

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Case Type: Civil

State of Minnesota, by its Attorney General,
Keith Ellison,

Court File No. 62-CV-21-161

Plaintiff,

vs.

CONSENT JUDGMENT

David Nelson, Jr. d/b/a The Hookah Hideout,

Defendant.

WHEREAS, on March 13, 2020, as a result of the ongoing COVID-19 pandemic, Minnesota Governor Tim Walz declared a peacetime emergency, which was most recently extended until at least through February 12, 2021, pursuant to Executive Order 21-04. On November 18, 2020, Governor Walz issued Executive Order 20-99, “implementing a four week dial back on certain activities to slow the spread of COVID-19”;

WHEREAS, in relevant part, Executive Order 20-99 temporarily prohibited tobacco product shops and hookah bars from offering on-premises consumption of tobacco products, food, or beverages to the public. On December 16, 2020, Governor Walz issued Executive Order 20-103, which, beginning at 11:59 p.m. on December 18, 2020, extended the temporary tobacco product shop and hookah bar restrictions of Executive Order 20-99 to January 10, 2021, but modified the restrictions to allow for outdoor service of on-premises consumption of tobacco products pursuant to certain safety precautions;

WHEREAS, Plaintiff, State of Minnesota, by its Attorney General Keith Ellison (“the State” or “Attorney General”), filed a Complaint against David Nelson, Jr. d/b/a The Hookah Hideout (“The Hookah Hideout”) on January 7, 2021, alleging The Hookah Hideout served customers tobacco products and beverages for indoor on-premises consumption in violation of Governor Walz’s Executive Order 20-99 and Executive Order 20-99 as extended and modified by Executive Order 20-103;

WHEREAS, the State and The Hookah Hideout have agreed to resolve the State’s claims raised in the Complaint by entering into this Consent Judgment.

NOW, THEREFORE, in the interest of resolving the State’s Complaint against The Hookah Hideout, the Parties hereby stipulate and consent to entry of this Consent Judgment and Order as set forth below:

REPRESENTATIONS AND WARRANTIES

1. On February 3, 2021 The Hookah Hideout provided the Attorney General with documents indicating, and statements attesting, that The Hookah Hideout’s total profits from November 21, 2020 through January 10, 2021, amounted to \$2,810.07. The State has relied on The Hookah Hideout’s representations in its investigation and resolution of this matter.

INJUNCTIVE RELIEF

2. The Hookah Hideout, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with The Hookah Hideout who receive actual notice of this Order are prevented, restrained, and enjoined from taking any action violating Executive Order 21-01, including, but not limited to, offering indoor on-premises consumption of beverages or tobacco products between the hours of 10:00 p.m. and 4:00 a.m., as long as Executive Order 21-01 remains in effect.

3. The Hookah Hideout, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with The Hookah Hideout who receive actual notice of this Order shall fully comply with any future Executive Orders issued by the Governor, approved by the Executive Council, and filed in the Office of the Secretary of State in accordance with Minnesota Statutes Chapter 12 that apply to tobacco shops and/or hookah lounges while those Executive Orders are effective.

MONETARY PAYMENT

4. No later than ten (10) days after the Court's entry of this Consent Judgment and Order, The Hookah Hideout shall pay to the Attorney General the sum of Four Thousand Dollars (\$4,000) (the "Settlement Sum") pursuant to Minn. Stat. § 8.31 and Executive Order 20-99, by check payable to the State of Minnesota and mailed to the Attorney General's Office, care of Assistant Attorney General Noah Lewellen, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101. The Settlement Sum shall be remitted to the general fund of the State pursuant to Minn. Stat. §§ 8.31 and 16A.151.

STAYED CIVIL PENALTY

5. Upon application to the Court and a showing by the Attorney General that The Hookah Hideout has violated any of the terms of this Consent Judgment and Order, including but not limited to any breach of its representations described in paragraph 1 above, The Hookah Hideout shall pay a stayed civil penalty of \$15,000 to the State. The Court shall decide, after holding an evidentiary hearing, whether the stayed civil penalty shall be imposed. The release in Paragraph 7 does not prevent the Attorney General from moving for, or collecting, the stayed civil penalty described in this Paragraph.

GENERAL TERMS

6. Nothing in this Consent Judgment shall relieve The Hookah Hideout of its obligation to comply with all applicable Minnesota and federal laws and regulations.

7. In consideration of the stipulated relief and contingent upon the Court's entry of this Consent Judgment and Order, the Attorney General and The Hookah Hideout, by execution of this Consent Judgment, hereby fully and completely release the other party of any and all claims raised or which could have been raised by the Parties connected with or arising out of the allegations contained in the State's Complaint, up to and including the date of this Consent Judgment and Order, including claims that relate to the conduct of the Attorney General or The Hookah Hideout. The Attorney General through this Consent Judgment does not settle, release, or resolve any claim against The Hookah Hideout or any other person or entity involving any private causes of action, claims, and remedies, including, but not limited to, private causes of action, claims, or remedies provided for under Minn. Stat. § 8.31. This release does not apply in any way to claims of any other Minnesota state agency, department, official, or division, including

but not limited to the Minnesota Department of Health or the Minnesota Department of Public Safety.

8. This Consent Judgment may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement. This Consent Judgment may be executed by facsimile or electronic copy in any image format.

9. The person signing this Consent Judgment for The Hookah Hideout warrants that they own and operate the assumed-name business The Hookah Hideout, and they execute this Consent Judgment in an official capacity that binds the company and its successors.

10. This Consent Judgment constitutes the full and complete terms of the agreement entered into by The Hookah Hideout and the Attorney General.

11. The Parties agree that this Consent Judgment, including any issues related to interpretation or enforcement, shall be governed by the laws of the State of Minnesota.

12. The Ramsey County District Court shall retain jurisdiction of this matter for purposes of enforcing this Consent Judgment and Order. The Attorney General may make such application as appropriate to enforce or interpret the provisions of this Consent Judgment and Order or, in the alternative, maintain any action within his legal authority for such other and further relief as he determines is proper and necessary for the enforcement of this Order. The Parties agree that, in any action brought by the Attorney General to enforce the terms of this Consent Judgment and Order, the Court shall have the authority to award equitable relief, including specific performance.

13. The failure of a party to exercise any rights under this Consent Judgment and Order shall not be deemed to be a waiver of any right or any future rights.

14. Nothing in this Consent Judgment and Order shall be construed to limit the power or authority of the State of Minnesota or the Attorney General except as expressly set forth herein.

15. Each party shall perform such further acts and execute and deliver such further documents as may reasonably be necessary to carry out this Consent Judgment and Order.

16. The Hookah Hideout shall notify its officers, agents, employees, attorneys, and any other person in active concert with The Hookah Hideout's restaurant activities of the obligations, duties, and responsibilities imposed on them by this Consent Judgment and Order.

17. The Hookah Hideout shall not state or imply, directly or indirectly, that the State of Minnesota or the Attorney General have approved of, condone, or agree with any conduct or actions by The Hookah Hideout.

18. The Hookah Hideout neither admits nor denies the allegations in the Complaint.

19. Service of notices required by this Consent Judgment and Order shall be served on the following persons, or any person subsequently designated by the Parties to receive such notices:

Noah Lewellen, Assistant Attorney General
Office of the Minnesota Attorney General
445 Minnesota Street, Suite 1200
St. Paul, Minnesota 55101

Brian Lewis, Esq.
Francis White Law, PLLC
8362 Tamarack Village, Suite 119-220
Woodbury, MN 55125

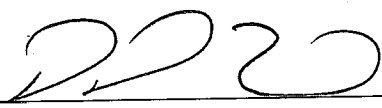
20. The Parties consent to entry of the foregoing judgment, which shall constitute a final judgment. The judgment shall take effect immediately upon entry by the clerk of this Court.

KEITH ELLISON
Attorney General
State of Minnesota

Date: March 5, 2021

By: s/ Noah Lewellen
NOAH LEWELLEN
Assistant Attorney General
Atty. Reg. No. 0397556

Date: MARCH 4, 2021

By: 
DAVID NELSON, JR.
Owner
The Hookah Hideout

ORDER

Based upon the foregoing Consent Judgment, it is SO ORDERED.

Date: _____

JUDGE OF DISTRICT COURT

THERE BEING NO CAUSE FOR FURTHER DELAY, LET JUDGMENT BE ENTERED IMMEDIATELY.