

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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November 16, 2020

CHECKMATE PIZZA
c/o Brian Mikol
95 Eddy Road,
Manchester, NH, 03102

**Re: Violations of New Hampshire's Emergency Order 52, as extended, and the
Restaurant/Food Service Industry Guidance**

Dear Mr. Mikol:

Checkmate Pizza in Concord is operating in violation of the Governor's Emergency Order 52, as extended by Emergency Order 70. This Emergency Order was issued pursuant to section 18 of Executive Order 2020-04, as extended by Executive Order 2020-21. Exhibit A to Emergency Order 52 establishes Universal Guidelines that apply to all businesses, organizations, and individual business operators in the state. Exhibit B to Emergency Order 52 establishes industry-specific guidance, including guidance for the Restaurant/Food Service industry. Despite the use of the terms "guidelines" and "guidance" in the titles of these documents, your business is required to comply with the mandatory provisions of these documents if you want to continue to operate. *See* Emergency Order 52, Paragraph 1, "[a]ll businesses and other organizations operating within this State shall comply with the ... Universal Guidelines ...and any other industry-specific guidelines ...issued subsequent to this Order."

As has been explained to you directly and repeatedly, your business must comply with both the Universal Guidelines and the Restaurant/Food Service Industry Guidance. We first received a complaint about Checkmate Pizza on July 10, 2020. The complaint stated that the only employee wearing a mask was the person at the register, and that the store was overcrowded. At that time, Joelle Donnelly from the Attorney General's Office ("AGO") spoke to a manager by phone and informed him that anyone coming into contact with the public must wear a face covering, that anyone who cannot socially distance in the kitchen must wear a face covering, and that customers should wait outside for their orders to prevent overcrowding. A compliance check by the Concord Police Department on July 17 did not identify any issues.

Then, on July 31, the AGO received another complaint that no employees were wearing face coverings. An AGO employee again called to speak with a manager and explained the face covering requirement. Most recently, on September 21, the AGO received another complaint

about wearing face coverings in Checkmate Pizza. The caller informed us that the employee taking phone calls was not wearing a face covering and the employees in the kitchen were not either. The caller also noticed an employee touch their face and then touch pizza. These actions violate the emergency orders and guidelines listed above.

Violation and Civil Penalty

Not requiring your direct customer service staff and kitchen staff who cannot regularly maintain 6 feet of physical distance to wear face coverings while working is a violation of Emergency Order 52. Violations of the Governor's Emergency Order 52, and its applicable Guidance, are taken very seriously. These Orders have been instituted so New Hampshire businesses and organizations can operate as safely as possible during the COVID-19 pandemic. By not complying with the Emergency Orders, businesses risk endangering the health of their employees, customers, and the public in general. Businesses also risk further legal enforcement actions to achieve compliance.

In addition to jeopardizing the health and safety of both the public and your employees, your failure to follow Emergency Order 52, as extended, is a violation of state law. Pursuant to RSA 21-P:47, the violation of an emergency order, rule, or regulation issued by the Governor can lead to misdemeanor criminal charges. Violations of any Emergency Order are subject to civil penalties of up to \$1,000 per violation or up to \$2,000 per day under Emergency Order 65, depending on the nature of the violation. Checkmate Pizza's continued violation of the Emergency Orders place both you and your business at risk of these civil and criminal penalties.

In accordance with Emergency Order 65, Paragraph 4, and based on all of the relevant facts and circumstances, specifically including that Checkmate Pizza was made aware on at least 3 occasions that its staff had to wear face coverings while providing direct customer service and while working in the kitchen when 6 feet of physical distance could not be regularly maintained, **a civil penalty of \$500.00 is being assessed for violating Emergency Order 52.**

This civil penalty is required to be paid by November 30, 2020. If Checkmate Pizza wants to challenge this civil penalty, it can raise that issue with the Attorney General's Office, under Paragraph 4 of Emergency Order 65, and negotiate a settlement or request a hearing.

Please ensure that Checkmate Pizza complies with the Emergency Orders and does not otherwise put the public or your employees at risk.

Sincerely,



Anne M. Edwards
Associate Attorney General