OFFICE OF THE CITY ATTORNEY
Samuel J. Clark, 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

January 8, 2016

NOTICE OF VIOLATION

Dahir Wako, Owner
7th Grocery
43 – 7th Street West
St. Paul, MN 55102

RE: Cigarette/Tobacco license held by Dahir Wako d/b/a 7th Grocery for the premises located at 43 – 7th Street West in Saint Paul
License ID #: 20140002629

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Dahir Wako d/b/a 7th Grocery for the premises located at 43-7th Street West in Saint Paul. The basis for the recommendation is as follows:

On December 29, 2015, the Department of Safety and Inspections received a Notice of Seizure of Contraband from the Minnesota Department of Revenue concerning an inspection of your licensed premises on October 20, 2015. During that inspection the following items were seized:

- **8 packs Marlboro box Stamp #19563 (Stamp sold to Granite City Jobbing in November 2014)**
- **1 pack Parliament box Stamp #22617 (Stamp sold to McLane Minnesota Inc. in July 2015)**
- **5 packs Marlboro Gold Pack 100's box Stamp number illegible**
- **7 packs Camel Blue 99's box Stamp #21603 (Stamp sold to Granite City Jobbing in May 2015)**
- **10 packs Camel Blue box Stamp #22035 (Stamp sold to Granite City Jobbing in June 2015)**
- **10 packs American Spirit Green box Stamp #18645 (Stamp sold to Granite City Jobbing in October 2014)**
- **2 packs American Spirit Green box Stamp #17240 (Stamp sold to McLane Minnesota Inc. in July 2014)**
- **10 packs American Spirit Dark Green box Stamp #22540 (Stamp sold to Granite City Jobbing in June 2015)**
- **1 pack of Marlboro Menthol 100's. No stamp**

The seized items were not accompanied by an invoice and as a result declared contraband per Minn. Stat. § 297f.21 (j): ***"Any cigarette packages or tobacco products offered for sale or held as inventory for which there is not an invoice from a licensed seller as required under section 297F.13, subdivision 4."***

Saint Paul Legislative Code Section 310 provides that adverse action may be taken against your 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 lace of fitness or good character may be drawn."***

Section 310.06 (b) (6) (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."***

Per Saint Paul Legislative Code § 310.05 (m) (5), the presumptive matrix penalty for a second appearance due to the commission of a crime other than a felony by the licensee in the licensed premises is a $1,500 fine. Due to the severity of the repeated violations, per Saint Paul Legislative Code § 310.05 (m), the licensing office will recommend an upward departure to a five (5) day suspension of your Cigarette/Tobacco license.

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, January 18, 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, January 18, 2016.** The matter will then be scheduled before the City Council for a public hearing to determine whether to impose a five (5) day suspension of your Cigarette/Tobacco license. 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, January 18, 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 or DSI by Monday, January 18, 2016, I will assume that you do not contest the imposition of a five (5) day suspension of your Cigarette/Tobacco license. 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,

Geoffrey Karls/gk

Geoffrey Karls
Assistant City Attorney

Cc: Eric Hudak, DSI Licensing Manager
Dahir Wako, 383 Virginia Street, St. Paul, MN 55104
Archie L. Gingold, Scm Family Limited Partnership, 2172 Stanford Avenue, St. Paul, MN 55105-1221
Paul Bengston, Director, CapitolRiver Council, US Bank Center, 101 East 5th Street, Ste. 240
St. Paul, MN 55101

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE BY U.S. MAIL

Julie Kraus, being first duly sworn, deposes and says that on the 8th day of January she served the attached **NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

Dahir Wako, Owner
7th Grocery
43 – 7th Street West
St. Paul, MN 55102

Dahir Wako
383 Virginia Street
St. Paul, MN 55104

Archie L. Gingold
Scm Family Limited Partnership
2172 Stanford Avenue
St. Paul, MN 55105-1221

Paul Bengston, Director
CapitolRiver Council
US Bank Center
101 East 5th Street, Ste. 240
St. Paul, MN 55101

(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

Julie Kraus

Subscribed and sworn to before me
this 8th day of January, 2016

Rita M. Bossard
Notary Public

RITA M. BOSSARD
NOTARY PUBLIC - MINNESOTA
My Commission Expires
January 31, 2020