



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

October 21, 2016

AMENDED NOTICE – NOTICE OF ADDITIONAL VIOLATION AND AMENDED  
NOTICE REGARDING PENALTY

Towfik Hassen, President  
Super USA  
976 – 7<sup>th</sup> Street East  
St. Paul, MN 55106

RE: All licenses held by Tom Super USA, LLC d/b/a Super USA for the premises located at 976 – 7<sup>th</sup> Street East in Saint Paul  
License ID #: 20090000182

Dear Licensee:

On September 26, 2016 you were notified that an adverse action was being recommended against all licenses held by Tom Super USA, LLC d/b/a Super USA for the premises located at 976 – 7<sup>th</sup> Street East in Saint Paul. The basis for that recommendation was as follows:

**On September 14, 2016, a controlled buy was conducted at your establishment by Saint Paul Police, who were investigating information received concerning the sale of unpackaged cigarettes and drug paraphernalia such as glass pipes and scales from behind the counter (CN #16-187-483).**

**A Confident Reliable Informant (CRI) was sent into the store and asked an employee “How you doing....is Obama in? The CRI was told he was coming in around 2:30 p.m. The CRI stated to police that whenever he or she wanted certain things they were supposed to ask for a guy named Obama.**

**The employee then asked the CRI “what do you need?” The CRI said “Oilburner” then the employee asked “The five dollar one?” The CRI said “Yeah”. After the sale takes place the CRI left the store with the Oilburner and drove off in their vehicle. The CRI met with police to turn over the Oilburner and the \$2.00 left over after the \$5.00 purchase.**

**This is a violation of license condition #3 which states: “None of the following items shall be sold at the store: Diluents and adulterants; separation gins and sifters; hypodermic syringes or needles; metal, wooden acrylic, glass, stone, plastic or ceramic pipes; permanent screens, hashish heads or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips; miniature cocaine spoon, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bonges; and ice pipes or chillers.”**

You were notified in the original notice that as a result of this license condition violation, per Saint Paul Legislative Code § 310.05 (m) (1), the licensing office was recommending a \$500.00 matrix penalty.

On October 14, 2016, our office received a letter from you requesting a public hearing. That hearing is set for November 16, 2016.

Our office has since determined that the recommended \$500 matrix penalty for the September 26, 2014 Notice of Violation was in error, the recommendation for the September 14, 2016 violation should have been for the third violation on the matrix which would have been a \$2,000 matrix penalty and a 10 day suspension. We base this corrected recommendation on the following information:

Our records show that on May 13, 2015 you paid a \$500.00 matrix penalty related to a controlled buy of single cigarettes under CN 15-080-519.

Our records show that on July 13, 2015 you reached a settlement before an Administrative Hearing whereby you admitted to a violation of license condition #3. On August 19, 2015 that recommendation was imposed by the City Council through Resolution #15-1449.

**Additional Violation:** Since setting the November 16, 2016 hearing, the Department of Safety and Inspections (DSI) has received notice of an additional violation and has recommended additional adverse action against all licenses held by Tom Super USA, LLC d/b/a Super USA for the premises located at 976 – 7<sup>th</sup> Street East in Saint Paul. The basis for the recommendation on the additional violation is as follows:

**On September 23, 2016, a controlled buy was conducted at your establishment by Saint Paul Police who were investigating additional information received concerning the sale of single cigarettes (CN #16-194-443). This controlled buy was subsequent to the controlled buy conducted by Saint Paul Police on September 14, 2016.**

**A Confident Reliable Informant (CRI) was sent into the store to purchase single cigarettes. The CRI entered the store and approached the clerk behind the counter. A conversation and actions between the two was recorded on video in which the CRI handed the clerk \$10.00 and received \$8.00 in change. The employee then reached over the counter and gives the CRI three single cigarettes.**

**The CRI left the store and walked back to tell the officers the clerk sold him/her three (3) single Newport cigarettes for \$2.00. He/she informed the officers that they were \$.75 each but he/she got a break of \$.25. This is confirmed on the video where the employee is heard saying “3 for 2”.**

**This is a violation of Saint Paul Legislative Code § 324.07 (a): “No person shall sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes shall be sold in packages of fewer than twenty (20) cigarettes.”**

**Saint Paul Legislative Code § 324.07 (i) provides that adverse action may be taken against your license: “Any violation of this chapter shall subject the licensee to provisions of chapter 310 and section 324.11 of the Saint Paul Legislative Code.”**

**Amended Recommendation:** This is the fourth (4<sup>th</sup>) violation within the past twenty-four (24) months. Therefore, based on your continued disregard of city ordinances, per Saint Paul Legislative Code § 310.05 (m) (2), the licensing office will recommend revocation of your licenses.

At this time, you have three (3) options to proceed:

1. If you do not contest the imposition of the proposed adverse action, you may do nothing. If I have not heard from you by **Monday, October 31, 2016**, I will presume that you have chosen not to contest the proposed adverse action, and the matter will be placed on the City Council Agenda for approval of the proposed remedy.
2. If you wish to admit the facts but you 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 to the facts and requesting a public hearing. I will need to receive your letter by **Monday, October 31, 2016**. The matter will then be scheduled before the City Council to determine whether to revoke your licenses. You will have an opportunity to appear before the Council and make a statement on your own behalf.
3. 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 **Monday, October 31, 2016**. 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 Monday, October 31, 2016, I will assume that you do not contest the revocation of your licenses. In that case, the matter will be placed on the City Council Consent Agenda for approval of the recommended penalty.**

If you have questions about these options, please feel free to contact me at 266-8710.

Sincerely,



Therese Skarda  
Assistant City Attorney

cc: Eric Hudak, DSI Licensing Manager  
Towfik Hassen, 8371 Savannah Oak Lane East, Woodbury, MN 55125  
Deanna Abbott-Foster, Executive Director, Dayton's Bluff Community Council  
East Side Enterprise Center, 804 Margaret Street, St. Paul, MN 55106

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 21<sup>ST</sup> day of October she served the attached **AMENDED NOTICE – NOTICE OF ADDITIONAL VIOLATION AND AMENDED NOTICE REGARDING PENALTY** and a correct copy thereof in an envelope addressed as follows:

Towfik Hassen, President  
Super USA  
976 – 7<sup>th</sup> Street East  
St. Paul, MN 55106

Towfik Hassen  
8371 Savannah Oak Lane East  
Woodbury, MN 55125

Deanna Abbott-Foster, Executive Director  
Dayton’s Bluff District 4 Community Council  
East Side Enterprise Center  
804 Margaret Street  
Saint Paul, MN 55106

(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 21<sup>ST</sup> day of October, 2016

  
Notary Public

