

Super Day, Inc.
281 Snelling Avenue
Saint Paul, MN 55104

December 17, 2010

Ms. Rachel Tierney
Assistant City Attorney
City of Saint Paul
400 City Hall, 15 West Kellogg Blvd.
Saint Paul, MN 55102

Re: Cigarette/Tobacco license held by Super Day, Inc. License ID #20070002366

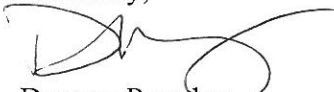
Via: Email rachel.tierney@ci.stpaul.mn.us
Messenger

Dear Ms. Tierney:

Enclosed please find correspondence that we would like to have presented to the City Council members before our meeting scheduled for January 5, 2011. Please let me know if you have any questions or need any additional information.

Thanks for your help.

Sincerely,



Deanna Povolny

David J. Povolny, owner
Super Day, Inc.
281 Snelling Avenue North
Saint Paul, MN 55104

December 17, 2010

Members of the Saint Paul City Council
Hon. Melvin Carter III
Hon. Dave Thune
Hon. Pat Harris
Hon. Russ Stark
Hon. Lee Helgen
Hon. Dan Bostrom
Hon. Kathy Lantry
City of Saint Paul
% Ms. Rachel Tierney
Assistant City Attorney
400 City Hall, 15 West Kellogg Blvd.
Saint Paul, MN 55102

Re: Cigarette/Tobacco license held by Super Day, Inc. License ID #20070002366

Via: Email rachel.tierney@ci.stpaul.mn.us
Messenger

Dear Sirs and Madam:

The purpose of this letter is to explain my position as the owner of Super Day gas station, and to outline my reasons as to why my tobacco license should not be suspended for 30 days, as well as explain the ramifications if my license were to be suspended.

Introduction

By way of background, let me begin by saying that I am a Saint Paul native. I grew up on Randolph Avenue and graduated from Cretin High School and the University of Minnesota. This is the only gas station I own. This is truly a locally-owned, neighborhood gas station. The station employs two full-time and eleven part-time employees.

Store Policies

I have been the owner of the Super Day gas station since April, 2007. As the owner, I take my responsibilities related to selling tobacco products very seriously. My father died of lung cancer in 2009, I would prefer not to sell any tobacco products, however economic realities require the sales. All new employees are required to complete an on-line training session reviewing the correct procedures to follow when selling restricted products to the general public.

I have signs posted in the cash wrap area reminding the cashiers of the date of birth the customers must have in order to purchase tobacco products. (See Exhibits A1-A3).

It is our store policy that the cashiers ask to see an ID if the customer appears to be under the age of 35.

It is our store policy to require our cashiers to type in the customer's birth date into the register system (See Exhibit B) which will automatically notify the cashiers whether or not to make the sale. Unfortunately, these store policies are not always followed consistently. As the owner of the store, I am unable to be in the store for every transaction. I therefore rely on my managers and assistant managers to ensure that these policies are followed.

Time Line

On July 27, 2007, Super Day was tested and city staff reported that Super Day **failed compliance**. Super Day paid the \$200 fee.

On January 25, 2008, Super Day was tested and city staff reported that Super Day **passed compliance**.

On October 15, 2008, Super Day was tested and city staff reported that Super Day **passed compliance**.

On November 13, 2009, Super Day was tested and city staff reported that Super Day **failed compliance**. This violation was made by our most senior cashier, during one of our busiest times of the day. At that time, store policies were reviewed with all employees and managers, and additional signage was installed to prevent a future occurrence of underage sale of tobacco. Super Day paid the \$200 fee.

On April 1st, 2010, Super Day was tested and city staff reported that Super Day **passed compliance**.

On April 9th, 2010 we lost our store manager and were forced to rely on assistant managers to manage the store.

On July 16th, 2010, Super Day was tested and city staff reported that Super Day **failed compliance**. The cashier who committed the infraction had only been with the station since April. The cashier had received the proper on-line training. The cashier asked for ID, looked at the ID, failed to follow store policies regarding putting the birth date into the computer, made a simple math error, and proceeded with the transaction. Super Day paid the \$400 fine.

On October 22, 2010, Super Day was tested and city staff reported that Super Day **failed compliance**. The cashier who committed the infraction had only been with the station for less than 8 weeks and was still in training. The cashier had received the proper on-line training. The cashier asked for ID, looked at the ID, failed to follow store policies regarding putting the birth date into the computer, made a simple math error, and proceeded with the transaction.

In every instance that Super Day failed the compliance check, my cashiers DID ask for proper identification. Unfortunately, due to a simple math error, the cashiers did not calculate the correct age of the customer.

I would also like to point out that had the compliance check occurred a short three weeks later, Super Day would not be in violation of the ordinances.

Additional Safety Measures

To further assure that this error does not occur again, I have invested in a piece of equipment called the Secure-Tech ID-E (See Exhibit C) at an out-of-pocket cost of almost \$400.00 that will allow the cashier's to scan the identification of the customers prior to making a tobacco sale. The machine calculates and displays the customer's age and beeps loudly if the customer is under-18.

Super Day has modified its employee manual (See Exhibit D) to further emphasize a zero-tolerance policy regarding the proper steps that must be taken to properly identify underage consumers. In short, the policy states that if the cashiers do not scan identification before any tobacco sale, the cashiers will be terminated immediately, no exceptions.

With this new piece of equipment in place, and with continued vigilance of reviewing store policies and training, I am convinced that Super Day has done everything in its power to prevent the sale of tobacco products to under age customers.

I do not need to explain to any of you the hardships that my company is enduring during these tough economic times. My receipts indicate that over 90% of my customers that come into the store, purchase tobacco products. The harsh reality is, if Super Day is unable to sell tobacco products, we will loose over ½ of our customers and will be forced to close. The closing of our store will cause the community to lose two full-time positions, and eleven part-time positions. This is primarily for two reasons: first, the lost revenue from lost tobacco sales, and second, the customers that are forced to go elsewhere for their tobacco purchases will likely not return once tobacco sales resume.

The owners, management and employees of Super Day are committed to work diligently to eliminate the sales of age restricted items to ineligible persons. We believe the neighborhood would best be served by keeping the tobacco license of Super Day intact. I therefore propose that this action against Super Day's tobacco license be tabled until such time as Super Day can be compliance tested again.

Sincerely,



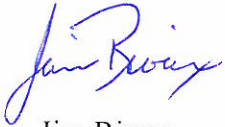
David J. Povolny
Owner
Forest Lake, MN



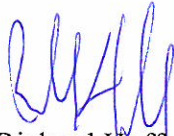
Deanna L. Povolny
General Manager
Forest Lake, MN



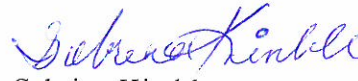
Mike Downs
Accounting
Holly Ave., St. Paul, MN



Jim Rioux
Asst. Manager
Stewart Ave, St. Paul, MN



Richard Hoff
Asst. Manager
Minneapolis, MN



Sabrina Kimble
Lead Cashier
Marion St, St. Paul, MN



Cory Perron
Shift Leader
Minneapolis, MN



Harry Gardner
Shift Leader
St. Anthony Ave, St. Paul

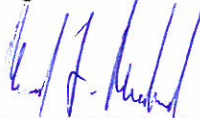


Kenyah Brown
Cashier
Minneapolis, MN

Lance Cylkowski
Cashier
Magnolia Aye, St. Paul, MN

Tyler Geis
Cashier
E. 6th St, St. Paul, MN

Caitlin Harrison
Cashier
Arkwright St, St. Paul, MN



Michael Medrud
Cashier
Minneapolis, MN

Exhibit A1

DO NOT SELL TOBACCO PRODUCTS TO
ANYONE BORN AFTER THIS DAY IN **1992**

1/21/01 10:43 AM

All Stop

Please enter your password.

Cancel OK

Task Menu Help

Auth

Exhibit A2

STATE LAW PROHIBITS THE SALE OF TOBACCO TO MINORS.

We Card
Under 18 No Tobacco

1992

IF YOU WERE BORN AFTER TODAY'S DATE IN YOU CANT BUY TOBACCO PRODUCTS!

72s 449

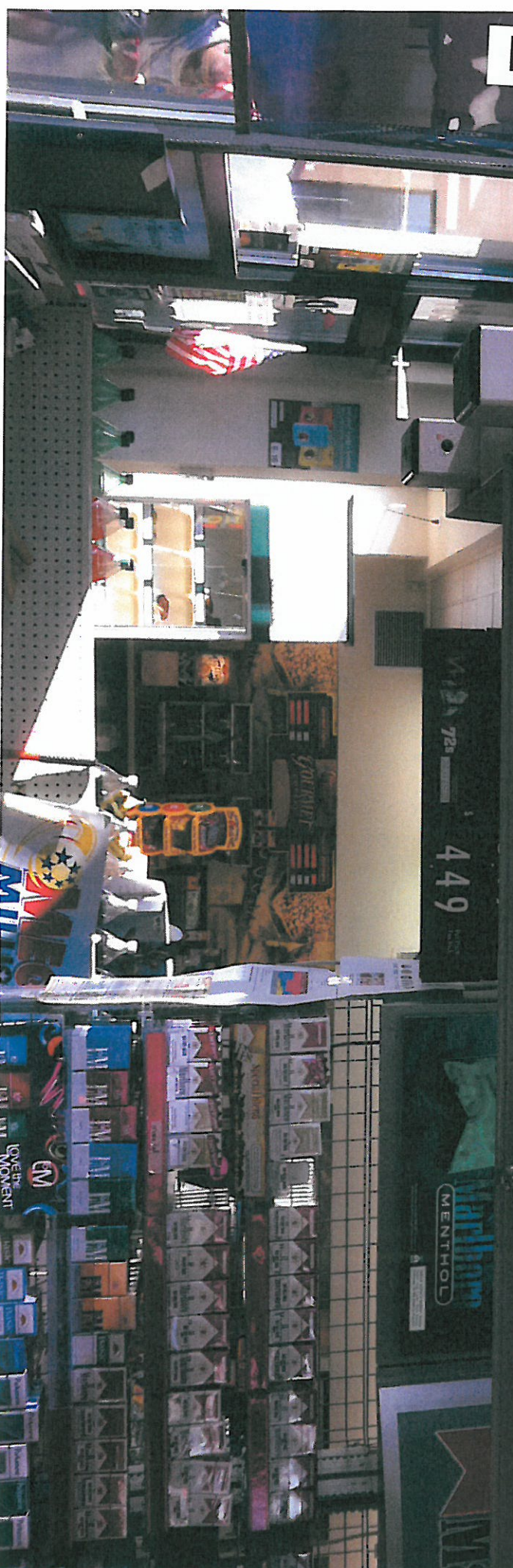
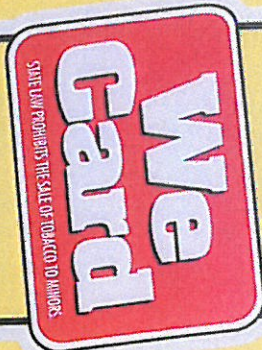


Exhibit A3

**Under 18
No Tobacco**



Me Card
STATE LAW PROHIBITS THE SALE OF TOBACCO TO MINORS

**Please
Have Your
ID Ready**



Exhibit B

12/14/10
10:45 AM

Please enter the customer's birthday

Birthdate must be on or before 12/14/1992

Date (mm/dd/yy)
12 / 14 / 10

Deny
Default

- 1 January
- 2 February
- 3 March
- 4 April
- 5 May
- 6 June
- 7 July
- 8 August
- 9 September
- 10 October
- 11 November
- 12 December

December 2010

28	29	30	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1
2	3	4	5	6	7	8

1 2 3
4 5 6
7 8 9
0 CLR

ENTER
CANCEL

All Stop

1 2 3 4 5 6

7 8 9 10 11 12

PrePay
PreSet
Manual
Receipt

Auth

Tank Alarm
Security
Help

Stop
Empty
Dial

Exhibit C



Bringing Tomorrow Closer.

Magnetic Card	Smart Card	IT Security	Data Collector	Card Printer	Card Dispenser
Smart Card Analyzer	Embossor & Tipper	Link	Download Drivers	Fax Order Form	Inquire Product
Help Desk	Search	Company	Legal Note	Privacy Policy	Our Customers

ID Verifier

Read Only

Read and Write

Hybrid Reader

OEM Card Reader & Heads

Data Collector

ID Verifier

Blank Card

**ID-e
ID-e & Barcode Reader**



Do you need Software?

Database
Missing app
state

Powerful Tool

Identification Electronically! For AGE VERIFICATION, ID CHECKING, and State Compliance for the sales of Alcohol, Tobacco and Other Age restricted products and services. With new internal *Customer Ban* Option There is nothing like the ID-e.

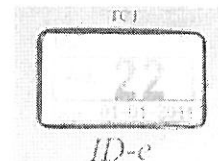
UNIQUE DESIGN ALLOWS YOU TO ADD/UPGRADE TO BAR CODE ANYTIME. Just purchase the ID-e Terminal with Magnetic Stripe reading and Add Bar Code Reading anytime in the future.

- CONVENIENCE STORES
- BARS & NIGHTCLUBS
- CASINOS
- AIRPORT / HOMELAND SECURITY
- BANKS / CHECK CASHING
- Any Security & ID Checking environment
- LAW ENFORCEMENT
- The ID-e2001 Magnetic Swipe Reader for Stationary & Portable Age Verification or Security ID Checking
- Smart Card reading ready
- Upgrade Kit
- Banned Customer option

Specification

- Card Type: ISO 7811, DMV format, Custom and ISO tracks supported
- Custom Formats: Available upon request
- Interface: USB interface
- Power Supply: Wall Plug AC & Battery DC

*Easy-Age Verification (In the dark) New! LCD



Super Day, Inc.

Employee Manual

Identification of Under Age Consumers

If a customer requests the purchase of a tobacco product, lighter or other age-restricted product, the employee MUST ask to see proper identification from the customer or the sale cannot be made. The employee must ask for identification if the customer appears to be under the age of 35. The employee MUST either:

1. Enter the birth date of the customer into the register system to verify the customer is of the legal age.
And/or
2. Swipe the customer's identification through the age-verification device located on the front counter.

If ANY employee is caught selling tobacco or other age-restricted products to a customer without asking for identification AND verifying the correct age of the customer, THE EMPLOYEE WILL BE IMMEDIATELY TERMINATED. This is a ZERO-TOLERANCE POLICY, no exceptions.

Dismissal

Employment and compensation with Super Day, Inc. is "at will" in that they can be terminated with or without cause, and with or without notice, at any time, at the option of either Super Day, Inc. or yourself, except as otherwise provided by law.

If your performance is unsatisfactory due to lack of ability, failure to abide by Super Day, Inc. rules or failure to fulfill the requirements of your job, you will be notified of the problem first verbally, then in writing. If satisfactory change does not occur, you may be dismissed. Some incidents may result in immediate dismissal.

Personal Phone Calls

Employees are not allowed to make or receive personal phone calls while they are working, unless it is an emergency. Personal calls may be made from the company phone only while on break, and the calls must be limited to 2 minutes or less.

Cell Phone Use