



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

March 17, 2017

SECOND AMENDED NOTICE OF VIOLATION

Benjamin Loetscher, Attorney
Ferdinand F. Peters, Esq. Law Firm
Lakes & Plains Office Building
842 Raymond Avenue, Suite 200
St. Paul, MN 55114

RE: All licenses held by Payne EZ Market, Inc. d/b/a Payne EZ Market, Inc. for the premises located at 1132 Payne Avenue in Saint Paul
License ID #: 20150000195

Dear Mr. Loetscher:

Per our discussions at the Pre-Hearing Conference, I have prepared a Second Amended Notice of Violation. This notice includes the Licensee's additional criminal convictions we discussed at the Pre-Hearing Conference.

Based on the Licensee's criminal history, including the most recent felony committed on the premises and his apparent participation in and acquiescence to drug trafficking activity in and around the Licensee's premises, the Department of Safety and Inspections (DSI) has recommended revocation of all licenses held by Payne EZ Market, Inc. d/b/a Payne EZ Market, Inc. for the premises located at 1132 Payne Avenue in Saint Paul.

The basis for the recommendation is as follows:

In 2015, the licensee, Mohamed Samir Abraham, DOB 7/1/1973 ("Licensee") was granted license # 20150000195 by the City of Saint Paul. This license allows him to operate a grocery and tobacco store. A recent criminal history check has revealed that at the time of the application, the Licensee had a criminal history under the alias or aka of Carlos Abraham. Specifically, DSI alleges that the Licensee has the following relevant Misdemeanor and Gross Misdemeanor criminal convictions under his alias:

**Court File 62-To-05-603890, Misdemeanor Violation of a Domestic Abuse No Contact Order;
Court File 62-T2-05-601817, Misdemeanor Domestic Assault;
Court File 62SU-CR-08-3649, Gross Misdemeanor Violation of an Order for Protection;
Court File 86-CR-09-979, Misdemeanor Criminal Damage to Property;**

On May 29, 2015 the Licensee sold a single cigarette to a confidential reliable informant. This activity was documented under Saint Paul Police Case Number 15108627. After a hearing before an Administrative Law Judge, a matrix penalty of \$500 was imposed by City Council.

After this incident, Saint Paul Police continued to receive community complaints related to illegal gambling, illegal drug sales and use, both in and around the premises as well as other related quality of life issues. As a result of these complaints, the Saint Paul Police Department began an investigation into the activities at the Payne EZ Market. During the investigation both Undercover Officers and Confidential Reliable Informant's purchased marijuana from individuals both inside and outside the Payne EZ Market. This illegal activity is documented in Saint Paul Police Case Numbers 15-234-983, 15-238-066, 160-40-976, 16-045-945, 16-051-61 and 16-079-872.

On April 14, 2016, Saint Paul Police executed a search warrant at the licensed premises as a result of their investigation (CN #16-070-996). The investigation resulted in two arrest warrants for the Licensee for Theft of Public Funds by Swindle.

On November 22, 2016, the Licensee was convicted of Felony Finance Transaction Card Fraud-Trafficking SNAP Benefits (Minn. Stat. § 609.821.1(9)) in Ramsey County District Court. He was sentenced for that conviction on January 12, 2017.

Saint Paul Legislative Code Section 310.06 provides that adverse action may be taken against the licenses based on any one or more of the following grounds:

Section 310.06 (b) (6) (a): "the license or applicant (or any person whose conduct may by law be imputed to the licensee of applicant) has violated, or performed any act which is a violation of, any of the provision of these chapters or of any statute, ordinance or regulation reasonably related to the licensed activity, regardless of whether criminal charges have or have not been brought in connection therewith..."

Section 310.06 (b) (6) (c): "the licensee or applicant (or any person whose conduct may by law be imputed to the licensee or applicant) has engaged in or permitted a pattern or practice of conduct of failure to comply with laws reasonably related to the licensed activity or from which an inference of lack of fitness or good character may be drawn."

Section 310.06 (b) (8): "the licensed business, or the way in which such business is operated, maintains or permits conditions that unreasonably annoy, injure or endanger the safety, health, morals, comfort or repose of any considerable number of members of the public."

Section 310.06 (b) (10): "The licensee or applicant has shown by past misconduct or unfair acts or dealings: physical abuse, assaults or violent actions done to others...that such licensee or applicant is not a person of the good moral character or fitness required to engage in a licensed activity, business or profession."

Saint Paul Legislative Code Section 310.05 (m) provides for presumptive penalties for certain violations. Penalties for violations listed within the matrix are presumed to be appropriate. However, the code does allow for deviation when substantial and compelling reasons exist.

Section 310.05 (m) (6) "*Commission of a Felony on the premises by a licensee or employee.*" Sets forth a presumptive penalty of \$2,000 for the first occurrence and revocation for the second occurrence.

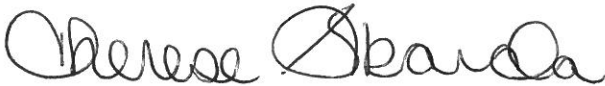
Violations under 310.06 (b) (6) (a), (b) (6) (c), (b) (8) and (b) (10) are not enumerated within the penalty matrix.

Section 310.05 (m) (ii) *Multiple violations*. At a licensee's first appearance before the city council, the council shall consider and act upon all the violations that have been alleged and/or incorporated in the notices sent to the licensee under the administrative procedures act up to and including the formal notice of hearing. The council in that case shall consider the presumptive penalty for each such violation under the "1st Appearance" column in paragraph (b) above. The occurrence of multiple violations shall be grounds for departure from such penalties in the council's discretion.

Section 310.05 (m) (iii) *Violations occurring after the date of the notice of hearing*. Violations occurring after the date of the notice of hearing that are brought to the attention of the city attorney prior to the hearing date before an administrative law judge (or before the council in an uncontested facts hearing) may be added to the notice(s) by stipulation if the licensee admits to the facts, and shall in that case be treated as though part of the "1st Appearance." In all other cases, violations occurring after the date of the formal notice of hearing shall be the subject of a separate proceeding and dealt with as a "2nd Appearance" before the council. The same procedures shall apply to a second, third or fourth appearance before the council.

The Licensee has requested a hearing before an Administrative Law Judge. Per Saint Paul Legislative Code §310.05 and §310.06, the licensing office will be recommending revocation of your licenses. The City will also be requesting that the City Council impose the costs of the administrative hearing per Saint Paul Legislative Code §310.05(k).

Sincerely,



Therese Skarda
Assistant City Attorney

cc: Lissa Jones-Lofgren, Interim Executive Director, Payne Phalen District 5 Planning Council
506 Kenny Road, Suite 130, St. Paul, MN 55130
Robert J. Lundgren, 677 Larpenteur Avenue West, Roseville, MN 55113-6544

STATE OF MINNESOTA)
) ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY)

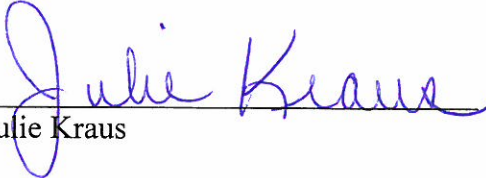
Julie Kraus, being first duly sworn, deposes and says that on the 17th day of March she served the attached **SECOND AMENDED NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:

Benjamin Loetscher, Attorney
Ferdinand F. Peters, Esq. Law Firm
Lakes & Plains Office Building
842 Raymond Avenue, Suite 200
St. Paul, MN 55114

Lissa Jones-Lofgren, Interim Executive Director
Payne Phalen District 5 Planning Council
506 Kenny Road, Suite 130
St. Paul, MN 55130

Robert J. Lundgren,
677 Larpenteur Avenue West
Roseville, MN 55113-6544

(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 17th day of March, 2017


Notary Public

