

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

QDOBA RESTAURANT CORPORATION, CIVIL DIVISION

Plaintiff,

GD No. 18-2845

v.

CONSENT INJUNCTION

BROOKS HOSPITALITY LLC, CHAD
BROOKS and SARAH BROOKS,

Defendant.

COURT RECORDS
CIVIL FAMILY DIVISION
ALLEGHENY COUNTY

2018 MAR -6 PM 3:43

FILED

ORDER OF COURT

AND NOW, this 5th day of March, 2018, upon consideration of Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction and the Court's entry of a Temporary Restraining Order by Order dated February 28, 2018, and Defendants having agreed to consent to Plaintiff's injunction and the remaining terms set forth below, it is hereby ORDERED as follows:

1. Defendants shall not reopen their Qdoba restaurant located at 3711 Forbes Avenue, Pittsburgh, Pennsylvania and shall stay closed due to the health and sanitation issues raised in the motion papers and accompanying exhibits unless and until Defendants provide Plaintiff with acceptable proof, as determined in Plaintiff's sole discretion, that they properly remedied all health and sanitation issues at the subject restaurant location.
2. Defendants shall immediately hire and pay for a third-party pest control company, approved by Plaintiff, to inspect the subject restaurant location and remedy all health and sanitation issues to Plaintiff's satisfaction.
3. Defendants shall also abide by all Qdoba brand standards and submit to an immediate brand audit which shall be scheduled promptly by Plaintiff.

4. In Plaintiff's sole discretion, if it is satisfied with the efforts taken by Defendants and the remediation of all health and sanitation issues, Plaintiffs may permit Defendants to reopen the subject restaurant location for a period of six months from the date of this Order for the purpose of providing Defendants with the opportunity to attempt to locate a third-party purchaser of Defendants' four active franchise locations.

5. During the six month period from the date of this Order that the subject restaurant is permitted to be open by Qdoba, Defendants shall submit to periodic bi-weekly inspections by Qdoba and weekly inspections by a third-party pest control company, at Defendants' expense. Defendants agree to immediately close the restaurant if any health or sanitation issues arise, to be determined in Qdoba's sole discretion.

6. If during the six month period Defendants are able to locate a good faith bona fide purchaser, acceptable to Plaintiff, and obtain documentation evidencing the sale of the franchise in the form of an executed letter of intent or asset purchase agreement, Plaintiff will permit Defendants to continue to operate for a period not to exceed sixty additional days in order to permit Defendants and the proposed purchaser to close the deal. However, should Defendants not actively seek a good faith bona fide purchaser at any time during the six month period, Defendants agree to immediately close the restaurant, to be determined in Qdoba's sole discretion. In such instance, the Franchise Agreement shall be terminated.

7. Should Defendants not actively seek or locate a good faith bona fide purchaser for their franchise business within the six month period from the date of the Order, upon the conclusion of this period, Defendants' Franchise Agreement shall be terminated. Defendants shall close their subject restaurant location immediately and de-identify the location pursuant to the terms of the Franchise Agreement.

8. Should Defendants not close their subject restaurant location immediately after the conclusion of the six month period, or at any point during the six month period if notified to do so by Qdoba for, among other things, health or sanitation issues, they agree, jointly and severally, to be subject to a per diem liquidated damages award against them and in favor of Plaintiff in the amount of \$3,000 per day for each day that the restaurant remains open. The parties recognize the difficulty in calculating the damage that would be caused by a violation of this order, so such award shall be deemed an enforceable liquidated damages provision and in no way constitutes an unenforceable penalty.

9. Upon entry of this Order, Plaintiff's obligation to continue to post a bond in the amount of \$500 is hereby discharged and such funds shall be returned to Plaintiff.

10. The prior termination of Defendants' subject franchise location shall hereby be deemed rescinded.

BY THE COURT:

Christine Ward

J.

THE UNDERSIGNED HEREBY CONSENT TO THE FOREGOING ORDER

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