Request for City Council Committee Action from the Department of Regulatory Services-License Division

Date April 18, 2008

To Public Safety and Regulatory Services Committee Chair Don Samuels

Subject Denial of the renewal application for the tobacco dealers and confectionery licenses for Musaab Inc., dba Hiawatha Tobacco, located at 2740 Minnehaha Avenue.

Recommendation

The Business License Division recommends that the renewal license applications for Musaab, Inc, dba Hiawatha Tobacco, 2740 Minnehaha Avenue, tobacco dealers and confectionery licenses be denied as a result of a felony conviction of the owner for Making Materially False Statements to the FBI.

Prepared or Submitted by Julie Casey, Inspector, Licenses and Consumer Services.
Ricardo Cervantes, Deputy Director, Licenses and Consumer Services

Approved by

Ricardo Cervantes, Deputy Director

Burt Osborne, Director of Licenses

Rocco Forte, Assistant City Coordinator

Policy Review Group (PRG) Not Applicable X

Presenters in Committee Julie Casey, License Inspector, Ricardo Cervantes, Deputy Director, Licenses and Consumer Services

Financial Impact

X No financial impact – or – Action is within current department budget

Background/Supporting Information: Under a separate cover.

EVIDENCE PACKET

FOR

MUSAAB, INC
DBA HIAWATHA TOBACCO

2740 MINNEHAHA AVENUE

TOBACCO DEALER-L-022-050261
FOOD CONFECTIONERY-L-153-50261

APRIL 2008

Minneapolis
City of Lakes

Regulatory Services Department

Licenses & Consumer Services Division

350 South 5th Street – Room 1C
Minneapolis MN 55415-1391

Office 612 673-2080
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April 18, 2008

Musaab Wazwaz
Musaab, Inc, DBA Hiawatha Tobacco
2740 Minnehaha Avenue
Minneapolis, MN 55406

NOTICE OF HEARING

With respect to your tobacco dealer and confectionery licenses for Mussab, Inc, dba Hiawatha Tobacco, located at 2740 Minnehaha Avenue.

PLEASE TAKE NOTE:

1. This is to notify you that a hearing will be held before the Public Safety and Regulatory Services Committee of the Minneapolis City Council on Wednesday, May 7, 2008 at 1:00 p.m. or shortly thereafter, in Room 317, City Hall, 350 South Fifth Street, Minneapolis, MN to consider action with respect to your confectionery and tobacco dealer's licenses for Hiawatha Tobacco, located at 2740 Minnehaha Avenue, Minneapolis, MN 55406

2. This hearing may result in denial of your renewal application of all your business licenses resulting in discontinuance of business activities.

3. An attorney may represent you if you so desire.

4. Pursuant to Minneapolis Charter Chapter 4, the Committee will determine whether or not the license holder is disqualified from renewing his license due to his felony conviction for Making a Materially False Statement to the FBI.

Minneapolis Code of Ordinance 188.185. Qualifications of applicant. No food or grocery license shall be issued to any applicant who does not meet the following qualifications:
(b) Within five (5) years of the date of the application, the applicant cannot have been convicted of any crime related to the occupation for which the license is sought, which conviction has not been, pursuant to law, annulled or expunged, including but not limited to the willful violation of any law dealing with food subsidy programs or the sale, possession, manufacture or transportation of controlled substances. The provisions of Minnesota Statutes, Chapter

364 shall govern the enforcement and application of this subsection including the right of an applicant to show competent evidence of sufficient rehabilitation and present fitness.

Minneapolis Charter Chapter 4, Section 16 states, "Licenses May be Revoked. Any license issued by the authority of the City Council may be revoked by the City Council at any time upon proper notice and hearing for good cause..."

If you have further questions regarding the issues or conduct of the hearing, you may contact License Inspector Julie Casey at 612-673-3905.

Sincerely,

Ricardo X. Cervantes, Deputy Director
Licenses and Consumer Services

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 07-50 (ADM/SRN)

UNITED STATES OF AMERICA, Plaintiff, v. 4. KAMIL MADFOUN AL-ESAWI and 14. MUSAAB FARES WAZWAZ Defendants.	**SUPERSEDING INDICTMENT** (18 U.S.C. § 1001(a)(2))

THE UNITED STATES GRAND JURY CHARGES THAT:

INTRODUCTORY ALLEGATIONS

1. At all times relevant to this Indictment, defendant Kamil Madfoun Al-Esawi was an individual resident of the State of Minnesota and an employee of Maplewood Tobacco, a retail tobacco store located at 1700 Rice Street in St. Paul, Minnesota (hereinafter, "Maplewood Tobacco").

2. At all times relevant to this Indictment, defendant Musaab Fares Wazwaz was an individual resident of the State of Minnesota and, from and after December of 2004, the nominal owner (but not the real or beneficial owner) of Maplewood Tobacco.

3. Beginning in 2003 and continuing through 2006, the Federal Bureau of Investigation (the "FBI") and the Criminal Investigation Division of the Internal Revenue Service (the "IRS") conducted an investigation of a group of individuals who beneficially owned and controlled numerous retail tobacco stores in the Twin Cities Metropolitan area and who avoided reporting the income generated by those stores on their federal income tax returns by instructing

FILED SEP 18 2007
RICHARD D. SLETTEN
JUDGMENT ENTD
DEPUTY CLERK Leah

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nominees in the stores who appeared to own the stores on paper but who did not exercise dominion or control over, and did not benefit financially from, the operation of the stores.

4. At all times relevant to this Indictment, defendant Tawfiq Othman Wazwaz beneficially owned and controlled Maplewood Tobacco but concealed his ownership and control of the store by causing other persons to own the store nominally (that is, on paper only) in order to avoid reporting the income generated by Maplewood Tobacco on his federal income tax returns.

5. On January 20, 2006, a special agent of the FBI and a special agent of the IRS went to Maplewood Tobacco to interview defendant Kamil Al-Esawi regarding the identity of the true, beneficial owner of Maplewood Tobacco.

COUNT 1

(18 U.S.C. § 1001(a)(2): Making a Materially False Statement to Federal Agents)

6. The grand jury realleges and incorporates paragraphs 1-5 above as though fully stated herein.

7. On or about January 20, 2006, in the State and District of Minnesota, the defendant,

KAMIL MADFOUN AL-ESAWI,

knowingly and willfully made a materially false and fraudulent statement in a matter within the jurisdiction of the executive branch of the government of the United States, namely, defendant

Al-Esawi falsely told a special agent of the FBI and a special agent of the IRS that Maplewood Tobacco was beneficially owned and controlled by defendant Musaab Fares Wazwaz, even though he well knew and believed at the time he made that statement that Tawfiq Othman Wazwaz beneficially owned and controlled Maplewood Tobacco.

All in violation of Title 18, United States Code, Section 1001(a)(2).

COUNT 2

(18 U.S.C. § 1001(a)(2): Making a Materially False Statement to Federal Agents)

8. The grand jury realleges and incorporates paragraphs 1-5 above as though fully stated herein.

9. On January 20, 2006, and immediately after Mr. Al-Esawi made the false statement charged in Count 1, the special agent of the FBI contacted defendant Musaab Fares Wazwaz by telephone and interviewed him concerning the beneficial ownership and control of Maplewood Tobacco.

10. On or about January 20, 2006, in the State and District of Minnesota, the defendant,

MUSAAB FARES WAZWAZ,

knowingly and willfully made a materially false and fraudulent statement in a matter within the jurisdiction of the executive branch of the government of the United States, namely, defendant Musaab Fares Wazwaz falsely told a special agent of the FBI that he

(defendant Musaab Fares Wazwaz) beneficially owned and controlled Maplewood Tobacco and that defendant Tawfiq Othman Wazwaz had "nothing to do" with Maplewood Tobacco, even though he well knew and believed at the time he made the statement that defendant Tawfiq Othman Wazwaz beneficially owned and controlled Maplewood Tobacco.

All in violation of Title 18, United States Code, Section 1001(a)(2).

COUNT 3

(18 U.S.C. § 1001(a)(2): Making a Materially False Statement to Federal Agents)

11. The grand jury realleges and incorporates paragraphs 1-5 above as though fully stated herein.

12. After his January 20, 2006 interview by special agents of the IRS and FBI at Maplewood Tobacco, defendant Kamil Al-Esawi retained counsel and thereafter voluntarily agreed to appear at the office of the United States Attorney in the District of Minnesota to be interviewed about the true beneficial ownership and control of Maplewood Tobacco.

13. On or about February 15, 2006, in the State and District of Minnesota, the defendant,

KAMIL MADFOUN AL-ESAWI,

knowingly and willfully made a materially false and fraudulent statement in a matter within the jurisdiction of the executive

branch of the government of the United States, namely, defendant Al-Esawi falsely stated to government agents that an unindicted coconspirator hired him to work at Maplewood Tobacco in approximately March of 2003, even though he well knew and believed at the time he made the statement that defendant Tawfiq Othman Wazwaz and members of his family hired him to work at Maplewood Tobacco, not the unindicted coconspirator.

All in violation of Title 18, United States Code, Section 1001(a)(2).

A TRUE BILL

UNITED STATES ATTORNEY

FOREPERSON

United States District Court

District of Minnesota

UNITED STATES OF AMERICA
v.
MUSAAB FARES WAZWAZ

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)
Case Number: **07-50(14) ADM/SRN**
USM Number: **13543-041**
Social Security Number: 4309
Date of Birth: 1986

Douglas Altman
Defendant's Attorney

THE DEFENDANT:

[] pleaded guilty to count(s): .
[] pleaded nolo contendere to count(s) which was accepted by the court.
[X] was found guilty on count **2** after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC 1001(a)(2)	Making a Materially False Statement	1/20/06	2

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

[] The defendant has been found not guilty on count(s) .
[] Count(s) (is)(are) dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of any material change in the economic circumstances.

March 6, 2008
Date of Imposition of Judgment
s/Ann D. Montgomery

Signature of Judge

ANN D. MONTGOMERY, United States District Judge
Name & Title of Judge

March 11, 2008
Date

DEFENDANT: MUSAAB FARES WAZWAZ
CASE NUMBER: 07-50(14) ADM/SRN

PROBATION

The defendant is hereby sentenced to probation for a term of **2 years.**

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

[] The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

[X] The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)

[X] The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

If this judgment imposes a fine or restitution, it shall be a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court as well as any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1) the defendant shall not leave the judicial district without permission of the court or probation officer;
2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4) the defendant shall support his or her dependants and meet other family responsibilities;
5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: MUSAAB FARES WAZWAZ
CASE NUMBER: 07-50(14) ADM/SRN

ADDITIONAL PROBATION TERMS

a The defendant shall not commit any crimes, federal, state, or local.

b The defendant shall abide all mandatory and standard conditions of probation recommended by the Sentencing Commission.

c The defendant shall refrain from possessing a firearm, destructive device, or other dangerous weapon.

d The defendant shall cooperate in the collection of DNA as directed by the probation officer. 18 U.S.C. §§ 3563(a) and 3583(d).

e The defendant shall participate in a program for substance abuse as approved by the probation officer. That program may include testing and inpatient or outpatient treatment, counseling, or a support group. Further, the defendant shall contribute to the costs of such treatment as determined by the Probation Office Co-Payment Program not to exceed the total cost of treatment.

f The defendant shall perform 30 hours of community service as directed by the probation officer.

g The defendant shall participate in educational programming as approved by the probation officer to obtain a high school diploma or General Equivalency Diploma.

h If not employed at a regular lawful occupation, as deemed appropriate by the probation officer, the defendant may be required to perform up to 20 hours of community service per week until employed. The defendant may also participate in training, counseling, daily job search, or other employment-related activities, as directed by the probation officer.

i The defendant shall provide the probation officer access to any requested financial information, including credit reports, credit card bills, bank statements, and telephone bills.

j The defendant is prohibited from incurring new credit charges or opening additional lines of credit without approval of the probation officer.

DEFENDANT: MUSAAB FARES WAZWAZ
CASE NUMBER: 07-50(14) ADM/SRN

CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Fine	Restitution
Totals:	$100	$500	

[] The determination of restitution is deferred until . An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

[] The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. §3664(I), all nonfederal victims must be paid before the United States is paid.

Name and Address of Payee	**Total Loss	Restitution Ordered	Priority or Percentage
TOTALS:	**$0.00**	**$0.00**	**0.00%**
Payments are to be made to the Clerk, U.S. District Court, for disbursement to the victim.			

[] Restitution amount ordered pursuant to plea agreement $.

[] The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

[X] The court determined that the defendant does not have the ability to pay interest and it is ordered that:

[X] the interest requirement is waived for the [X] fine [] restitution.

[] the interest requirement for the: [] fine [] restitution is modified as follows:

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: MUSAAB FARES WAZWAZ
CASE NUMBER: 07-50(14) ADM/SRN

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

Lump sum payment of **$600** due immediately (i.e. $100 special assessment, $500 fine).

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are to be made to the clerk of court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

[] Joint and Several
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate:

[] The defendant shall pay the cost of prosecution.

[] The defendant shall pay the following court cost(s):

[] The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7)penalties, and (8) costs, including costs of prosecution and court costs.