SECOND AFFIDAVIT OF MARIE SILICIANO

STATE OF MINNESOTA)) ss. COUNTY OF RAMSEY)

MARIE SILICIANO, being duly sworn under oath, states the following:

1. I am an Investigator at the Office of the Minnesota Attorney General.

2. Attached as Exhibit A to this affidavit is a true and correct copy of a report by the Lakeview Police Department dated December 31, 2020.

3. Attached as Exhibit B to this affidavit is a true and correct copy of a Start Tribune Article Janet Moore and Kim Hyatt "*Judge Orders Lakeville restaurant Closed after it defies COVID-19 order*" (December 31, 2020, 7:14 p.m.) <u>https://www.startribune.com/judge-orders-lakeville-restaurant-closed-after-it-defies-covid-19-order/600005520/</u> available at <u>https://perma.cc/B7YM-ZGUP</u>.

4. At approximately 11:41 am on January 2, 2021, I visited Alibi Drinkery at 20851 Holyoke Avenue, Lakeville, MN 55044. I looked through the window facing Holyoke Avenue, but I did not enter the building. Through the window, I observed more than five people drinking inside Alibi Drinkery. Attached as Exhibit C to this affidavit is a true and correct copy of a photograph that I took through the window. Exhibit C shows at least 8 people inside Alibi Drinkery.

5. I visited the Facebook page for Alibi Drinkery, *available at* <u>www.facebook.com/Alibi-Drinkery-135111020497320</u>. Attached as Exhibit D to this affidavit is a true and correct copy of a post by Alibi Drinkery on January 3, 2021.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Executed this 4th day of January in Ramsey County, Minnesota.

Dated: Jan 4, 2021

<u>/s/ Marie Siliciano</u> MARIE SILICIANO

Lakeville Police Department

9237 183rd St W Lakeville, MN 55044 (952) 985-2800 Filed in District Court State of Minnesota 1/4/2021 2:49 PM



Case #:LA20004442

Incident #: LA20004442

EXHIBIT A

Event

20851 HOLYOKE AVE LAKEVILLE, Minnesota 55044			
Description of Incident:	AID OTHER JURISDICTION		
Reported Date:	12/31/2020 09:33:00		
Occurred Start Date:	12/31/2020 09:33:00		
Solvability Factor:	5		
Body Camera Video (Yes/No):	No		
Squad Video (Yes/No):	No		
Was Alcohol Involved?:	Yes		
Latitude:	44.647548		
Longitude:	-93.243158		
Beat:	LA49		
Case Summary:	Office of Minnesota Attorney General Keith Ellison directed Lakeville Police to see if Alibi Drinkery had 5 or more people eating and/or drinking inside their establishment. See narrative.		
Related Case Number:			
Case Status:	ASSISTED/ADVISED		
Disposition:	CLOSED		
Exceptional Clearance:	NOT APPLICABLE		
Confidential?:	No		

Person Reporting Incident Data (1)

Odette, Elizabeth R

Country:	
Work Phone:	(651)-728-7208
Organization Name:	Office of Minnesota Attorney General Keith Ellison
Employer Phone Number:	(651)-296-3353
Address:	445 MINNESOTA ST
Suite:	1400
City:	ST PAUL
State:	Minnesota
Zip Code:	55101
Latitude:	44.94869699623913
Longitude:	-93.09415270028893

Complainant Data (1)

Office of Minnesota Attorney General Keith Ellison

Related Offense:	ASOA ASSIST OTHER AGENCY
Address:	445 MINNESOTA ST
Suite:	1400
City:	ST PAUL
State:	Minnesota
Zip Code:	55101
Latitude:	44.94869699623913
Longitude:	-93.09415270028893
Business Phone:	(651)-296-3353

Lakeville Police Department

9237 183rd St W Lakeville, MN 55044 (952) 985-2800

Case #:LA20004442

Incident #: LA20004442

ALIBI DRINKERY

Related Offense:	ASOA ASSIST OTHER AGENCY
Address:	20851 HOLYOKE AVE
City:	LAKEVILLE
State:	Minnesota
Zip Code:	55044
Latitude:	44.64755593292987
Longitude:	-93.2431657127772
Business Phone:	(952)-683-1711

Offenses (1)

ASOA ASSIST OTHER AGENCY

2. UCR/NIBRS Code (Complete BEFORE selecting Severity Level): Reportable (Do NOT change - System Generated):	999 NIBRS Non-Reportable
Location Type:	Restaurant
Bias Motivation:	NONE
Attempted/Completed:	Completed
Offender Suspected of Using:	Not Applicable
Offense Status:	ASSISTED/ADVISED

Narrative (1)

MAIN REPORT 4812

COUGHLIN, KELLI M 4812

On 12-31-2020 at approximately 1100 hours, Deputy Chief Kornmann requested that I, Detective Coughlin, respond to Alibi Drinkery to see if they were open in violation of the Court Order and the Governor's Orders. Deputy Chief Kornmann had received an email in which Assistant Attorney General Elizabeth R. Odette directed Lakeville Police to observe Alibi to see whether 5 or more people are eating and/or drinking inside.

On 12-31-2020 at approximately 1110 hours, Detective Frame and I responded to Alibi Drinkery located at 20851 Holyoke Avenue. I observed more than 5 people in the establishment, but I did not see any patrons eating or drinking.

On 12-31-2020 at approximately 1408 hours, Detective Frame and I responded back to Alibi Drinkery and observed more than 5 people in the establishment eating and drinking.

Detective Frame and I utilized our Axon video capture application on our work issued iPhone to capture video evidence in a surreptitious manner in order to not cause an incident. Axon video capture shows loud noise of more than 5 people, numerous people can be seen along with food and drinks on the



EXHIBIT A

12/31/2020

Lakeville Police Department

9237 183rd St W Lakeville, MN 55044 (952) 985-2800

Case #:LA20004442

Incident #: LA20004442

tables. Axon video capture was uploaded.

End of report.//K.Coughlin #4812

/nb

Officer (2)			
Reporting Officer:	COUGHLIN, KELLI M (4812)	12/31/2020 15:06:00	

Approving Officer:

THOENY, SANDY L (4855)

12/31/2020 17:24:01





CORONAVIRUS

Judge orders Lakeville restaurant closed after it defies COVID-19 order

Alibi Drinkery reopened Thursday morning to a packed crowd.

By Janet Moore and Kim Hyatt Star Tribune DECEMBER 31, 2020 - 7:14PM



The Alibi Drinkery in Lakeville opened for indoor dining Thursday despite a judge's order that it remain closed to slow the spread of COVID-19.

A Lakeville restaurant is facing steep fines and the possible loss of its liquor license after it opened on New Year's Eve, defying a state order that bans indoor dining as part of the effort to stem the spread of COVID-19.

Minnesota Attorney General Keith Ellison asked a Dakota County District Court judge late Thursday to find Alibi Drinkery in contempt of court. The request came after District Judge Jerome Abrams issued a temporary injunction requiring the establishment to remain shuttered through Jan. 10.

Despite that, patrons packed the Alibi after it announced on Facebook that it would open Thursday morning, Co-owner Lisa Monet Zarza, wearing white fur boots and no face mask, happily greeted customers with an occasional hug as her staff delivered drinks and wings. Some servers wore masks, while most of the customers did not.

Zarza said she put in 80- to 100-hour workweeks during Alibi's first year of operation and she was adamant about celebrating its three-year anniversary - despite the state mandate and the possibility of a legal rebuke. "This is our third-year anniversary and we're going to be open," she said.



Map: Mark Boswell, Star Tribune

Late Thursday, the Minnesota Department of Public Safety notified Alibi Drinkery and the Interchange, a coffee shop and bistro selling wine and beer in Albert Lea, that they face a five-year liquor license revocation for "ongoing and blatant violations."







Defiance of COVID restrictions on some Minnesota menus Dec. 22, 2020

Minn. AG sues bars that defied Walz ban on dine-in service Dec. 18, 2020

Three more restaurants defy COVID restrictions, face sanctions Dec. 20, 2020





Interchange owner Lisa Hanson said earlier in the day that she planned to hold a New Year's Eve event with live music - "a tiny bit of normalcy." She called the state orders "unlawful and unconstitutional."

The Interchange went ahead with Thursday's event. But it didn't draw the kinds of crowds that have flocked to some other bars that have defied the shutdown orders.

"It was kind of a bust as far as the crowd goes," said an employee who declined to give his name. "Maybe about half full at one point."

A handful of businesses throughout Minnesota opened or remained open this week despite Gov. Tim Walz's executive order prohibiting in-person dining in restaurants and closures of venues hosting indoor events and entertainment.

To date, Ellison's office and the Health Department have sued 11 businesses across Minnesota that have spurned the governor's order.

One of them was the Carlson Event Center & Country Chapel in Winnebago. On Thursday, the Faribault County District Court granted Ellison's motion for a temporary restraining order against the business, claiming it had advertised a New Year's Eve bash with beer and liquor.

However, its owner claimed earlier this week the event was a religious gathering - which would have broader leeway under the governor's order.

The court ordered the business to cancel the event, although it was unclear whether it did.

On Thursday night, Garth Carlson, the Winnebago center's owner, said Ellison provided "fraudulent" information in securing the restraining order preventing the New Year's Eve event.

Carlson said Ellison was "denying the Freedom Church of America to peaceably assemble" while a Lutheran church across the street was able to carry on.

"The governor and AG are acting unconstitutionally and abusing their power," he said.

He would not say whether his planned New Year's Eve event had been canceled or not.

Ellison said a few businesses "are choosing to ignore their responsibility: by so doing, they're simply extending the pain the pandemic has already wrought upon all of us."

They could face fines of up to \$25,000 "per occurrence" and other costs.

Alibi's lawyer, Mike Padden, said Ellison inflated COVID death statistics in court filings by up to 40%. He said the state "is trying to destroy my client's business.'

The state Department of Health on Thursday reported another 61 deaths from COVID-19, bringing the death total in the state to 5,323.

All told, nearly 416,000 Minnesotans have been sickened by the coronavirus since March.

Despite those statistics, business at the Alibi on Thursday was brisk.

Kevin Jensen, 66, said he understands that COVID-19 is "a real deal" after he came down with the virus in mid-November.

Still, the semiretired avid motorcyclist from Lakeville attended six motorcycle rallies over the summer, including Sturgis in South Dakota. That event resulted in 86 Minnesotans contracting the virus.

"[COVID-19] knocked me out pretty bad," Jensen said. "At the peak of it, I thought I was going to die."

But Jensen said he has no regrets and remains suspect of the severity of the virus.

He lives in a small apartment with his two teenage daughters and neither of them contracted COVID-19, he said.

"I'm here to support Lisa because I ride with her and I think what she's doing is courageous," he said.

As Lee Greenwood's "God Bless the U.S.A." played over Alibi's sound system, 35-year-old Landon Moyer of Lakeville sat at the bar with a vodka and soda.

"I'm here to support what I think is constitutionally right," he said.

"There's no one forcing anybody here, right? I mean, we can walk into Walmart, we can walk in Target, they require masks and that's acceptable, right? If you are deathly afraid of this you can stay home."

"At the end of the day, it's to each their own," he added. "And I think that's what Governor Walz and other people are really realizing, is at the end of the day there's bills to be paid."

Staff writer John Reinan contributed to this report.

Transportation reporter **Janet Moore** covers trains, planes, automobiles, buses, bikes and pedestrians. Moore has been with the Star Tribune for 21 years, previously covering business news, including the retail, medical device and commercial real estate industries

janet.moore@startribune.com 2 612-673-7752

Kim Hyatt is the Star Tribune's North Metro reporter, covering Anoka County and the northern Hennepin County suburbs.

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EXHIBIT C

Filed in District Court State of Minnesota 1/4/2021 2:49 PM









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