



Office of the City Clerk

Jim Owczarski
City Clerk
jowcza@milwaukee.gov

Richard G. Pfaff
Deputy City Clerk
rpfaff@milwaukee.gov

November 15, 2017

Daniel Perry
V&D, LLC
3150 N 35th Street
Milwaukee, WI 53216

Dear Mr. Perry:

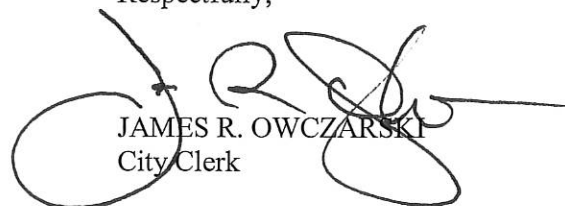
You are hereby notified that the Milwaukee Common Council will hold a hearing on Tuesday, November 28, 2017, commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin to consider whether or not to revoke or suspend between 10 and 90 days the Cigarette and Tobacco license(s) for the premises located at 3520 W Villard Ave. ("Villard Ave Tobacco").

Attached you will find a copy of the Report of the Licenses Committee, which includes its Findings of Fact, Conclusions of Law, and Recommendation, recommending revocation of the Cigarette and Tobacco license(s) based upon the Committee's finding that the allegations in the attached complaint are true. This recommendation is the result of a public hearing before the Committee held on Monday, November 13, 2017.

Please be advised that the Common Council will determine whether or not to revoke or suspend between 10 and 90 days your Cigarette and Tobacco license(s) based upon the Findings of Fact contained within the Licenses Committee report.

You may file a written response to the report of the Licenses Committee. The written response must be filed with the City Clerk by 4:45 p.m. on Monday, November 20, 2017 in Room 205 of City Hall. If you wish to file your objections via e-mail, they must be sent to both jowcza@milwaukee.gov and yashica.byrd@milwaukee.gov. You will be sent an e-mail notification that your objections were received within 24 hours. If you do not receive this notification, please contact City Clerk Jim Owczarski at (414)-286-2998. If you file written objections, you or a legal representative may then also appear at the Common Council to make oral arguments supporting the written objections. You will be given approximately five minutes to present the oral argument.

Respectfully,



JAMES R. OWCZARSKI
City Clerk



CHAIR

• Licenses Committee

MEMBER

• Community and Economic
Development Committee
• Steering and Rules Committee



TONY ZIELINSKI
ALDERMAN, 14TH DISTRICT

Date: November 16, 2017

To: All Members of the Milwaukee Common Council

From: The Licenses Committee

Re: Report of the Revocation of Daniel Perry Agent for V & D, LLC Cigarette and Tobacco license for the premises located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco").

FINDINGS OF FACT

1. Daniel Perry (hereinafter the "Licensee") is the holder of Cigarette and Tobacco licenses for the premises located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco"). Said license expires at midnight, April 15, 2018.
2. Pursuant to Chapter 84 and 85 of the Milwaukee Code of Ordinances, Assistant City Attorney Patrick J. Leigl filed a revocation complaint, attached and incorporated by reference, against the Licensee on October 16, 2017.
3. On October 18, 2017, the City Clerk's Office provided notice to the Licensee pursuant to Chapter 84 and 85 of the Milwaukee Code of Ordinances of the date of the hearing. Neither the Licensee, nor an attorney acting on behalf of the licensee appeared on the original hearing date of October 24, 2017. The matter was held until November 13, 2017 at approximately 2:30 p.m. in Room 301B of the third floor of City Hall.
4. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
 - A. On October 24, 2017, ACA Patrick Leigl appeared for the City of Milwaukee, along with Samuel Coleman, 1st District Staff Assistant. Neither the Licensee nor an attorney acting on his behalf was present.



- B. ACA Leigl explained that the City had reason to believe the Licensee was serving a prison sentence, and therefore the Licensee was served both at his last listed address, and in person in the prison system.
- C. The committee held the matter for a cycle to give the Licensee an opportunity to retain an attorney.
- D. On November 13, 2017, ACA Patrick Leigl appeared for the City of Milwaukee, along with Assistant Samuel Coleman. Neither the Licensee, nor an attorney acting on his behalf was present. The Licensee's mother was present and stated that she had "power of attorney" over the Licensee's affairs.
- E. The City Attorney's Office advised that the applicant must be present either in person, or represented by counsel, a third party claiming to have power of attorney was not able to act upon behalf of the agent.
- F. ACA Leigl provided proof of service, and the committee moved to make the proof of service part of the record.
- G. ACA Leigl stated that in addition to the violations alleged in the attached revocation complaint, there had been additional violations at the location between the initial hearing date of October 24, 2017, and November 13, 2017, in relation to the tobacco laws and regulations. He asked that the committee accept the allegations in the complaint as true, and revoke the licenses.
- H. Samuel Coleman, 1st District Staff Assistant, stated that Pres. Hamilton is disappointed that the premises continued to be in violation.
- I. Ald. Johnson made a motion to accept the facts in the revocation complaint as true, and to revoke the license based on those allegations.
- J. That motion prevailed with a vote of 4 Ayes, 0 No, 1 Excused.
- K. The City Attorney's Office advised that there were two matters before the Committee. First, whether the committee would accept the allegations in the complaint as true; and second, what actions the committee would recommend based on the complaint. Therefore, the committee needed to take up each matter in a separate motion.
- L. Ald. Johnson moved to reconsider of the matter. That motion prevailed on a vote of 4 Ayes, 0 No, 1 Excused.
- M. Ald. Johnson moved to accept the allegations in the revocation complaint as true. That motion prevailed with a vote of 4 Ayes, 0 No, 1 Excused.

- N. Ald. Johnson then moved for revocation of the license based on the allegations found in the complaint. That motion also prevailed with a vote of 4 Ayes, 0 No, 1 Excused.

CONCLUSIONS OF LAW

1. The Committee has jurisdiction to hold hearings and provided Findings of Fact and Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapter 84 and 85 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found and the findings in the revocation complaint, the Committee concludes that the Licensee, Daniel Perry who holds Cigarette and Tobacco licenses for the premise located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco") has not met the criteria of 84 and 85 of the Milwaukee Code of Ordinances to continue to hold the above described Cigarette and Tobacco licenses. The Committee finds the allegations in the revocation complaint to be true. The Committee based its recommendation on the facts in the sworn complaint.
3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Licenses Committee that the full Common Council of the City of Milwaukee should exercise its judgment to revoke the Cigarette and Tobacco licenses for the premises located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco"). The Committee based its recommendation on the facts found in the sworn complaint.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of **four (4) ayes, zero (0), and one (1) excused** recommends that the Cigarette and Tobacco licenses held by Daniel Perry for the premises located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco") be revoked based its recommendation the facts found in the sworn complaint.

The revocation is in effect beginning November 28, 2017.

Dated and signed at Milwaukee, Wisconsin this 16th day of November, 2017.


TONY ZIELINSKI, Chair
Licenses Committee

In re the Cigarette and Tobacco License of:

V & D, LLC

Daniel R. Perry, Agent

as the Licensee for the licensed premises
known as Villard Ave Tobacco, located at
3520 W Villard Ave, Milwaukee, Wisconsin

SWORN CHARGES BY CHIEF OF POLICE FOR REVOCATION OF LICENSES

Pursuant to Wisconsin Statutes Section 134.65(6),(7) and Sections, 84-43-11, 85-4 of the Milwaukee Code of Ordinances (“MCO”), Chief of Police Edward Flynn, a City of Milwaukee resident and interested party, by Captain Andra Williams, Commander of Police District 4, City of Milwaukee resident and interested party, being first duly sworn and upon his oath, respectfully charges the following based upon review of official Milwaukee Police Department (“MPD”) reports drafted in the ordinary course of business, including those attached as part of these sworn charges, review of documents received by MPD District 4 and communication with police, law enforcement, community members and municipal officials:

OWNERSHIP AND EMPLOYEES

1. V & D, LLC, by its agent Daniel Perry, (hereinafter, “Mr. Perry”) is the holder of a Cigarette and Tobacco license for the licensed premises known as Villard Ave Tobacco and is located at the property of 3520 W Villard Avenue, Milwaukee, Wisconsin, which is a general retail, brick and mortar building (hereinafter, the “Property”). Upon information and belief the Property is owned by Earl and Barbara Wheatfall, whose primary address is 2271 W Clubview Drive, Milwaukee, Wisconsin. The Property has been owned by Earl and Barbara Wheatfall since February 2000.

2. Upon information and belief, V & D, LLC renewed the Cigarette and Tobacco

license for Villard Ave Tobacco on March 7, 2017 and expires on April 15, 2018. Additionally, V & D has been operating said license at the Property since January 2011.

3. Upon information and belief, Daniel Perry has been operating Villard Ave Tobacco as the registered agent since its origination. On October 28, 2014, Daniel Perry pleaded guilty in Milwaukee County Case, *2014-CF-003164*, to the following charges: (1) Felony-Felon Possession of a Firearm; (2) Felony-Felon Possession of a Firearm; (3) Misdemeanor-Possession of $\leq 6,000$ Unstamped Cigarettes. A fourth charge of Felony-Possession of THC (2nd Offense) was dismissed but read-in on the prosecutor's motion. Mr. Perry remains incarcerated for the above-listed offenses. Mr. Perry was approved as the registered agent for the Villard Ave Tobacco Cigarette and Tobacco license on March 7, 2017.

4. Daniel Perry has previously been found guilty in the Milwaukee Municipal Court for: (1) selling cigarettes in a container without approved stamp on November 20, 2012, municipal case number 12116909; and (2) selling cigarettes to a minor on December 12, 2014, municipal case number 1406778.

UNLAWFUL SALE OF TOBACCO ACTIVITY

5. Villard Ave Tobacco has a history of repeated tobacco license violations and nuisance activities. This repetitive history has been observed by public citizens and verified through ongoing Milwaukee Police Department ("MPD") and the Wisconsin Department of Revenue ("DOR") investigations. This activity is a substantial burden to MPD and DOR resources as law enforcement officers are deployed to conduct their investigations.

6. The MPD and DOR investigations reveal a continuous pattern of direct violations of state Cigarette and Tobacco Products Retailer License violations, Wis. Stats. § 134.66(2) and municipal Cigarette and Tobacco License violations, Milwaukee Code of Ordinances (MCO) 106-30. Villard Ave Tobacco's unlawful tobacco sales have causally and substantially impacted the premises

and the immediate surrounding neighborhood; therefore, it constitutes as a public nuisance.

7. On August 1, 2016, MPD officers conducted a 30-minute surveillance at Villard Ave Tobacco for possible single selling of cigarettes. The officers observed approximately 10-15 individuals entering the tobacco store and exiting with single cigarettes in their hands.

8. On August 2, 2016, MPD officers conducted a 30-minute surveillance at Villard Ave Tobacco for possible single selling of cigarettes. The officers observed approximately 10-15 individuals entering the tobacco store and exiting with single cigarettes in their hands.

9. On August 2, 2016, the MPD officers conducted an investigation at Villard Ave Tobacco by having a confidential informant ("CI") purchase single cigarettes from the store. At approximately 5 P.M. the CI entered the tobacco store and purchased two Newport cigarettes for \$1.00 from the employee of the store. The CI indicated the cigarettes were sold for \$0.50 each. After purchasing the cigarettes, the CI also purchased marijuana from an individual standing outside the store. MPD subsequently arrested the seller and referred charges to the District Attorney's Office.

10. On August 3, 2016, MPD officers conducted an investigation at Villard Ave Tobacco by having a CI purchase single cigarettes from the tobacco store. At approximately 9:30 A.M. the CI purchased two Newport Cigarettes from an employee at the store. The CI indicated the cigarettes were sold for \$0.50 each.

11. On August 3, 2016, MPD officers conducted a 30-minute surveillance at Villard Ave Tobacco for possible single selling of cigarettes. The officers observed approximately 20 individuals enter the tobacco store and exit with single cigarettes in their hands. After observing the suspected single sale of cigarettes, MPD officers conducted several field interviews with individuals they observed exiting the store with single cigarettes. At approximately 10:39 A.M., MPD conducted a field interview with a black male with the initials O. J., who stated he purchased two Newport

cigarettes for \$1.00 from the store. The MPD next conducted a field interview with a white female with the initials T.C., who stated she purchased four Newport cigarettes from an employee working at the store. Lastly, at approximately 10:55 A.M., the MPD conducted a field interview with a 16-year-old juvenile male with the initials K.A., who stated he purchased two Newport cigarettes for \$1.00 from an employee at the tobacco store. The juvenile further admitted that he did not show any form of identification to the employee prior to purchasing the cigarettes.

12. On September 8, 2016, MPD officers conducted an investigation at Villard Ave Tobacco by having a CI purchase single cigarettes from the store. At approximately 1:30 P.M. the CI entered the store and later returned with two Newport cigarettes. It was determined the CI purchased two single cigarettes from an employee working at the store for \$0.50 each. The MPD officers then conducted a field interview with the employee at the tobacco store. The employee stated he had been working at the store for approximately 6-months and had been selling single cigarettes to customers since his employment began. The employee was later taken into custody for outstanding warrants for possession of marijuana.

13. Later on September 8, 2016, the MPD performed a license premise check of Villard Ave Tobacco after placing the employee into custody. During the search, the MPD discovered an open pack of single Newport brand cigarettes behind the cashier's counter. The MPD additionally found an expired cigarette/tobacco license displayed on the wall, in violation of the MCO. The MPD also observed there to be a large amount of loose currency and change in the cash register and in a bucket near the floor of the cash register. It should be known that the large amount of loose change is evidence of customers purchasing single cigarettes because single cigarettes are often purchased with coin currency.

14. On September 10, 2016, MPD conducted an investigation at Villard Ave Tobacco by coordinating with an underage individual, date of birth of 09/22/99, to purchase a tobacco product

at the store. The underage individual purchased one Black & Mild cigar from an employee working at the tobacco store and was not asked for identification.

15. On December 30, 2016, MPD conducted an investigation at Villard Ave Tobacco by having a CI purchase single cigarettes from the store. At approximately 3:16 P.M. the CI entered the store and shortly returned with six Newport cigarettes. It was determined the CI purchased six individual cigarettes from an employee for \$0.50 each.

16. On January 4, 2017, MPD conducted an investigation at Villard Ave Tobacco by having a CI purchase single cigarettes from the store. At approximately 6:08 P.M. the CI entered the store and shortly returned with four Newport cigarettes. It was determined the CI purchased four individual cigarettes from an employee for \$0.50 each.

17. On January 30, 2017, MPD conducted an investigation at Villard Ave Tobacco by having a CI purchase single cigarettes from the store. At approximately 2:20 P.M. the CI entered the store and shortly returned with two Newport cigarettes. It was determined the CI purchased two individual cigarettes from an employee for \$0.50 each. An undercover MPD officer followed the CI into the store and video recorded the purchase.

18. On February 24, 2017, MPD conducted an investigation at Villard Ave Tobacco by having a CI purchase single cigarettes from the store. At approximately 11:08 A.M. the CI entered the store and shortly returned with four Newport cigarettes. It was determined the CI purchased four individual cigarettes from an employee for \$0.50 each.

19. On February 27, 2017, MPD conducted an investigation at Villard Ave Tobacco by having a CI attempt to purchase single cigarettes from the store. At approximately 2:21 P.M. the CI entered the store and shortly returned with four Newport cigarettes. It was determined the CI purchased four individual cigarettes from an employee for \$0.50 each.

20. The continuous unlawful sale of single cigarettes is a direct violation of MCO 106-

30-3-c and Wis. Stat. § 134.66(2)(e) and constitutes as nuisance activity.

21. On March 24, 2017, agents for the DOR conducted an inspection at Villard Ave Tobacco. After the inspection of the tobacco store, the DOR confiscated approximately 7 packs of cigarettes and 54 boxes of cigars. It was determined that all of the confiscated cigarettes and cigars were untaxed and stamped in Illinois and were being sold illegally in Wisconsin. Additionally, the tobacco store could not provide invoices for the purchases of the confiscated product. Moreover, the tobacco product was purchased in Illinois to avoid being taxed in Wisconsin. Selling untaxed and out-of-state stamped tobacco product and failing to provide invoices for the purchases is a violation of Wis. Stats. §§ 134.66(2) and 139.321(1), and MCO 106-30-3-c.

22. On March 24, 2017, in response to the ongoing license violation activity at Villard Ave Tobacco, MPD mailed "Notice of Nuisance Premises" to Daniel Perry, the licensed agent for the tobacco store. A copy of the Notice was additionally sent to Earl Wheatfall. The letter informed Mr. Perry that the MPD has designated Villard Ave Tobacco as a Nuisance Premises, in violation of MCO 80-10. The letter additionally described the ongoing nuisance activity at Villard Ave Tobacco and directed Mr. Perry to submit a nuisance abatement plan. The MPD never received a response from Daniel Perry, the Wheatfalls, or a designee on their behalf regarding the nuisance designation letter. The Notice of Nuisance Premises letter is attached to this Complaint.

23. On April 22, 2017, pursuant to MCO 80-10-3-d, the MPD sent a "Failure to Respond" letter to Daniel Perry and the Wheatfalls indicating Villard Ave Tobacco is now subject to billing for future police services for failing to provide a written course of action to abate the nuisance activity. The MPD did not receive a response from either the tobacco store licensee or the Wheatfalls or their designee. The Failure to Respond letter is attached to this Complaint.

24. Subsequently, DOR determined Villard Ave Tobacco failed to renew the 2017 retail seller permit issued by the State. On June 2, 2017, a DOR agent spoke with a tobacco store

representative who stated the store was not in operation and not selling tobacco products.

25. On June 8, 2017, MPD conducted an investigation at Villard Ave Tobacco by having a CI purchase single cigarettes from the store. At approximately 1:24 P.M. the CI entered the store and shortly returned with four individual Newport cigarettes. It was determined the CI purchased four individual cigarettes from the employee at the tobacco store for \$0.50 cents each.

26. On July 28, 2017, a plain-clothed MPD officer entered Villard Ave Tobacco and purchased a single pack of cigarettes. After verifying the tobacco store was in operation and continuing to sell tobacco products without a retail seller's permit from the state of Wisconsin, the DOR agent entered the tobacco store and observed the store employee immediately attempt to remove cigarette and tobacco products from the store. The DOR agent later verified the tobacco product was untaxed with an out-of-state tobacco stamp. During the investigation, the DOR agent additionally found there to be no record of sale for any tobacco product. MPD and DOR subsequently closed the store for selling untaxed tobacco product and having an invalid retail seller's permit. Soon after the closure, the tobacco store renewed its seller's permit and lawfully reopened.

27. A retail seller's permit is required for every individual, partnership, corporation, or other organization making retail sales, leases, or rentals of tangible personal property or taxable services in Wisconsin. Selling merchandise with an expired seller's permit is a violation of Wis. Stat. § 77.53. Upon information and belief, the tobacco store was unlawfully operating throughout the 2017 year until renewing the seller's permit after law enforcement official closed the store.

28. Upon information and belief, Villard Ave Tobacco frequently hosts and allows individuals to unlawfully congregate, loiter and litter on the premises in violation of MCO 106-31. The continuous loitering and littering from individuals associated with Villard Ave Tobacco has caused a detriment to the safety and promotion of the neighborhood and surrounding businesses.

29. Villard Ave Tobacco is a building or structure that frequents in the unlawful sale of

cigarettes in violation of MCO 106-30 and Wis. Stat. § 134.66 and is a constant drain on police resources in responding to calls-for-service.

BASED UPON the continuous sale of single and underage cigarettes and reoccurring selling of untaxed tobacco product, which has cumulatively had a substantial adverse effect upon the health, safety or convenience and prosperity of the immediate neighborhood;

THE CHIEF OF POLICE, by his designee, respectfully requests the immediate revocation of the Cigarette and Tobacco license relative to the above-referenced Licensee and licensed premises, Villard Ave Tobacco, because:

1. Pursuant to Wis. Stat. Sec. 134.66(2)(e) and MCO 106-30-3-c, the Licensee has continued to sell single cigarettes and therefore has violated Ch. 134, Wis. Stats. and municipal regulations;

2. Pursuant to Wis. Stat. Sec. 134.66(2)(a) and MCO 106-30-2-a, the Licensee has continued to sell cigarettes to underage persons and therefore has violated Ch. 134, Wis. Stats. and municipal regulations;

3. Pursuant to Wis. Stat. Secs. 134.66(2)(e), 139.321(1) and MCO 106-30-3-c, the Licensee has sold untaxed cigarettes and other tobacco product with out-of-state stamps and therefore has violated Ch. 134, 139, Wis. Stats. and municipal regulations;

4. Pursuant to Wis. Stat. 134.65(4) and MCO 84-43-10, the Licensee failed to maintain a record of sales for cigarettes and other tobacco product and therefore has violated Ch. 134, Wis. Stats. and municipal regulations;

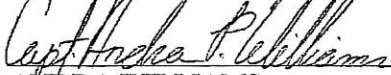
5. Pursuant to MCO 85-4-4-c-15 & 22 there are other reasonable causes which are in the best interests, public safety, welfare and good order of the City of Milwaukee, including:

- a. **Disregard for Public Safety:** Villard Ave Tobacco fails to reduce individuals from loitering and littering on the premises. This action has had a substantial adverse

effect upon the health, safety or convenience and prosperity of the immediate neighborhood and surrounding business.

Dated at Milwaukee, Wisconsin this 16 day of October, 2017.

CHIEF OF POLICE EDWARD FLYNN, by



ANDRA WILLIAMS

Commander, Milwaukee Police District 4

The foregoing complaint seeking revocation of the Cigarette and Tobacco License was subscribed and sworn to and before me this 16 day of October, 2017.



Notary Public, State of Wisconsin
My commission is permanent



Drafted by:
PATRICK J. LEIGL
Assistant City Attorney
State Bar No: 1095144

March 24th, 2017

Mr. Daniel R Perry
Cigarette and Tobacco
3520 W Villard Ave
Milwaukee, WI. 53209

Re: Notice of Nuisance Premises

Dear Mr. Daniel R Perry:

This letter is notice to you that the Milwaukee Chief of Police, by the chief's designee, the district commander, has determined that the premises located at 3520 W. Villard Ave ("Villard Avenue Tobacco") is a nuisance pursuant to Milwaukee Code of Ordinances ("MCO") § 80-10, Chronic Nuisance Premises. As an individual or entity that is licensed or subject to a license in the operation of a business upon the premises, you are a responsible party for abating the nuisance activities occurring at the premises.

The Milwaukee Police Department has responded to the following described nuisance activities at the premises on the corresponding dates, which qualify the premises as a nuisance:

1. On January 30th, 2017 at 2:20 pm, Squads responded to 3520 W Villard Ave, along with a confidential informant, who purchased single cigarettes. This is a violation of 80-10-2-c-1-ii.
2. On February, 24th, 2017 at 11:08 am, Squads responded to 3520 W Villard Ave along with a confidential informant, who purchased single cigarettes. This is a violation of 80-10-2-c-1-ii.
3. On February, 27th, 2017 at 2:21 pm, Squads responded to 3520 W Villard Ave, along with a confidential informant, who purchased single cigarettes. This is a violation of 80-10-2-c-1-ii.

As a consequence, you may be subject to a collections action for the cost of future enforcement for any of the nuisance activities listed in MCO § 80-10-2-c that occur at the premises.

You are directed to respond to my office within 10 days of receipt of this notice with an acceptable, written course of action that you will undertake to abate the nuisance activities occurring at the premises, or file an appeal. You may appeal this nuisance determination to the Administrative Review Appeals Board. Any appeal must be in writing and a processing fee will be charged. Please contact the Office of the City Clerk at (414) 286-2231 for additional information.

If you elect to provide a written course of action, I shall evaluate it to determine if it is a reasonable attempt at abating the nuisance activity.

Prior to responding with a written course of action, it is highly recommended that you obtain records relating to police responses regarding the premises. You may obtain these records from the Computer Aided Dispatch System (CADS) at the Open Records Section of the Milwaukee Police Department (District Three Station, 2333 North 49th Street, Second Floor) between 8:00 AM and 3:45 PM. There is a cost of 25 cents per page for these records.

Once you are able to determine the type of nuisance activity occurring at the premises, please review the following examples of nuisance abatement measures that you may include in your written course of action to abate the nuisance activity. These suggestions are not exclusive, may not apply to the particular premises, and you may propose other nuisance abatement measures that would be appropriate under your particular circumstances.

- Exchange names and telephone numbers with the owners and operators of neighboring premises.
- Participate in a local block watch, neighborhood association, and business association.
- Attend the monthly crime prevention meetings conducted by the local Milwaukee Police District Community Liaison Officer who can be contacted at CLO Phone Number.
- Monitor the property for evidence of drug activity. This may include observation of clear corner cuts of baggies strewn about, excessive quantities of plastic sandwich baggies found in odd places, presence of numerous weight scales or communication devices and drug paraphernalia such as unusual pipes, empty cigar wrappers, burned hollow tubes, etc.
- Install “No Loitering” signs in the front and rear of the exterior of the premises. This signage permits police to cite loitering individuals in the yard and sidewalk area.
- Install “No Trespassing” signs in the front and rear of the exterior of the premises. This signage permits police to cite trespassers in commercial properties.
- Participate in the E-Notify system for email updates regarding the premises.
- Regularly file open records requests for Milwaukee Police Department Computer Aided Dispatch System (CADS) reports regarding the property.
- Institute a standing complaint with the local Milwaukee Police district station that will allow the police department to remove any individuals loitering on the property.
- Draft and serve a no trespassing order against identified nuisance persons and provide the local police district station a copy of the served order.
- Install and maintain a digital security surveillance system.
- Employ security personnel.
- Enroll in Respect 21 or MARTS program (contact CLO for more information)

If you propose a course of action which is rejected by me or fail to timely respond to this request, and a subsequent nuisance activity occurs on or after 13 days after receipt of this notice, you will be subject a collections action for the cost of any police services and enforcement.

Once you have been billed for the costs of police services and enforcement for three or more separate nuisance activities within one year of the date of this notice of nuisance premises, the premises may be designated a chronic nuisance, pursuant to MCO § 80-10-6, and each and every subsequent incident of nuisance activity at the premises may be deemed a separate violation and



BE A FORCE

Milwaukee Police Department
Police Administration Building
749 West State Street
Milwaukee, Wisconsin 53233
<http://www.milwaukee.gov/police>

Edward A. Flynn
Chief of Police

(414) 933-4444

April 22, 2017

Mr. Daniel Perry, Agent
V & D, LLC
3150 N. 35th St
Milwaukee, WI. 53216

Re: Notice of Failure to Respond or Appeal

Dear Mr. Daniel Perry:

This letter is notice to you that the Milwaukee Chief of Police, by the chief's designee, the district commander, has not timely received a proposed course of action for abatement of nuisance activities occurring at the premises located at 3520 W Villard Ave ("Villard Avenue Tobacco"), nor have you timely filed an appeal, in response to our March 24th, 2017 Notice of Nuisance Premises, which directed you to provide a proposed course of action, or appeal, within 10 days of receipt of the notice, pursuant to Milwaukee Code of Ordinances ("MCO") § 80-10, Chronic Nuisance Premises.

Accordingly, as provided at MCO § 80-10-3-d-1, you are subject to a collections action for the cost of any police services and enforcement rendered in relation to nuisance activities that occur at the premises for a period of one year from the date of the Notice of Nuisance Premises, beginning 13 days after you received the notice.

Once you have been billed for the costs of police services and enforcement for three or more separate nuisance activities within one year, the premises may be designated a chronic nuisance, pursuant to MCO § 80-10-6, and each and every subsequent incident of nuisance activity at the premises may be deemed a separate violation and result in a citation being issued to you for failure to abate the nuisance activity. Each citation would subject you to a forfeiture of not less than \$1,000.00 or more than \$5,000.00. Upon default of payment of a chronic nuisance citation you would be subject to imprisonment in the county jail or house of correction for a period of not less than 40 days or more than 90 days for each violation.

Please contact P.O. Tracey Geniesse at 414-935-7373 with any questions.

Best regards,

EDWARD A. FLYNN
CHIEF OF POLICE



Captain Andra Williams
DISTRICT COMMANDER

Attachment: Notice of Nuisance Premises
CC: City Clerk – License Division
City Hall Common Council
Building Owner- Earl WheatFall

v. 9/15

result in a citation being issued to you for failure to abate the nuisance activity. Each citation would subject you to a forfeiture of not less than \$1,000.00 or more than \$5,000.00. Upon default of payment of a chronic nuisance citation you would be subject to imprisonment in the county jail or house of correction for a period of not less than 40 days or more than 90 days for each violation.

Please contact P.O. Tracey Geniesse at 414-935-7373 with any questions, and I look forward to hearing from you.

Best regards,

EDWARD A. FLYNN
CHIEF OF POLICE

District Commander's Name
ANDRA WILLIAMS

PA-33E Narrative

This report was submitted by Detective Michael R. Caballero, assigned to the Intelligence Fusion Center (IFC) as well as being assigned to The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) as a Task Force Officer (TFO).

On Tuesday, 08/02/2016, at approximately 5 PM a confidential informant entered the Villard Avenue Tobacco Store and purchased two Newport cigarettes for \$1.00 from a black male in his 60's wearing African or Jamaican colored clothing. The cigarettes were placed on inventory

The same informant, after leaving Villard Avenue Tobacco, purchased marijuana from a black male outside the barber shop located next to the tobacco store. The suspect was stopped and identified as Terrell GRIFFIN, B/M, 01/19/1987, PIN #354063. The marijuana was placed on inventory

PA-33E Narrative

This report was submitted by Detective Michael R. CABALLERO, assigned to the Intelligence Fusion Center (IFC) as well as being assigned to The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) as a Task Force Officer (TFO).

On Monday, 08/01/2016 and Tuesday, 08/02/2016, in the mid afternoon, surveillance was conducted for about 30 minutes each day on the Villard Avenue Tobacco Store, 3520 West Villard Avenue. During surveillance each day numerous individuals (between 10 and 15) were observed entering the store and shortly thereafter exiting with single cigarettes in their hand. On Wednesday, 08/03/2016, at approximately 10:15 AM, ATF Special Agent John ADAMSON and MPD TFO Rudy AYALA conducted surveillance on the store. The outer steel door of the store was propped open with a stereo.

At approximately 10:19 AM, ADAMSON observed a black male with a balding hair style, wearing a white shirt and black pants exit the store and remove the stereo on the ground holding the door open. The black male went back inside the store.

Myself, along with Squad 4239, Police Officer's Scott KAISER and Joseph STOEBICH conducted several field interviews of customers who the surveillance team identified as individuals who appeared to purchase single cigarettes from the store. These 3 field interviews were a part of approximately 20 individuals who entered the store and appeared to purchase single cigarettes between 10:15 AM and 11:00 AM.

At approximately 10:38 AM a black male entered the store and seconds later exited with single cigarettes. The black male entered a white GMC truck W/LZ5987 and traveled westbound on West Villard Avenue. A field interview at the Shell Gas Station (3709 West Villard Avenue) identified the two occupants from the truck. The driver was identified as Oscar JOHNSON, B/M, 05/09/1963, 414-236-8450, of 5956 North 40th Street. JOHNSON admitted buying two Newport cigarettes for \$1.00 from the Villard Avenue Tobacco Store. The passenger of the truck, identified as Kenneth DAWSON, B/M, 01/23/1962, 414-460-8827, of 3854 North 14th Street confirmed JOHNSON went into the store and came out with two cigarettes, giving him one.

At approximately 10:44 AM the surveillance team observed a white female walk from the west and enter the store. A short time later the female exited with single cigarettes in her hand and walked westbound. The white female was described as wearing a white shirt and baseball cap. The female was stopped and identified from her Wisconsin ID as Toni Lynn CALMESE, W/F, 09/24/1970, 414-551-3264, of 5344 North 36th Street. CALMESE stated she worked at Luther Manor Nursing Home, 4545 North 92nd Street. CALMESE stated she bought 4 Newport cigarettes for \$2.00 from the black male employee at Villard Avenue Tobacco.

At approximately 10:55 AM the surveillance team observed a black male wearing a blue t-shirt and black shorts walk into the store and a short time later walk out with loose cigarettes in his hand. The black male walked across Villard Avenue to an aqua colored vehicle and entered the driver's seat. A field interview identified the subject as Khalil ALLEN, B/M, 16 years old, 12/07/1999, 414-461-6227, of 5853 North 38th Street. ALLEN stated he bought two Newport cigarettes for \$1.00 from the black male employee (26-27 years old) at Villard Avenue Tobacco. ALLEN, a juvenile, stated he did not have to show identification when he bought the cigarettes. ALLEN stated the vehicle he was in belonged to his sister, Thea ALLEN, believed to be Dorthaea ALLEN, B/F, 2/19/1992, also of 5853 North 38th Street, PIN #397930.

The store employee was not immediately interviewed due to the on going nature of this investigation.

PA-33E Narrative

This report was submitted by Detective Michael R. Caballero, assigned to the Intelligence Fusion Center (IFC) as well as being assigned to The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) as a Task Force Officer (TFO).

On Wednesday, 08/03/2016, at approximately 9:30 AM a confidential informant entered the Villard Avenue Tobacco Store and purchased two Newport cigarettes for \$1.00 from a black male 30's in age, a bald head, tear drop tattoo on face, and wearing a white tank top. The cigarettes were placed on inventory

PC-40 10/95

**MILWAUKEE POLICE DEPARTMENT
CITATION SUPPLEMENTARY REPORT**

VIOLATOR'S NAME: Jones, Jason D.

CITATION NUMBER: _____ DATE: 09/08/16

This report was submitted by Detective Michael R. CABALLERO, assigned to the Intelligence Fusion Center (IFC), as well as being assigned to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) as a Task Force Officer (TFO).

On Tuesday, 8/2/16 and Wednesday, 8/3/16 a confidential informant and several field interviews revealed the store employee, described as a black male, at Villard Avenue Tobacco sold single cigarettes to several adults and a juvenile. A licensed premise report was filed on each incident.

On Thursday, 09/08/2016, at approximately 1:30 PM a confidential informant was again sent in to Villard Avenue Tobacco, 3520 West Villard Avenue, in the city and county of Milwaukee. The informant purchased two Newport brand cigarettes for \$0.50 each which were later turned over to Police Officer Chris Conway and placed on inventory #16032520. The informant described the employee who sold the cigarettes as a black male with a bald head and a tattoo below his eye.

Squad 5880, Police Officer Rudy AYALA and I then conducted follow up inside Villard Avenue Tobacco. The sole individual inside the store was store employee Jason D. JONES, B/M, 03/15/1980, of 2862 North 5th Street, with a cell phone number of 414-551-1270.

JONES was interviewed and stated he had been working at Villard Avenue Tobacco for the last 6 months and the store was owned by Daniel RAY and the building was owned by Earl WESTFALL. JONES stated he had been selling single cigarettes since he first started working there. A wanted check revealed JONES had several outstanding warrants including a State warrant for Possession of Marijuana 2nd offense and two municipal warrants for

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**MILWAUKEE POLICE DEPARTMENT
CITATION SUPPLEMENTARY REPORT**

VIOLATOR'S NAME: Jones, Jason

CITATION NUMBER: _____ DATE: 09/08/16

(PAGE 2 Continued)

driving and no food peddler's license. JONES was eventually arrested for his warrants and conveyed to the Prisoner Processing Section (PPS).

A check behind the store counter revealed an open pack of Newport cigarettes. On the wall behind the counter was an expired cigarette and tobacco license (expired 4/15/16) along with a Wisconsin Business Tax Registration Certificate, Wisconsin Department of Revenue Seller's Permit, and a letter from the Responsible Retailing Forum.

A photograph of JONES was viewed by the informant and positively identified as the individual who sold the two Newport cigarettes.

Witnesses:

Police Officer Christopher Conway
Police Officer Christopher Schlachter
Police Officer Rudolfo Ayala
Detective Michael R. Caballero

PA-33E Narrative

This report is written by PO Penny BROWN assigned to the License Investigation Unit. On Saturday, September 10, 2016, I was assigned to work the Wisconsin WINS Youth Tobacco Initiative, which checks area vendors for age compliance tobacco purchases. Assisting in this assignment was Sherrie FOSTER B/F 09/24/99 5223 N. Beth Maur Ln. Glendale, WI 53209. FOSTER is 16 years old and not of legal age to purchase tobacco.

At approximately 11:50A, FOSTER entered Villard Tobacco, located at 3520 W. Villard Ave., and purchased a Black & Mild Cigar. FOSTER described the cashier as B/F 40's, wearing a brown shirt with a design on the front.. I entered the store and immediately identified the cashier based on the description given. The cashier was identified as Divell L. WOODS B/F 07/17/57. WOODS admitted to the sale and stated she thought she looked older and was of legal age. WOODS was advised I would be mailing a notice to enroll in the M.A.R.T.S. program.

PA-33E Narrative

This report is written by P.O. Christopher NAVARRETTE assigned to District #4, Early Shift.

On Friday, 12-30-16, at approximately 3:16PM, P.O. CONWAY and P.O. KRENZIEN met with a registered confidential informant (CI) about purchasing single cigarettes from the Villard Street Tabacco store located at 3520 W. Villard Avenue. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CI's person. P.O. CONWAY provided the CI with three dollars of U.S. currency (Draw #16-118). The CI exited our vehicle and walked into the front door of the Villard Street Tabacco store. After a short period of time the CI exited the front door of the store, and returned to our vehicle. Once in the vehicle, the CI turned over to P.O. CONWAY six, single Newport cigarettes. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CI's person.

In a debrief of the CI, the CI stated that the CI entered the front door of the Villard Street Tabacco and approached the subject behind the counter. The CI stated that the CI provided the subject behind the counter three dollars, and the subject gave the CI six, single Newport cigarettes. The CI stated the CI then returned to our vehicle.

At District #4 P.O. CONWAY placed the single Newport cigarettes on MPD inventory #16046930.

PA-33E Narrative

This report is written by P.O. Christopher NAVARRETTE assigned to District #4, Early Shift.

On Wednesday, 01-04-17, at approximately 6:08PM, P.O. CONWAY and I met with a registered confidential informant (CI) about purchasing single cigarettes from the Villard Street Tabacco store located at 3520 W. Villard Avenue. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CI'S person. I provided the CI with two dollars of U.S. currency (Draw #16-118). The CI exited our vehicle and walked into the front door of the Villard Street Tabacco store. After a short period of time the CI exited the front door of the store, and returned to our vehicle. Once in the vehicle, the CI turned over to me four, single Newport cigarettes. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CI'S person.

In a debrief of the CI, the CI stated that the CI entered the front door of the Villard Street Tabacco and approached the subject behind the counter. The CI stated that the CI provided the subject behind the counter two dollars, and the subject gave the CI four, single Newport cigarettes. The CI stated the CI then returned to our vehicle.

At District #4 I placed the single Newport cigarettes on MPD inventory #17000482.

PA-33E Narrative

This report is written by P.O. Christopher NAVARRETTE assigned to District #4, Early Shift.

On Monday, 01-30-17, at approximately 2:20PM, P.O. CONWAY and I met with a registered confidential informant (CI) about purchasing single cigarettes from the Villard Street Tabacco store located at 3520 W. Villard Avenue. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CIS person. I provided the CI with one dollar of U.S. currency (Draw #17-012). The CI exited our vehicle and walked into the front door of the Villard Street Tabacco store. After a short period of time the CI exited the front door of the store, and returned to our vehicle. Once in the vehicle, the CI turned over to me two, single Newport cigarettes. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CIS person.

In a debrief of the CI, the CI stated that the CI entered the front door of the Villard Street Tabacco and approached the subject behind the counter. The CI stated that the CI provided the subject behind the counter one dollar, and the subject gave the CI two, single Newport cigarettes. The CI stated the CI then returned to our vehicle.

At District #4 P.O. CONWAY placed the single Newport cigarettes on MPD inventory #17003722.

PA-33E Narrative

This report is written by P.O. Christopher NAVARRETTE assigned to District #4, Early Shift.

On Friday, 02-24-17, at approximately 11:08AM, P.O. CONWAY and I met with a registered confidential informant (CI) about purchasing single cigarettes from the Villard Street Tabacco store located at 3520 W. Villard Avenue. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CIS person. I provided the CI with two dollars of U.S. currency (Draw #17-029). The CI exited our vehicle and walked into the front door of the Villard Street Tabacco store. After a short period of time the CI exited the front door of the store, and returned to our vehicle. Once in the vehicle, the CI turned over to me four, single Newport cigarettes. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CIS person.

In a debrief of the CI, the CI stated that the CI entered the front door of the Villard Street Tabacco and approached the subject behind the counter. The CI stated that the CI provided the subject behind the counter two dollars, and the subject gave the CI four, single Newport cigarettes. The CI stated the CI then returned to our vehicle.

At District #4 I placed the single Newport cigarettes on MPD inventory #17007256.

PA-33E Narrative

This report is written by P.O. Christopher NAVARRETTE assigned to District #4, Early Shift.

On Monday, 02-27-17, at approximately 2:21PM, P.O. CONWAY and I met with a registered confidential informant (CI) about purchasing single cigarettes from the Villard Street Tabacco store located at 3520 W. Villard Avenue. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CI'S person. P.O. CONWAY provided the CI with two dollars of U.S. currency (Draw #17-029). The CI exited our vehicle and walked into the front door of the Villard Street Tabacco store. After a short period of time the CI exited the front door of the store, and returned to our vehicle. Once in the vehicle, the CI turned over to me four, single Newport cigarettes inside a Nwepport box. P.O. CONWAY conducted a search of the CI and found no money, weapons, or cigarettes on the CI'S person.

In a debrief of the CI, the CI stated that the CI enterd the front door of the Villard Street Tabacco and approached the subject behind the counter. The CI stated that the CI provided the subject behind the counter two dollars, and the subject gave the CI four, single Newport cigarettes inside of a Newport box. The CI stated the CI then returned to our vehicle.

At District #4 I placed the single Newport cigarettes on MPD inventory # 17007614.

PA-33E Narrative

This report is written by P.O. Tracey Geniesse assigned to District Four, Day Shift on Squad 4164, along with P.O. Carrie Resnick.

On Friday, March 24th, 2017 at 12:30pm, Squad 4164, Squad 4213 (Sgt. Kapusta), 4238 (P.O. Conway, P.O. Navarrette), Squad 4239 (P.O. Washechek, Zaworski and Kiaser) and Georgeanne King (D.O.R.) Conducted a business check at Villard Ave Tobacco located at 3520 W Villard Ave.

During cigarette inspection Department of Revenue found seven packs of Illinois stamped cigarettes and were subsequently confiscated due to no legitimate invoice. The product is also considered untaxed.

Respectfully Submitted By:

A handwritten signature in cursive script that reads "P.O. Tracey Geniesse". The signature is written in dark ink and is positioned below the typed name "P.O. Tracey Geniesse".

P.O. Tracey Geniesse 014168

PA-33E Narrative

This report is written by P.O. Christopher S. NAVARRETTE assigned to District #4, Early Shift.

On Thursday, 06-08-17, at approximately 1:05PM, squad 4238 (P.O. NAVARRETTE, P.O. CONWAY, & P.O. SCHILCHER) met with a Confidential Informant (CI) about purchasing individual cigarette's from the Villard Avenue Tobacco store located at 3520 W. Villard Avenue, which is in the City and County of Milwaukee.

P.O. CONWAY searched the CI and found no money, or cigarette's on the CTS person. I provided the CI with ten dollars of U.S. Currency to make the buy. At 1:24PM, the CI went into the Villard Avenue Tobacco store and purchased 4, individual Newport cigarette's for two dollars. Upon completion of the buy, the CI returned to our vehicle and handed over 4, individual, Newport cigarette's to P.O. CONWAY, and gave him back 8 dollars in U.S. currency. P.O. CONWAY conducted a search of the CI and found no money or cigarettes on the CTS person.

During a debrief of the CI, the CI stated that the subject who sold the CI the individual cigarettes was a B/F, having a long weave just passed her shoulders, and a large mole on the right side of her face, wearing red pants, and a flower style shirt.

At District #4 the individual cigarette's were placed on MPD inventory #17021327.

This report is written by PO Penny BROWN, assigned to the License Investigation Unit.

On Friday, July 28, 2017, PO Denise RUEDA and I assisted Agent Georgeanne KING (Department of Revenue Alcohol & Tobacco) with a license premise check at Villard Avenue Tobacco, located at 3520 W. Villard Ave. Agent KING received information the Revenue account for the business had been deactivated on 6/2/17 and back dated to December, 2016. Therefore, the seller's permit for this business is not valid.

Prior to conducting the license premise check, Agent KING conducted an undercover purchase of a pack of cigarettes to verify they were in fact were open for business and selling tobacco without a valid seller's permit. The undercover buy was successful and it the pack of cigarettes that were purchased were untaxed Illinois stamped cigarettes.

Upon entering the establishment and observing officers, the sole employee on scene (Jason D. JONES B/M 03/15/80) attempted to run into the bathroom. Fearing JONES may have a weapon or attempting to hide evidence or contraband, officers ordered JONES out of the bathroom. Agent KING checked the bathroom area which had an entrance door from the tobacco shop and also a door that leads to the barber shop next door. Agent KING located a carton of Newport 100's, containing 4 packs of cigarettes, with Illinois Tax Stamp, just outside the door from the adjoining bathroom. Occupants of the barber shop denied any knowledge of how they got there, and stated they did no belong to them. JONES was questioned regarding the cigarettes, however, also denied placing them there and stated the barber shop sells Illinois cigarettes as well.

JONES was advised the seller's permit was not valid and therefore, the store could not be open for business. JONES stated he understood and would close the store immediately. Agent KING confiscated all tobacco products since there were no invoices and therefore, deemed to be purchased illegally and untaxed.