

**RESOLUTION 2022-83**

**RESOLUTION ACCEPTING PAYMENT OF \$300.00 and \$1500.00 CIVIL PENALTIES FROM KUM & GO #254.**

WHEREAS, on January 29, 2022, an employee/agent of Kum & Go #254, 620 S. Downey Street, West Branch, Iowa, violated Iowa Code § 453A.2(1) by selling or providing tobacco to a minor; and

WHEREAS, on April 23, 2022, an employee/agent of Kum & Go #254, 620 S. Downey Street, West Branch, Iowa, violated Iowa Code Section 453A.2(1) by selling or providing tobacco to a minor; and

WHEREAS, at the time of these violations, Kum & Go #254. was operating under a retail cigarette permit issued by the City of West Branch; and

WHEREAS, pursuant to Iowa Code § 453A.22(2), an establishment which holds a retail cigarette permit is subject to a civil penalty of \$300.00 fine for a first violation and a \$1500.00 fine or 30-day permit suspension for a second violation as a result of its employee violating Iowa Code § 453A.2(1), in three (3) years, after a hearing and proper notice; and

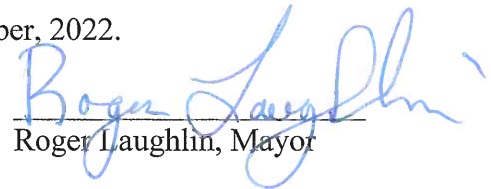
WHEREAS, Kum & Go #254, has waived its right to the hearing required by Iowa Code § 453A.22(2) and accepted responsibility for its employee's violation of Iowa Code § 453A.2(1), by paying a \$300.00 civil penalty for the January 29, 2022 violation, and \$1500.00 civil penalty for the April 23, 2022 violation, to the City Clerk of the City of West Branch; and

WHEREAS, the violation underlying the above civil penalties represent the first and second violation by an employee of Kum & Go #254 within a three-year period.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WEST BRANCH CITY COUNCIL that the City Council should accept the waiver of right to hearing and payment of \$300.00 civil penalty for the January 29, 2022 violation and the \$1500.00 civil penalty for the April 23, 2022 violation, on behalf of Kum & Go #254.

BE IT FURTHER RESOLVED, that the City Clerk will forward a copy of this Resolution to the Iowa Attorney General's Office.

Passed and approved this 6<sup>th</sup> day of September, 2022.

  
Roger Laughlin, Mayor

ATTEST:  
  
Leslie Brick, City Clerk

BEFORE THE WEST BRANCH CITY COUNCIL

In re Cigarette Permit of  
KUM & GO #254

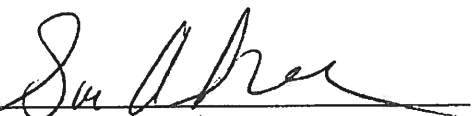
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ACKNOWLEDGEMENT/SETTLEMENT AGREEMENT

1. The undersigned hereby knowingly and voluntarily acknowledges the following:
  - a. The Retailer/Cigarette Permit Holder (collectively the "Permit Holder" has been notified that a violation of Section 453A.2 occurred at the Retailer on January 29, 2022.
  - b. That Permit Holder has the right to a hearing and voluntarily waives the same and submits to the statutory penalties prescribed by Iowa law.
  - c. That employee Alyssa Collins, sold tobacco products to a minor on January 29, 2022, in violation of Section 453A.2 of the Code of Iowa.
  - d. That the violation outlined in subparagraph (c) above will count at the 1<sup>st</sup> violation of Iowa Code Section 453A.2, the previous violations occurring as outlined in subparagraph (b) above.
  - e. To settle the above-referenced matter, enclosed with this executed Acknowledgement/Settlement Agreement is a check in the amount of \$300.00 made payable to the City of West Branch, Iowa.
  - f. That Permit Holder acknowledges that in order to conclude this matter, the City Council must approve this Acknowledgment/Settlement Agreement.

Dated this 31 day of August, 2022.

PERMIT HOLDER:

By:   
Sara Siedsma, Legal Counsel  
Print name and title

**NOTE: This must be executed by the individual of the business entity that has authority to bind the business entity.**

**If you decide to execute and date this Acknowledgement/Settlement Agreement and waive your appearance at a hearing, this document, properly executed, and dated, as well as a check in the amount of \$300.00 made payable to the City of West Branch, Iowa, must be returned to the following:**

**City of West Branch, Iowa  
110 N. Poplar Street  
West Branch, Iowa 52358  
ATTN: City Clerk**

BEFORE THE WEST BRANCH CITY COUNCIL

In re Cigarette Permit of  
KUM & GO #254

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ACKNOWLEDGEMENT/SETTLEMENT AGREEMENT

1. The undersigned hereby knowingly and voluntarily acknowledges the following:
  - a. The Retailer/Cigarette Permit Holder (collectively the "Permit Holder" has been notified that a violation of Section 453A.2 occurred at the Retailer on April 23, 2022.
  - b. That Permit Holder has the right to a hearing and voluntarily waives the same and submits to the statutory penalties prescribed by Iowa law.
  - c. That employee Jeffrey Tunnell, Jr., sold tobacco products to a minor on April 23, 2022, in violation of Section 453A.2 of the Code of Iowa.
  - d. That the violation outlined in subparagraph (c) above will count at the 2<sup>nd</sup> violation of Iowa Code Section 453A.2, the previous violation occurring on January 29, 2022.
  - e. To settle the above-referenced matter, enclosed with this executed Acknowledgement/Settlement Agreement is a check in the amount of \$1,500.00 made payable to the City of West Branch, Iowa.

OR

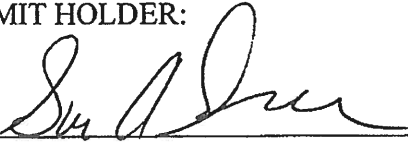
Accept a 30-day suspension of your permit.

**(Please strike through the option you are not choosing)**

- f. That Permit Holder acknowledges that in order to conclude this matter, the City Council must approve this Acknowledgment/Settlement Agreement.

Dated this 31 day of August, 2022.

PERMIT HOLDER:

By: 

Sara Siedsma  
Print name and title

NOTE: This must be executed by the individual of the business entity that has authority to bind the business entity.

If you decide to execute and date this Acknowledgement/Settlement Agreement and waive your appearance at a hearing, this document, property executed, and dated, as well as a check in the amount of \$1,500.00 made payable to the City of West Branch, Iowa, must be returned to the following:

City of West Branch, Iowa  
110 N. Poplar Street  
West Branch, Iowa 52358  
ATTN: City Clerk

OR

In lieu of payment of the \$1,500.00 fine, accept the 30-day suspension of your retail permit. If you choose that action, please present your permit to the City Clerk to start the 30-day suspension.