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 July 5, 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 #4038
390 Maryland Avenue
Saint Paul, MN 55130

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

Realty Income Properties 3 Llc
11995 El Camino Real, Ste 101
San Diego, CA 92130

Jack Byers, Executive Director
Payne Phalen Community Council
567 Payne Avenue
Saint Paul, MN 55130

(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 5th day of July 2019

Notary Public

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

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

July 5, 2019

NOTICE OF VIOLATION
RECOMMENDATION FOR IMPOSITION
OF $500 MATRIX PENALTY

Speedway #4038
390 Maryland Avenue
Saint Paul, MN 55130
Attn: Northern Tier Retail LLC

RE: Cigarette/Tobacco license held by Northern Tier Retail LLC d/b/a Speedway #4038 for the premises located at 390 Maryland Avenue in Saint Paul
License ID #: 4038

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 #4038 located at 390 Maryland Avenue 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 16, 2019, Inspector Muhammad conducted a cigarette/tobacco and price compliance inspection at 390 Maryland Avenue East. Inspector Muhammad observed and documented violations of Saint Paul Legislative Code §324.07(f). Specifically, he observed a flavored product Optimo Sweet Cigars – Blue Vanilla 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 **July 19, 2019**, I will presume that you have chosen not to contest the proposed adverse action and the matter will be placed on the **August 7, 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 **July 17, 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 **July 19, 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 **July 19, 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 July 19, 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 August 7, 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/sm.

Therese Skarda
Assistant City Attorney
License No.: 0240989

cc: Northern Tier Retail LLC; 19100 Ridgewood Parkway; San Antonio, TX 78259
Realty Income Properties 3 Llc; 11995 El Camino Real, Ste 101; San Diego, CA 92130
Jack Byers, Executive Director, Phalen Community Council; 567 Payne Avenue; Saint Paul, MN 55130

Attachments: Inspector's Report and supporting documentation.

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: Akbar R. Muhammad

Date of Inspection: April 16th, 2019

Date sent to the CAO: May 1, 2019

Business/Property Name: Northern Tier Retail LLC

Property Address: 19100 Ridgewood Pkwy, San Antonio, TX 78259

License #: 20100004245

Reason for Visit: Flavor/Price Compliance Check

Observations: Flavor Violations: _____ ____ Optimo Sweet Cigar Blue vanilla

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

____No

Action Taken: ____Citation

____Warning

Other: Sent to the CAO for Adverse Licensing Action

Details of Conversations (Statements to and by Person Responsible for Property): Upon arrival for a cigarette/tobacco flavor and price compliance inspection, I Akbar R. Muhammad, an inspector for the DSI, introduced myself as inspector from DSI to the clerk. Ms. Clark. I asked her if she received the letter that was mailed out dated April 4, 2019. As I conducted my inspection I observed Optimo Sweet Cigars Blue (vanilla)

. I advised her that these were all flavor violations and needed to be removed asap to be in compliance with ordinance 324.

DEPARTMENT OF SAFETY AND INSPECTIONS
Ricardo X. Cervantes, Director

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

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

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 Check

Business Type:
20100004245
SPEEDWAY #4038
390 MARYLAND AVE E
651-774-7270

☐ 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
	$2.60	$_____	$_____	$_____	$_____

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): CeleseClark Clerk

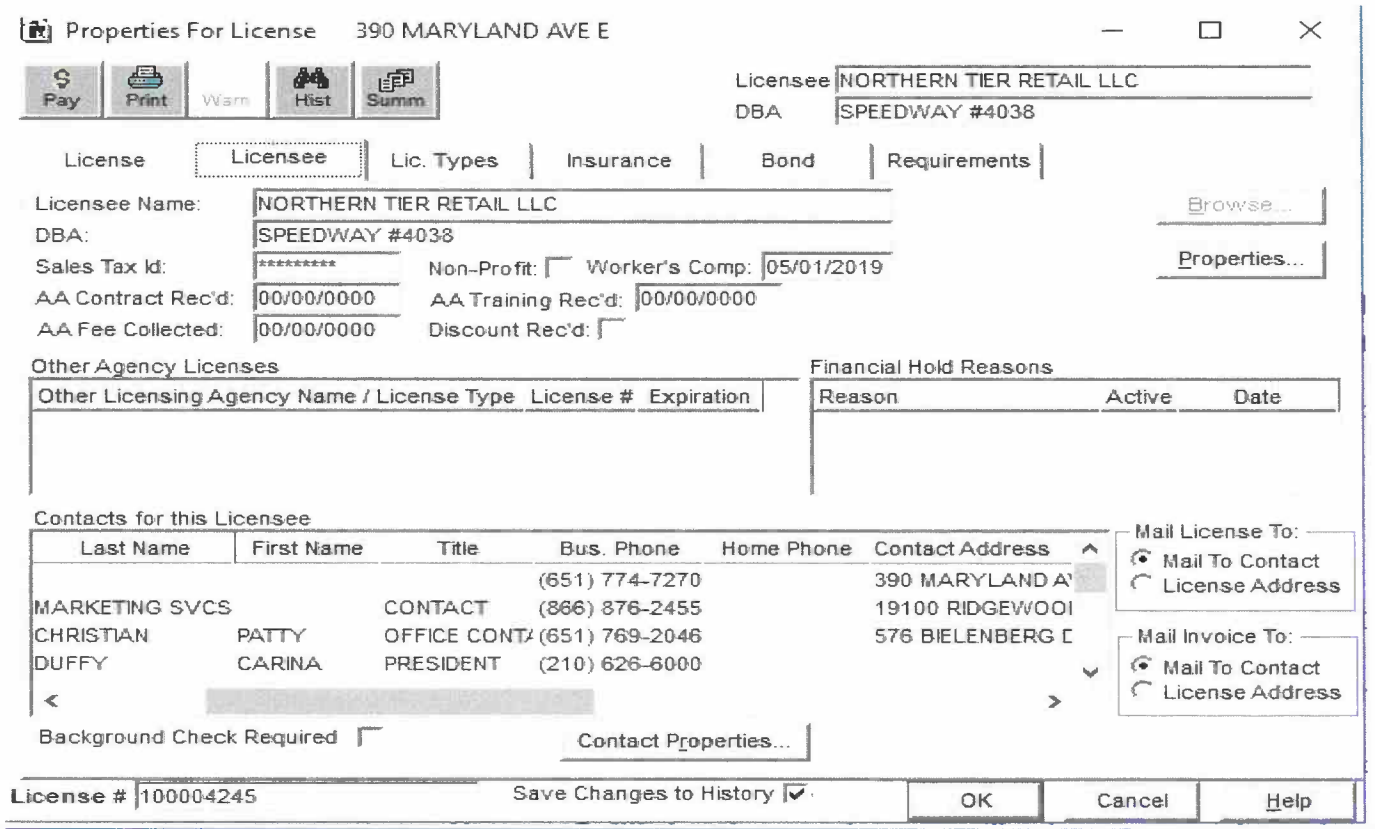
Notes/Issues: [redacted] [redacted]
Optimo Sweet Cigars blue vanilla

Reason no inspection was conducted:

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

☐ Refused Inspection Why? _____ ☐ Other _____

Inspector: Akbar R. Muhammad **Date:** 4 / 16 / 19 (MM / DD / YY) **Time:** 2:04 a.m. / (p.m.)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DBA SPEEDWAY #4038
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Insurance
Bond
Requirements
Licensee Name: NORTHERN TIER RETAIL LLC
DBA: SPEEDWAY #4038
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
Contacts for this Licensee
Last Name
First Name
Title
Bus. Phone
Home Phone
Contact Address
(651) 774-7270
390 MARYLAND A
MARKETING SVCS
CONTACT
(866) 876-2455
19100 RIDGEWOOI
CHRISTIAN
PATTY
OFFICE CONTA
(651) 769-2046
576 BIELENBERG E
DUFFY
CARINA
PRESIDENT
(210) 626-6000
Mail License To:
Mail To Contact
License Address
Mail Invoice To:
Mail To Contact
License Address
Background Check Required
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Save Changes to History
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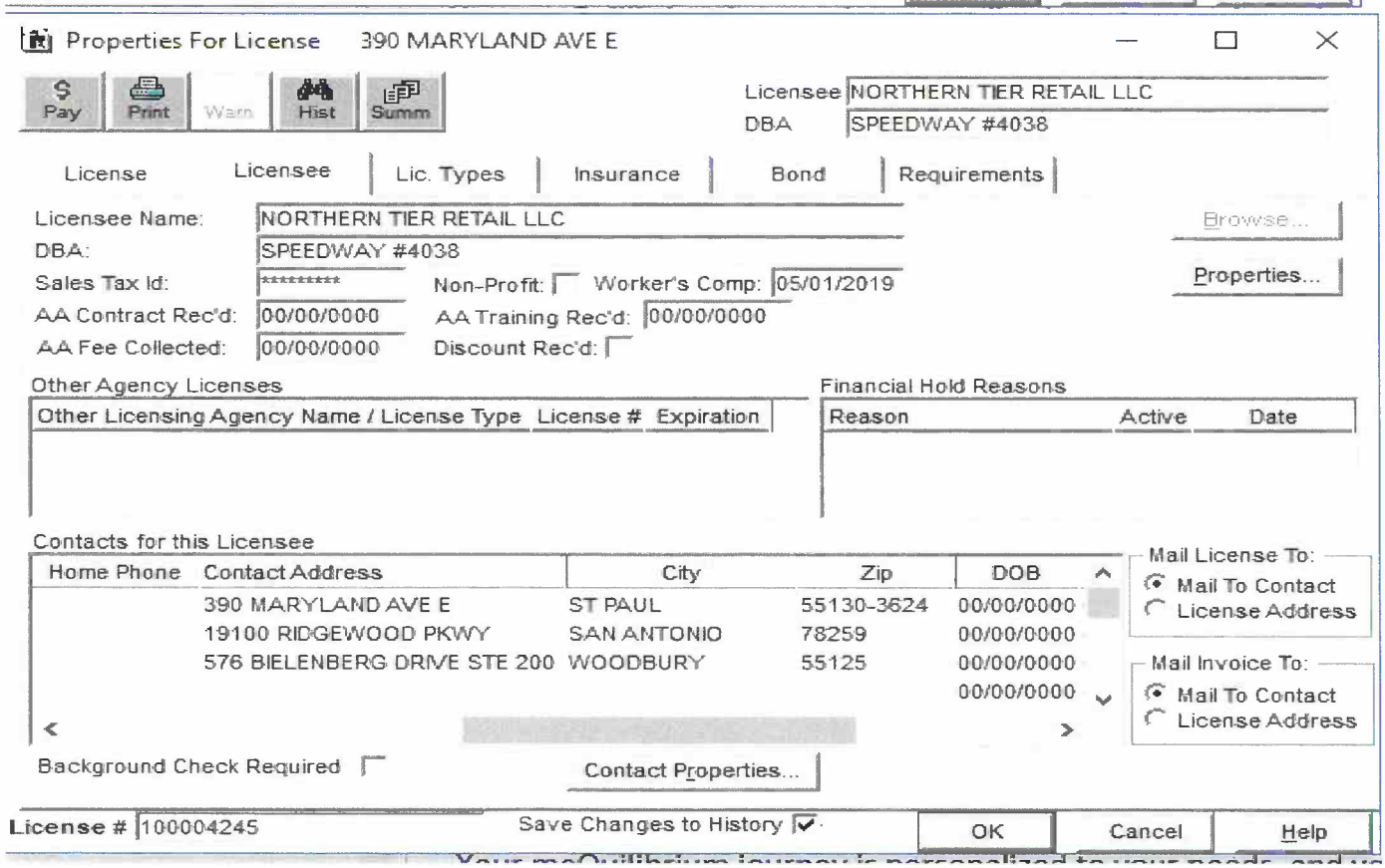
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Licensee NORTHERN TIER RETAIL LLC
DBA SPEEDWAY #4038
License
Licensee
Lic. Types
Insurance
Bond
Requirements
Licensee Name: NORTHERN TIER RETAIL LLC
DBA: SPEEDWAY #4038
Sales Tax Id: *********
Non-Profit:
Worker's Comp: 05/01/2019
AA Contract Rec'd: 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
Contacts for this Licensee
Home Phone
Contact Address
City
Zip
DOB
390 MARYLAND AVE E
ST PAUL
55130-3624
00/00/0000
19100 RIDGEWOOD PKWY
SAN ANTONIO
78259
00/00/0000
576 BIELENBERG DRIVE STE 200
WOODBURY
55125
00/00/0000
00/00/0000
Mail License To:
Mail To Contact
License Address
Mail Invoice To:
Mail To Contact
License Address
Background Check Required
Contact Properties...
License # 100004245
Save Changes to History
OK
Cancel
Help

NEXT REGISTER PLEASE
MINNESOTA LOTTERY
SAVE ON 2
SAVE ON 2 CIGARS
NATURAL LEAF
OPTIMO
CIGARILLOS
SWEET
GREEN
BLUE
White Owl
SWEETS
GREEN SWEETS
WARNING
AMERICAN SPIRIT
game
RED SWEETS
CITY OF SAINT PAUL
Tobacco Compliance Check
Business Type:
20100004245
SPEEDWAY #4938
390 MARYLAND AVE E
Name of (Owner) or (Clerk):
Notes/Issues: Natural American Spirit, Game Red Sweets, and Optimo Sweet Cigars
Reason no inspection was conducted:
Inspector: Akbar R. Muhammad
Date: 4/16/19
Time: 2:04
AA-AIDA-REO Employer

STAMP - Ownership / Zoning Information

New Search Help using this report

Run Date: 07/05/19 10:18 AM
House#: 390
Street Name: maryland

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

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

390 Maryland Ave E - Speedway Superamerica Store - 55101-1401 - Other Applications

PIN: 292922220175	**Census Track:** 30900	**Census Block:** 3004	**Council Ward:** 5	**District Council:** 5
Year Built:	**Foundation Sq Feet:**	**Loan Company:**	**Land Value:** 0	**Building Value:** 0
Existing Primary Use: A-Auto Convenience Market	**Legality of Use:**		**Occupancy Group Type:** M	**Units:** 0

Zoning: B3

Legal Desc: Eidsmo Addition Subj To Ave; Lots 1 Thru Lot 6

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