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 20, 2019

NOTICE OF VIOLATION
RECOMMENDATION FOR IMPOSITION
OF $500 MATRIX PENALTY

Speedway #4413
2051 Grand Avenue
Saint Paul, MN 55105
Attn: Northern Tier Retail LLC

RE: Cigarette/Tobacco license held by Northern Tier Retail LLC d/b/a Speedway #4413 for the premises located at 2051 Grand Avenue in Saint Paul
License ID #: 20100004251

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 ("Licensee") for the premises known as Speedway #4413 located at 2051 Grand 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 17, 2019, Inspector Dala Chang conducted a cigarette/tobacco and price compliance inspection at 2051 Grand Avenue, Saint Paul, MN 55105. Inspector Chang observed and documented violations of Saint Paul Legislative Code §324.07(f). Specifically, she observed a flavored product: Optimal Blue Cigars and General Snus 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 **Friday, July 5, 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 **Friday, July 5, 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 **Friday, July 5, 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 **Friday, July 5, 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 Friday, July 5, 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
Alexa Golemo, Executive Director, Macalester Groveland Community Council, 320 Griggs Street South, Saint Paul, MN 55105
Realty Income Properties 3 LLC/Attn Portfolio Management, 11995 El Camino Real Suite 101, San Diego, CA 92130-2565

Attachments: Inspector's Report
Photo
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: 2051 Grand Ave

Reason for Visit: Tobacco Compliance Check

Observations: Flavor Violation: General Snus and Optima Blue

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 Gary Reidl to ask for permission to do a tobacco compliance check on their products. After the inspection, I informed him of the violation: General Snus and Optima Blue. 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

Telephone: 651-266-8989
Facsimile: 651-266-9124
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

Speedway #1443
2051 Grand Ave

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**
	$ 2.60	$ 5.20	$	$	$ 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): Gary ~~Ke~~ Riedl (shift Lead)

Notes/Issues: ~~Camel Snus robot~~
Optimo Blue
General snus

Reason no inspection was conducted:

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

☐ Refused Inspection Why? _____ ☐ Other _____

Inspector: Dala Chang Date: 4 / 17 / 19 (MM / DD / YY) Time: 4 : 25 a.m. (p.m.)

Properties For License 2051 GRAND AVE

Pay | Print | Warn | Hist | Summ

Licensee NORTHERN TIER RETAIL LLC
DBA SPEEDWAY #4413

License | Licensee | Lic. Types | Insurance | Bond | Requirements

Licensee Name: NORTHERN TIER RETAIL LLC
DBA: SPEEDWAY #4413
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

First Name	Title	Bus. Phone	Contact Address	City
OSCAR	SECRETARY/T	(203) 244-6548	279 MOUNTAIN ROAD	RIDGEFIELD
		(866) 876-2455	19100 RIDGE WOOD PKWY	SAN ANTONIO
JACK	PRESIDENT	(651) 769-2045	576 BIELENBERG DRIVE STE 200	WOODBURY
CARINA	PRESIDENT	(210) 626-6000		

Mail License To:
◉ Mail To Contact
○ License Address

Mail Invoice To:
◉ Mail To Contact
○ License Address

Background Check Required ☐ Contact Properties...

License # 100004251 Save Changes to History ☑ OK | Cancel | Help

CAMEL
SNUS
ROBUST
WARNING:
This product can cause mouth cancer.
CAMEL
SNUS
ROBUST
WARNING:
Smokeless tobacco is addictive

BLACK & MILD
WOOD TIP WINE
25CT
BLACK & MILD
MILD CIGAR 25CT
SAVE ON
2 CIGARS
NATURAL LEAF
OPTIMO
CIGARILLOS
BLUE
SAVE ON
2 CIGARS
NATURAL LEAF
OPTIMO
CIGARILLOS
SILVER
OPTIMO
CIGARS
SAVE 30

$8.59

STAMP - Ownership / Zoning Information

New Search Help using this report

Run Date: 06/19/19 09:58 AM
House#: 2051
Street Name: grand

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

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

2051 Grand Ave - Speedway Superamerica Store - 55105-1446 - Other Applications

PIN: 042823320020	**Census Track:** 34900	**Census Block:** 2000	**Council Ward:** 4	**District Council:** 14
Year Built:	**Foundation Sq Feet:**	**Loan Company:**	**Land Value:** 600000	**Building Value:** 25000

Unverified Usage: 30- GAS STATION- C- Automotive **ISP:** **Units:**

Zoning: T2 / Sign-Grand

Legal Desc: ROSEDALE PARK EX ALLEY LOTS 26 AND LOT 27 BLK 2

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

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 20, 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 #4413
2051 Grand Avenue
Saint Paul, MN 55105
Attn: Northern Tier Retail LLC

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

Alexa Golemo, Executive Director,
Macalester Groveland Community Council,
320 Griggs Street South,
Saint Paul, MN 55105

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 20th day of June 2019

Notary Public

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