OFFICE OF THE CITY ATTORNEY
Lyndsey M. Olson, City Attorney

CITY OF SAINT PAUL
Mayor Melvin Carter

Civil Division
400 City Hall and Court House
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102

Telephone: 651 266-8710
Facsimile: 651 298-5619

June 19, 2019

NOTICE OF VIOLATION
RECOMMENDATION FOR IMPOSITION
OF $500 MATRIX PENALTY

Speedway #4032
1734 7th Street W
Saint Paul, MN 55116
Attn: Northern Tier Retail LLC

RE: Cigarette/Tobacco license held by Northern Tier Retail LLC d/b/a Speedway #4032 for the premises located at 1734 7th Street W in Saint Paul
License ID #: 20100004269

Dear Northern Tier Retail LLC:

The Department of Safety and Inspections ("Department") will recommend adverse action against the Cigarette/Tobacco license held by Northern Tier Retail LLC ("Licensee") for the premises known as Speedway #4032 located at 1734 7th Street W in Saint Paul. ("Licensed Premises").

Saint Paul Legislative Code §310.05(m)(2) provides for a presumptive penalty of $500 for a first-time violation of a provision of the legislative code related to the licensed activity.

Saint Paul Legislative Code §324.07(f) prohibits a licensee from selling, offering for sale, or otherwise distributing any flavored products.

The Department asserts the following facts along with attachments herein constitute proof of a violation of Saint Paul Legislative Code §324.07(f) by a preponderance of the evidence.

On April 4, 2019 all cigarette/tobacco licensees in the City of Saint Paul were notified by letter that cigar pricing, flavored tobacco, temporary window sign and tobacco display requirement compliance checks would be conducted during the week of April 8th through May.

The Saint Paul City Attorney's Office does not discriminate based on race, color, national origin, religion, sex/gender, disability, sexual orientation, gender identity, age, or veteran status in the delivery of services or employment practices.

On April 17, 2019, Inspector Dala Chang conducted a cigarette/tobacco and price compliance inspection at 1734 7th Street West in Saint paul. Inspector Chang observed and documented violations of Saint Paul Legislative Code §324.07(f). Specifically, she observed the following products: Optima Blue Cigars and Copenhagen Southern Blend being offered for sale.

As the Licensee you have four (4) options:

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 **Tuesday, July 2, 2019**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **Wednesday, July 24, 2019** City Council Consent Agenda for approval of the proposed remedy.

2. You can admit to the violation and pay the $500.00 matrix penalty. If this is your choice, send the payment directly to DSI at 375 Jackson Street, Ste. 220, St. Paul, Minnesota 55101-1806 no later than **Tuesday, July 2, 2019.** A self-addressed envelope is enclosed for your convenience. Payment of the $500.00 matrix penalty will be considered a waiver of the hearing to which you are entitled.

3. If you wish to admit the facts but you contest the $500.00 matrix 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 no later than **Tuesday, July 2, 2019**. The matter will then be scheduled before the City Council to determine whether to impose the $500.00 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 no later than **Tuesday, July 2, 2019**. 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 Tuesday, July 2, 2019, I will assume that you do not contest the imposition of the $500.00 matrix penalty. In that case, the matter will be placed on the Wednesday, July 24, 2019 City Council Consent Agenda for approval of the recommended penalty.

If you have questions about these options, please contact Shawn McDonald, my Legal Assistant at (651) 266-8729.

Sincerely,

Therese Skarda /s.m.

Therese Skarda
Assistant City Attorney
License No.: 0240989

cc: Northern Tier Retail LLC; 19100 Ridgewood Parkway; San Antonio, TX 78259
Emily Northey, Executive Director, 974 West 7th Street, Saint Paul, MN 55102
Realty Income Properties 3 LLC/Attn Portfolio Management, 11995 El Camino Real Suite 101, San Diego, CA 92130-2565

Attachments: Inspector's Report
Photos
Screenshots from DSI EClips system
STAMP Ownership/Zoning Information

DEPARTMENT OF SAFETY AND INSPECTIONS
Ricardo X. Cervantes, Director

CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

Inspector's Report

Inspectors Name: Dala Chang

Date: 4/17/19

Business/Property Name: Speedway

Property Address: 1734 7th St W

Reason for Visit: Tobacco Compliance Check

Observations: Flavor Violation: Optima Blue Cigars and Copenhagen Southern Blend

Photos Taken: _X__ Yes, Location of Photo(s):

____No

Action Taken: ____Citation

____Warning

Other: _____

Details of Conversations (Statements to and by Person Responsible for Property): Upon Arrival for a flavor and price compliance inspection I, Dala Chang, introduced myself as DSI Licensing and spoke with Lorenzo Pullen to ask for permission to do a tobacco compliance check on their products. After the inspection, I informed him of the violation: Optima Blue Cigars and Copenhagen Southern Blend. He was told to take the items off the shelves to be in compliance with city ordinance.

DEPARTMENT OF SAFETY AND INSPECTIONS
Ricardo X. Cervantes, Director

CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

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April 4, 2019

Dear Cigarette/Tobacco License Holder,

The Saint Paul Legislative Code establishes minimum cigar prices, prohibits the sale of flavored tobacco products at most retail locations, limits the size of temporary window signs in stores, and regulates customer access to the tobacco and tobacco-related products on display. Compliance checks for these items are typically conducted a minimum of once per calendar year where tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products are sold. These checks consist of a DSI Licensing Inspector visiting the establishment unannounced then observing product placement and labeling, speaking with clerks, taking photos, etc. to monitor for compliance with retail tobacco requirements.

Please consider this letter formal notice that the Department of Safety and Inspections (DSI) will begin to conduct the 2019 routine compliance checks for cigar pricing, flavored tobacco, temporary window sign, and tobacco display requirements the week of April 8th and expects to complete the initial checks of all vendors by late May. Of further note, compliance checks may be conducted at any time during the year in response to complaints or reported violations of these or other applicable requirements. Ordinance violations will be forwarded to the City Attorney's Office for adverse action against your license(s) that will result in fines and potential license suspension.

A link to the Cigarette/Tobacco License webpage is further below for your reference and if you have any questions about license requirements or inspection procedures, contact me at 651-266-9014 or joseph.voyda@ci.stpaul.mn.us. Other DSI Licensing Inspectors are available during my absence at 651-266-8989 to answer questions as well.

Cigarette / Tobacco License | Saint Paul, Minnesota
https://www.stpaul.gov/departments/safety-inspections/licenses/business/cigarette-tobacco-license

Sincerely,

Joseph Voyda,
Inspector, DSI Licensing

DEPARTMENT OF SAFETY AND INSPECTIONS
Ricardo X. Cervantes, Director

CITY OF SAINT PAUL

Business Licensing
375 Jackson Street, Suite 220
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989
Facsimile: 651-266-9124
Web: www.stpaul.gov/dsi

Tobacco Compliance Inspection Sheet

20100004269
SPEEDWAY #4032
1734 7TH ST W

Business Type:

☐ Convenience ☒ Convenience / Gas ☐ Gas ☐ Drug Store / Pharmacy ☐ Tobacco / Smoke Shop
☐ Supermarket / Grocery ☐ General Merchant ☐ Liquor Store / Bar Restaurant ☐ Other (private club, bowling, etc.)

Cigar prices:	Single	2 Pack	3 Pack	4 Pack	or More
	$ 2.80	$ 5.80	$	$	$ 11.22

Menthol, mint & wintergreen flavored products on premises? Yes or (No)

Flavored tobacco issues present during inspection? (Yes) or No (if Yes, list below)

Were pictures taken of flavored items/issues? (Yes) or No

More than thirty (30) percent of the store window / doors covered by temporary signs? Yes or (No)

Were pictures taken of the windows / doors? Yes or (No)

Name of (Owner) or (Clerk): Lorenzo Pullen (manager)

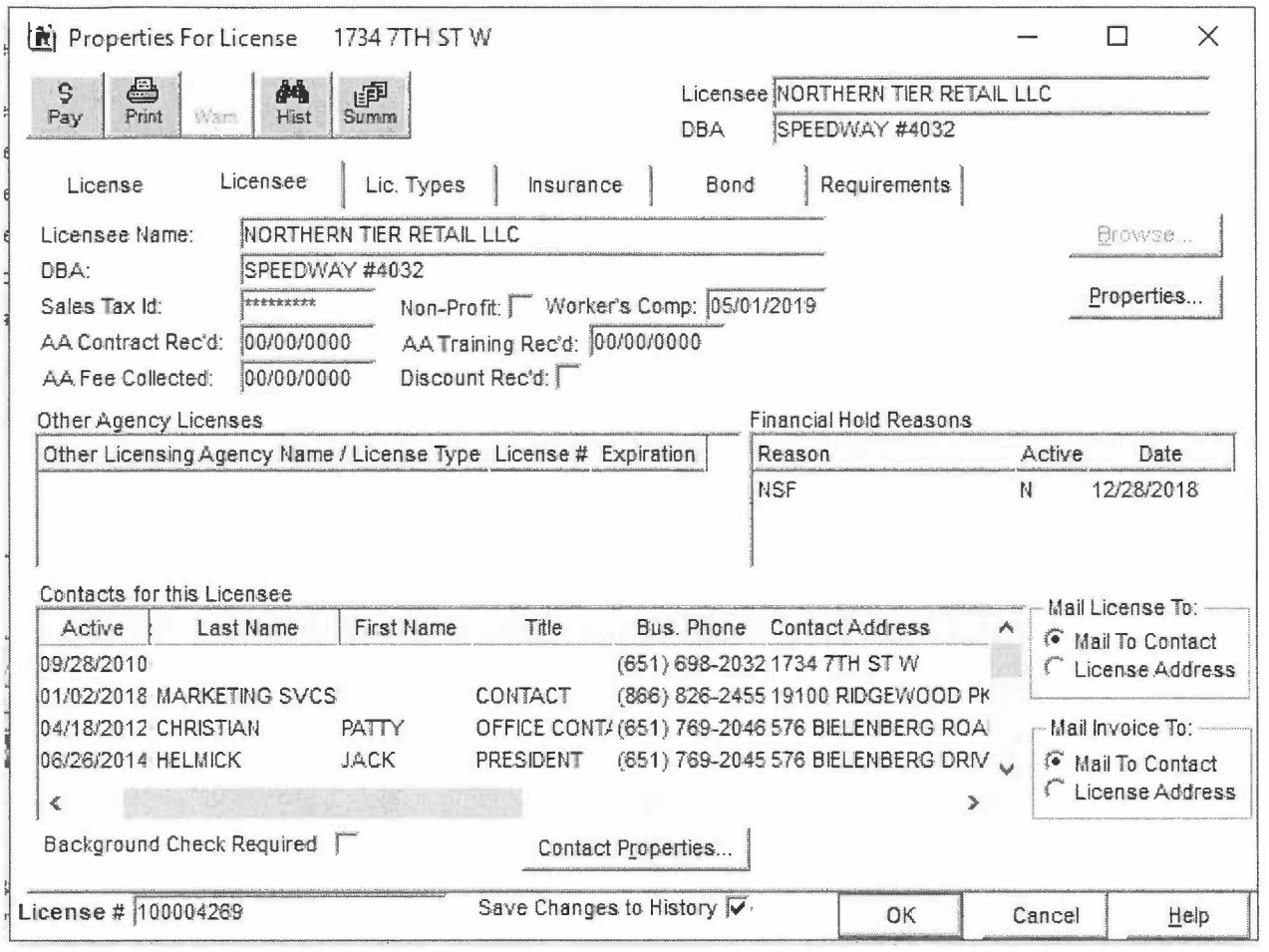
Notes/Issues: optima blue, copenhagen southern blend vanilla and mango peachy

Reason no inspection was conducted:

☐ Does not sell tobacco ☐ Unsatisfactory/unsafe conditions ☐ Out of business ☐ After business hours

☐ Refused Inspection Why? _____ ☐ Other _____

Inspector: Dala Charg Date: 4 / 17 / 19 (MM / DD / YY) Time: 8 : 55 (a.m.) / p.m.


Properties For License 1734 7TH ST W
Pay
Print
Warn
Hist
Summ
Licensee NORTHERN TIER RETAIL LLC
DBA SPEEDWAY #4032
License
Licensee
Lic. Types
Insurance
Bond
Requirements
Licensee Name: NORTHERN TIER RETAIL LLC
DBA: SPEEDWAY #4032
Sales Tax Id: *********
Non-Profit:
Worker's Comp: 05/01/2019
AA Contract Rec'd: 00/00/0000
AA Training Rec'd: 00/00/0000
AA Fee Collected: 00/00/0000
Discount Rec'd:
Browse ..
Properties...
Other Agency Licenses
Other Licensing Agency Name / License Type
License #
Expiration
Financial Hold Reasons
Reason
Active
Date
NSF
N
12/28/2018
Contacts for this Licensee
Active
Last Name
First Name
Title
Bus. Phone
Contact Address
09/28/2010 (651) 698-2032 1734 7TH ST W
01/02/2018 MARKETING SVCS CONTACT (866) 826-2455 19100 RIDGEWOOD PK
04/18/2012 CHRISTIAN PATTY OFFICE CONT (651) 769-2046 576 BIELENBERG ROA
06/26/2014 HELMICK JACK PRESIDENT (651) 769-2045 576 BIELENBERG DRIV
Mail License To:
Mail To Contact
License Address
Mail Invoice To:
Mail To Contact
License Address
Background Check Required
Contact Properties...
License # 100004269
Save Changes to History
OK
Cancel
Help

BLACK & MILD WOOD TIP SINGLES 25 UPR
BLACK & MILD WOOD TIP SINGLES 25 UPR
BLACK & MILD WINE CIGAR 25UPR
BLACK & MILD WINE CIGAR 25UPR
BLACK & MILD WOOD TIP WINE 25CT
SAVE ON 2 CIGARS
NATURAL LEAF
OPTIMO
CIGARILLOS
BLUE
SAVE ON 2 CIGARS
NATURAL LEAF
OPTIMO
CIGARILLOS
BLUE
SAVE ON 2
White Owl
GREEN SWEETS
SAVE ON 2
SWEETS
SWEETS
DIAMOND

SATISFACTION SINCE 1822
SOUTHERN BLEND
Copenhagen
COPENHAGEN FC
NATURAL
1.2 OZ
073100001079
10409 UIN 005959
Copenhagen
SATISFACTION
BARREL-AGED

STAMP - Ownership / Zoning Information

New Search Help using this report

Run Date: 06/19/19 10:36 AM
House#: 1734
Street Name: 7th

Last updated from Ramsey County data on: 07/07/2018

Click on "Other Application" links below to access GISmo, MapIT, and Ramsey County Info

1734 7th St W - Speedway Superamerica Store - 55116-2345 - Other Applications

PIN: 142823230033	**Census Track:** 36700	**Census Block:** 3014	**Council Ward:** 2	**District Council:** 9
Year Built:	**Foundation Sq Feet:**	**Loan Company:**	**Land Value:** 479200	**Building Value:** 370800

Unverified Usage: 10- GENERAL RETAIL & SVC- B- Commercial **ISP:** **Units:**

Zoning: T2

Legal Desc: West End Ex St Lots 1 Thru Lot 4 Blk 33

Owner:
Realty Income Properties 3 Llc/Attn Portfolio Management
11995 El Camino Real Ste 101
San Diego CA 92130-2565

Certificate of Occupancy Responsible Party:
Marketing Svcs - Mail Sto
Speedway #4359
19100 Ridgewood Pkwy
San Antonio TX 78259
651-291-2835

1734 7th St E - 55106-4206 - Other Applications

PIN: 272922440009	**Census Track:** 31801	**Census Block:** 3002	**Council Ward:** 7	**District Council:** 2
Year Built: 1908	**Foundation Sq Feet:** 1122	**Loan Company:**	**Land Value:** 11200	**Building Value:** 56700
Existing Primary Use: R-Single Family Dwelling	**Legality of Use:** Legal Non-Conforming		**Occupancy Group Type:** IRC-1	**Units:** 1

Zoning: R4

Legal Desc: KUHL'S 2ND ADDITION LOT 12 BLK 1

Owner:
Ronen Llc/C/O Selene Finance Lp
7730 S Union Park Ave Ste 400
Sandy UT 84047-5560

Certificate of Occupancy Responsible Party:
Ronen Llc
7730 S Union Park Ave Ste 400
Sandy UT 84047-5560

STATE OF MINNESOTA)

) ss. **AFFIDAVIT OF SERVICE BY U.S. MAIL**

COUNTY OF RAMSEY)

Shawn McDonald, being first duly sworn, deposes and says that on June 19, 2019, he served the attached **NOTICE OF VIOLATION, RECOMMENDATION FOR IMPOSITION OF $500.00 MATRIX PENALTY** and a correct copy thereof in an envelope addressed as follows:

Speedway #4032
1734 7th Street W
Saint Paul, MN 55116

Northern Tier Retail LLC
19100 Ridgewood Parkway
San Antonio, TX 78259

Emily Northey, Executive Director
974 West 7th Street
Saint Paul, MN 55102

Realty Income Properties 3 LLC/Attn Portfolio Management
11995 El Camino Real Suite 101
San Diego, CA 92130-2565

(which is the last known address of said person) depositing the same, with postage prepaid, in the United States mail at St. Paul, Minnesota.

Shawn McDonald

Subscribed and sworn to before me
This 19th day of June 2019

Notary Public

REGINA M. ETOLL
Notary Public-Minnesota
My Commission Expires Jan 31, 2023