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

July 28, 2016

NOTICE OF VIOLATION

Richard A. Stai, Owner
5th Street Convenience
55 – 5th Street East
St. Paul, MN 55101-2701

RE: Cigarette/Tobacco license held by Richard A. Stai d/b/a 5th Street Convenience for the premises located at 55-5th Street East in Saint Paul
License ID #20050004334

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against the Cigarette/Tobacco license held by Richard A. Stai d/b/a 5th Street Convenience for the premises located at 55-5th Street East in Saint Paul. The basis for the recommendation is as follows:

> **On July 27, 2016, a tobacco compliance check was conducted at 5th Street Convenience located at 55-5th Street East. A seventeen year old male entered your establishment and asked to buy tobacco products. 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(c).**

This is the first (1st) violation 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 $200.00 matrix penalty.

At this time you have four (4) 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, August 8, 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. You can pay the $200.00 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 8, 2016**. A self-addressed envelope is enclosed for your convenience. Payment of the $200.00 matrix penalty will be considered to be a waiver of the hearing to which you are entitled.

3. 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 to the facts and requesting a public hearing. I will need to receive your letter no later than **Monday, August 8, 2016.** The matter will then be scheduled before the City Council to determine whether to impose the $200.00 matrix penalty. You will have an opportunity to appear before the Council and make a statement on your own behalf.

4. 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 by **Monday, August 8, 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, August 8, 2016, I will assume that you are not contesting the imposition of the $200.00 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 the clerk who made the sale on this date and will also be charged an additional $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,

Geoffrey Karls
Assistant City Attorney

Cc: Eric Hudak, DSI Licensing Manager
Richard A. Stai, 4900 Bartlett Boulevard, Mound, MN 55364
Paul Bengtson, 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 28th day of July she served the attached **NOTICE OF VIOLATION** and a correct copy thereof in an envelope addressed as follows:

Richard A. Stai, Owner
5th Street Convenience
55 – 5th Street East
St. Paul, MN 55101-2701

Richard A. Stai
4900 Bartlett Boulevard
Mound, MN 55364

Paul Bengtson, 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

Subscribed and sworn to before me
this 28th day of July, 2016

Rita M. Bossard
Notary Public

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