

*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

April 21, 2021

**CORK & TIPP INC. D/B/A TAVERN AT THE END OF THE WORLD
108 CAMBRIDGE STREET
BOSTON, MA 02129
LICENSE#: 03883-RS-0116
VIOLATION DATE: 1/09/2021
HEARD: 2/23/2021**

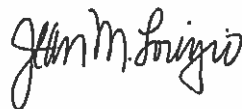
After a hearing on February 23, 2021, the Commission finds Cork & Tipp Inc. d/b/a Tavern at the End of the World violated:

- 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: Mass. Exec. COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location;
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 57 (Dec. 8, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Cork & Tipp Inc. d/b/a Tavern at the End of the World **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.

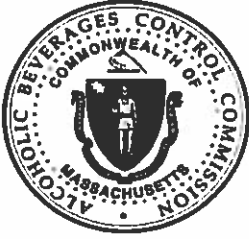
ALCOHOLIC BEVERAGES CONTROL COMMISSION



Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
Dennis Keefe, Investigator
Joseph Di Cicco, Investigator
Michael Flanagan, Dept. of Labor Standards
John Connell, Esq.
Administration, File



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

Jean M. Lorizio, Esq.
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DECISION

CORK & TIPP INC. D/B/A TAVERN AT THE END OF THE WORLD
108 CAMBRIDGE STREET
BOSTON, MA 02129
LICENSE#: 03883-RS-0116
VIOLATION DATE: 1/09/2021
HEARD: 2/23/2021

Cork & Tipp Inc. d/b/a Tavern at the End of the World (the "Licensee") holds an alcoholic beverages license issued pursuant to M.G.L. c. 138, § 12. The Alcoholic Beverages Control Commission ("ABCC" or "Commission") held a remote hearing via Microsoft Teams on Tuesday, February 23, 2021, 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;
- 3) 204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: Mass. Exec. COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location;
- 4) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 57 (Dec. 8, 2020).

The above-captioned occurred January 9, 2021 according to Investigator Keefe's Report.

The following documents are in evidence:

1. Investigator Keefe's Report;
2. Licensee's Accela Summary Tab;
3. Massachusetts Executive COVID-19 Order No. 37, 6/6/2020;
4. Massachusetts Executive COVID-19 Order No. 40, 6/19/2020;
5. Massachusetts Executive COVID-19 Order No. 55, 11/2/2020;
6. Massachusetts Executive COVID-19 Order No. 57, 12/8/2020;

7. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 12/11/2020.

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

FINDINGS OF FACT

1. On Saturday, January 9, 2021, at approximately 10:45 p.m., Investigators Di Cicco and Keefe ("Investigators") conducted an investigation of Cork & Tipp Inc. d/b/a Tavern at the End of the World 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. (Exhibit 1, Testimony)
2. While driving past the licensed premises, Investigators observed lights on inside the establishment. They parked their motor vehicle, approached the front of the establishment and were able to see through the front windows three (3) male individuals seated in the bar area. Investigators observed an employee standing behind the bar. None of these individuals wore any facial coverings. Id.
3. Investigators attempted to enter the licensed premises, but the door was locked. Investigators knocked on the door and a few moments later, a bartender, Paul, opened the door to inform them that the establishment was closed. Paul was not wearing any facial covering. Id.
4. While standing in the doorway with Paul, Investigators observed two (2) individuals seated in the bar area with what appeared to be alcoholic beverages in front of them. Id.
5. Paul informed Investigators that he and his "buddies were just finishing up the game." Id.
6. Investigators reviewed the COVID guidelines and Sector Specific Safety Standards with Paul and advised him to stop serving alcoholic beverages and have all individuals exit the premises. Id.
7. Investigators informed Paul that a report would be filed with the Chief Investigator for review. Id.
8. Paul Griffin, one of the bartenders on duty and the employee who opened the door for Investigators on the night of the inspection, attended the Commission hearing and testified that three (3) of the individuals on the premises after 10 p.m. were employees cleaning. He stated that he had just collected all glasses and bottles from the tables in the premises and put them on the bar to be washed. Mr. Griffin acknowledged at some point they had taken a break from cleaning to watch the end of a football game on television. (Testimony)
9. Mr. Griffin testified the fourth individual on the premises was his roommate who arrived around 9:45 p.m. to drive the three (3) employees home. Mr. Griffin testified his roommate had one beer and sat at the bar to wait for them. Id.
10. Mr. Griffin testified that masks are required at the licensed premises but admitted he took his mask off at 10 p.m. Id.

11. The Licensee has held a license under M.G.L. c. 138, § 12 since 2018, 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;

Massachusetts Executive COVID- 19 Order No. 55 (Nov. 2, 2020) – Patron or employee failing to wear a mask or cloth face covering over their mouth and nose when in a public location;

Massachusetts Executive COVID-19 Order No. 57 (Dec. 8, 2020).

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (December 11, 2020) including:

Require face coverings for all customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability;

Restaurants must close to the public by 9:30 pm and may not re-open to the public before 5:00 am the following day (“mandatory closing period”);

During mandatory closing period, restaurants must not admit any customers, patrons, or members of the public, except for the limited purposes of take-out dining, and may not provide in-person, on-premises service or consumption. Table service customers seated before the start of the mandatory closing period may remain at the table to finish any food and beverages that have been ordered and served to them before 9:30pm, but they must exit the premises by 10pm at the latest.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (December 11, 2020)

Direct evidence was presented through the testimony of Investigators Keefe and Di Cicco, and corroborated by the Licensee, as to individuals failing to wear facial coverings inside the premises, alcohol service after 9:30 P.M., and a patron on the premises after 10:00 P.M.

The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2), to wit: Massachusetts Executive Orders 37, 40, 55, and 57 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;
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The Commission hereby **INDEFINITELY SUSPENDS** the license of Cork & Tipp Inc. d/b/a Tavern at the End of the World **effective forthwith** until further written order of the Commission.

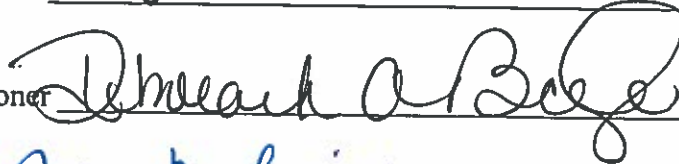
The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension. Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited 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/sector-specific-workplace-safety-standards-for-restaurants-to-address-covid-19-030121/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

Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Jean M. Lorizio, Chairman



Dated: April 21, 2021

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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