



ATTORNEYS

Stephen L. Heller
Robert S. Thyen
Justin M. Braulick
James R. Spangler
Alexander M. Gutnik

PARALEGALS

Erin L. Kipka
Jennifer K. Schweim
Julia R. Schlough
Julie K. Kelly
Kathy M. Peterson
Shelbi L. Marklowitz

March 30, 2022

Stephen Earnest
Assistant City Attorney, St. Paul
Civil Division
15 W Kellogg Boulevard, STE 400
St. Paul, MN 55102

Dear Mr. Earnest,

I am Alexander Gutnik and I am representing Mr. Albadry in this matter concerning his second flavor violation, pursuant to St. Paul Legislative Code 324.07(f), The letter dated February 24, 2022, provided Mr. Albadry several ways for him to proceed. We are exercising option two, admission to the flavor violation, but wish to contest the revocation of his license.

We prefer a joint resolution before the Council with DSI and City of St. Paul Attorney's Office. However, that was not entertained. We believe the revocation of Mr. Albadry's license is not in the best interest for the licensee or community. Our proposed resolution would include a stay of revocation for one year. Mr. Albadry would accept a substantial fine. During the stay and in the future, Mr. Albadry would contact DSI immediately to review his current inventory to confirm there are no additional flavor violations, and if Mr. Albadry wishes to expand his tobacco selection, Mr. Albadry **must** contact DSI before his purchase. If there is another violation during the stay, whether it be sale to anyone under 21 or flavor, Mr. Albadry will agree to revocation of his tobacco license.

Mr. Albadry is a minority small business owner and provides a great service to neighborhood. Mr. Albadry is not Target, Walmart, or Speedway corporation with several managers and attorneys to advise him of what we would say is a complex and difficult definition of flavor as defined by St. Paul Legislative Code.

If revocation is granted, Mr. Albadry will most likely close his doors due to loss revenue from tobacco sales. The community will lose a grocer. The business is Mr. Albadry's only source of income, providing for his family. Licensing should provide an opportunity for Mr. Albadry to cure the violation. Manufactures of tobacco and the distributors of tobacco are not held liable—only the licensee is. Manufactures and distributors will continue to bend around the St. Paul Legislative Code, further causing issues for licensees. We respectfully request for the Council to consider the other actors involved in the tobacco industry and how the detriment only falls upon the licensee.

If there are any questions, please feel free to contact our office at alex@hellerthyen.com or 320-654-8000.

Practicing in the Areas of Bankruptcy • Criminal Law • Employment Law • Family Law • Personal Injury

St. Cloud Office:

606 25th Avenue South
Suite 110
St. Cloud, MN 56301

Phone:

(320) 654-8000
(888) 449-0301

Fax:

(888) 502-5873

Website:

www.hellerthyen.com

E-mail:

info@hellerthyen.com

Additional Offices in Minneapolis and Brainerd



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Respectfully Submitted,

/s/ Alexander Michael Gutnik

Cc: Jaber Albadry (Licensee)

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