SETTLEMENT AGREEMENT

The City of Saint Paul (the "City"), Department of Safety and Inspections ("DSI") and Maryland One Stop Food & Fuel Market, Inc., d/b/a Maryland Amoco/BP Market Place ("Maryland Amoco") enter into this Settlement Agreement as outlined below.

WHEREAS, Maryland Amoco holds Tobacco Shop and Gas Station licenses (#20050003472) for the premises located at 1200 White Bear Avenue North in Saint Paul ("Licensed Premises"); and,

WHEREAS, Khaled Aloul, is an owner and Licensee of Maryland Amoco; and

WHEREAS, pursuant to Saint Paul Legislative Code 310.06 (b) states:

> "The terms "licensee" or "applicant" for the purposes of this section shall mean and include any person who has any interest, whether as a holder of more than five (5) percent of the stock of a corporation, as a partner, or otherwise, in the premises or in the business or activity which are licensed or proposed to be licensed."

WHEREAS, Saint Paul Legislative Code 324.07(j) states, "No person shall sell, offer for sale, or otherwise distribute any flavored products;" and,

WHEREAS, on March 20, 2024, a compliance inspection was conducted by City staff during which flavored tobacco products inventory was found in the product shelf, inside the cashier's booth; and,

WHEREAS, Saint Paul Legislative Code 324.07(i) states, "No holder of a license issued under this chapter, nor any employee or agent of same may sell tobacco products to a person under the age of twenty-one (21) years. Sale to persons under the age of twenty-one (21) years prohibited;" and,

WHEREAS, on March 20, 2024, the Licensee failed an underage buyer tobacco compliant inspection when the underage buyer entered the licensed business in an attempt to purchase a pack of Marlboro Red 100's cigarettes; and,

WHEREAS, Saint Paul Legislative Code 324.03(5) states, "Retail stores holding a tobacco products shop license are permitted to sell and offer for sale flavored tobacco products;" and

WHEREAS, Saint Paul Legislative Code 310.03(m)(3) states, "Penalties for convictions or violations are presumed to be appropriate for every case; however, the council may deviate therefrom in an individual case where the council finds and determines that there exist substantial and compelling reasons making it more appropriate to do so;" and

WHEREAS, on September 18, 2024, a complaint-related compliance inspection was conducted by DSI inspector Voyda. Upon arrival, Inspector Voyda observed through the cashier's window multiple flavor tobacco products as follows: Backwoods-Honey Berry, Backwoods-Grape, Backwoods-Honey, Backwoods-Vanilla, Backwoods-Black Russian, Backwoods-Chocolate, Backwoods-Banana, Backwoods-Honey Bourbon, Backwoods-Russian Cream; and,

WHEREAS, on September 18, 2024, Inspector Voyda attempted to purchase coffee, and packs of Camel Crush and Newport Menthol cigarettes, to which the clerk responded that they had no menthol cigarettes. The clerk insisted that the coffee was free numerous times to Inspector Voyda. Inspector Voyda responded consistently each time with a rejection to the free coffee. Inspector Voyda subsequently purchased a package of Backwoods Russian Cream Cigars (flavored cigars) and coffee, which came to a total of $12 dollars. Inspector Voyda returned to his vehicle to retrieve his inspector's badge and to store the purchased cigars; and

WHEREAS, on September 18, 2024, Inspector Voyda re-entered the licensed premises, and notified the clerk that he was a DSI Inspector and he was present due to a complaint received by DSI; and

WHEREAS, the Licensee has denied each of the foregoing provisions and demanded a hearing to put the City to its burden of proof; and

WHEREAS, on May 15th, 2024 the Parties attended a City Council hearing before the Saint Paul City Council involving two proposals of adverse action resolution for City Council to choose from; [1] and

WHEREAS, at the conclusion of the City Council Hearing, the Parties agreed to adopt version 1 of the resolution (RES 24-623), which directs the Department of Safety and Inspections to move forward with the adverse action against Maryland Amoco;

WHEREAS, the Notice detailed in RES 24-623, mentioned the Department believes that substantial and compelling reasons to upwardly depart to revocation in this case include:

- the sheer volume of prohibited flavored products found on the Licensed Premises that show lack of mistake,
- • the blatant nature of the violations and the total disregard for ordinances and license requirements,
- • a history of same/similar violations related to this Licensee, this licensed location and the Licensee's former business at Midway Amoco BP (1347 University Avenue West).; and

[1] The City, DSI, and Maryland Amoco are at times jointly referred to as "the Parties."

WHEREAS, the Notice detailed in RES 24-623, mentioned the large volume of prohibited flavored tobacco products that were found and documented in a report and with photos by Inspector Vang on June 1, 2023, during a complaint inspection; and

WHEREAS, the Notice detailed in RES 24-623, also described an incident witnessed by Inspector Vang during his complaint inspection on June 1, 2023, in which Inspector Vang believed that he witnessed the store clerk selling tobacco to an underage customer; and

WHEREAS, the Licensee voluntarily chose to not contest the imposition of the proposed adverse action, and the City did not object, resulting in an understanding of revocation of license, while foregoing the request to have a hearing before an Administrative Law Judge; and

WHEREAS, the Parties agree that this Settlement Agreement will provide certainty regarding the violation and accompanying penalties; and,

WHEREAS, Licensee requested the revocation of his Tobacco Shop license to be effective December 31, 2024, while foregoing an Administrative Hearing. However, Tobacco Shop license expires December 6, 2024.[2]

WHEREAS, the Parties agree that settling this matter as described below is beneficial to all Parties; and

WHEREAS, the Parties knowingly and voluntarily enter into this Settlement Agreement;

NOW THEREFORE, in consideration of the terms herein set forth:

1. The City agrees to the requested revocation of the Tobacco Shop license from Maryland Amoco effective December 6, 2024, unless otherwise Licensee pays to reinstate license by the expiration date of December 6, 2024, notwithstanding the license renewal, revocation of Tobacco Shop license will be effective December 31, 2024.

2. Maryland Amoco agrees to sign the License Conditions and agrees to the imposition of the following license condition upon its Tobacco Shop license:
    a. No further subsequent violations. this includes but not limited to:
    b. No late night deliveries between the hours of 11:00pm- 6:00am,
    c. Security cameras must be functional,
    d. Maintain the fence on East and South side of the property, adjoining the residential property,
    e. Maintain landscaping,

[2] In order for Licensee to continue to sell tobacco or tobacco related products after December 6, 2024, Licensee would need to pay the renewal fee and would be permitted during the twenty-five (25) days to sell tobacco/tobacco related products until December 31, 2024, the date of revocation of license.

f. All customer and employee vehicles (one space shall be designated and marked for Handicap parking) must be parked in the area designated on the approved site plan, on file with DSI,
g. All vehicles parked outdoors must appear to be completely assembled with no major body parts missing,
h. Vehicle salvage is not permitted,
i. Vehicle parts, tires, oil or similar items will not be stored outdoors, trash will be stored in a covered dumpster,
j. No general auto repair is allowed, no auto body repair painting is permitted,
k. No vehicle sales allowed,
l. Customer vehicles may not be parked longer than 10 days on the premises,
m. Limit car wash operation and pay phone usage to the hours of 7:00am to 10:00pm,
n. Maintain the property clean from trash on a daily basis,
o. The sale of blunts and single cigarettes is not permitted. Tobacco products must be sold in the original packaging,
p. The sale of jewelry bags/baggies is not permitted,
q. License must comply with all federal, state and local laws,
r. No sale or possession of flavored tobacco products in the licensed premises, and
s. No sell of tobacco products to a person under the age of twenty-one (21) years,

3. Failure to comply with any conditions listed in paragraph 2 above, will result in an immediate revocation of the Tobacco Shop license.

4. The Parties agree that this is a subsequent violation, which warrants a revocation of license under the Saint Paul Legislative Code Chapter 310.03(3) penalty matrix.

Date: 11/13/2023 Khaled Aldul

Khaled Aldul

Date: 11/14/2024

Eric Hudak, Licensing Manager, City of Saint Paul