



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

August 27, 2018

NOTICE OF VIOLATION

Jorge Samper Zelaya
Sunray BP
344 Ruth Street North
St. Paul, MN 55119

RE: Cigarette/Tobacco, Auto Repair Garage and Gas Station licenses held by Sunray Gas, LLC d/b/a Sunray BP for the premises located at 344 Ruth Street North in Saint Paul
License ID #20150000438

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Sunray Gas, LLC d/b/a Sunray BP for the premises located at 344 Ruth Street North in Saint Paul. The basis for the recommendation is as follows:

On June 6, 2018 a letter was sent to all Cigarette/Tobacco license holders notifying you that inspectors from the Department of Safety and Inspections will be conducting unannounced tobacco compliance checks throughout the months of June, July and August.

On August 8, 2018, a tobacco compliance check was conducted at Sunray BP located at 344 Ruth Street. A sixteen-year old female entered your establishment and attempted to purchase cigarettes. She was asked to show her identification, and did so. It correctly stated her date of birth, which indicated she was underage. Nevertheless, a clerk sold her a package of Newport cigarettes. Sale of tobacco to an underage person is a violation of Minn. Stat. § 609.685 and Saint Paul Legislative Code § 324.07(d).

This is the third (3rd) within the past eighteen (18) months; therefore, per Saint Paul Legislative Code §324.11 (b) (1) the licensing office will recommend an \$800.00 matrix penalty and a seven (7) day suspension of your Cigarette/Tobacco license.

You have three (3) 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 **Thursday, September 6, 2018**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the **September 26, 2018** City Council Consent Agenda for approval of the proposed remedy.

2. If you wish to admit the facts but contest the \$800.00 matrix penalty and seven (7) day suspension of your Cigarette/Tobacco license, 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 **Thursday, September 6, 2018**. The matter will then be scheduled before the City Council to determine whether to impose the \$800.00 matrix penalty and seven (7) day suspension of your Cigarette/Tobacco license. 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 by **Thursday, September 6, 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 Thursday, September 6, 2018, I will assume that you are not contesting the imposition of the \$800.00 matrix penalty and a seven (7) day suspension of your Cigarette/Tobacco license. In that case, the matter will be placed on the September 26, 2018 City Council Consent Agenda for approval of the recommended penalty.

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

Sincerely,



Therese Skarda
Assistant City Attorney
License No.: 0240989

Cc: Jorge Samper Zelaya, 433-7th Street South, Unit #2027, Minneapolis, MN 55415
Betsy Vowry Moss, Executive Director, District 1 Community Council, Sunray Shopping Center
2015 ½ Old Hudson Road, St. Paul, MN 55119
J & R Holdings LLC, C/o Jorge Alberto Samper Zelaya, 433 So. 7th Street, Unit 2027
Minneapolis, MN 55415-1643

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 27th day of August, she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:

Jorge Samper Zelaya
Sunray BP
344 Ruth Street North
St. Paul, MN 55119

Jorge Samper Zelaya
433-7th Street South, Unit #2027
Minneapolis, MN 55415

Betsy Vowry Moss, Executive Director,
District 1 Community Council
Sunray Shopping Center
2015 ½ Old Hudson Road
St. Paul, MN 55119

J & R Holdings LLC
C/o Jorge Alberto Samper Zelaya
433 So. 7th Street, Unit 2027
Minneapolis, MN 55415-1643

(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 27th day of August 2018


Notary Public

