

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
YONG HEON AHN dba "WESTERN SUNSET MARKET",)
Appellant(s))
vs.)
DEPARTMENT OF PUBLIC HEALTH,)
Respondent)

Appeal No. 14-116

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on June 18, 2014, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the **SUSPENSION** on June 11, 2014, of Tobacco Sales Establishment Permit (15-day suspension for selling tobacco products to minors) at 4099 Judah Street.

DIRECTOR'S CASE NO. SMK-1410

FOR HEARING ON August 13, 2014

Address of Appellant(s):

Address of Other Parties:

Yong Heon Ahn dba "Western Sunset Market", Appellant c/o Steven & Helee Ahn, Agent for Appellant 4099 Judah Street San Francisco, CA 94122	N/A
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Date Filed:

BOARD OF APPEALS

JUN 18 2014

APPEAL # 14-116

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT OF APPEAL

I / We, **Yong Heon Ahn dba "Western Sunset Market"**, hereby appeal the following departmental action:
SUSPENSION of Tobacco Sales Establishment Permit Case #SMK1410 by the **Department of Public Health**
which was issued or became effective on: **June 11, 2014**, for the property located at: **4099 Judah Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: **July 24, 2014, (no later than three (3) Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

DPH
Respondent's and Other Parties' Briefs are due on or before: **August 07, 2014, (no later than one (1) Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

Only photographs and drawings may be submitted by the parties at hearing.

Hearing Date: **Wednesday, August 13, 2014, 5:00 p.m., City Hall, Room 416, One Dr. Carlton B. Goodlett Place.**

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit an original and 10 copies of all documents of support/opposition no later than one (1) Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection at the Board's office. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

If you have any questions please call the Board of Appeals at 415-575-6880

The reasons for this appeal are as follows:

See attachment to the Preliminary Statement of Appeal.

Appellant or Agent (Circle One):

Signature:

Print Name: Yong Heon Ahn

JUN 18 2014

APPEAL # 14-111

The policeman presented another ID which was different from what I first checked and issued me a ticket for selling a cigarette to minor. I certainly compared the picture on the ID and checked the age. In fact, there is a customer who's witnessed what I did.

The situation is entirely recored on surveillance camera. The ID which was presented by the person whom I sold a cigarette was differ from what the policeman brough into the store.

For this reason, I wanted to ask the policeman if I could see the ID and the customer again but I couldn't since English is not my first language. So I turning in the video recorded on our surveillance camera inside of the store as well as the customer's contact number who's witnessed the situation.

please check these. I am pleaing for clemeny.

a witness name: Wes Middleton

cell phone: 707-292-4960

June 18, 2014



ENVIRONMENTAL HEALTH

Richard J. Lee, MPH, CIH, REHS
Acting Environmental Health Director

BOARD OF APPEALS

JUN 18 2014

APPEAL # 14-116

Date: 6/11/14

Hearing Date: 6/11/14

Director's Hearing Case # SMK1410

Re: 4099 Judah

DBA: Western Sunset Market

Darewa, Inc.
Western Sunset Market
4099 Judah St.
San Francisco, CA 94122

Dear Operator,

On the basis of the facts presented at the Department of Public Health Director's Hearing on 6/11/14, it was determined that you violated San Francisco Health Code Article 19H, Section 1009.61 and the California Penal Code, Section 308(a) for selling tobacco or tobacco products to minors as documented, and the following are ordered:

1. Pursuant to Section 1009.66 of the San Francisco Health Code, your permit to sell tobacco shall be suspended for **15 DAYS** beginning fifteen (15) days from the date of this letter commencing on 6/26/14.
2. **You shall not begin serving the suspension of your permit to sell tobacco until you are informed of the start and end date in writing by the Health Inspector.**
3. You may appeal the Director's order to suspend your permit through the Board of Appeals located at 1650 Mission Street, Room 304 (Tel.: 575-6880), San Francisco, as prescribed in Article 1 of the San Francisco Business and Tax Regulation Code.
4. If a notice to appeal the Director's orders is not filed within fifteen (15) days from the date of this notice with a copy sent to our office, the decision to suspend your permit shall be deemed final and the Inspector shall post the Notice of Suspension in your establishment.
5. Upon suspension, you shall remove all tobacco and e-cigarette products from sale shelves and discontinue selling tobacco/e-cigarettes in the establishment.
6. Failure to comply as ordered, or the removal of the posted sign, may result in the revocation of your permit to sell tobacco/e-cigarettes and referral to the City Attorney Code Enforcement Division with a recommendation to file an injunctive action against you.

The foregoing is a true copy of the orders issued in the name of the Director of Public Health in the City and County of San Francisco on the 11th day of June, 2014. If you have any questions, please call Senior Inspector Larry Kessler at (415) 252-3841.

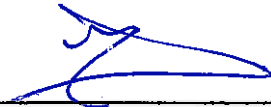
Sincerely,

Tomas Aragon, M.D., Dr. PH
Deputy Health Officer

APR 14 2014
14-116

Your Honor, I have been running this business for almost 7 years and have never broken the law. The policeman presented another ID which was different from what I first checked. Then he issued me a ticket for selling a cigarette to minor. I certainly compared the picture on the ID, compared with the person, and checked the age. In fact, there is a customer who has witnessed that I checked the ID before I handed cigarettes to the person. This situation is entirely recorded on surveillance cameras. The ID which was presented by the person whom I sold a cigarette was different from what the policeman brought into the store. For this reason, I wanted to ask if I could see the ID and the customer again but I couldn't since English is not my first language. So I am turning in the video recorded on our surveillance camera inside of the store as well as the customer's contact information who has witnessed the situation. Please check this record and consider it again.

Sincerely,
Yongheon Ahn, the Owner of Western Sunset Market

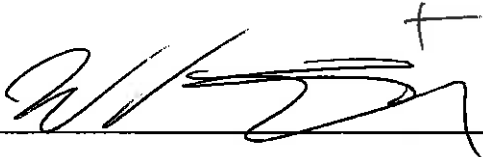
Signature  _____

Date 7.12.2014

I was inside of the store and watched the process of checking the customer's ID and comparing with the person. Here I am willing to address myself as a witness.

Name: Wes Middleton

Mobile number: 707.292.4960

Signature  _____

Date 7/5/14

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 ALEETA M. VAN RUNKLE, State Bar #124563
Deputy City Attorney
3 Fox Plaza
1390 Market Street, 5th Floor
4 San Francisco, California 94102-5408
Telephone: (415) 554-4225
5 E-Mail: aleeta.van.runkle@sfgov.org

6 Attorneys for Respondent
7 SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH

8 BOARD OF APPEALS

9 CITY AND COUNTY OF SAN FRANCISCO

10
11 WESTERN SUNSET MARKET,
12 Appellant,
13 vs.
14 DEPARTMENT OF PUBLIC HEALTH,
15 Respondent.

Case No. 14-116

RESPONDENT SAN FRANCISCO
DEPARTMENT OF PUBLIC HEALTH'S BRIEF

Hearing Date: September 17, 2014
Time: 5:00 p.m.
Place: City Hall, Room 416

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18 INTRODUCTION

19 The San Francisco Department of Public Health ("Department") found that the Western Sunset
20 Market store located at 4099 Judah Street in San Francisco ("Appellant"), violated the law because the
21 store sold cigarettes to a 16 year old minor on April 27, 2014. During a Police Department monitoring
22 action on that date, a minor decoy entered the Western Sunset Market store and asked to purchase a
23 pack of cigarettes from the owner, Mr. Yong Heon Ahn. It is undisputed that Mr. Ahn asked the
24 minor for her identification card. And it is undisputed that he sold her cigarettes. But Mr. Ahn
25 accuses the police officers involved in the decoy operation of official misconduct -- switching the ID
26 cards so the original ID was that of a non-minor.

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1 Appellant has no evidence of such alleged “bait and switch” conduct nor does any other
2 individual. Another of Appellant’s customers heard Appellant ask for the minor’s ID, view the ID,
3 and sell the cigarettes. He did not see the actual ID card. Appellant has submitted a CD from
4 Appellant’s video in Western Sunset Market purportedly to demonstrate that the ID had been
5 switched. Yet the CD shows nothing of the sort. But it does reveal the identity of the minor. If the
6 Board views the CD at the hearing, Respondent respectfully requests that the Board convene in closed
7 session to protect the privacy rights of the minor and the integrity of the minor decoy operation.

8 On April 27, 2014, in accordance with section 1009.66 of the Health Code of the City and
9 County of San Francisco, the Department of Public Health ordered the suspension of the permit and
10 related tobacco sales for a period of 25 days. Section 1009.66 allows the Department to suspend a
11 permit for tobacco sales for up to ninety days for the first offense. Appellant has appealed the 15-day
12 suspension based on the completely unsubstantiated claim that the police committed misconduct.

13 BACKGROUND

14 The Department of Public Health requires retail tobacco vendors to obtain a tobacco sales
15 permit for businesses that sell or distribute cigarettes or other tobacco products to adults. This
16 requirement allows the City to ensure establishments comply with federal, state and local tobacco laws
17 and take appropriate enforcement action related to violations of the law.

18 State law prohibits the sale or furnishing of cigarettes, tobacco products and smoking
19 paraphernalia to minors, as well as the purchase, receipt or possession of tobacco products by minors.
20 (California Penal Code Section 308). Despite state and local restrictions, minors continue to obtain
21 cigarettes and other tobacco products, but that numbers have been dropping significantly in San
22 Francisco since the Department of Public Health began enforcing the tobacco permit ordinance
23 through permit suspensions. SF Health Code 19H requires all tobacco retailers to apply for a license
24 and to conduct business in a legal and non-harmful way.

25 Stores that break the law and sell to youth commit an unfair business practice by drawing in
26 youth who purchase cigarettes as well as other goods. Young people seeking tobacco know exactly
27 where to go – which stores are lenient and will break the law to supply this addictive product to young
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1 people. The 2010-2011 CA Healthy Kids Survey results from S.F. Unified students show 51% of 9th
2 graders and 58% of 11th graders report it is easy to obtain cigarettes.

3 The Health Director is authorized, upon documented sales behavior that violates CA Penal
4 Code Section 308 to suspend a tobacco sales permit. The suspension of licenses is essential as it puts
5 the burden of sales on the owner to train all employees to ask for ID. This process is remarkably
6 simple. California ID cards are oriented horizontally for those under age 21. A blue line clearly
7 indicates that the individual is not 18 until the year written. A redline indicates when the individual
8 will turn 21. Minor decoys working with SFPD presently have blue bars reading 2015, 2016 or 2017.
9 **No calculation is required.** See the sample California ID card attached hereto as Exhibit A to the
10 brief.

11 EVIDENCE

12 Filed herewith is a declaration from Inspector Alberto A. Duarte of the San Francisco Police
13 Department. Inspector Duarte observed the illegal sale on April 27, 2014. Attached to his declaration
14 as Exhibit A is Police Incident Report No. 140355553. The California ID card is attached as Exhibit
15 A to the brief. Inspector Duarte verified that the card was valid based on his training and experience.

16 LEGAL STANDARD

17 Section 1009.61 of the San Francisco Health Code provides that the Director may suspend a
18 tobacco sales permit upon a decision that the Appellant or the Appellant's agent or employee has
19 engaged in any conduct that violates California Penal Code Section 308. Penal Code Section 308(a)
20 provides:

21 Every person, firm, or corporation that knowingly or under circumstances in
22 which it has knowledge, or should otherwise have grounds for knowledge, sells,
23 gives, or in any way furnishes to another person who is under the age of 18
24 years any tobacco, cigarette, or cigarette papers, or any other preparation of
25 tobacco, or any other instrument or paraphernalia that is designed for the
26 smoking or ingestion of tobacco, products prepared from tobacco, or any
controlled substance, is subject to either a criminal action for a misdemeanor or
to a civil action brought by a city attorney, a county counsel, or a district
attorney, punishable by a fine of two hundred dollars (\$200) for the first
offense, five hundred dollars (\$500) for the second offense, and one thousand
dollars (\$1,000) for the third offense.

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1 Under San Francisco Health Code Article 19H, Section 1009.66, the Director is authorized to
2 suspend a permit for up to ninety days for a first offense.

3 ARGUMENT

4 Appellant does not dispute that his employee sold tobacco products to a minor. Rather,
5 Appellant argues that the police on the scene switched the decoy of the minor for the one of a non-
6 minor after the sale. Appellant also contends that this is the first time that his establishment has
7 committed a violation and that the 15-day suspension is too harsh for a first time offense. Appellant's
8 argument does not warrant further reduction or elimination of the suspension in this case. (The
9 Department had requested a 25-day suspension but it was reduced by the Director. At 15 days, this
10 Board will have suspended the permit to one sixth of that set as a cap for first time offenders in the
11 law.)

12 As for Appellant's argument that the police committed misconduct, it is baseless. The CD and
13 witness statement are meaningless unless Appellant has a lens on his surveillance camera that could
14 capture a photo of the ID card at close range.

15 It is also irrelevant whether the tobacco sale to a minor was intended or due to negligence.
16 California Penal Code Sec. 308 states that "[e]very person, firm, or corporation that knowingly or
17 under circumstances in which he has knowledge, or should otherwise have ground for knowledge"
18 sells tobacco to a minor violates the law.

19 Health Code Section 1009.66 provides for a penalty of up to three months for the first offense.
20 Therefore, the Board of Supervisors contemplated a penalty potentially far longer than this suspension
21 of fifteen (15) days. The fifteen (15) day suspension is reasonable under these circumstances.

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1 CONCLUSION

2 The Department of Public Health respectfully requests that the Board deny Appellant's appeal
3 and uphold the suspension for fifteen (15) days.

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5 Dated: September 11, 2014

Respectfully submitted,

6 DENNIS J. HERRERA
7 City Attorney

8
9 By: 

ALEETA M. VAN RUNKLE

10 Deputy City Attorney
11 Attorneys for Respondent,
12 Department of Public Health
13 of the City and County of San Francisco
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EXHIBIT A



NEW PROVISIONAL AND UNDER 21 CARDS

NEW FORMAT

Driver license and Identification cards for persons under age 21 are vertical to aid retailers and law enforcement in identifying the age of the cardholder.



LN SAMPLE
FN SUZY Q.
2570 24TH STREET
SACRAMENTO, CA 95818

SEX F
HAIR BRN EYES BLU
HGT 5'-05" WGT 125 lb

DD 09/30/201080221/21093010

ISS 09/30/2010

NAME FORMAT, ALL CARDS

There are two lines allotted for your name. Last name will be displayed on the first line. Second line will show the first and middle name. This change improves naming conventions and identification of the cardholder.

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BOARD OF APPEALS
CITY AND COUNTY OF SAN FRANCISCO

WESTERN SUNSET MARKET v. SAN
FRANCISCO DEPARTMENT OF
PUBLIC HEALTH

APPEAL NO. 14-116

DECLARATION OF OFFICER
ALBERTO A. DUARTE

Hearing Date: September 17, 2014
Time: 5:00 p.m.
Place: City Hall, Room 416

I, Alberto A. Duarte, declare as follows:

1. I am an officer with the ABC Liaison Unit (ALU) of the San Francisco Police Department. I have personal knowledge of the facts set forth herein. If called upon to testify, I could and would testify competently to these facts.

2. For approximately 16 months, I have participated in minor decoy operations at various establishments that sell tobacco products. Our decoys are required to produce a valid California identification card or driver's license and state their correct age if asked by a clerk.

3. Part of my training with the San Francisco Police Department included how to inspect and identify a valid I.D. card and how to detect any alterations, modifications, or changes in the text or photograph contained on the card.

4. I participated in the minor decoy operation on April 27, 2014 at the Western Sunset Market, located at 4099 Judah Street, San Francisco. Attached hereto as Exhibit A is a true and correct copy of Police Incident Report No. 140355553.

5. I was the cover officer in this operation. As the cover officer, it was my duty to protect the minor decoy and to observe any sale of tobacco products to the minor.

6. The minor decoy who worked the operation with us on this date was 16 years old on March 27, 2014. She looks her age. (If the Board views the CD taken by Appellant in closed session they will see that, indeed, she does look her age.)

1 7. I examined the minor's identification used in the operation of April 27, 2014. Based
2 on my training and experience, it is my opinion that the identification is an official identification
3 card issued by the State of California. The card is clearly legible in all aspects and accurately
4 depicts the appearance of the minor decoy when the operation took place. The minor's ID is the
5 one and only one used in the decoy operation.

6 8. The minor decoy entered the Western Sunset Market with marked City funds. I
7 observed her purchase a pack of Newport cigarettes with the marked City funds from Mr. Ahn,
8 clerk of the Western Sunset Market store. Mr. Ahn did ask the minor for her ID but sold her the
9 cigarettes anyway.

10 9. Mr. Ahn confirms that he inspected the minor's ID. And another customer, Mr.
11 Middleton, confirmed that Mr. Ahn checked the ID. The witness himself could not see the actual
12 text on the ID but he did hear Mr. Ahn ask for the ID.

13 10. I approached Mr. Ahn and identified myself as a police officer. I recovered the
14 marked City funds from him and returned the change. I then cited him for selling tobacco to a
15 minor. He was released at the scene.

16 11. Mr. Ahn asked that I show him the minor's California ID, which I did. Mr. Ahn
17 insisted that the minor's ID was not the one used in the decoy operation. Mr. Ahn also asked that I
18 speak with his customer, Wes Middleton, which I did. As declared in paragraph 9, Mr. Middleton
19 stated that Mr. Ahn asked for the ID.

20 12. Mr. Ahn claims that the police department had interchanged the minor's ID with
21 another engaging in some form of "bait and switch."

22 13. Mr. Ahn is incorrect. Mr. Ahn was presented with the minor's ID after which Mr.
23 Ahn sold her a pack of cigarettes.

24 14. The cigarettes, statement of the minor decoy, and a copy of the marked City funds
25 were booked as evidence. A photo of the decoy was retained in the case file.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on the 9 of September 2014 in San Francisco, California.

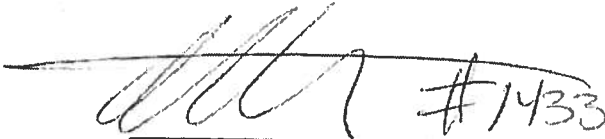

ALBERTO A. DUARTE

EXHIBIT A

**San Francisco Police Department
INCIDENT REPORT**

140355553

Report Type: Initial

140355553

INCIDENT	Incident Number 140-355 553	Occurrence From Date / Time 04/27/2014 18:15	Occurrence To Date / Time	Reported Date / Time 04/29/2014 18:23	CAD Number 141102717	
	Type of Incident TOBACCO PRODUCTS, SELLING OR FURNISHING TO MINOR 15031					
	Location of Occurrence: 4099 JUDAH ST		At Intersection with/Premise Type LIQUOR STORE		District TARAVAL	
	Confidential Report? <input type="checkbox"/>	Arrest Made? <input checked="" type="checkbox"/>	Suspect Known? <input type="checkbox"/>	Suspect Unknown? <input type="checkbox"/>	Non-Suspect Incident? <input type="checkbox"/>	Domestic Violence? <input type="checkbox"/> (Type of Weapon Used)
	Location Sent / On View: 4099 JUDAH ST		At Intersection with		Reporting Unit 3X53	

OFFICER	How Cleared? 7	Reported to Bureau	Name	Star	Date/ Time	Elder Victim <input type="checkbox"/>	Gang Related? <input type="checkbox"/>	Juvenile Subject? <input type="checkbox"/>	Prejudice Based? <input type="checkbox"/>	
	I declare under penalty of perjury, this report of <u>4</u> pages is true and correct, based on my personal knowledge, or is based on information and belief following an investigation of the events and parties involved. PROP 115 CERTIFIED 5 Year/Post									
	Reporting Officer DUARTE, ALBERTO A	Star 1433	Station Alcoholic Beverage Control Liaison Unit	Watch 0700-1800	Date 04/29/14 21:28					
	Reviewing Officer SANTOS, EDWARD J	Star 2	Station Alcoholic Beverage Control Liaison Unit	Watch 0700-1800	Date 04/29/14 21:28					
	OIC SANTOS, EDWARD J	Star 2	Station Alcoholic Beverage Control Liaison Unit	Watch 0700-1800	Date 04/29/14 21:28					

R / WITNESSES	Code RAW 1	Name (Last, First Middle) BARRON, RENE	Alias	Email						
	Day Phone (415) 553-1049	Type Work	Home Address	City	State	Zip Code				
	Night Phone	Type	Work Address 850 BRYANT ST	City SAN FRANCISCO	State CA	Zip Code 94103-				
	DOB / Age 11/19/97 16	DOB Unk <input type="checkbox"/>	or age between and	Race H	Sex F	Height 4'11	Weight 130	Hair Color BLK	Eye Color BRO	ID Type Jurisd. ID No. PID CA D7267817
	Confidential Person <input type="checkbox"/>	Violent Crime Notification <input type="checkbox"/>	293 PC Star Notification <input type="checkbox"/>	Follow-up Form YES <input type="checkbox"/>	Statement YES <input checked="" type="checkbox"/>	Relationship to Subject STRANGER/NONE				
	School (if Juvenile)	Injury/Treatment	Other Information/If Interpreter Needed Specify Language SFPD MINOR DECOY							

R / WITNESSES	Code RW 2	Name (Last, First Middle) MIDDLETON, WESLEY TAYLOR	Alias	Email						
	Day Phone (707) 292-4960	Type Cell	Home Address 1379 47TH AVE	City SAN FRANCISCO	State CA	Zip Code 94122-				
	Night Phone	Type	Work Address	City	State	Zip Code				
	DOB / Age 08/14/84 29	DOB Unk <input type="checkbox"/>	or age between and	Race	Sex	Height	Weight	Hair Color	Eye Color	ID Type Jurisd. ID No. DL CA D2410782
	Confidential Person <input type="checkbox"/>	Violent Crime Notification <input type="checkbox"/>	293 PC Star Notification <input type="checkbox"/>	Follow-up Form YES <input type="checkbox"/>	Statement YES <input checked="" type="checkbox"/>	Relationship to Subject (OTHER (NARRATIVE))				
	School (if Juvenile)	Injury/Treatment	Other Information/If Interpreter Needed Specify Language BLACK T SHIRT, BLACK JEANS.							

San Francisco Police Department
INCIDENT REPORT

Report Type: Initial

14035553

C I T I E N T	Code C 1	Name (Last, First Middle) AHN, YONG HEON				Alias			Email		
	Day Phone (415) 880-8230	Type Cell	Home Address 1385 47TH AVE			City SAN FRANCISCO		State CA	Zip Code 94122-		
	Night Phone (000) 000-0000	Type Refused	Work Address 409B JUDAH ST			City SAN FRANCISCO		State CA	Zip Code 94122-		
	DOB Unknown <input type="checkbox"/>	Date of Birth 03/12/55	Age 59	or age between and		Race A	Sex M	Height 5'8	Weight 137	Hair Color GRY	Eye Color BRO
	SFNO	J/D# (if Juvi)	ID Type/Jurisdiction/Number DL CA D9625961			ID Type/Jurisdiction/Number		ID Type/Jurisdiction/Number			
	Booking Charge(s)					Booking Location					
	Warrant #	Court#	Action#	Dept#		Enroute to					
	Warrant Violation(s)							Bail (\$)			
	Citation# 0106101503	Violation(s) 308(a)(1) PC				Appear Date/time 06/18/2014 08:00	Location of Appearance 850 Bryant St, #549				
	<input type="checkbox"/> CA Form Booked Copy Attached	Mirandized: Star <input type="checkbox"/>		Date Time		CWB Check		Star			
Book/Cite Approval GEORGE	Star 992	Mass Arrest Code		M X-Rays <input type="checkbox"/>	School (If Juvenile)			Statement <input type="checkbox"/>			
Other Information: Citation/Warrant/Booking Charge(s)/Missing Person-Subject Description; Scars, Marks, Tattoos GREEN SWEATER, BLUE JEANS											

P R O P E R T Y	Code/No EVD 1	Item Description CIGARETTES				Brand NEWPORT		Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value \$7.50 Total		
	Seized by (Star) 1433		From Where RW1						
	Additional Description/Identifying Numbers E1 was purchased by RW1 from C1.								

P R O P E R T Y	Code/No EVD 2	Item Description WRITTEN STATEMENT				Brand		Model	
	Serial No.	Gun Make	Caliber	Color WHI	Narcotics Lab No.	Quantity 1	Value TBD		
	Seized by (Star) 1433		From Where RW1						
	Additional Description/Identifying Numbers E2 is written statement of the incident, written by RW1.								

P R O P E R T Y	Code/No EVD 3	Item Description COPY OF MCF				Brand		Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value TBD		
	Seized by (Star) 1433		From Where C1						
	Additional Description/Identifying Numbers E3 is a copy of the Marcked City Funds provided to RW1 and used to purchased E1 from C1.								

San Francisco Police Department
INCIDENT REPORT

Report Type: Initial

140355553

P R O P E R T Y	Code/No	Item Description			Brand		Model	
	EVD 4	PHOTO OF THE MINOR						
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value	
						1	TBD	
	Seized by (Star)		From Where					
	1433							
	Additional Description/Identifying Numbers							
	Photo of the minor prior to operation. Photo will be retained in the case file.							

NARRATIVE

On 04/29/2014, Sgt. George #992, Officer Alexander #1337, (R/W1) Barron and I conducted a Minor Decoy Operation regarding the Sale of Tobacco to Minors. Barron was the minor and I was the close cover officer. At the beginning of the operation, I verified the age of Barron by checking her California Identification Card. I provided Barron with a marked Twenty Dollar Bill.

I monitored Barron, who entered Western Sunset Market 4099 Judah Street. I observed that Barron engaged the cashier, later identified as (C1) Ahn, in conversation. I saw that Ahn handed Barron a box of (E1) Newport Cigarettes after checking her ID. I saw Barron pay Ahn with Marked City Funds that was provided to her at the onset of the operation. Ahn handed Barron the change. Barron walked out of the store, where she gave me the change and (E1). Barron told me that Ahn asked for her ID then handed her the cigarettes.

I entered the store. I observed that there were several people standing in line to pay for individual items. I showed Ahn our SFPD issued stars. I identified myself as police officers and informed Ahn that he'd just sold cigarettes to a minor. He stated to me that Barron had showed him a different ID. I seized the MCF. I returned Ahn \$12.50 in change that I had retrieved from Barron.

I retrieved the ID of Barron and was joined by Sgt. George.

R/W2 Middleton re-entered the store and stated that he wanted to help Ahn. I saw asked him for his statement, "I was standing behind the girl who was buying the cigarettes and I saw him check her ID".

We observed that there were signs posted advertising that no cigarettes would be sold to minors.

Ahn was cited and released at the scene.

Barron wrote a statement in the presence of Officer Etcheber.

E1, E2 and E3 were booked into evidence. E4 was retained in the case file.

SAN FRANCISCO POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
NOTICE TO APPEAR

016101503

Traffic Infraction Misdemeanor
 Nontraffic Felony (Juvenile, PER 828(c) W&I) Pedestrian Bicyclist

DATE OF VIOLATION TIME DAY OR WEEK INCIDENT NO.
04/29/14 1705 S M T W T F S 140335553

NAME (First, Middle, Last) OWNER'S RESPONSIBILITY (Veh. Code, § 40001)
YONG HEON AHN

MAILING ADDRESS PHONE NO.
1385 - 4774 AVE #5 (415) 7080 0230

CITY STATE ZIP CODE JUVENILE (PHONE NO.)
SAN FRANCISCO CA 94122

DRIVER LICENSE NO. STATE CLASS COMMERCIAL AGE BIRTH DATE
D910 2396 CA C YES NO 03.12.1958

SEX HAIR EYES HEIGHT WEIGHT RACE S.F. NO. or X NO.
M BRN BLU 508 137 A

VEH. LIC. NO./VIN. STATE MO YR

YR. of VEH MAKE MODEL BODY STYLE COLOR COMMERCIAL VEHICLE (Veh. Code, § 18210(b))

EVIDENCE OF FINANCIAL RESPONSIBILITY HAZARDOUS MATERIAL (Veh. Code, § 353)

REGISTERED OWNER OR LESSEE SAME AS DRIVER
Tobacco sales
4094 JUDITH ST

ADDRESS SAME AS DRIVER
Out # 424398

CITY STATE ZIP CODE

CORRECTABLE VIOLATION (Veh. Code, § 40810) BOOKING REQUIRED (See Reverse) MISDEMEANOR OR INFRACTION (Circle)
YES NO CODE AND SECTION DESCRIPTION
 CPC 308(a)(1) M I
 Selling Tobacco to M I
 MINOR M I

SPEED APPROX. P.F./MAX SPEED VEH. LMT. RADAR CONTINUATION FORM ISSUED

LOCATION OF VIOLATION(S) at 4094 JUDITH ST

M.A.C. JUV. NO. SCHOOL

VIOLATION(S) NOT COMMITTED IN MY PRESENCE, DECLARED ON INFORMATION AND BELIEF.

I DECLARE UNDER THE PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

ARRESTING OR CITING OFFICER ISSUING AGENCY IF NOT CPPO STAR ISSUING UNIT
992 3X55

DATE NAME OF ARRESTING OFFICER IF DIFFERENT FROM CITING OFFICER STAR ISSUING UNIT

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.

SIGNATURE

WHEN: ON OR BEFORE THIS DATE DAY: WEDS DATE: 06/18/14 TIME: 0900

WHAT TO DO: Follow the instructions on the reverse.

WHERE: www.superiorcourt.org

Traffic/Nontraffic - Infraction Division - 850 Bryant St., Room 145, San Francisco, CA 94103 (415) 551-0550
 Criminal Division - SF Superior Court - 850 Bryant St., Room 473, San Francisco, CA 94103 (415) 551-0851
 Informal Juvenile & Traffic Court - 375 Woodside Avenue, Room 101, San Francisco, CA 94127 (415) 682-5100
 Youth Guidance Center - 375 Woodside Ave., Room 101, San Francisco, CA 94127 (415) 682-5100

TO BE NOTIFIED YOU MAY ARRANGE WITH THE CLERK TO APPEAR AT A NIGHT SESSION OF THE COURT, COURT COPY

Notice to Appear Form approved by the Judicial Council of California. SEE REVERSE
Rev. 10/27/08 (Veh. Code §§ 40500(b), 40513(b), 40522, 40800; Penal Code § 853.8) TR-130



* 016101503 *

NOTICE TO APPEAR
CITY AND COUNTY OF SAN FRANCISCO

PROOF OF SERVICE

**RE: WESTERN SUNSET MARKET v. S.F. DEPARTMENT OF PUBLIC HEALTH
APPEAL NO. 14-116**

I, LILY KANG, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Fifth Floor, San Francisco, CA 94102. On September 11, 2014, I served the attached:

- 1. **RESPONDENT SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH'S BRIEF**
- 2. **DECLARATION OF OFFICER ALBERTO A. DUARTE**

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Yongheon Ahn, dba
Western Sunset Market, Appellant
c/o Steven & Haelee Ahn, Agent for Service
4099 Judah Street
San Francisco, CA 94122

and served the named documents in the manner indicated below:

BY PERSONAL SERVICE: I caused true and correct copies of the above documents to be placed and sealed in envelope(s) addressed to the addressee(s) and I caused such envelope(s) to be delivered by hand via a Professional Messenger Service on the office(s) of the addressee(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed September 11, 2014, at San Francisco, California.


LILY KANG