

*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

NOTICE OF INDEFINITE SUSPENSION

November 9, 2020

**CAUSEWAY UNION LLC D/B/A SONS OF BOSTON
17 UNION STREET
BOSTON, MA 02116
LICENSE#: 05506-RS-0116
VIOLATION DATE: 9/03/2020
HEARD: 10/14/2020**

After a hearing on October 14, 2020, the Commission finds Causeway Union LLC d/b/a Sons of Boston violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Causeway Union LLC d/b/a Sons of Boston **effective forthwith** until further written order of the Commission.

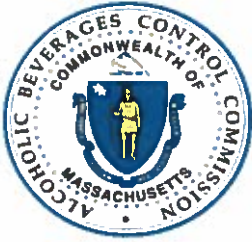
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Caroline Guarino, Investigator
Michael Flanagan, Dept. of Labor Standards
Administration, File



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DECISION

**CAUSEWAY UNION LLC D/B/A SONS OF BOSTON
17 UNION STREET
BOSTON, MA 02116
LICENSE#: 05506-RS-0116
VIOLATION DATE: 9/03/2020
HEARD: 10/14/2020**

Causeway Union LLC d/b/a Sons of Boston (the "Licensee") holds an all alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a hearing on Wednesday, October 14, 2020, regarding alleged violations of:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; and
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The above-mentioned occurred on September 3, 2020 according to Investigator Guarino's Report.

The following documents are in evidence:

1. Investigator Guarino's Report;
2. Copy of License Transfer Approval, 3/12/2020;
3. Massachusetts Executive COVID-19 Order No. 37, June 6, 2020;
4. Massachusetts Executive COVID-19 Order No. 40, June 19, 2020;
5. Massachusetts Executive COVID-19 Order No. 46, August 7, 2020;
6. Massachusetts COVID-19 Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
7. ABCC Enforcement Memorandum, 10/7/2020.

There is one (1) audio recording of this hearing.

FINDINGS OF FACT

1. On Thursday, September 3, 2020, at approximately 10:45 p.m., Investigator Guarino conducted an investigation of Causeway Union LLC d/b/a Sons of Boston to determine the manner in which its business was being conducted and to ensure compliance with Massachusetts Governor Charles Baker's Executive COVID-19 Orders. (Testimony, Exhibit 1)
2. Investigator Guarino entered the Licensee's premises and observed four (4) tables with guests consuming alcoholic beverages with no food service. Id.
3. Investigator Guarino spoke with the manager on duty who stated none of the tables had ordered food. Investigator Guarino requested copies of the bar tab receipts for each of these tables. Id.
4. Receipt #1 indicated three (3) individuals arrived at approximately 9:41 p.m. and ordered six (6) alcoholic beverages without any food service. Id.

5. Receipt #2 indicated one (1) individual arrived at approximately 10:04 p.m. and ordered one (1) alcoholic beverage without any food service. Id.
6. Receipt #3 indicated two (2) individuals arrived at approximately 10:29 p.m. and ordered four (4) alcoholic beverages without any food service. Id.
7. Receipt #4 indicated four (4) individuals arrived at approximately 10:34 p.m. and ordered four (4) alcoholic beverages without any food service. Id.
8. Investigator Guarino advised the manager of her findings and a report would be filed with the Chief Investigator for review. Id.
9. The Licensee has held a license under M.G.L. c. 138, § 12 since 2020 with no prior violations. (Exhibit 2, Commission Records)

DISCUSSION

Licenses to sell alcoholic beverages are a special privilege subject to public regulation and control, Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 619 (1956), for which States have especially wide latitude pursuant to the Twenty-First Amendment to the United States Constitution. Opinion of the Justices, 368 Mass. 857, 861 (1975). The procedure for the issuance of licenses and required conduct of licensees who sell alcoholic beverages is set out in Massachusetts General Laws, Chapter 138.

Chapter 138 gives the Commission the authority to grant, revoke and suspend licenses. Chapter 138 was "enacted ... to serve the public need and ... to protect the common good." M.G.L. c. 138, § 23. "[T]he purpose of discipline is not retribution, but the protection of the public." Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given "comprehensive powers of supervision over licensees." Connolly, 334 Mass. at 617.

The Licensee is charged with a violation of 204 CMR 2.05 (2). “No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises.” 204 CMR 2.05 (2). More specifically the Licensee is charged with permitting an illegality on the licensed premises, to wit:

Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;

Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19; and

Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The Licensee appeared at the Commission hearing and testified that precautions were being taken at the licensed premise and the Licensee believed they were compliant with all COVID-19 orders. While the Licensee argued that there was kitchen staff present to prepare food and one customer had been served food prior to Investigator Guarino entering the premises, the Licensee did admit that guests were served alcoholic beverages with no food service. Investigator Guarino did not see any food service and the receipts submitted do not show any food service. The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2), to wit: Massachusetts Executive Orders 37, 40 and 46 did occur.

CONCLUSION

Based on the evidence, the Commission finds the Licensee violated:

- 1) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 37 (June 6, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 2) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Massachusetts Executive COVID-19 Order No. 40 (June 19, 2020) - Violation of sector specific workplace safety standards for restaurants to address COVID-19;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The Commission hereby **INDEFINITELY SUSPENDS** the license of Causeway Union LLC d/b/a Sons of Boston **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension.

Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards (“DLS”) as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen (see link here: <https://www.mass.gov/doc/phase-iii-step-1-restaurants-checklist-92220/download>) and operate in compliance with COVID 19 Orders Nos. 33, 37, 40 and 43, and the Restaurant Sector Specific

Standards. Said plan must be submitted to both Michael Flanagan (michael.flanagan@mass.gov) and Mary Dozois (mary.dozois@mass.gov) requesting review and approval.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Deborah A. Baglio, Commissioner Deborah A. Baglio

Jean M. Lorizio, Chairman Jean M. Lorizio

Crystal Matthews, Commissioner Crystal Matthews

Dated: November 9, 2020

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

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