



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 14, 2016

NOTICE OF VIOLATION

Roma Bahlibi, Co-owner
Berhan Tobacco & Grocery
492 Asbury Street
St. Paul, MN 55104

RE: All licenses held by Berhan, Inc. d/b/a Berhan Tobacco & Grocery for the premises located at
492 Asbury Street in Saint Paul
License ID #: 20150002430

Dear Licensee:

The Department of Safety and Inspections (DSI) has recommended adverse action against all licenses held by Berhan, Inc. d/b/a Berhan Tobacco & Grocery for the premises located at 492 Asbury Street in Saint Paul. The basis for the recommendation is as follows:

On October 6, 2016, Saint Paul Police conducted a controlled buy at your establishment based on information that you and your employees were selling single cigarettes in violation of city ordinance and drug paraphernalia in violation of your lease agreement (CN #16-204-892).

The officer met with a Confidential Reliable Informant (CRI) who was sent into the store with enough money to buy two (2) cigarettes, a drug pipe, and a chore boy drug smoking pad. The CRI came out of the store with two (2) Newport cigarettes, a drug pipe and a chore-boy smoking pad and told the officer the cigarettes were sold for a \$1.00 each from behind the counter and the drug paraphernalia was sold from above a shelf.

Saint Paul Legislative Code § 324.07 (a) states: *"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 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 lack of fitness or good character may be drawn.”*

Section 310.06 (b) (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) (2), the licensing office will recommend a \$500.00 matrix penalty. In addition, the licensing office will recommend the following additional conditions be placed on your license:

2. The sale of tobacco products at this store shall comply with Chapter 324 of the City of Saint Paul Legislative Code and shall be limited to packaged cigarettes, cigars, smokeless tobacco, lighters, and cigarette paper intended for use as a wrapper cover for tobacco products.
3. 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, chilliums; bongs and ice pipes or chillers.
4. No drug paraphernalia shall be sold.
5. No individual razor blades or portions of opened packages of razor blades shall be sold.
6. The sale of blunts and single cigarettes is prohibited at this store, and tobacco products must be sold in the original packaging as per Section 324.07 of the Saint Paul Legislative Code.

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, October 24, 2016**, I will presume that you have chosen not to contest the proposed adverse, and the matter will be placed on the City Council Agenda for approval of the proposed remedy.
2. You can pay the recommended \$500.00 matrix penalty and sign, date and return the attached license condition affidavit. If this is your choice, you should send the payment and signed license condition affidavit directly to the Department of Safety and Inspections, at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Monday, October 24, 2016**. A self-addressed envelope is enclosed for your convenience. Payment of the \$500.00 and returning a signed and dated license condition affidavit will be considered to be a waiver of the hearing to which you are entitled.
3. 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 24, 2016**. The matter will then be scheduled before the City Council to determine whether to impose the \$500.00 matrix penalty and recommended additional license conditions. 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 no later than **Monday, October 24, 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 24, 2016, I will assume that you do not contest the imposition of the \$500.00 matrix penalty and additional license conditions. 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: Roma Bahlibi, 15821 Gooseberry Way, Apple Valley, MN 55124
Kyle Mianulli, Director of Communications & Community Engagement, Hamline Midway Coalition
1558 Minnehaha Avenue West, St. Paul, MN 55104-1264
Edward B. Hughes and Dianne M. Hughes, 1437 Marshall Avenue, St. Paul, MN 55104-6345

Attachment: License Condition Affidavit



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

Department of Safety & Inspections

Ricardo X. Cervantes, Director

375 Jackson Street, Suite 220

Saint Paul, MN 55101-1806

Web Site Address: www.slpaul.gov/dsi

Telephone: 651-266-8989

Facsimile: 651-266-9124

I agree to the following conditions being placed on the following license(s):

License #: 20150002430
Type of Business: Alarm Permit (New)
Cigarette/Tobacco
False Alarms
Applied for by: BERHAN INC
Doing Business As: BERHAN TOBACCO & GROCERY
at: 492 ASBURY ST
ST PAUL MN 55104

Conditions are as follows:

1. Temporary window signs placed between the height of four (4) to seven (7) feet above grade shall not cover more than thirty (30) percent of this window space area, and cannot block views into the clerk or cashier station.
2. The sale of tobacco products at this store shall comply with Chapter 324 of the City of Saint Paul Legislative Code and shall be limited to packaged cigarettes, cigars, smokeless tobacco, lighters, and cigarette paper intended for use as a wrapper cover for tobacco products.
3. 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; bongs; and ice pipes or chillers.
4. No drug paraphernalia shall be sold.
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6. The sale of blunts and single cigarettes is prohibited at this store, and tobacco products must be sold in the original packaging as per Section 324.07 of the Saint Paul Legislative Code.

Licensee

Date

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 14th day of October she served the attached **NOTICE OF VIOLATION** and correct copy thereof in an envelope addressed as follows:

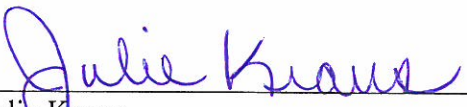
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Director of Communications
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St. Paul, MN 55104-1264

Edward B. Hughes
Dianne M. Hughes
1437 Marshall Avenue
St. Paul, MN 55104-6345

(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 14th day of October, 2016


Notary Public

