

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
RAOUF NASSER DBA "26TH & GUERRERO MARKET",)
Appellant(s))
vs.)
DEPARTMENT OF PUBLIC HEALTH,)
Respondent)

Appeal No. 14-123

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on June 23, 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 (25-day suspension for selling tobacco products to minors) at 1400 Guerrero Street.

DIRECTOR'S CASE NO. SMK-1408

FOR HEARING ON August 27, 2014

Address of Appellant(s):

Address of Other Parties:

Raouf Nasser dba "26th & Guerrero Market", Appellant 1400 Guerrero Street San Francisco, CA 94110	N/A
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Date Filed:

BOARD OF APPEALS

JUN 23 2014

APPEAL # 14-123

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT OF APPEAL

I / We, **Raouf Nasser dba "26th & Guerrero Market"**, hereby appeal the following departmental action:

SUSPENSION of Tobacco Sales Establishment Permit DIRECTOR'S CASE NO. SMK-1408 by the **Department of Public Health** which was issued or became effective on: **June 11, 2014**, for the property located at: **1400 Guerrero 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: **August 07, 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 21, 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 27, 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 attached.

Appellant Agent (Circle One)
Signature: *Raouf Nasser*
Print Name: Raouf Nasser

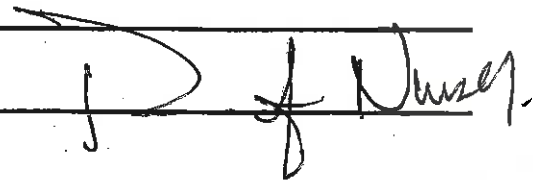
PRELIMINARY STATEMENT OF APPEAL

Date
Filed: **BOARD OF APPEALS**
JUN 23 2014
APPEAL # 14-123

SUMMARY OF REASONS OR GROUNDS FOR APPEAL CONTINUED:

To whom it may concern.

I Raouf Nasser owner of 26th & Guerrero Market
wish to appeal the suspension of my cigarette license
due to selling to a decoy minor. Due to our outstanding
record (never a violation of any sort), our intent and our
integrity in the community since we are community based
establishment I wish ~~to~~ lessor harsh judgment.


J. Nasser



ENVIRONMENTAL HEALTH

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

BOARD OF APPEALS
JUN 23 2014
APPEAL # 14-123

Date: 6/11/14

Hearing Date: 6/11/14
Director's Hearing Case # SMK1408
Re: 1400 Guerrero
DBA: 26th & Guerrero

26th & Guerrero, Inc
26th & Guerrero
1400 Guerrero
San Francisco, CA 94110

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 **25 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

RETAIL TOBACCO PROGRAM

1390 Market Street, Suite 210 San Francisco, CA 94102

Phone 415-252-3841 Fax 415-252-3894

1 DENNIS J. HERRERA, State Bar #139669
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7 Attorneys for Respondent
8 SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH

9
10 BOARD OF APPEALS
11 CITY AND COUNTY OF SAN FRANCISCO

12 NASSER dba 26th & GUERRERO MARKET, Case No. 14-123

13 Appellant,

14 vs.

15 DEPARTMENT OF PUBLIC HEALTH,

16 Respondent.

RESPONDENT SAN FRANCISCO
DEPARTMENT OF PUBLIC HEALTH'S BRIEF

Hearing Date: August 27, 2014
Time: 5:00 p.m.
Place: City Hall, Room 416

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19 INTRODUCTION

20 The San Francisco Department of Public Health ("Department") found that the 26th &
21 Guerrero Market store located at 1400 Guerrero Street in San Francisco ("Appellant"), violated the law
22 because the store sold cigarettes to a 16 year old minor on June 2, 2014. During a Police Department
23 monitoring action on that date, a minor decoy entered the 26th & Guerrero Market store and asked to
24 purchase a pack of cigarettes from the clerk, Mr. Park. Mr. Park sold her the cigarettes and offered her
25 matches. Mr. Park did not ask the minor for her identification card.

26 Selling cigarettes to a minor violates the California Penal Code and for a good reason: health
27 officials have found that the key in the fight against tobacco and the nation's most preventable cause
28 of death is ensuring minors do not have ready access to cigarettes.

1 On June 2, 2014, in accordance with section 1009.66 of the Health Code of the City and
2 County of San Francisco, the Department of Public Health ordered the suspension of Appellant's
3 permit and related tobacco sales for a period of 25 days. Section 1009.66 allows the Department to
4 suspend a permit for tobacco sales for **three months for the first offense**.

5 Appellant has appealed the 25-day suspension on the grounds that this is his establishment's
6 first violation. Yet the Board of Supervisors explicitly authorizes the Department to impose a much
7 stricter penalty. Sales to a minor is a crime. And it is easily avoidable. As sympathetic as one may be
8 for a small business owner who faces the financial costs as a result of violating the law, the potential
9 consequences for the minor are far more concerning.

10 BACKGROUND

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

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

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

27 The Health Director is authorized, upon documented sales behavior that violates CA Penal
28 Code Section 308 to suspend a tobacco sales permit. The suspension of licenses is essential as it puts

1 the burden of sales on the owner to train all employees to ask for ID. This process is remarkably
2 simple. California ID cards are oriented horizontally for those under age 21. A blue line clearly
3 indicates that the individual is not 18 until the year written. A redline indicates when the individual
4 will turn 21. Minor decoys working with SFPD presently have blue bars reading 2015, 2016 or 2017.
5 **No calculation is required.** See the sample California ID card attached hereto as Exhibit A to the
6 brief.

7
8 **EVIDENCE**

9 Filed herewith is a declaration from Inspector Alberto A. Duarte of the San Francisco Police
10 Department. Inspector Duarte observed the illegal sale on June 2, 2014. Attached to his declaration
11 as Exhibit A is Police Incident Report No. 140460055. The California ID card is attached as Exhibit
12 A to the brief. Inspector Duarte verified that the card was valid based on his training and experience.

13 **LEGAL STANDARD**

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

18 Every person, firm, or corporation that knowingly or under circumstances in
19 which it has knowledge, or should otherwise have grounds for knowledge, sells,
20 gives, or in any way furnishes to another person who is under the age of 18
21 years any tobacco, cigarette, or cigarette papers, or any other preparation of
22 tobacco, or any other instrument or paraphernalia that is designed for the
23 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.

24 Under San Francisco Health Code Article 19H, Section 1009.66, the Director is authorized to
25 suspend a permit for up to three months for a first offense.

26 **ARGUMENT**

27 Appellant does not dispute that his employee sold tobacco products to a minor. Rather,
28 Appellant contends that this is the first time that his establishment has committed a violation and that

1 the 25-day suspension is too harsh for his business. Appellant's argument does not warrant reduction
2 or elimination of the suspension in this case.

3 First, a high proportion of tobacco sales compared to overall sales requires a store owner to be
4 even more vigilant in ensuring that clerks do not sell to minors because there is a greater likelihood of
5 sales to minors in a business with high volume tobacco sales.

6 Second, the majority of stores appealing their suspensions argue that the penalty will cause
7 financial hardship and/or store closure. Any small business is susceptible to financial pressures due to
8 a suspension. There is no reason that this store should be treated differently from others with regard to
9 financial hardship.

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

14 Health Code Section 1009.66 provides for a penalty of up to three months for the first offense.
15 Therefore, the Board of Supervisors contemplated a penalty potentially far longer than this suspension
16 of twenty-five days. The twenty-five day suspension is reasonable under these circumstances.

17 CONCLUSION

18 The Department of Public Health respectfully requests that the Board deny Appellant's appeal
19 and uphold the suspension for twenty-five days.

20 Dated: August 21, 2014

Respectfully submitted,

21 DENNIS J. HERRERA
22 City Attorney

23 By: _____

ALEETA M. VAN RUNKLE

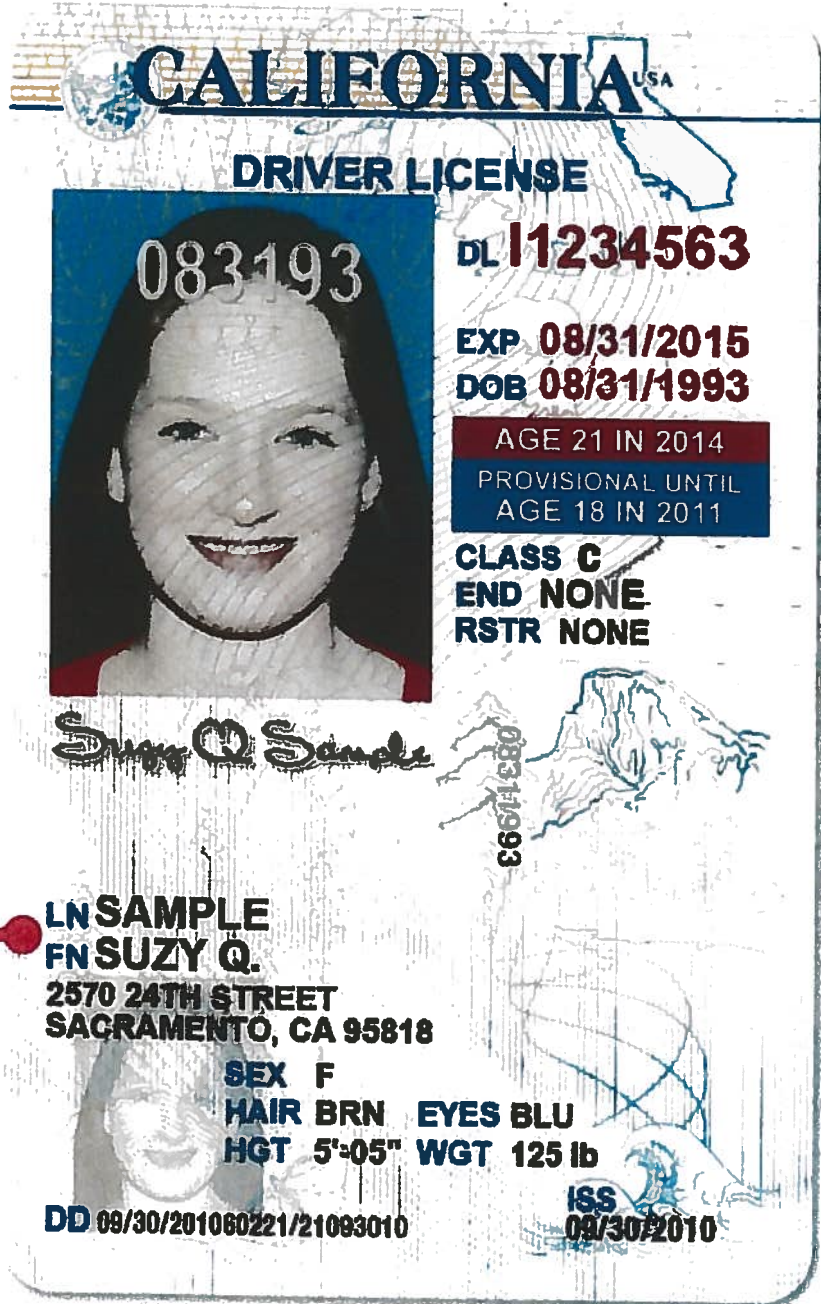
24 Deputy City Attorney
25 Attorneys for Respondent
26 Department of Public Health
27 of the City and County of San Francisco
28



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 09/30/201060221/21093010

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

NASSER dba 26th & GUERRERO
MARKET v. SAN FRANCISCO
DEPARTMENT OF PUBLIC HEALTH

APPEAL NO. 14-123

DECLARATION OF OFFICER
ALBERTO A. DUARTE

Hearing Date: August 27, 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 Liason 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 June 2, 2014 at the 26th & Guerrero Market, located at 1400 Guerrero Street, San Francisco. Attached hereto as Exhibit A is a true and correct copy of Police Incident Report No. 140460055.

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 June 2, 2014. She looks her age.

7. I examined the minor's identification used in the operation of June 2, 2014. Based on my training and experience, it is my opinion that the identification is an official identification

1 card issued by the State of California. The card is clearly legible in all aspects and accurately
2 depicts the appearance of the minor decoy when the operation took place.

3 8. The minor decoy entered the 26th & Guerrero Market with marked City funds. I
4 observed her purchase a pack of Newport cigarettes with the marked City funds from Mr. Park,
5 clerk of the 26th & Guerrero Market store. Mr. Park did not ask the minor for her ID but sold her
6 the cigarettes anyway.

7 9. I approached Mr. Park and identified myself as a police officer. I recovered the
8 marked City funds from him and returned the change. I then cited him for selling tobacco to a
9 minor. He was released at the scene.

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

12 I declare under penalty of perjury under the laws of the State of California that the foregoing
13 is true and correct and that this document was executed on the 19th of August 2014 in San
14 Francisco, California.

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18 ALBERTO A. DUARTE

**San Francisco Police Department
INCIDENT REPORT**

Report Type: Initial

140460055

140460055

I N C I D E N T	Incident Number 140-460-055	Occurrence From Date / Time 06/02/2014 18:40	Occurrence To Date / Time	Reported Date / Time 06/05/2014 14:00	CAD Number 1411632733	
	Type of Incident TOBACCO PRODUCTS, SELLING OR FURNISHING TO MINOR 15031					
	Location of Occurrence: 1400 GUERRERO ST		At Intersection with/Premise Type MISC. BUILDING OR STORE		District MISSION	
	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: 1400-GUERRERO ST		At Intersection with		Reporting Unit 3X53	
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"/>	

O F F I C E R A T I O N	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		6 Year/Post		
	Reporting Officer DUARTE, ALBERTO A	Star 1433	Station Alcoholic Beverage Control Liaison Unit	Watch 0700-1600	Date 06/05/14 14:13
	Reviewing Officer SANTOS, EDWARD J	Star 2	Station Alcoholic Beverage Control Liaison Unit	Watch 0700-1600	Date 06/05/14 14:13
	OIC SANTOS, EDWARD J	Star 2	Station Alcoholic Beverage Control Liaison Unit	Watch 0700-1600	Date 06/05/14 14:14
Related Case --	Related Case --	Re-assigned to Copies to 5X150 3*300	Assigned to 5X150 Add'l Copies DA, DPH, CO. D	Assigned by AD 1433	

R / 1 W I T N E S S	Code RW 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, APT# 549	City SAN FRANCISCO State CA Zip Code 94103-	
	DOB 11/19/97	Age 16	DOB Unk. <input type="checkbox"/>	or age between and	Race H
				Sex F	Height 4'11
				Weight 125	Hair Color BLK
			Eye Color BRO	ID Type Jurisd. ID No. DL CA 07267617	
Confidential Person? <input type="checkbox"/>	Violent Crime Notification? <input type="checkbox"/>	293 PC Notification? <input type="checkbox"/>	Star	Follow-up Form YES <input type="checkbox"/>	
				Statement YES <input checked="" type="checkbox"/>	
School (if Juvenile)	Injury/Treatment	Relationship to Subject STRANGER/NONE			
Other Information/If Interpreter Needed Specify Language SFPD MINOR DECOY					

**San Francisco Police Department
INCIDENT REPORT**

Report Type: Initial

140460055

**C
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D**

Code C 1	Name (Last, First Middle) PARK, ERIC T		Alias		Email	
Day Phone (415) 308-6968	Type Cell	Home Address 874 SOUTH VAN NESS AVE		City SAN FRANCISCO	State CA	Zip Code 94110-
Night Phone	Type	Work Address 1400 GUERRERO ST		City SAN FRANCISCO	State CA	Zip Code 94110-
DOB Unknown <input type="checkbox"/>	Date of Birth 08/18/72	Age 41	or age between and	Race A	Sex M	Height 5'9
				Weight 150	Hair Color BRO	Eye Color BRO
SFNO	J/D# (if Juvl)	ID Type/Jurisdiction/Number DL CA B-1498870		ID Type/Jurisdiction/Number	ID Type/Jurisdiction/Number	
Booking Charge(s)				Booking Location		
Warrant #	Court#	Action#	Dept#	Enroute to		
Warrant Violation(s)				Ball (\$)		
Citation# 011403560	Violation(s) 308(a)(1)PC		Appear Date/Time 07/16/2014 08:00	Location of Appearance 860 Bryant St. #549		
<input type="checkbox"/> CA Form Booked Copy Attached	Mirandized: Star <input type="checkbox"/>	Date Time	CWB Check	Star		
Book/Cite Approval LT. SANTOS	Star 2	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						

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Code/No EVD 1	Item Description PACK OF CIGARETTES		Brand NEWPORT		Model	
Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value \$7.00 Total
Seized by (Star) 1433	From Where RW1					
Additional Description/Identifying Numbers E1 are the cigarettes purchased by RW1 from C1.						

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Code/No EVD 2	Item Description WRITTEN STATEMENT		Brand		Model	
Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value TBD
Seized by (Star) 992	From Where RW1					
Additional Description/Identifying Numbers Written Statement of the incident written by RW1 collected by Sgt. George.						

**P
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Code/No EVD 3	Item Description MARKED CITY FUNDS		Brand		Model	
Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value TBD
Seized by (Star) 1433	From Where C1					
Additional Description/Identifying Numbers E3 is the twenty dollar bill used to buy E1 by RW1 from C1.						

San Francisco Police Department
INCIDENT REPORT

Report Type: Initial

140460055

PROPERTY	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 Decoy will be retained in the file.						
PROPERTY	Code/No	Item Description	Brand			Model	
	EVD 5	PHOTOS					
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value
						2	TBD
	Seized by (Star)	From Where					
	2						
	Additional Description/Identifying Numbers						
	E5 are photos of the store.						

NARRATIVE

On 06/02/2014, Lt. Santos #2, Sgt. George #992, (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 (MCF).

I monitored Barron, who entered 26th Guerrero Market, 1400 Guerrero Street. A moment later, Barron walked out of the store with a pack of cigarettes in her hand.

Barron told me that she asked the cashier, later identified as (C1) Park, for a (E1) pack of Newports Cigarettes. Barron told me that Park sold her the cigarettes and offered her matches. Barron told me that she paid Park with the MCF I had provided her. Barron told me that Park never asked for her age or ID. Park gave her the change and she walked out to meet me.

I entered the store. I showed Park my SFPD issued star. I identified myself as police officer and informed Park that he'd just sold cigarettes to a sixteen year old. He stated to me that he'd just returned from being off for a month and wasn't thinking at all. I seized the MCF. I returned to Park \$13.00 in change that I had retrieved from Barron.

Lt. Santos joined me and verified all the appropriate permits and licenses. Lt. Santos was unable to find any appropriate signage regarding tobacco sales.

Park was cited and released at the scene.

Barron wrote a statement in the presence of Sgt. George.

E1, E2, E3 and E5 were booked into evidence. E4 was retained in the case file.

INCIDENT NO. 140400055

page ___ of ___

NAME (LAST, FIRST, MIDDLE) OF PERSON GIVING STATEMENT: BARRON, RENE ANASTASIA

DOB / AGE: 11/19/97 16

RESIDENCE PHONE (DAY / NIGHT)

BUSINESS PHONE (DAY/NIGHT)

RESIDENCE ADDRESS / CITY IF NOT SAN FRANCISCO

ZIP CODE

BUSINESS ADDRESS / CITY IF NOT SAN FRANCISCO: 850 BARRON ST

ZIP CODE: 94123

DATE OF STATEMENT: 6-2-14

TIME STARTED: 1835

TIME COMPLETED: 1850

LOCATION WHERE STATEMENT TAKEN

STATEMENT TAKEN BY (NAME / STAR)

IN PRESENCE OF

Sgt. George #952

I entered the business located at 1400 Guerrero st. I purchased a pack of NEWPORTS from the clerk using money provided to me. I received the cigarettes and exited the store. I was met by officer Duarte who took charge. I was not asked for my age or ID.

I DECLARE, UNDER PENALTY OF PERJURY, THIS STATEMENT OF 1 PAGE(S) IS TRUE AND CORRECT, BASED ON MY PERSONAL KNOWLEDGE.

NATURE OF PERSON GIVING STATEMENT

[Signature]

SAN FRANCISCO POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO

NOTICE TO APPEAR 011403560

Traffic Infraction Misdemeanor
 Nontraffic Felony (Juvenile, PER 626(c) W&I)

DATE OF VIOLATION: 01/21/14 TIME: 11:40 DAY OF WEEK: S W T W T H F S VIOLATION NO.: 150760025

NAME (First, Middle, Last): ERIC TRACIL FALKE DRIVER'S RESPONSIBILITY (Veh. Code, § 40001)

MAILING ADDRESS: 849 S. VAN NESS PHONE NO.: 415 208 6928

CITY: SAN FRANCISCO STATE: CA ZIP CODE: 94110 JUVENILE (PHONE NO.):

DRIVER LICENSE NO.: 34418670 STATE: CA CLASS: C COMMERCIAL: YES NO AGE: 27 BIRTH DATE: 8/18/87

SEX: M HAIR: BRN EYES: BRN HEIGHT: 507 WEIGHT: 170 RACE: W S.F. NO. or X NO.:

VEH. LIC. NO./VIN.: STATE: B MO YR: 1

YR. of VEH. MAKE: MODEL: BODY STYLE: COLOR: COMMERCIAL VEHICLE (Veh. Code, § 15210(b)) HAZARDOUS MATERIAL (Veh. Code, § 353)

EVIDENCE OF FINANCIAL RESPONSIBILITY:

REGISTERED OWNER OR LESSEE: 26TH GUERRERO PARK ADDRESS: 410 STE 911-316850

CITY: SF 001222 STATE: ZIP CODE:

CORRECTABLE VIOLATION (Veh. Code, § 40810) YES/NO CODE AND SECTION: BOOKING REQUIRED (See Reverse) DESCRIPTION: INFRACTION (Circle)

308-XXI PC SELL OR M

FURNISH TOBACCO M 1

TO ADJUDICATE M 1

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

LOCATION OF VIOLATION(S): at 1700 GUERRERO ST.

M.A.G. 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: [Signature] 1423 3433 ISSUING AGENCY IF NOT SF PD STAR ISSUING UNIT

DATE: TIME OF ARRESTING OFFICER IF NOT CITING OFFICER: STAR ISSUING UNIT

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

SIGNATURE: [Signature]

WHEN: ON OR BEFORE THIS DATE DATE: 1/21/14 TIME: 0900

WHAT TO DO: Follow the instructions on the reverse.

WHERE:

Traffic/Nontraffic - Infraction Division - 850 Bryant St., Room 115, San Francisco, CA 94103 (415) 553-9193

Criminal Division - SF Superior Court - 850 Bryant St., Room 178, San Francisco, CA 94103 (415) 553-9394

Informal Juvenile & Traffic Court - 375 Woodside Avenue, Room 101, San Francisco, CA 94127 (415) 753-7730

Youth Guidance Center - 375 Woodside Ave., Room 101, San Francisco, CA 94127 (415) 753-7800

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

3901-10 (07/05)



* 011403560 *

NOTICE TO APPEAR
CITY AND COUNTY OF SAN FRANCISCO

PROOF OF SERVICE

**RE: 26th & GUERRERO MARKET v. S.F. DEPARTMENT OF PUBLIC HEALTH
APPEAL NO. 14-123**

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 August 21, 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:

Raouf Nasser
dba 26th & Guerrero Market, Appellant
1400 Guerrero Street
San Francisco, CA 94110

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 August 21, 2014, at San Francisco, California.


LILY KANG

Mejia, Xiomara (PAB)

From: Marvis Phillips <marvisphillips@gmail.com>
Sent: Friday, August 08, 2014 7:18 PM
To: Board of Appeals (PAB)
Subject: Suspension of Selling Permits for Tobacco After Sale to Minors

BOARD OF APPEALS

AUG 08 2014

APPEAL # 14-123

Dear BOA members:

As an SFSAFE, Inc. volunteer community watch block captain for 30 plus years, I oppose any granting of an appeal by a tobacco business on their tobacco sales establishment permit when that permit has been suspended for sales of tobacco products to minors. Over the past 30 plus years, I have watched many friends develop lung cancer or worse, and in some instances die, when they started smoking when they were in their teens. On a personal note, I started when I was 9, and was up to 3 packs a day when I was 18. I have been tobacco free for 20 years as of August 1. In conclusion, I am steadfastly in opposition to any approval of any appeal for any tobacco permit holder when they have been suspended for sales to minors. Thank you for listening to my concerns.

Sincerely,

Marvis J. Phillips
Tenderloin Block Captain