

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF MILLE LACS

SEVENTH JUDICIAL DISTRICT

Case Type: Civil

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

Court File No. 48-CV-20-2556

Plaintiff,

vs.

CONSENT JUDGMENT

Neighbors Two, Inc. d/b/a Neighbors
on the Rum aka Neighbors Eatery &
Saloon on the Rum,

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 January 13, 2021, pursuant to Executive Order 20-100. From March 2020 through November 2020, the governor attempted to slowly and safely reopen the Minnesota economy, placing restrictions on businesses to slow the community spread of COVID-19. By November 18, 2020, however, Minnesota reported over 240,000 confirmed cases of COVID-19 in the state, with 100,000 of those cases being added in only 41 days. Thus, 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 prohibits restaurants and bars from offering inside on-premises consumption of food or beverages and from allowing ingress, egress, use, and occupancy by members of the public except to allow up to five members of the public on

the premises for the purpose of picking up food or beverages for off-site consumption. On December 16, 2020, Governor Walz issued Executive Order 20-103, which, beginning at 11:59 p.m. on December 18, 2020, extended the restaurant restrictions of Executive Order 20-99 to January 10, 2021, but modifies the restrictions to allow for outdoor service of on-premises consumption;

WHEREAS, Plaintiff, State of Minnesota, by its Attorney General Keith Ellison ("State" or "Attorney General's Office") filed a Complaint against Neighbors Two, Inc. d/b/a Neighbors on the Rum aka Neighbors Eatery & Saloon on the Rum (collectively, "Neighbors") on December 17, 2020, alleging Neighbors served customers food and beverages inside its bar/restaurant in violation of Governor Walz's Emergency Executive Order 20-99;

WHEREAS, the State and Neighbors 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 Neighbors, the Parties hereby stipulate and consent to entry of this Consent Judgment and Order as set forth below:

INJUNCTIVE RELIEF

1. Neighbors, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with Neighbors who receive actual notice of this Order are prevented, restrained, and enjoined from taking any action violating Executive Orders 20-99 and 20-103, including, but not limited to, offering indoor on-premises consumption of food or beverages or allowing more than five members of the public inside its restaurant at one time from December 18, 2020, at 11:59 p.m. through January 10, 2020 at 11:59 p.m.

2. Neighbors, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with Neighbors who receive actual notice of this Order shall fully comply with Executive Orders 20-99 and 20-103 and 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 restaurants and/or bars while those Executive Orders are effective.

STAYED CIVIL PENALTY

3. Upon application to the Court and a showing by the Attorney General that Neighbors has violated any of the terms of this Consent Judgment and Order Neighbors shall pay a stayed civil penalty of \$25,000 to the State. The Court shall decide whether the stayed civil penalty shall be imposed and may hold an evidentiary hearing if it deems such hearing necessary. The release in Paragraph 9 does not prevent the Attorney General from moving for, or collecting, the stayed civil penalty described in this Paragraph.

GENERAL TERMS

8. Nothing in this Consent Judgment shall relieve Neighbors of its obligation to comply with all applicable Minnesota and federal laws, regulations, or Emergency Executive Orders that have the full force and effect of law in accordance with Minnesota Statutes Chapter 12.

9. In consideration of the stipulated relief and contingent upon the Court's entry of this Consent Judgment and Order, the Attorney General, by execution of this Consent Judgment, hereby fully and completely releases Neighbors of any and all claims of the Attorney General under Executive Orders 20-99 and 20-103, connected with or arising out of the allegations contained in the State's Complaint. The Attorney General through this Consent Judgment does

not settle, release, or resolve any claim against Neighbors 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.

10. 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.

11. The person signing this Consent Judgment for Neighbors warrants that they are an owner of Neighbors Two, Inc., doing business as Neighbors on the Rum aka Neighbors Eatery & Saloon on the Rum, and they execute this Consent Judgment in an official capacity that binds the company and its successors.

12. This Consent Judgment constitutes the full and complete terms of the agreement entered into by Neighbors and the Attorney General.

13. 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.

14. The Mille Lacs 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.

15. 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.

16. 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.

17. 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.

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

19. Neighbors 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 Neighbors.

20. 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

Joseph and Tama Holtz
509 5th Avenue North
Princeton, Minnesota 55371

21. 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: 01/22/2021

By: Noah Lewellen
Noah Lewellen
Assistant Attorney General

Date: 1-8-2021

By: Tama Holtz
Tama Holtz, Owner
Neighbors Two, Inc. d/b/a Neighbors on the Rum
aka Neighbors Eatery & Saloon on the Rum

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.