

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

Case Type: Civil Other  
(Consumer Protection)

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

Court File No. 27-CV-21-10810  
Hon. Jamie L. Anderson

Plaintiff,

**FIRST AMENDED COMPLAINT**

vs.

Sparboe Farms, Inc.,

Defendant.

The State of Minnesota, by its Attorney General, Keith Ellison, for its First Amended Complaint against Defendant Sparboe Farms, Inc. (hereafter, “Sparboe”), alleges as follows:

**INTRODUCTION**

1. In response to the ongoing COVID-19 pandemic, Governor Tim Walz declared a peacetime emergency on March 13, 2020. One week later, on March 20, 2020, Governor Walz issued Executive Order 20-10, which prohibited unconscionably excessive increases in the prices of essential items during the COVID-19 peacetime emergency.

2. Executive Order 20-10 was issued after the Attorney General’s Office began to receive reports of “excessive and opportunistic pricing of basic necessities needed for public health and security” as the COVID-19 epidemic spread throughout Minnesota in March 2020. The Order proscribed three categories of price increases during Minnesota’s COVID-19 peacetime emergency, including charging an amount that is more than twenty percent (20%) greater than the amount charged for the product in the 30-day period prior to March 13, 2020.

3. Restrictions on price-gouging were necessary to protect public health and safety during the ongoing COVID-19 pandemic. As noted in the Order, forcing Minnesotans to pay unconscionable prices for essential goods and services “raise[d] risks of immediate and irreparable injury, loss, or damage to consumers, and immediate risk to the public interest of ensuring that Minnesotans can prepare for and respond to this emergency situation.”

4. Despite the requirements of Executive Order 20-10, which had the force and effect of law during the peacetime emergency, Sparboe, a Minnesota egg producer, sold its eggs at vastly marked-up prices to Minnesota customers in violation of the Order. Sparboe did not increase its egg prices to recoup increased costs; rather, Sparboe sought to take advantage of the increased demand for eggs due to the pandemic and profit from the crisis while it could, causing economic harm to Minnesota consumers.

5. Because Sparboe knowingly dismissed these risks and disregarded restrictions established to protect the public’s health and safety, Attorney General Keith Ellison brings this action to enforce Executive Order 20-10, and to recover applicable remedies for the repeated violations committed by Sparboe.

#### **PARTIES**

6. Keith Ellison, the Attorney General of the State of Minnesota, is authorized under Minnesota Statutes chapter 8 and has common law authority, including *parens patriae* authority, to bring this action to enforce Executive Order 20-10, to vindicate the State’s sovereign and quasi-sovereign interests, and to remediate all harm arising out of—and obtain full relief for—violations of Executive Order 20-10.

7. Sparboe Farms, Inc., is a Minnesota corporation with a registered office of 23577 Minnesota Highway 22 #961, Litchfield, Minnesota 55355, and a place of business located at 1907 Wayzata Boulevard East #300, Wayzata, Minnesota 55391.

## **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over this action pursuant to Minnesota Statutes sections 8.01, 8.31, Executive Order 20-10, and under common law.

9. This Court has personal jurisdiction over Defendant because it is a Minnesota corporation with a principal place of business in Minnesota that has violated Minnesota Executive Order 20-10, thereby causing or threatening to cause injury to the public health and safety of Minnesota residents.

10. Venue in Hennepin County is proper under Minnesota Statutes section 542.09 because the Defendant is located in Hennepin County and the cause of action arose, in part, in Hennepin County.

## **FACTUAL BACKGROUND**

### **I. THE COVID-19 PANDEMIC IS A PUBLIC HEALTH EMERGENCY WHICH REQUIRED MINNESOTA TO TAKE ACTION TO PROTECT PUBLIC HEALTH AND SAFETY.**

11. Minnesota's fight against the COVID-19 virus is one of the greatest public health emergencies this state has handled in its 162-year history. From March 2020 through the end of July 2021, Minnesota was in a declared state of public emergency for more than 15 months as the virus spread throughout the state, infecting more than 650,000 people and killing 7,817 people as of September 1, 2021.

12. The United States was declared to be in a state of public health emergency due to COVID-19 on January 31, 2020, when the Secretary of the U.S. Department of Health and Human Services declared that a public health emergency had existed nationwide since January 27, 2020.

13. The President subsequently declared a national emergency on March 13, 2020, and Governor Tim Walz declared a peacetime emergency in Minnesota that same day. At its

emergency meeting on March 16, 2020, the Executive Council of the State of Minnesota approved the peacetime emergency to protect Minnesotans from COVID-19.

14. In response to reports of “excessive and opportunistic pricing of basic necessities needed for public health and security” that “raise risks of immediate and irreparable injury, loss, or damage to consumers,” Governor Walz took action soon after his initial peacetime emergency declaration to explicitly proscribe price-gouging conduct in Minnesota by issuing Executive Order 20-10.<sup>1</sup> Starting at 5:00 p.m. on Saturday, March 21, 2020, Executive Order 20-10 prohibited “all persons” from “selling, offering to sell, or causing to sell in [Minnesota] any essential consumer goods or services for an amount that represents an unconscionably excessive price” during the peacetime emergency. The Order defined the term “unconscionably excessive” to include, among other things, any price “more than twenty percent (20%) greater than the price of the same good or service that was sold or offered for sale in the usual course of business during the thirty (30) days immediately prior to the peacetime emergency.”

15. The Executive Council of the State of Minnesota approved Executive Order 20-10 and filed it with the Minnesota Secretary of State on March 20, 2020, giving Executive Order 20-10 the “full force and effect of law” pursuant to Minnesota Statutes section 12.32.

16. The peacetime emergency under which Executive Order 20-10 was effective was extended several times by Governor Walz and the Executive Council, most recently through July 14, 2021, pursuant to Emergency Executive Order 21-24.<sup>2</sup> However, before the expiration of this most recent extension order, the legislature officially terminated the peacetime emergency at 11:59 p.m. on July 1, 2021.<sup>3</sup>

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<sup>1</sup> Emergency Executive Order 20-10, *available at* <https://perma.cc/7TY7-LEZD>.

<sup>2</sup> Emergency Executive Order 21-24, *available at* <https://perma.cc/RR54-T8QR>.

<sup>3</sup> 2021 Minn. Sess. Law 1st Spec. Session, ch. 12, sec. 23.

## **II. SPARBOE UNCONSCIONABLY INCREASED EGG PRICES DURING THE COVID-19 EMERGENCY.**

### **A. Sparboe Is a Large Minnesota-Based Egg Producer.**

17. Minnesota is known for its egg production that feeds families throughout the United States, consistently ranking in the top 10 states for egg production. On average, there are more than 10 million hens in Minnesota that produce nearly 3.2 billion eggs every year.<sup>4</sup>

18. Sparboe describes itself as “one of the nation’s leading shell egg producers”<sup>5</sup> and is reported to be among the 20 largest egg producers in the United States, with a flock of more than 5.5 million egg-laying hens. Sparboe is headquartered in Minnesota and operates a large factory egg complex in Litchfield.

19. Sparboe sells eggs to several wholesale customers in Minnesota, including grocery wholesalers and foodservice companies. Sparboe’s eggs are then sold at many of Minnesota’s grocery stores, including both larger chain stores and smaller grocers. Minnesotans would recognize Sparboe’s many retail shell egg brands, which include Country Lane, Essential Everyday, and Food Club.

### **B. Because of the Pandemic, Egg Demand Soars in March 2020.**

20. With the declaration of a peacetime emergency and the accelerating spread of COVID-19, consumer demand for grocery items skyrocketed in March 2020. Minnesota grocery stores reported a 200% increase in overall sales that month.<sup>6</sup> Eggs were a crucial component of

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<sup>4</sup> Minnesota Chicken and Egg, *Nutrition Fun Facts*, available at <https://perma.cc/F4QU-ESG9>.

<sup>5</sup> Sparboe Farms, *U.S. Egg Company Sparboe Farms Celebrates 60th Anniversary*, available at <https://perma.cc/T5K2-LCJT>.

<sup>6</sup> John Ewoldt, *Grocery shopping levels still increasing but not at frenzied levels*, StarTribune (April 7, 2020), <https://perma.cc/3XK5-7CH3>.

this surge in food sales: Nielsen data indicated that that during the week of March 16, 2020, egg sales increased by 86% over the same one-week period in 2019.<sup>7</sup>

21. With unprecedented egg demand came unprecedented egg prices. Across the country, wholesale egg prices reached “record levels” that more than tripled prices from early 2020.<sup>8</sup>

22. The egg industry generally sought to deflect blame for these price increases onto price predictions published by a New Jersey-based company named Urner Barry. Urner Barry publishes so-called retail shell egg price “quotations” that many egg producers, including Sparboe, use as the basis for their wholesale pricing.

23. Urner Barry’s “quotes” rapidly shot up in March 2020, as prices for every shell egg category published by Urner Barry increased by more than 150% over the February 12, 2020, prices. Urner Barry explicitly acknowledged that “[e]gg prices are up because demand is up sharply.”<sup>9</sup> The Urner Barry “quote” prices peaked on March 26 and started to decrease as of April 2, eventually returning to pre-emergency levels by May 2020.

**C. Ignoring Warnings, Sparboe Knowingly Profited from Price Gouging.**

24. As the pandemic began in early 2020, Sparboe was on the tail end of a rough sales period that had seen Sparboe endure a large net operating loss, which the company blamed on a lackluster egg market. That was about to change as COVID-19 spread throughout Minnesota and drove up consumer purchasing of eggs.

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<sup>7</sup> Kate Gibson, *Egg prices triple in 3 weeks amid coronavirus panic shopping*, CBS News (Mar. 27, 2020), available at <https://perma.cc/5RAX-GB5V>.

<sup>8</sup> Andrea Shalal, *U.S. egg prices hit record levels as pandemic buying boosts demand*, Reuters (Mar. 26, 2020), available at <https://perma.cc/6B2F-56LM>.

<sup>9</sup> *Id.*

25. On March 10, 2020, Sparboe president Beth Sparboe Schnell forwarded an Urner Barry “Afternoon Tone” email to Sparboe’s sales manager. The Urner Barry message conveyed that “demand” and reduced outputs had “led to strong buying interest” and 52-week-high price predictions. Schnell wrote: “Here we go! Finally!! Hitting some 52 week highs. You’re going to experience the first strong market since you started . . . . The question is – how high and how long?” The sales manager responded: “I will take the ride!!!! We have been waiting a long time!”

26. On March 11, 2020, Schnell wrote an email to senior staff noting that flock reductions, Easter retail demand, and COVID-19 were “impacting the [United States] supply and demand situation,” creating a “dynamic” that was “really helpful for the markets.” She said that she “felt there is something about to change—big—for the industry,” and noted that she had previously been reluctant to reduce Sparboe’s number of egg-laying birds “in hopes of capturing profits when the market turns.”

27. On March 16, 2020, Schnell informed her senior staff that the Urner Barry (“UB”) reports showed a strong egg market, and she theorized that the worsening financial crisis would continue to foster increased egg pricing that would allow egg producers to turn a profit. She said that Sparboe should maximize the amount of eggs it was producing and “boldly strategize” how to sell surplus eggs for “maximum profit”<sup>10</sup>:

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<sup>10</sup> Emphasis added.

The UB report from today is very strong. Unprecedented demand and inventories have been depleted. The financial markets are crashing and this could change consumer eating habits—a great thing for commodities like eggs. The last time we had a big financial crisis—in 2008—the UB skyrocketed. Eggs are counter cyclical, and this financial crisis will be worse than 2008, so the impact on egg prices could be the same or greater. Egg farmers will finally see some black ink for a few months.

So right now, we would want as many birds laying eggs as possible. Should we revisit the flock plans? Lets maximize our output—and make sure we are getting every egg in a carton or in a flat. Let's set our detectors at a reasonable limit on Chex for retail customers so we don't waste good eggs. In other words, every % we have in the BB or in the check pack is a huge loss in a \$2.00 market.

This article talks about rationalization—so we know our competitors are not filling orders. We should boldly strategize how to sell our surplus eggs in a way that delivers maximum profits while continuing to service our long term partners.

These markets cause us to think differently.

28. On March 18, 2020, Schnell sent an email to other Sparboe family members titled “Is the sky falling???” Ms. Schnell boasted that the Urner Barry price had “jumped” by 21 cents that day and predicted that “[w]e could see \$3.00 eggs.” To put this in context, eggs were selling for around \$1 per large-sized dozen in early March 2020—so Schnell was excitedly predicting that the price of eggs was about to triple.

29. Schnell's brother, Garth Sparboe, responded that he “suspect[ed] price gouging and sales of loads of eggs priced at very high prices will happen.” He was concerned that Sparboe “hit[ting] a grand slam price on a load of eggs to the wrong wholesale customer could cause problems,” and surmised that attorneys general would be carefully analyzing commodities prices. He recommended that Sparboe exercise “moderation in this area” and believed that Sparboe “will not do what is being done in other products around the country.”

30. On March 20, 2020, two days after Schnell's email to her family, Governor Walz issued Executive Order 20-10, which took effect at 5:00 P.M. on March 21, 2020. Sparboe began gouging its egg prices shortly thereafter.



**D. Sparboe Made Millions of Dollars in Extra Revenue by Price Gouging.**

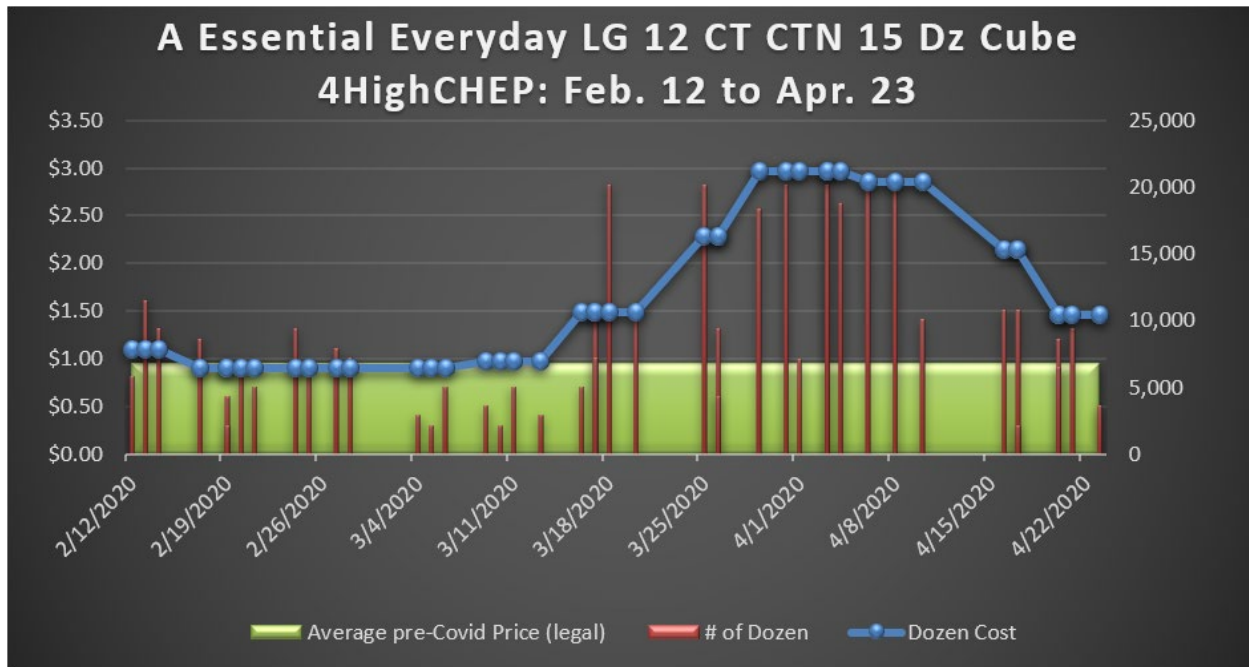
31. Throughout February and early March of 2020, as the pandemic began to take hold in Minnesota, Sparboe sold its eggs for around \$1 per dozen or less to its Minnesota customers, with prices varying slightly depending on the buyer and the size and quality of the egg. Below is a representative sample of the average prices at which Sparboe sold large white eggs to Minnesota customers between February 13 and March 12, 2020, the 30-day period that set the ceiling price for the product under Executive Order 20-10:

<b>Product</b>	<b>Average Price Per Dozen Between 2/13/20 and 3/12/20</b>
AA USDA LG Loose 15 Dz Cube	\$1.00
A Country Lane LG 12 CT CTN 15 Dz Cube 4 High CHEP	\$0.84
A Country Lane EXLG 12 CT CTN 15 Dz Cube 4 High	\$0.93
AA Fair Meadow LG Loose 15 Dz Cube	\$0.88
A Country Lane LG 12 CT CTN 15 Dz Cube 4 High Freight	\$0.90
A Our Family LG 12 CT CTN 15 Dz Cube	\$0.93
A Country Lane LG 12 CT CTN 15 Dz Cube 4High CHEP	\$0.92
AA LG Loose 15 Dz Cube	\$0.93
AA Glenview USDA LG Loose 15 Dz Cube LA KS Lic CHEP Pallet	\$1.00

32. Any price increase by Sparboe of more than 20% over these and the other average prices charged by Sparboe during this time period would violate the Order.

33. Sparboe began gouging the prices of its eggs right around the time that Governor Walz declared a peacetime emergency on March 13, 2020. Throughout March and April of 2020, Sparboe doubled and then tripled the price of eggs for Minnesota customers.

34. For example, here are the prices from February 12 through late April 2020 for just one type of egg product (a 12-pack carton of large white eggs) sold to one Minnesota buyer:



35. As shown above, Sparboe’s prices for these eggs rapidly doubled and then tripled, starting at \$0.90 per dozen in early March 2020 and rising to \$2.96 per dozen by early April 2020. And as Sparboe’s prices increased, its sales volume increased as well due to heightened demand (shown by the red bars in the graph above). In the time period shown above, Sparboe shipped more than **240,000 cartons of eggs** and made **\$622,876** from these sales of just one egg product to one of its Minnesota customers.

36. Sparboe similarly tripled the prices it charged to its other Minnesota customers as well, across all sizes and varieties of its non-specialty eggs. Below is a comparison of Sparboe’s average pre-pandemic prices with examples of the gouged prices Sparboe charged the same buyers for the same products while Executive Order 20-10 was in effect:

Product	Pre-Pandemic Price Per Dozen	Gouged Price Per Dozen	Markup
AA USDA LG Loose 15 Dz Cube	\$1.00	\$2.95	195.79%
A Country Lane LG 12 CT CTN 15 Dz Cube 4 High CHEP	\$0.84	\$2.78	231.25%
A Country Lane EXLG 12 CT CTN 15 Dz Cube 4 High	\$0.93	\$2.99	221.51%
AA Fair Meadow LG Loose 15 Dz Cube	\$0.88	\$2.83	220.46%
A Country Lane LG 12 CT CTN 15 Dz Cube 4 High Freight	\$0.90	\$2.84	215.83%
A Our Family LG 12 CT CTN 15 Dz Cube	\$0.93	\$2.95	218.08%
A Country Lane LG 12 CT CTN 15 Dz Cube 4High CHEP	\$0.92	\$2.96	222.21%
AA LG Loose 15 Dz Cube	\$0.93	\$2.50	170.27%
AA Glenview USDA LG Loose 15 Dz Cube LA KS Lic CHEP Pallet	\$1.00	\$3.03	201.89%

37. Sparboe’s tripling of prices was well in excess of the 20% price increase ceiling mandated by the Order; indeed, these price increases of more than 200% were **over 10 times larger** than the allowable price increase under the Order. Moreover, this is just a sampling of Sparboe’s increased prices, as Sparboe sold multiple sizes and varieties of non-specialty eggs to Minnesota customers at uniformly increased prices.

38. Sparboe’s price increases resulted in a handsome haul of additional revenue for the company. In total, Sparboe made at least **\$3,537,109.48** from Minnesota sales that violated the terms of Executive Order 20-10 because Sparboe charged its Minnesota customers an unconscionably expensive price. If Sparboe had instead charged its Minnesota customers its average pre-pandemic price, it would have only made about \$1.4 million—**meaning that Sparboe’s unconscionably high prices netted it approximately \$2.1 million in additional revenue from Minnesota sales.**

39. The harm caused by Sparboe's high prices did not end with Sparboe's sale to its direct customers in Minnesota, as this is just the beginning of the supply chain. Sparboe's price increases were subsequently passed on to Minnesota consumers by Minnesota wholesale distributors and Minnesota grocery stores that needed to recoup the increased costs caused by Sparboe's price gouging.

**E. Sparboe Ignored Customers' Pleas to Stop Price Gouging.**

40. Less than 24 hours after Executive Order 20-10 took effect on March 21, 2020, Sparboe received an email from a Minnesota grocery chain raising "concern[s]" about "hav[ing] seen 52% plus cost increases and now are up to 134% from three weeks ago." The grocery chain asked Sparboe to "consider a cost decrease this coming week or at minimum to maintain the current costs," as the chain's stores were "getting an abundance of complaints over the drastic price increases." The grocery chain was "trying to minimize retail shock" by foregoing their usual gross profit percentage and were instead marking up their eggs by only \$0.30 per dozen. Despite these requests, Sparboe did not decrease or maintain its prices in response to this email.

41. On that same day, one of Sparboe's largest wholesale customers in Minnesota sent an email to its egg suppliers, including Sparboe, warning that they were receiving complaints about gouged prices and that grocery retailers were reducing or eliminating markups in order to keep their egg prices as low as possible for consumers. The wholesaler asked Sparboe to "**PLEASE** consider passing to us a **cost decrease next week**, regardless of what the 'market' would indicate," or at a "bare minimum" refrain from further cost increases because "enough is enough." The wholesaler pleaded that "[a] price decline will go a long way to curbing the anxiousness and panic consumers are experiencing right now." Despite these requests, Sparboe did not decrease or even maintain its prices in response to this email, but instead further increased its prices.

42. On March 30, 2020, another Sparboe customer in Minnesota asked the company for “price relief” on a large order because the grocery store end seller had “balk[ed]” at the price. Sparboe had charged the customer \$3.05 per dozen for an order of 500 cases—equaling 7,500 dozens or 90,000 eggs—at a total cost of more than \$22,000. This was more than double the price (\$1.43 per dozen) Sparboe had charged the same customer less than two weeks prior for the same size and grade of eggs.

43. Internally, Sparboe personnel advised Schnell that the company should not offer price relief, in part because Sparboe could “make full price on these cases elsewhere” instead. In another email, Sparboe personnel expressed surprise at the high price (“That’s the rate this week for a case???”), and joked that it was “[f]unny how these big companies have no mercy when the egg industry is selling dozens for pennies on the dollar and when the rolls [sic] switch they come to us for price relief...HA!” Sparboe did not decrease or even maintain its prices in response to this email, and the customer ultimately canceled the order because the price was too high.

44. Sparboe was fully aware that, despite its increasing prices, larger grocery chains were imposing price controls to shield consumers from increased wholesale costs. One Minnesota grocery chain only marked their eggs up by \$0.30 per dozen, and another Minnesota chain held prices at \$1.49 per dozen for the first carton purchased.

45. In response to inquiries in late March 2020 from other customers about its price increases, Sparboe repeatedly blamed the rising Urner Barry quotes for its increased prices.

**F. Sparboe’s Increased Prices Are Not Excused by Its Reliance on Urner Barry’s “Price Quotation” Service.**

46. When directly asked by the Attorney General’s Office if Sparboe’s increased prices were due to additional costs outside of its control, the company did not claim to have additional

costs and instead blamed its increased prices on its “long-term supply contracts that set price [sic] based on the Urner Barry egg price quote.”

47. Urner Barry claims to provide “timely, accurate, and unbiased price assessments and market information” to clients who pay for its service—including egg producers like Sparboe.<sup>11</sup> Urner Barry says that it collects a variety of information regarding “bona fide trades,” offers and bids, and other market information by communicating directly with “stakeholders throughout the value chain” in the egg industry, all in order to “keep current on present price levels and market conditions.”<sup>12</sup>

48. As described above, Urner Barry then publishes a daily retail shell egg price “quotation” that it claims reflects the information provided to it.<sup>13</sup> Urner Barry acknowledges that, “under normal conditions,” wholesale transactions “occur[] back of our published quotations”—meaning that prices for eggs at wholesale are typically the Urner Barry “quote” price minus a negotiated discount.<sup>14</sup>

49. Sparboe subscribes to the Urner Barry service and almost exclusively ties the sale prices of its eggs in Minnesota to the published “quotations.” However, nothing in the written agreements between Sparboe and its customers appears to have precluded Sparboe from capping its prices in accordance with Executive Order 20-10 when otherwise following the Urner Barry “quotations” would result in violative prices. In fact, one supply agreement between Sparboe and its largest Minnesota customer requires Sparboe to “comply at all times with all applicable federal,

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<sup>11</sup> Urner Barry, *Price Reporting Methodology: Egg Shell Market*, available at <https://perma.cc/F43X-QLZR> (Revised Jan. 10, 2020).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

state, and local laws, rules, and regulations regarding its performance under this Supply Agreement and the manufacturing, distribution, and sale of [Sparboe's egg products].”

50. Because Sparboe's pre-existing market-based contracts tied its Minnesota egg prices to the rapidly increasing Urner Barry Egg Index prices, Sparboe offered to sell and sold eggs to its Minnesota wholesale customers on or after March 21, 2020, for prices that exceeded the company's pre-COVID egg pricing by more than 200%. This caused increased egg prices further down the supply chain, including greatly increased retail prices for Minnesota consumers that purchased Sparboe eggs at their local stores, all in violation of Executive Order 20-10.

**COUNT I**  
**VIOLATION OF EMERGENCY EXECUTIVE ORDER 20-10**

1. Plaintiff re-alleges all prior paragraphs of this First Amended Complaint.
2. Paragraph 1 of Executive Order 20-10 provides, in relevant part, that “all persons are prohibited from selling, offering to sell, or causing to sell in this state any essential consumer goods or services for an amount that represents an unconscionably excessive price.”
3. Paragraph 2.a of Executive Order 20-10 defines “person” as having the same meaning as Minnesota Statutes section 325F.68, subdivision 3. In turn, section 325F.68, subdivision 3, defines “person” to include a “corporation (domestic and foreign), company . . . business entity . . . and any agent, employee, salesperson, partner, officer, director, member, stockholder, [or] associate . . . thereof.” Defendant is a “person” as defined by Executive Order 20-10 because it is a domestic, Minnesota corporation.
4. Paragraph 2.b of Executive Order 20-10 defines “essential consumer goods or services” as “goods or services vital and necessary for the health, safety, and welfare of the public, including . . . food.” Defendant sells, offers to sell, and/or causes to sell in Minnesota “essential

consumer goods or services” within the scope of Executive Order 20-10 because it sells food products that are vital and necessary for the health, safety, and welfare of the public.

5. Paragraph 2.c of Executive Order 20-10 defines “unconscionably excessive price,” in relevant part, to include:

- i. The amount charged represents a gross disparity between the price of the good or service and the price of the same good or service that was sold or offered for sale in the usual course of business during the thirty (30) days immediately prior to the peacetime emergency declared by Executive Order 20-01 on March 13, 2020, unless the person demonstrates that the disparity is substantially attributable to significant additional costs outside the control of the person; or
- ii. The amount charged for the good or service is more than twenty percent (20%) greater than the price of the same good or service that was sold or offered for sale in the usual course of business during the thirty (30) days immediately prior to the peacetime emergency declared by Executive Order 20-01 on March 13, 2020, unless the person demonstrates that the disparity is substantially attributable to significant additional costs outside the control of the person; . . .

6. On and after March 21, 2020, at 5:00 P.M., Defendant repeatedly sold, offered to sell, and/or caused the sale of its egg products in Minnesota at unconscionably excessive prices that were in gross disparity with the prices it charged for the same egg products that it sold, offered to sell, and/or caused to sell in Minnesota in the usual course of its business during the 30-day period immediately prior to March 13, 2020.

7. On and after March 21, 2020, at 5:00 P.M., Defendant repeatedly sold, offered to sell, and/or caused the sale of its egg products in Minnesota at unconscionably excessive prices that were more than 20% greater than the prices it charged for the same egg products that it sold, offered to sell, and/or caused to sell in Minnesota in the usual course of its business during the 30-day period immediately prior to March 13, 2020.



8. Defendant has not, and cannot, demonstrate that the disparities between its egg product prices in the 30-day period immediately prior to March 13, 2020, and its egg product prices after March 21, 2020, are substantially attributable to significant additional costs outside of its control.

9. Defendant's conduct, practices, and actions described in this First Amended Complaint constitute multiple, separate violations of Executive Order 20-10.

### **PRAYER FOR RELIEF**

WHEREFORE, the State of Minnesota, by its Attorney General, Keith Ellison, respectfully asks this Court to award judgment against Defendant as follows:

1. Declaring that Defendant's actions, as set forth above, constitute multiple, separate violations of Executive Order 20-10;

2. Awarding judgment against Defendant for restitution and/or disgorgement to the State under the *parens patriae* doctrine, the general equitable powers of this Court, Minnesota Statutes section 8.31, and any other authority, for all violations described in this First Amended Complaint;

3. Awarding judgment against Defendant for civil penalties of up to \$25,000 pursuant to Minnesota Statutes sections 8.31, subdivision 3, and 645.24, for each separate violation of Executive Order 20-10;

4. Awarding the State of Minnesota its costs, including litigation costs, costs of investigation, and attorneys' fees, as authorized by Minnesota Statutes section 8.31, subdivision 3a; and

5. Granting such further relief as provided by law or equity or as the Court deems appropriate and just.

Dated: September 21, 2021

KEITH ELLISON  
Attorney General  
State of Minnesota

/s/ Eric J. Maloney

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*Attorneys for Plaintiff, State of Minnesota*

#### **MINN. STAT. § 549.211 ACKNOWLEDGMENT**

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211.

/s/ Eric J. Maloney

ERIC MALONEY