

OFFICE OF THE CITY ATTORNEY  
*Gerald T. Hendrickson, 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*

August 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 July 16, 2010, a tobacco compliance check was conducted at Super Day, Inc. located at 281 Snelling Avenue North. A fifteen year old male entered your store and asked to buy cigarettes. He was asked to show his identification, and did so. It correctly stated his date of birth, which indicated he was underage. Nevertheless, the clerk sold him a package of Marlboro cigarettes. Sale of tobacco to an underage person is a violation of Minn. Stat. §609.685 and Saint Paul Legislative Code §324.07.**

This is your second (2<sup>nd</sup>) 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 \$400.00 matrix penalty.

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

1. You can pay the recommended \$400.00 matrix penalty. If this is your choice, you should make payment directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, August 16, 2010**. Information should be directed to the attention of Christine Rozek. A self-addressed envelope is enclosed for your convenience. Payment of the \$400.00 matrix penalty will be considered to be a waiver of the hearing to which you are entitled.

Super Day, Inc.  
August 5, 2010  
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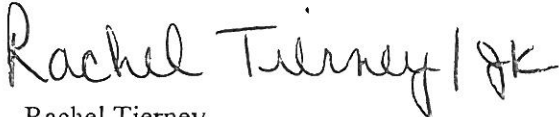
2. If you wish to admit the facts but contest the penalty, you may have a public hearing before the Saint Paul City Council, you will need to send me a letter with a statement admitting the facts and requesting a public hearing. We will need to receive your letter by **Monday, August 16, 2010**. The matter will then be scheduled before the City Council for a public hearing to determine whether to impose the \$400.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.
3. 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, August 16, 2010**, and I will take the necessary steps to schedule the administrative hearing.

**If I have not heard from you by that date, I will assume that you do not contest the imposition of the \$400.00 matrix penalty. 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  
Julie Oney, Interim Exec. Director, Union Park District Council, 1570 Concordia Avenue  
Ste. LL100, St. Paul, MN 55104

STATE OF MINNESOTA

, ss.

AFFIDAVIT OF SERVICE BY U.S. MAIL

COUNTY OF RAMSEY )

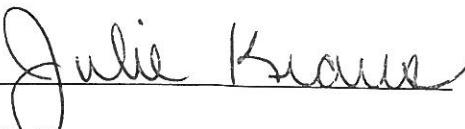
Julie Kraus, being first duly sworn, deposes and says that on the 5<sup>th</sup> day of August, she served the attached **NOTICE OF VIOLATION** by placing a true and correct copy thereof in an envelope addressed as follows:

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

Julie Oney, Interim Exec. Director  
Union Park District Council  
1570 Concordia Avenue, Ste. 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 5<sup>th</sup> day of August, 2010

  
Notary Public

