

OFFICE OF THE CITY ATTORNEY
Sara Grewing, City Attorney



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

November 5, 2010

NOTICE OF VIOLATION

David Povolny
Super Day, Inc.
281 Snelling Avenue North
St. Paul, MN 55104

RE: Cigarette/Tobacco license held by Super Day, Inc. d/b/a Super Day, Inc. for the premises located at 281 Snelling Avenue North in Saint Paul
License ID #20070002366

Dear Mr. Povolny:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Super Day, Inc. d/b/a Super Day, Inc. for the premises located at 281 Snelling Avenue North in Saint Paul. The basis for the recommendation is as follows:

On October 22, 2010, a tobacco compliance check was conducted at Super Day, Inc. located at 281 Snelling Avenue North. A fifteen year old female entered your store and asked to buy cigarettes. She was asked to show her identification, and did so. It correctly stated her date of birth, which indicated she was underage. Nevertheless, the 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(c).

This is the third (3rd) violation within a year for the sale of cigarettes to an underage person, therefore, per Saint Paul Legislative Code §324.11 (b) (1) the licensing office will recommend a thirty (30) day suspension of your Cigarette/Tobacco license.

At this time you have two options on how to proceed:

1. If you wish to admit the facts but 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 the facts and requesting a public hearing. We will need to receive your letter by **Monday, November 15, 2010**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the thirty (30) 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.

Super Day, Inc.
November 5, 2010
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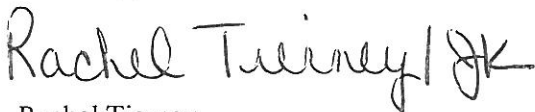
2. If you dispute the above facts, you may request a hearing before an Administrative Law Judge. At that hearing both you and the City will be able to appear and present witnesses, evidence and cross-examine the other's witnesses. The St. Paul City Council will ultimately decide the case. If this is your choice, please let me know by **Monday, November 15, 2010**, and I will take the necessary steps to schedule the administrative hearing.

If I have not heard from you by Monday, November 15, 2010, I will assume that you do not contest the imposition of the thirty (30) day suspension of your Cigarette/Tobacco license. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

Please be advised that the clerk who was identified as having made the sale on this date is also being charged a \$50.00 administrative penalty pursuant to Minn. Stat. §461.12, subd. 3. This is a separate action from this license matter.

If you have any questions, please feel free to contact me at (651) 266-8710.

Sincerely,



Rachel Tierney
Assistant City Attorney

cc: Christine Rozek, Deputy Director of DSI

Super Day, Inc. c/o 295 Snelling Avenue North, St. Paul, MN 55104

Sarah Kidwell, Exec. Director, Union Park District Council, 1570 Concordia Avenue, #LL100, St. Paul, MN 55104

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 5th day of November, she served the attached **NOTICE OF VIOLATION** by placing a true and correct copy thereof in an envelope addressed as follows:

David Povolny
Super Day, Inc.
281 Snelling Avenue North
St. Paul, MN 55104

Super Day, Inc.
c/o 295 Snelling Avenue North
St. Paul, MN 55104

Sarah Kidwell, Exec. Director
Union Park District Council
1570 Concordia Avenue, #LL100
St. Paul, MN 55104

(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 5th day of November, 2010


Notary Public

