

STATE OF MINNESOTA
COUNTY OF SCOTT

DISTRICT COURT
FIRST JUDICIAL DISTRICT

Case Type: Civil
(Consumer Protection)

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

70-CV-20-17737

Plaintiff,

CONSENT JUDGMENT

vs.

St. Patrick's Tavern & Restaurant, Inc.,

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 temporarily prohibited 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 temporary restaurant restrictions of Executive Order 20-99 to January 10, 2021, but modified the restrictions to allow for outdoor service of on-premises consumption;

WHEREAS, Plaintiff, State of Minnesota, by its Attorney General Keith Ellison (“the State” or “Attorney General”), filed a Complaint against St. Patrick’s Tavern & Restaurant, Inc. (“St. Patrick’s”) on December 21, 2020, alleging St. Patrick’s served customers food and beverages inside in violation of Governor Walz’s Emergency Executive Order 20-99;

WHEREAS, the State and St. Patrick’s 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 St. Patrick’s, the Parties hereby stipulate and consent to entry of this Consent Judgment and Order as set forth below:

REPRESENTATIONS AND WARRANTIES

1. On January 10, 2021 St. Patrick’s provided the Attorney General with a declaration averring that St. Patrick’s total gross revenue it received for indoor on-premises dining from November 21, 2020 through December 22, 2020, amounted to \$23,621.00, and that St. Patrick’s total profits for the same was equal to or less than \$12,133.52. The State has relied on St. Patrick’s representations in its investigation and resolution of this matter.

INJUNCTIVE RELIEF

2. St. Patrick's, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with St. Patrick's who receive actual notice of this Order are prevented, restrained, and enjoined from taking any action violating Executive Order 21-11 while Executive Order 21-11 is effective.

3. St. Patrick's, including its principals, employees, agents, independent contractors, affiliates, and other persons in active concert or participation with St. Patrick's 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 restaurants and/or bars while those Executive Orders are effective.

MONETARY PAYMENT

4. St. Patrick's shall pay to the Attorney General the sum of \$15,000.00 (the "Settlement Sum") pursuant to Minn. Stat. § 8.31. St. Patrick's shall pay \$2,000 per month to the Attorney General by the fifteenth day of each month, beginning on April 15, 2021, with the final payment being \$1,000, until the Settlement Sum has been paid in full. The Settlement Sum shall be paid by check payable to the State of Minnesota and mailed to the Attorney General's Office, care of Assistant Attorney General Bennett Hartz, 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.

5. If St. Patrick's fails to pay the Settlement Sum as provided in Paragraph 4, or violates the injunctive relief as provided in Paragraphs 2 and 3, St. Patrick's consents to and authorizes the Attorney General to, *ex parte*, immediately file with the Court the Confession of

Judgment that St. Patrick's executed in relation to this Assurance pursuant to Minnesota Statutes section 548.22, thereby rendering St. Patrick's immediately liable for the entire payment referenced in Paragraph 4, minus any amounts already paid by St. Patrick's pursuant to this Assurance.

STAYED CIVIL PENALTY

6. Upon application to the Court and a showing by the Attorney General that St. Patrick's 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, St. Patrick's 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 8 does not prevent the Attorney General from moving for, or collecting, the stayed civil penalty described in this Paragraph.

GENERAL TERMS

7. Nothing in this Consent Judgment shall relieve St. Patrick's of its obligation to comply with all applicable Minnesota and federal laws and regulations.

8. In consideration of the stipulated relief and contingent upon the Court's entry of this Consent Judgment and Order, the Attorney General and St. Patrick's, 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 St. Patrick's. The Attorney General through this Consent Judgment does not settle, release, or resolve any claim against St. Patrick's 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.

9. 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.

10. The person signing this Consent Judgment for St. Patrick's warrants that they are an owner of St. Patrick's Bar & Grill, and they execute this Consent Judgment in an official capacity that binds the company and its successors.

11. This Consent Judgment constitutes the full and complete terms of the agreement entered into by St. Patrick's and the Attorney General.

12. 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.

13. The Scott 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.

14. 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.

15. 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.

16. St. Patrick's understands that if a Court of competent jurisdiction holds that St. Patrick's has committed a violation of this Consent Judgment and Order, that such violation may subject St. Patrick's to sanctions for contempt pursuant to Minn. Stat. § 8.31, subdivision 2b, and that the Attorney General may thereafter, in his sole discretion, initiate legal proceedings against St. Patrick's for any and all violations of this Consent Judgment and Order.

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

19. St. Patrick's 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 St. Patrick's.

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:

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

John Scott, Esq.
Patton Hoversten & Berg
302 1st Ave. NW
Faribault, MN 55021

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: 04/16/21

By: *1st Bennett Hartz*
BENNETT HARTZ
Assistant Attorney General
Atty. Reg. No. 0393136

Date: 4/15/21

By: *[Signature]*
DIANA SCHOENBAUER
Owner
St. Patrick's Tavern & Restaurant

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.