite 220
St Paul, Minnesota 55101-1806

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Facsimile: 651-266-9124
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Kristina Schweinler
Sr. License Inspector

Cc: Eric Hudak, License Manager
Therese Skarda, Asst. City Atty.

Mai Her
4322 Marigold Ave.
Vadnais Hts. MN 55127

1/23/19 HA recd.
1/28/19 2nd set submit



992 Arcade / Checker Bar Inc
Surveillance Video Observations
1/13/2019 Revised 2/4/2020

Violations of License Conditions #3 and #4 which require that (3) clearly identifiable security personnel be assigned to each entrance starting at 9 PM when entertainment is offered remain until all patrons have left the licensed premises, that security personnel "wand" (using a metal detector) each patron and check all handbags and packages carried by patrons. The requirement to wand patrons includes those who are returning to the bar. Condition (4) requires that "Security personnel shall verify the age of patrons by checking state or federally issued identification cards (no picture I.D., no entrance).

Disc 2, Camera 1 – 11:15:38 am, 11:17:56 am, 11:23:21 am

Disc 2, Camera 1 – 11:25:49 am

Disc 7, Camera 1 – 12:32:24 am, 12:33:54 am, 12:37:00 am

Disc 8, Camera 3 – 12:49:17 am, 12:49:47 am, 12:51:41 am

"V" Disc 2, Camera 3 – 12:49:47 am

Violations of License Condition #5 – which prohibits trash or bottle dumping after 9PM or before 8AM.

Disc 1, Camera 13 – 11:04:17 am

Disc 7, Camera 13 – 12:42:10 am

Disc 8, Camera 13 – 12:54:40 am

"V" Disc 2, Camera 13 – 12:42:15 am, 12:54:43 am

Violation of License Condition #8 – which prohibits use of the outdoor patio area by employees, customers, and/or patrons for activities such as smoking, drinking (either alcoholic or non-alcoholic beverages), and/or food service/consumption. Smokers shall be directed to smoke outside the Arcade Street entrance.

Disc 8, Camera 13 – 12:45:15 am

"V" Disc 2, Camera 13 – 12:45:32 am

Violation of License Condition #9–which prohibits patrons from entering the Licensed Premises after 12:30 a.m.

Disc 7, Camera 1 – 12:32:24 am, 12:33:54 am, 12:37:00 am

Disc 8, Camera 3 – 12:49:17 am, 12:49:47 am, 12:51:41 am

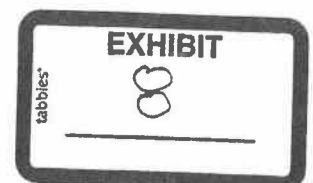
"V" Disc 2, Camera 3 – 12:49:47 am

NOTE: All camera angles do not show security personnel using a Wand detector to scan customers entering the building at the entrances.

Joseph Voyda
Licensing inspector II



February 12, 2019 Revised February 6, 2020



ST. PAUL

Before five officers' firings, St. Paul bar had long history with police

The department has filed hundreds of reports related to Checkerbar, owned by a former officer, since it opened a decade ago.

By Emma Nelson (<http://www.startribune.com/emma-nelson/261800211/>) Star Tribune

JULY 20, 2019 — 9:18PM

On some nights, a dozen bouncers equipped with pepper spray keep the peace at Checkerbar Food and Liquor.

The corner bar and pizza place, at 992 Arcade St. on St. Paul's East Side, is owned by an ex-cop and has regular visits from the police. Though fights occasionally break out, the owner's son, Chi Chazonkhueze, said Checkerbar is just a neighborhood joint trying to tamp down crime in a tough part of the city.

"You got your bad apples out here and things happen," Chazonkhueze said on a recent Friday as he bartended for a quiet happy-hour crowd.

Yet the bar and its security practices have repeatedly landed the business in trouble with police and license inspectors. Owned by Tou Cha, the Checkerbar has been cited four times for failing to provide surveillance video to police.

In June, Chief Todd Axtell [took the extraordinary step](http://www.startribune.com/five-st-paul-police-officers-fired-for-failing-to-intervene-in-assault/511254182/) (<http://www.startribune.com/five-st-paul-police-officers-fired-for-failing-to-intervene-in-assault/511254182/>) of firing five officers who he said failed to intervene when they saw someone physically assaulted. The police department did not provide details about the incident, but a source familiar with the case told the Star Tribune that it involved Cha, who was accused of beating a man with a baton outside the bar in summer 2018.

Cha was charged by summons late last year with three counts of felony assault. His attorney, Jack Rice, has said police should have stepped in.



“Knowing that this place is what this place is, and that there are good people in this bar, all of these people deserve to be protected and to be in a public space that is safe,” Rice said in an interview Friday. “And when the police fail in their role, it’s a failure for society, not just their failure.”

The city is contemplating new penalties on Checkerbar’s license after a fifth episode of failing to share surveillance video, according to Ricardo Cervantes, director of the St. Paul Department of Safety and Inspections.

Cha’s pending criminal counts might also play into that action, he said.

“In this case, having a crime borne out and proven would have a huge impact on whether or not the license would be revoked,” Cervantes said.

Cha, 50, could not be reached for comment.

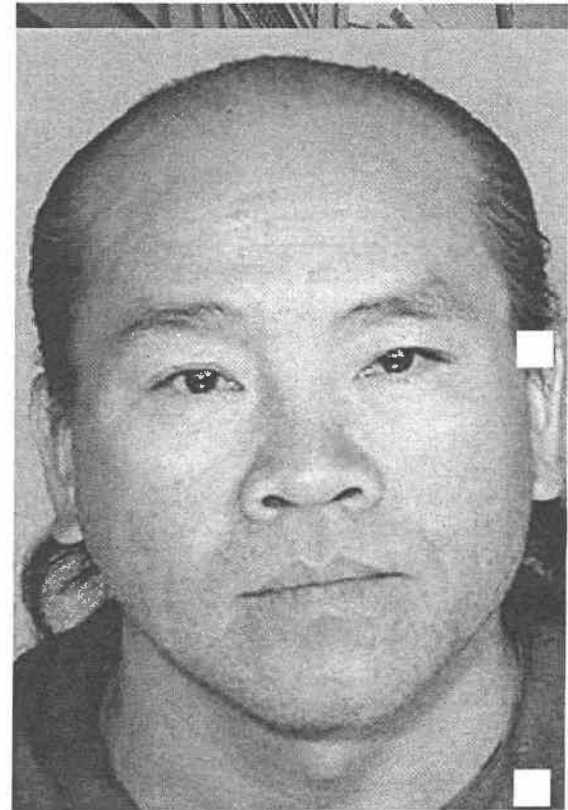
As a St. Paul police officer (<http://www.startribune.com/feb-9-2005-tou-cha-resigns-from-st-paul-police-after-guilty-plea-in-gun-case/511259991/>) in the 1990s and 2000s, Cha was suspended for a total of seven days without pay for working off-duty inside a bar, failing to document his use of force against two young men and hitting a man whom he transported to detox, according to Internal Affairs records provided by the department.

He resigned in 2005 (<http://www.startribune.com/feb-9-2005-tou-cha-resigns-from-st-paul-police-after-guilty-plea-in-gun-case/511259991/?refresh=true>) after pleading guilty to lending out his service pistol, which was then used to shoot up the home of a Hmong leader.

Cha previously co-owned a Frogtown nightclub called Bangkok City, which the city shut down in 2003 after shootings, fights, underage drinking and numerous code violations. He went on to open Checkerbar, also known as Checkerboard Pizza, which lists Cha’s wife, Mai Her, as the license holder.

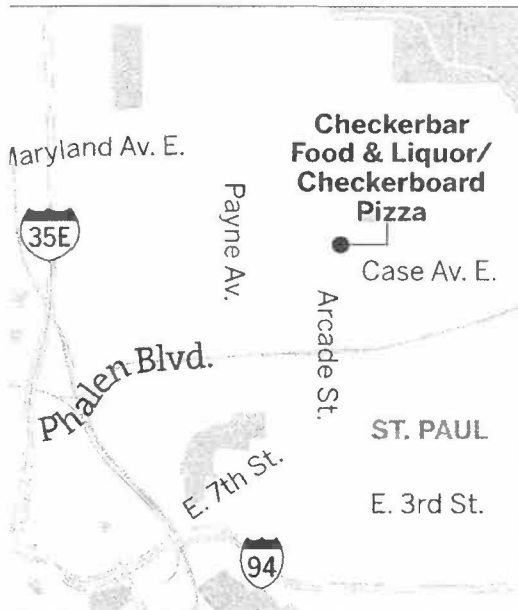
Bouncers work both inside and outside the bar, which can hold 300 people, Chazonkhueze said.

Since Checkerbar was first licensed in March 2011, police have filed more than 370 reports related to the business; 31 of those were filed in the past year.



Former St. Paul police officer Tou Cha owns Checkerbar.





source: maps4news.com [HERE](#)

Police reports obtained through a public-records request between Jan. 1, 2018, and June 11, 2019, note that 992 Arcade is a “mandatory report address.” St. Paul Police Sgt. Mike Ernster said that means officers are required to file a report every time they respond to a call there.

“Anytime there’s a call there, a report needs to be written to document what the complaint was and what the officers found when they got there — basically trying to stay informed of everything that’s going on at that property, based on if there’s any license violations, things like that,” Ernster said. “And is the property becoming a problem in that area?”

Though the reports show some officer visits were proactive checks or off-duty work, at least eight were in response to reported assaults — including some where bouncers allegedly choked, struck or pepper-sprayed patrons.

In April 2018, a fight broke out while officers were already nearby. A police report said the fight involved about 10 people, including bouncers who “deployed their batons and sprayed pepper spray.”

According to the report, police arrested a man who employees said had started throwing punches when he was deemed too drunk to let into the bar. They took him to Regions Hospital and photographed his injuries, including a laceration requiring eight staples.

Alleged assault victims and witnesses in multiple cases did not respond or declined to comment. Calls to employees listed in police reports were not returned.



Asked about bouncers using pepper spray and batons, Chazonkhueze said they use pepper spray to protect themselves — people have pulled knives on them, he said. Bouncers also search customers with a metal detector wand before they come in, he said.

“I’ve gotta protect my customers, you know,” he said.

In December, a man called 911 and said Checkerbar staff had assaulted him. In interviews with police, bouncers said the man had tripped and fallen as they escorted him out of the bar.

Security footage of the incident didn’t show what happened before the man fell. In one recording, a bouncer could be heard telling another employee to “delete anything in there,” according to a police report.

“I asked him if he deleted part of the video and he said no, he does not have any information about how to delete anything,” an officer wrote in an incident report.

After multiple unsuccessful attempts to reach the alleged victim, police determined the case did not meet the threshold for charging by the Ramsey County Attorney’s Office, according to a Jan. 2 report.

The City Attorney’s Office issued five violation notices to Checkerbar between 2011 and 2018 — once for employing an underage bartender and four times for failing to provide surveillance video when police asked for it, including after the fight in April 2018.

The violations haven’t happened often enough to trigger a license revocation, Cervantes said.

The City Attorney’s Office is reviewing the department’s most recent recommendation for sanctions in February, which Cervantes said he cannot discuss. The City Council has the final say on such a penalty.

The criminal case against Cha could affect how the city deals with Checkerbar, Cervantes said. [Under city ordinance](https://library.municode.com/mn/st._paul/codes/code_of_ordinances?) (https://library.municode.com/mn/st._paul/codes/code_of_ordinances?



nodeId=PTIILECO TITXXIXLI CH310UNLIPR S310.05HEPR), a business must pay a \$2,000 fine the first time an employee commits a felony on the premises and will lose its license the second time.

Staff writer James Walsh contributed to this report.

St. Paul reporter **Emma Nelson** joined the Star Tribune in 2014, and has covered local government beats from Scott and Dakota counties to Minneapolis City Hall. She has also been part of reporting teams that covered the aftermath of the Norwood Teague sexual harassment scandal and the death of Prince.

emma.nelson@startribune.com 612-673-4509 emmamarienelson





CITY OF SAINT PAUL

Christopher B. Coleman, Mayor

Civil Division

400 City Hall

15 West Kellogg Blvd.

Saint Paul, Minnesota 55102

Telephone: 651 266-8710

Facsimile: 651 298-5619

May 2, 2017

NOTICE OF VIOLATION

Mai Her, Owner
Checker Bar
992 Arcade Street
St. Paul, MN 55106

RE: All licenses held by Checker Bar, Inc. d/b/a Checker Bar for the premises located at 992 Arcade Street in Saint Paul License ID #20100003374

Dear Licensee:

The Department of Safety and Inspections (DSI) will recommend adverse action against all licenses held by Checker Bar, Inc. d/b/a Checker Bar for the premises located at 992 Arcade Street in Saint Paul. The basis for the recommendation is as follows:

On April 20, 2017, at approximately 11:50 p.m., Saint Paul Police were called to the licensed premises on a report of an assault (CN #17-087-046). Two females were involved in an altercation inside the bar where one female struck another with a beer bottle before being removed by security. After speaking to both females, the officer spoke with security regarding the incident and to show her where the altercation occurred. The officer then asked about video footage and was told they would not be able to review the camera footage until the next day.

On April 21, 2017, a Saint Paul Police Criminalist came to your establishment and took custody of the video (CN #17-087-046) for the investigator.

Failure to provide Saint Paul Police with access to video for immediate review is a violation of license condition #1 which states: *"The licensee shall maintain video surveillance cameras inside and outside the establishment. The video recordings shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department immediately upon request. In addition, if the SPPD responds to a call at the licensed premises, and due to the serious nature of the crime, requests that a copy of the surveillance footage be immediately provided, license holder shall have technology available to make the copy at the time of the request and shall have it for the police without delay. In other cases, if the SPPD or the Department of Safety and Inspections requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies."*

As a result of this violation, per Saint Paul Legislative Code § 310.05 (m) (1), the licensing office will recommend a \$500.00 matrix penalty.

At this time, you have four (4) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by Friday, May 12, 2017, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the next available City Council Agenda for approval of the proposed remedy.



2. You can pay the \$500.00 matrix penalty. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Friday, May 12, 2017**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 matrix penalty will be considered to be a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing. I will need to receive your letter by **Friday, May 12, 2017**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Friday, May 12, 2017**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by **Friday, May 12, 2017**, I will assume that you do not contest the imposition of the \$500.00 matrix penalty. In that case, the matter will be placed on the next available City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please feel free to contact me at 266-8710.

Sincerely,



Therese Skarda
Assistant City Attorney

cc: Mai Her, 992 ½ Arcade Street #1, St. Paul, MN 55106



STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

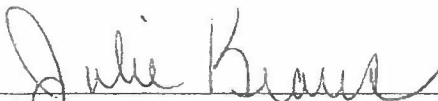
COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 2nd day of May she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:

Mai Her, Owner
Checker Bar
992 Arcade Street
St. Paul, MN 55106

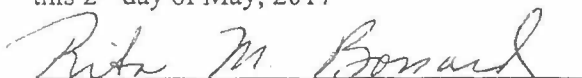
Mai Her
992 ½ Arcade Street #1
St. Paul, MN 55106

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.

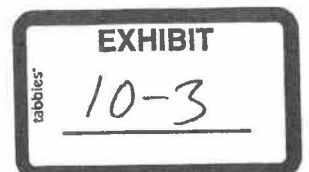
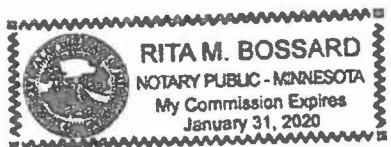


Julie Kraus

Subscribed and sworn to before me
this 2nd day of May, 2017



Notary Public





CITY OF SAINT PAUL
Mayor Melvin Carter

Civil Division
400 City Hall
15 West Kellogg Blvd.
Saint Paul, Minnesota 55102

Telephone: 651 266-8710
Facsimile: 651 298-5619

September 20, 2018

NOTICE OF VIOLATION

Mai Her, Owner
Checker Bar
992 Arcade Street
St. Paul, MN 55106

RE: Liquor On Sale-181-290 Seats, Liquor On Sale-Sunday and Entertainment (B) licenses held by Checker Bar, Inc. d/b/a Checker Bar for the premises located at 992 Arcade Street in Saint Paul License ID #20100003374

Dear Licensee:

The Department of Safety and Inspections (DSI) will recommend adverse action against the Liquor On Sale-181-290 Seats, Liquor On Sale-Sunday and Entertainment (B) licenses held by Checker Bar, Inc. d/b/a Checker Bar for the premises located at 992 Arcade Street in Saint Paul. The basis for the recommendation is as follows:

On April 14, 2018, at approximately 12:27 a.m., Saint Paul Police were monitoring activity outside the Checker Bar when a fight moved from inside the bar into the street in front (CN #18-075-855). There were approximately ten (10) people in the crowd including several security guards who had deployed their batons and pepper spray. One of the security guards was assaulted and had blood on his face.

When officers inquired about video footage of the incident, they were told security did not have access and the owners were currently out of town. Failure to immediately allow Saint Paul Police to view the video footage is a violation of license condition #1: "The licensee shall maintain video surveillance cameras inside and outside the establishment. The video recordings shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department immediately upon request...."

On April 16, 2018, you were sent a letter from the Department of Safety and Inspections requesting a copy of your video surveillance with player software for all cameras from April 14, 2018 at 11:00 p.m. to 12:30 a.m. on April 15, 2018. You were asked to submit the requested video surveillance and player software by close of business on April 20, 2018.



The Department of Safety and Inspections received your video surveillance on April 19, 2018. Staff then attempted to view the video surveillance but found it incomplete with only nine (9) of the possible thirteen (13) cameras (1, 6, 10, 11, 12, 13, 14, 15, & 16) provided. Staff also believes that your date and time stamps are not clear.

As a result, it was determined that you failed to fully comply with the April 16, 2018 request for video surveillance from all cameras inside and outside in violation of license condition #1: *"The licensee shall maintain video surveillance cameras inside and outside the establishment. The video recordings shall be kept by the license holder for at least thirty (30) days and shall be available for viewing by the Saint Paul Police Department immediately upon request. In addition, if the SPPD responds to a call at the licensed premises, and due to the serious nature of the crime, requests that a copy of the surveillance footage be immediately provided, license holder shall have technology available to make the copy at the time of the request and shall have it for the police without delay. In other cases, if the SPPD or the Department of Safety and Inspections requests copies of the surveillance tapes, licensee shall have a 48-hour period in which to provide such copies."*

This is the second violation to your license conditions in the past twelve (12) months; therefore, the licensing office will recommend a \$1,000.00 matrix penalty.

You have four (4) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Monday, October 1, 2018**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the **October 17, 2018** City Council Agenda for approval of the proposed remedy.
2. You can pay the \$1,000.00 matrix penalty. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, October 1, 2018**. A self-addressed envelope is enclosed for your convenience. Payment of the \$1,000.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.
3. If you wish to admit the facts but you contest the \$1,000.00 matrix penalty, you may have a public hearing before the Saint Paul City Council. You will need to send me a letter with a statement admitting to the facts and requesting a public hearing by **Monday, October 1, 2018**. The matter will then be scheduled before the City Council to determine whether to impose the \$1,000.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.



4. If you dispute the facts outlined above, you may request a hearing before an Administrative Law Judge (ALJ). You will need to send me a letter disputing the facts and requesting an administrative hearing no later than **Monday, October 1, 2018**. At that hearing both you and the City will appear and present witnesses, evidence and cross-examine each other's witnesses. After receipt of the ALJ's report (usually within 30 days), a public hearing will need to be scheduled. At that time, the City Council will decide whether to adopt, modify or reject the ALJ's report and recommendation.

Please note: If you choose an administrative hearing, the Department of Safety and Inspections reserves the right to request that City Council impose the costs of the administrative hearing per Saint Paul Legislative Code § 310.05 (k).

If you have not contacted me by Monday, October 1, 2018, I will assume that you do not contest the imposition of the \$1,000.00 matrix penalty. In that case, the matter will be placed on the October 17, 2018 City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please feel free to contact Julie Kraus, my Legal Assistant at (651) 266-8776.

Sincerely,



Therese Skarda
Assistant City Attorney
License No. 0240989

cc: Mai Her, 992 ½ Arcade Street #1, St. Paul, MN 55106
Lissa Jones, Interim Executive Director, Payne Phalen District 5 Planning Council, 567 Payne Avenue
St. Paul, MN 55130
Twin State Music Incorporated, 1811 O'Keefe Road, Hudson, WI 54016-7218



STATE OF MINNESOTA)

) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Julie Kraus, being first duly sworn, deposes and says that on the 20th day of September, she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:


Mai Her, Owner
Checker Bar
992 Arcade Street
St. Paul, MN 55106

Mai Her
992 1/2 Arcade Street #1
St. Paul, MN 55106

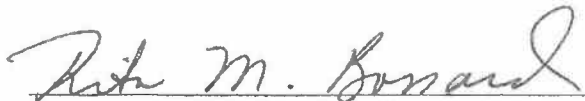
Lissa Jones, Interim Executive Director
Payne Phalen District 5 Planning Council
567 Payne Avenue
St. Paul, MN 55130

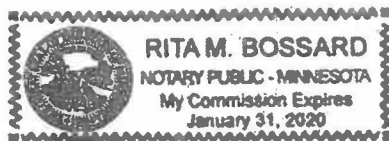
Twin State Music Incorporated
1811 O'Keefe Road
Hudson, WI 54016-7218

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.


Julie Kraus

Subscribed and sworn to before me
this 20th day of September 2018


Notary Public





DSI RECEIPT

CITY OF SAINT PAUL
Department of Safety and Inspections
375 Jackson Street Suite 220
Saint Paul, Minnesota 55101-1806
Phone: (651) 266-8989 Fax: (651) 266-9124
www.sipaul.gov/dsi

Date: 10/05/2018

Received From: CHECKER BAR INC dba: CHECKER BAR
992 ARCADE ST ST PAUL MN 55106

Description:

Invoice Details	Invoice Amount	Amount Paid
1040271		
Fine	\$1,000.00	\$1,000.00
TOTAL AMOUNT PAID:		\$1,000.00

Paid By:

Payment Type	Check #	Received Date	Amount
Check	1051	10/05/2018	\$1,000.00



Sec. 409.26. - Intoxicating liquor; nonintoxicating malt liquor; presumptive penalties.

- (a) *Purpose.* The purpose of this section is to establish a standard by which the city council determines the length of license suspensions and the propriety of revocations, and shall apply to all on-sale and off-sale licensed premises for both intoxicating liquor under this chapter and nonintoxicating liquor under chapter 410. These penalties are presumed to be appropriate for every case; however the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate.
- (b) *Presumptive penalties for violations.* Adverse penalties for convictions or violations shall be presumed as follows (unless specified, numbers below indicate consecutive days' suspension):

	Type of Violation	Appearance			
		1st	2nd	3rd	4th
(1)	Commission of a felony related to the licensed activity.	Revocation	NA	NA	NA
(2)	Sale of alcohol beverages while license is under suspension.	Revocation	NA	NA	NA
(3)	Sale of alcoholic beverages to underage person.	500.00	1,000.00	Up to 18	Revocation
(4)	Sale of alcoholic beverage to intoxicated person.	500.00	1,000.00	Up to 18	Revocation
(5)	After hours sale of alcoholic beverages.	500.00	6	18	Revocation
(6)	After hours display or consumption of alcoholic beverage.	500.00	4	12	Revocation
(7)	Refusal to allow city inspectors or police admission to inspect premises.	5	15	Revocation	NA
(8)	Illegal gambling on premises.	500.00	6	18	Revocation
(9)	Failure to take reasonable steps to stop person from leaving premises with alcoholic beverage.	500.00	4	12	Revocation
(10)	Failure to make application for license renewal prior to license expiration date.	500.00	6	18	Revocation



(11)	Sale of intoxicating liquor where only license is for nonintoxicating liquor.	500.00	6	18	Revocation
(12)	Failure to comply with statutory, and ordinance requirements for liability insurance.	10	Revocation	NA	NA

For on-sale intoxicating liquor establishments with a seating capacity of one hundred fifty (150) or more, the monetary penalty for any violation (including violations found in chapter 310) shall be doubled.

For off-sale intoxicating liquor establishments with five thousand one (5,001) or more square feet of retail space, the monetary penalty for any violation (including violations found in chapter 310) shall be doubled.

A licensee who would be making a first appearance before the council may elect to pay the fine to the department of safety and inspections without an appearance before the council, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive penalty. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and shall be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.

(c) *Multiple violations.* At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in paragraph (b) above. The occurrence of multiple violations shall be grounds for departure from such penalties in the council's discretion.

Violations occurring after the date of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) by stipulation if the licensee admits to the facts, and shall in that case be treated as though part of the "1st Appearance." In all other cases, violations occurring after the date of the formal notice of hearing shall be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council.

The same procedures shall apply to a second, third or fourth appearance before the council.

(d) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by a particular licensee, the council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance.

(e) *Computation of time.*

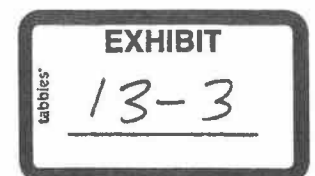
(1) *Second appearance.* A second violation within twelve (12) months shall be treated as a second appearance for the purpose of determining the presumptive penalty.

(2) *Third appearance.* A third violation within eighteen (18) months shall be treated as a third appearance for the purpose of determining the presumptive penalty.

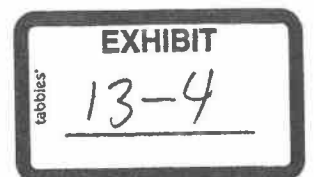
(3) *Fourth appearance.* A fourth violation within twenty-four (24) months shall be treated as a fourth appearance for the purpose of determining the presumptive penalty.



- (4) Any appearance not covered by subsections (1), (2) or (3) above shall be treated as a first appearance. Measurement of the twelve-, eighteen- or twenty-four-month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.
- (5) For the purpose of a second, third or fourth appearance under this section, "violation" shall mean either one of those violations listed in paragraph (b) or a violation of section 310.05(m).
- (f) *Other penalties.* Nothing in this section shall restrict or limit the authority of the council to suspend up to sixty (60) days, revoke the license, or impose a civil fine not to exceed two thousand dollars (\$2,000.00), to impose conditions or take any other adverse action in accordance with law, provided, that the license holder has been afforded an opportunity for a hearing in the manner provided for in section 310.05 of this Code.
- (g) *Effect of responsible business practices in determining penalty.* In determining the appropriate penalty, the council may, in its discretion, consider evidence submitted to it in the case of uncontested adverse actions or submitted to a hearing examiner in a contested hearing upon which findings of fact have been made that a licensee has followed or is likely to follow in the future responsible business practices in regard to sales to intoxicated persons and sales to minors.
 - (1) For the purposes of service to intoxicated persons, evidence of responsible business practices may include, but is not limited to, those policies, procedures and actions that are implemented at time of service and that:
 - a. Encourage persons not to become intoxicated if they consume alcoholic beverages on the defendant's premises;
 - b. Promote availability of nonalcoholic beverages and food;
 - c. Promote safe transportation alternatives other than driving while intoxicated;
 - d. Prohibit employees and agents of defendant from consuming alcoholic beverages while acting in their capacity as employees or agents;
 - e. Establish promotions and marketing efforts that publicize responsible business practices to the defendant's customers and community;
 - f. Implement comprehensive training procedures;
 - g. Maintain an adequate, trained number of employees and agents for the type and size of defendant's business;
 - h. Establish a standardized method for hiring qualified employees;
 - i. Reprimand employees who violate employer policies and procedures; and
 - j. Show that the licensee has enrolled in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.
 - (2) For the purposes of service to minors, evidence of responsible business practices may include, but is not limited to, those listed in subsection (1) and the following:
 - a. Management policies that are implemented at the time of service and that ensure the examination of proof of identification (as established by state law) for all persons seeking service of alcoholic beverages who may reasonably be suspected to be minors;
 - b. Comprehensive training of employees who are responsible for such examination regarding the detection of false or altered identification; and
 - c. Enrollment by the licensee in recognized courses providing training to self and one (1) or more employees of the licensed establishment in regard to standards for responsible liquor service.



(Ord. No. 17556, § 1, 4-28-86; Ord. No. 17657, § 14, 6-8-89; Ord. No. 17675, § 1, 8-22-89; Ord. No. 17694, § 2, 11-7-89; Ord. No. 17756, § 1, 8-7-90; Ord. No. 17924, §§ 2, 3, 5-7-92; C.F. No. 92-1929, § 1, 2-9-93; C.F. No. 97-1445, § 1, 12-30-97; C.F. No. 98-866, § 1, 11-4-98; C.F. No. 07-149, § 161, 3-28-07; C.F. No. 10-818, § 1, 8-25-10; Ord. No. 11-92, § 1, 9-28-11; Ord 12-41, § 1, 8-22-12)



Sec. 310.05. - Hearing procedures.

(m) *Presumptive penalties for certain violations.* The purpose of this section is to establish a standard by which the city council determines the amount of fines, the length of license suspensions and the propriety of revocations, and shall apply to all license types, except that in the case of a violation involving a liquor license § 409.26 shall apply where a specific violation is listed. In the case of an adverse action filed for a violation of chapter 331A, the licensee shall be given a fine for each individual violation of chapter 331A. The total fine amount for violations of chapter 331A may exceed the maximum fine outlined below due to multiple violations in one (1) appearance. All penalty recommendations for chapter 331A violations shall be based on the food penalty guideline referred to in chapter 331A. These penalties are presumed to be appropriate for every case; however the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so. When deviating from these standards, the council shall provide written reasons that specify why the penalty selected was more appropriate.

Type of Violation	Appearance			
	1st	2nd	3rd	4th
(1) Violations of conditions placed on the license	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(2) Violation of provisions of the legislative code relating to the licensed activity	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(3) Violation of provisions of the legislative code relating to the licensed activity, other than violations of the food code	\$500.00 fine	\$1,000.00 fine	\$2,000.00 fine and 10-day suspension	Revocation
(4) Failure to permit entrance or inspection by DSI inspector or police	5-day suspension	10-day suspension	15-day suspension	Revocation
(5) Commission of a crime other than a felony on the premises by a licensee or employee	\$700.00	\$1,500.00	5-day suspension	Revocation
(6) Commission of a felony on the premises by a licensee or employee	\$2,000.00	Revocation	n/a	n/a



(7) Death or great bodily harm in establishment related to violation of law or license conditions	30-day suspension	60-day suspension	Revocation	n/a
(8) Failure to pay license fees	Suspension	Revocation		
(9) Critical violations under 331A	\$250.00	\$500.00	\$1,000.00, 5-day suspension	Revocation
(10) Non-critical violation under 331A	\$150.00	\$250.00	\$500.00	\$1,000.00
(11) Taxi fail to display driver's license as required by 376.16(f)	\$100.00	\$250.00	\$500.00	Revocation
(12) Taxi fail to display number of information and complaint office as required by 376.11(v)	\$100.00	\$250.00	\$500.00	Revocation
(13) Violation of restrictions upon sidewalk café license under 106.01(b)	\$200.00	\$400.00	\$800.00	Revocation

(i) *Fines payable without hearing.*

- A. Notwithstanding the provisions of section 310.05(c), a licensee who would be making a first or second appearance before the council may elect to pay the fine to the department of safety and inspections without a council hearing, unless the notice of violation has indicated that a hearing is required because of circumstances which may warrant deviation from the presumptive fine amount. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations.
- B. For adverse action initiated under chapter 331A of this Code, a fine may be paid without a hearing regardless of how many prior appearances that licensee has made before the council. The above council hearing requirement applies to violations under chapter 331A unless the fine recommended by the department of safety and inspections is equal to or less than the fine amount outlined in the above matrix. Payment of the recommended fine will be considered to be a waiver of the hearing to which the licensee is entitled, and will be considered an "appearance" for the purpose of determining presumptive penalties for subsequent violations. A non-critical violation under chapter 331A shall not be considered an "appearance" for purposes of determining presumptive penalties for non-331A violations. A council hearing is required if the department of safety and inspections recommends a fine that is an upward departure for the amount outlined above.



- (ii) *Multiple violations.* At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in paragraph (b) above. The occurrence of multiple violations shall be grounds for departure from such penalties in the council's discretion.
- (iii) *Violations occurring after the date of the notice of hearing.* Violations occurring after the date of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) by stipulation if the licensee admits to the facts, and shall in that case be treated as though part of the "1st Appearance." In all other cases, violations occurring after the date of the formal notice of hearing shall be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures shall apply to a second, third or fourth appearance before the council.
- (iv) *Subsequent appearances.* Upon a second, third or fourth appearance before the council by a particular licensee, the council shall impose the presumptive penalty for the violation or violations giving rise to the subsequent appearance without regard to the particular violation or violations that were the subject of the first or prior appearance. However, non-critical violations of chapter 331A shall not be counted as an "appearance" before the council in relation to any violation other than another violation of chapter 331A.
- (v) *Computation of time.*
 - (1) *Second appearance.* A second violation within twelve (12) months shall be treated as a second appearance for the purpose of determining the presumptive penalty.
 - (2) *Third appearance.* A third violation within eighteen (18) months shall be treated as a third appearance for the purpose of determining the presumptive penalty.
 - (3) *Fourth appearance.* A fourth violation within twenty-four (24) months shall be treated as a fourth appearance for the purpose of determining the presumptive penalty.
 - (4) Any appearance not covered by subsections (1), (2) or (3) above shall be treated as a first appearance. Measurement of the twelve-, eighteen-, or twenty-four-month period shall be as follows: The beginning date shall be the earliest violation's date of appearance before the council, and the ending date shall be the date of the new violation. In case of multiple new violations, the ending date to be used shall be the date of the violation last in time.
 - (5) Notwithstanding subsections (iv)(1), (2), (3) or (4) above, a second appearance before the council regarding a death or great bodily harm in a licensed establishment that is related to a violation of the law or license conditions shall be counted as a second appearance, regardless of how much time has passed since the first appearance if the first appearance was also regarding a death or great bodily harm in a licensed establishment. A third appearance for the same shall be counted as a third appearance regardless of how much time has passed since the first or second appearance.
 - (6) For the purpose of a second, third or fourth appearance under this section, "violation" shall mean either one of those violations listed in paragraph (m) or a violation of section 409.26(b).

(Code 1956, § 510.05; Ord. No. 17551, § 2, 4-19-88; Ord. No. 17559, §§ 1, 2, 5-17-88; Ord. No. 17659, § 1, 6-13-89; Ord. No. 17911, § 1, 3-10-92; C.F. No. 94-46, § 7, 2-2-94; C.F. No. 94-898, §§ 2, 3, 7-13-94; C.F. No. 94-1340, § 2, 10-19-94; C.F. No. 95-473, § 4, 5-31-95; C.F. No. 05-180, § 1, 4-6-05; C.F. No. 06-954, § 1, 11-8-06; C.F. No. 06-1072, § 1, 12-27-06; C.F. No. 07-149, § 73, 3-28-07; C.F. No. 07-1053, § 1, 11-28-07; C.F. No. 08-1208, § 1, 12-17-08; C.F. No. 10-665, § 1, 7-28-10; Ord. No. 11-93, § 1, 9-28-11; Ord. No. 11-94, § 1, 10-12-11; Ord 12-42, § 1, 8-22-12; Ord 12-85, § 1, 1-23-13)

