AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on the 24th day of August, he served the attached **NOTICE OF VIOLATION RECOMMENDATION FOR IMPOSITION OF \$600 ADMINISTRATIVE PENALTY FOR SECOND TOBACCO YOUTH COMPLIANCE CHECK FAILURE** and a correct copy thereof in an envelope addressed as follows:

Walgreens #06995 1788 Old Hudson Road Saint Paul, MN 55119

Steve Renick 845 Wagner Road Glenview, IL 60025

Weinfra LLC/C/O Walgreens 1788 Old Hudson Road Saint Paul, MN 55119-4307

Betsy Mowry Voss, Executive Director Southwest Community Organization 2105 ½ Old Hudson Road Saint Paul, MN 55119

(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 24th day of August 2021

Notary Public

REGINA M. ETOLL
Notary Public-Minnesota
My Commission Expires Jan 31, 2023



Civil Division, 15 Kellogg Blvd. West, 400 City Hall Saint Paul, MN 55102 Tel: 651-266-8710 | Fax: 651-298-5619

August 24, 2021

NOTICE OF VIOLATION RECOMMENDATION FOR IMPOSITION OF \$600 ADMINISTRATIVE PENALTY FOR SECOND TOBACCO YOUTH COMPLIANCE CHECK FAILURE

Walgreens #06995 1788 Old Hudson Road Saint Paul, MN 55119

RE: Cigarette/Tobacco license held by Walgreens #06995 for the premises located at 1788 Old

Hudson Road in Saint Paul License ID #: 20020005083

Walgreens #06995:

The Department of Safety and Inspections ("Department") will recommend adverse action against the Cigarette/Tobacco license held by Walgreens #06995 ("Licensee") for the premises located at 1788 Old Hudson Road in Saint Paul. ("Licensed Premises").

Minnesota Statute § 461.12, Subd. 5 states: "A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco, tobaccorelated devices, electronic delivery devices, or nicotine or lobelia delivery products are sold to test compliance with sections 609.685 and 609.6855."

Minnesota Statute §461.12, Subd 2 states; "If a licensee or employee of a licensee sells, give, or otherwise furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of 21 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$300 for the first violation. An administrative penalty of \$600 must be imposed for a second violation at the same location within 36 months after the initial violation."

CITY OF SAINT PAUL MELVIN CARTER, MAYOR STPAUL.GOV





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Saint Paul Legislative Code Section 310.06 sets forth a variety of reasons under which adverse actions can be based. Section 310.06(b)(c) says that adverse action can be pursued for failure to comply with laws related to the licensed activity or from which an inference of lack of fitness or good character may be drawn.

Saint Paul Legislative Code §324.07(g) prohibits the sale of tobacco products to person under the age of twenty-one (21) years.

The Department asserts the following facts along with attachments herein constitute proof of a violation of Minnesota Statute § 461.12, Subd. 2 and Saint Paul Legislative Code §324.07(g) by a preponderance of the evidence.

Synopsis of alleged facts:

On July 20, 2021 at 9:57am, a tobacco compliance check was conducted at Walgreens #06995 located at 1788 Old Hudson Road. A twenty-year-old female entered your store and attempted to purchase cigarettes. She was asked to show her identification which indicated she was underage. Nevertheless, the clerk sold her a package of American Spirit cigarettes. Inspector Yang came into the establishment afterward and spoke to the clerk, Maria Aracely Martinez Lopez. She was informed that she failed the youth compliance check by selling American Spirits cigarettes to an underage person.

Sale of tobacco to an underage person is a violation of Minn. Stat. § 609.685 and Saint Paul Legislative Code § 324.07(g).

As the Licensee you have four (4) options:

- If you do not contest the imposition of the proposed adverse action, you may do nothing. If I
 have not heard from you by **September 7, 2021**, I will presume that you have chosen not to
 contest the proposed adverse action and the matter will be placed on the City Council Consent
 Agenda for approval of the proposed remedy.
- 2. You can admit to the violation and pay the \$600.00 administrative penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **September 7, 2021.** A self-addressed envelope is enclosed for your

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OFFICE OF THE CITY ATTORNEY LYNDSEY M. OLSON, CITY ATTORNEY



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convenience. Payment of the \$600.00 administrative 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 \$600.00 administrative 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 no later than **September 7**, **2021**. The matter will then be scheduled before the City Council to determine whether to impose the \$600.00 administrative 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 **September 7, 2021**. 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 September 7, 2021, I will assume that you do not contest the imposition of the \$600.00 administrative penalty. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.

Please be advised the clerk who made the sale on this date and will be 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 questions about these options, please contact Shawn McDonald, my Legal Assistant at (651) 266-8729.

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There Skala/s.m.

Therese Skarda

Assistant City Attorney License No.: 0240989

Cc: Steve Renick, 845 Wagner Road, Glenview, IL 60025

Weinfra LLC/C/O Walgreens, 1788 Old Hudson Road, MN 55119-4307

Betsy Mowry Voss, Executive Director, Southwest Community Organization, 2105 $\mbox{\ensuremath{\%}}$ Old Hudson

Road, Saint Paul, MN 55119

Attachments:

Inspector's Report

Screenshots EClips System License Group Comments Text License Group Conditions Text

STAMP - Ownership/Zoning Information

Tobacco Youth Compliance Check Purchase Form

Clerk Identification form

Photos of purchased cigarettes



CITY OF SAINT PAUL

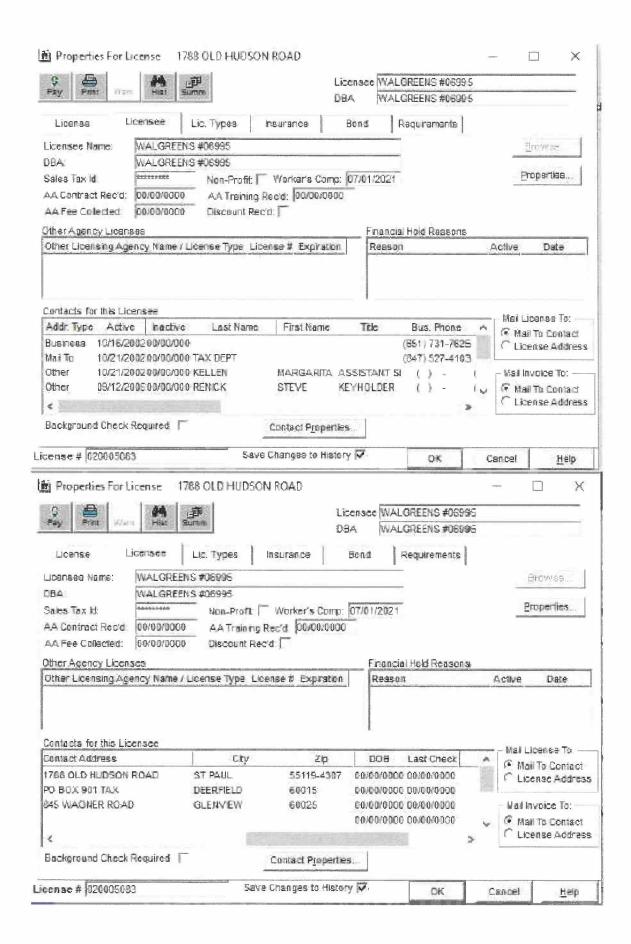
Business Licensing Business Licensing Telephone: 651-266-8989 373 Jackson Street, Suite 220 Fassimile: 651-266-9124 Saint Paul, Minnesota 55101-1806 Web: www.stpaul.gov/dei

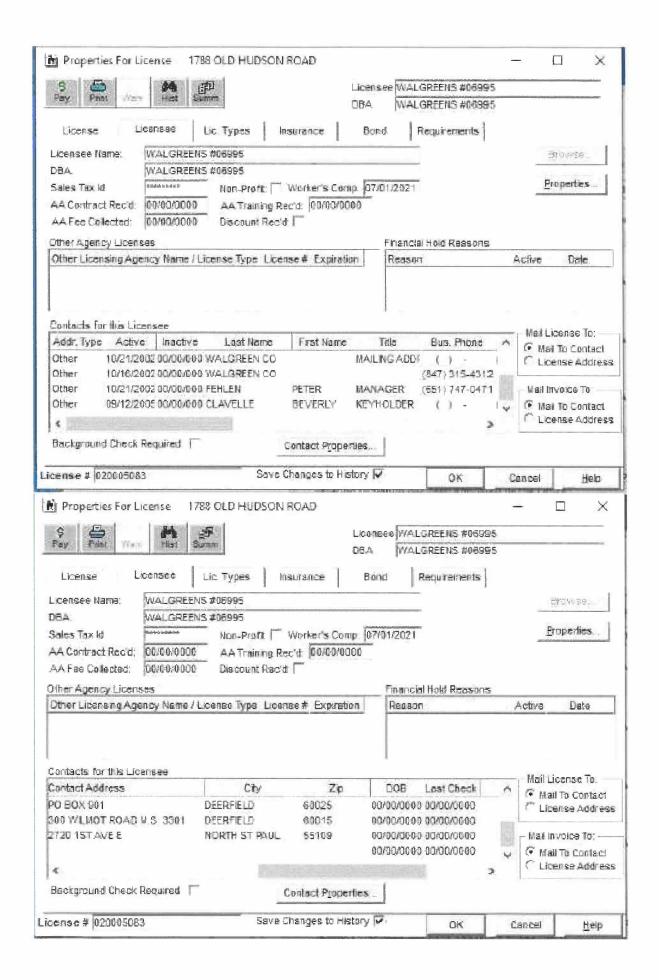
Inspector's Report

Inspectors Name: Kaozouapang Yang
Time & Date: 07/20/2021 at 9:57 a.m.
Business/Property Name: Walgreens #06995
Property Address: 1788 Old Hudson Road - Saint Paul, MN 55119
Reason for Visit: Annual Cigarette/Tobacco Youth Compliance Check
Observations: Youth purchased a Pack of American Spirit Cigarettes
Photos Taken: ⊠ Yes □No – Area(s) of where the Photo(s) where taken:
<u>=</u>
Action Taken: DEducation / warning
☑ Request for Adverse Action
Other: -

Details of Conversations (Statements to and by Person Responsible for Property):

Upon arrival I spoke to the clerk Maria Aracely Martinez Lopez, I introduced myself as a DSI Licensing Inspector for the City of Saint Paul. I informed her that she failed a youth compliance check, an attempted purchase of a pack of American Spirts cigarettes was successfully made from an underage buyer at 9:57 a.m.





Licenses: WALGREENS #06995 DBA-WALGREENS #06995 License #: 20020005083 07/20/2021 Youth compliance check fall KY 07/12/2019 Paid \$1,000.00 fine. LAB 5/14/19 To CAO flavor violation KS 4/12/19 Tobacco compliance, flavor fall. ARM 08/31/2018 Rec'd CK#30-0011697849 \$200.00 fine for sale of tobacco to a minor. D2018 8/9/2018 sent to CAO for Adverse action JNV 8/8/2018 Tobacco youth compliance check-fall JWV 4/23/18 passed flavor / price violation JNV 03/13/2017 passed tobacco compilance check YD/BLB 08/08/2016 passed tobacco compliance check BLB 08/21/2015 Passed Tobacco compliance check BLB 12/23/2014 Passed tobacco compliance check. AAJ 09/19/14 No tebacco product being sold or displayed KS 09/17/2014 Royd \$800.00 for elg sales violation. AMW 09/09/2014 CR letter given to KS to hand deliver (NOTE: Letter dated 09/03/2014). VS/lwf D8/27/2014 Council file #14-1443 imposes \$850 matrix penalty and suspends ficense for a period of seven (7) days starting at 12:00 a.m. (midnight) on 09/17/2014 and ending on 09/23/2014 at 12:00 a.m. (midnight) due to underage sale of tobacco products (07/07/2014 - 3rd violation within 24 months). Payment of \$800 penalty due within 30 days. JWF 07/07/2014 Flatled tobacco compilance check (3rd violation within 24 months). JWF 10/18/2013 Passed tobacco compliance recheck, PF 10/03/2013 Royd \$400.00 for eig sales violation. AMW 09/25/13 Notice of violation sent by CAO given until 10/7/13 to respond CAR. 89/16/2013 To CAO for adverse action, CAR 08/22/2013 Falled tobacco compliance recheck; second violation, \$400 matrix penalty. CAR/TPF 04/05/2013 Royd \$200.00 for oig sales violation. AMW 03/26/2013 Notice of Violation from CAO for tobacco compliance check faiure. Given to 04/05/20109/09/2014. CR letter given to KS to hand deliver (NOTE: Letter dated 09/03/20.14) . VS/Jwf 08/27/2014 Council file #14-1443 imposes \$800 matrix penalty and suspends license for a period of seven (7) days starting at 12:00 a.m. (midnight) on 09/17/2014 and ending on 09/23/2014 at 12:00 a.m. (midnight) due to underage sale of tobacco products (07/07/2014 - 3rd violation within 24 months). Payment of \$800 penalty due within 30 days. JWF 07/07/2014 Flailed tobacco compliance check (3rd violation within 24 months). JWF 10/18/2013 Passed tobacco compliance recheck. PF 10/03/2013 Royd \$400.00 for clg sales violation. AMW 89/25/13 Notice of violation sent by CAO given until 10/7/13 to respond CAR. 09/15/2013 To CAO for adverse action. CAR 08/22/2013 Faited tobacco compliance recheck; second violation. \$400 matrix penalty. CAR/TPF. 04/05/2013 Rovd \$200.00 for clg sales violation. AMW 03/25/2013 Notice of Violation from CAO for tobacco compliance check faiure. Given to 04/05/2013 to respond. CAR 03/24/2013 To CAO for adverse action. CAR 03/13/2013 Falled tobacco compliance check. First failure \$200 matrix penalty.CAR/ PF 19/19/12 Passed cig.comp.ck.KS 03/29/2012 EH inspector OL states site is now in compliance. PF 03/07/2012 Royd \$200.00 for EH violation, AMW D2/16/2012 Notice of Violation from CAO for EH violation, \$ 200 matrix penalty. Given to D2/27/2012 to respond. CAR 02/10/2012 To CAO for adverse action. CAR 02/01/2012 Received request from EH for adverse action based on Inspections conducted on 12/19/2012 and 01/23/2012. One critical major violation. \$200 matrix penalty. CAR 04/12/2011 Passed tobacco compliance check. PF 12/14/2010 Passed Cig. Comp.Ck.KS 06/28/2010 Passed tobacco compliance check. PF 08/06/2009 Passed Clg. Comp. Ck. KS 10/23/2008 passed clg.comp.ck.KS 08/29/2007 Passed cigarette compliance check. JWF 08/24/2006 Passed sig. comp.ck KS. 03/25/2005 Passed tobacco compliance check. RDH 06/02/2004 Passed toloacco comp3 to respond. CAR 03/24/2013 To CAO for adverse action. CAR 03/13/2013 Falled tobacco compilance check. First failure \$200 matrix penalty.CARJ PF 10/19/12 Passed cig.comp.ck.KS 03/20/2012 EH inspector OL states site is now in compliance. PF 03/07/2012 Royd \$200.00 for EH violation. AMW 02/16/2012 Notice of Violation from CAO for EH violation, \$ 200 matrix penalty. Given to 02/27/2012 to respond, CAR 02/10/2012 To CAO for adverse action. CAR 02/01/2012 Received request from EH for adverse action based on inspections conducted on 12/19/2012 and 01/23/2012. One critical major violation. \$200 matrix penalty. CAR 04/12/2011 Passed tobacco compliance check. PF 12/14/2010 Passed Cig. Comp.Ck.KS 06/28/2010 Passed tobacco compliance check. PF 08/06/2009 Passed Cig. Comp. Ck. KS 10/23/2008 passed clg.comp.ck.KS 08/29/2007 Passed cigarette compilance check. JWF 08/24/2006 Passed cig. comp.ck KS. 03/25/2005 Passed tobacco compliance check. RDH

License Group Comments Text 07/28/2021

Licensee: WALGREENS #06995 DBA: WALGREENS #06935

License #: 20020005083

05/02/2004 Passed tobacco compliance check. CMK. 11/12/2002 Refund of \$50.00 processed PV #V-330-6815. ESiliance check. CMK.

11/12/2002 Refund of \$50.00 processed PV #V-330-6815. ES

Adverse Action Comments Text

07/28/2021

Licenses: WALGREENS #06995 DBA: WALGREENS #06995

License # 20020005083

6/26/2019- Sent Notice of Violation with an 6/7/2019 deadline to respond. SM

8/24/2018 - Sent Notice of Violation with a 9/4/2018 deadline to

04/02/2003 LC331A - change in license type from Grocery (C) to Retail Food (D) - Grocery 3001-6000 sq ft.

7/22/2021

STAMP - Ownership / Zoning information

STAMP - Ownership / Zoning Information

New Search

Help using this report

07/22/21 11:30 AM Run Date:

1788 House#:

Last updated from Ramsey County data

on:

Street Name: Old Hudson

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

1788 Old Hudson Road - New Walgreens Site - 55119-4307 - Other Applications

PIN: 352922330018

Census Track: 34701 Census Block: 3006

Year Built:

Foundation Sq Feet: Loan Company:

Council Ward: 7 District Council: 1

Building Land. Value: 882100 Value: 1226400

Existing Primary Use: M- Legality of Use:

Occupancy Group

Units: 0

Misc. Structure

Type: M

Zoning: T3

Legal Desc: WILLIAM CHRISTOPHER SUBJ TO HWY; LOT 1 BLK 1

Owner:

Weinfra Llc/C/O Walgreens 1788 Old Hudson Rd St Paul MN 55119-4307

Certificate of Occupancy Responsible Party:

Weinfra Llc 1788 Old Hudson Rd St Paul MN 55119-4307



CITY OF SAINT PAUL

Business Licensing 375 Jockson Street, Same 226 Saint Paul, Misusesata 55101–1806 Telephane: 651-266-8939 Facsimile: 651-266-9124 IVeb: mem.appenl.gov/dsi

Tobacco Youth Compliance Check Purchase Form

20020005083 Fai WALGREENS #06995 1788 OLD HUDSON ROAD ST PAUL, MN 55119-4307 Business Type: Convenience Convenience / Gas Ciaks Drug Store / Pharmacy Tobacco Product Shop Supermarket / Grocery General Merchant Lignor Store / Bar Restaurant Other (private chib, howling, etc.) Inspector: Kaozonapane Yang Date: 07/20/2021 MM DD YYYY Name Was, purchase attempted? If NO, check reason: Unsatisfactory/unsafe conditions Does not sell tobacco XYes After business bours Out of business Not applicable Other Did adult or officer view transaction? Buyer Sex Female Yes No Was sale made? Was age asked? Was ID requested? Was ID shown? Yes No No Yes Type of purchase: Type of product: Amount spent: \$.. V Solf Service Cigarettes Clerk assisted Smokeless Vending machine - Unlocked Cipars. Location of machine Shisha Vending machine - Locked E-juice Location of machine Other (cigarette papers, lighter, etc.) Clerk informat nate Age Mak Name of City & Driver Descrip



CITY OF SAINT PAUL

Business Licensing

375. Jacksom Smeet, Suite 220 Facsimile: 651-266-9124 Saint Paul, Minnesota 55101-1806 Web: www.spaul.gov/dsi

Telephone: 651-266-8989

Clerk Identification Form

As it appears on Driver's License or State I.D. Card

Name: Martinez Lopez, Maria Aracely

Primary address: 1875 Montana Avenue East,

Secondary address: N/A

City: Saint Paul

State: MN

Zip code: 55119-4213

DOB: 08/20/1972

Identification Number: DD00000003741576

Place Snip of I.D. below



