

*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**

March 22, 2021

**BATMAN CORP. D/B/A THE PARROT BAR & GRILLE  
1356 ROUTE 28A  
BOURNE, MA 02553  
LICENSE#: 00076-RS-0118  
VIOLATION DATE: 1/22/2021  
HEARD: 3/10/2021**

After a hearing on March 10, 2021, the Commission finds Batman Corp. d/b/a The Parrot Bar & Grille 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);
- 5) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 58 (Dec. 8, 2020) – Failure to comply with rules applicable to Step 1 of Phase III of the Re-Opening Plan.

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Batman Corp. d/b/a The Parrot Bar & Grille **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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Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.  
这份文件是重要的，应立即进行翻译。

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



*Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
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**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**BATMAN CORP. D/B/A THE PARROT BAR & GRILLE  
1356 ROUTE 28A  
BOURNE, MA 02553  
LICENSE#: 00076-RS-0118  
VIOLATION DATE: 1/22/2021  
HEARD: 3/10/2021**

Batman Corp. d/b/a The Parrot Bar & Grille (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 hearing on Wednesday, March 10, 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);
- 5) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Mass. Exec. COVID-19 Order No. 58 (Dec. 8, 2020) – Failure to comply with rules applicable to Step 1 of Phase III of the Re-Opening Plan.

Prior to the commencement of the hearing the Licensee stipulated to the facts in Investigator Binienda's report.

The following documents are in evidence:

1. Investigator Binienda's Report;
2. ABCC Form 43 New License Approval, 6/2/2006;
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 Executive COVID-19 Order No. 58, 12/8/2020;
8. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 12/11/2020;
9. ABCC Enforcement Memorandum, 3/4/2021;
10. Licensee's Stipulation of Facts.

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

#### FINDINGS OF FACT

1. On Friday, January 22, 2021, at approximately 5:35 p.m., Investigator Binienda ("Investigator") conducted an investigation of Batman Corp. d/b/a The Parrot Bar & Grille 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 Binienda parked his vehicle outside the licensed premises where he had a clear view of the interior of the establishment. The Investigator observed the female bartender on duty wore her facial covering below her chin, leaving her mouth and nose exposed. Id.
3. The Investigator also observed several patrons, without any facial coverings, standing and consuming alcoholic beverages. Id.
4. Investigator Binienda entered the licensed premises and observed the bartender, later identified as Jody, standing behind the bar without any facial covering. Id.
5. The Investigator observed five tables with several patrons without any facial coverings. The Investigator did not see any indication of food service. The tables had what appeared to be alcoholic beverages on them and the patrons were in possession of alcoholic beverages. Id.
6. Investigator Binienda observed four patrons standing, in possession of alcoholic beverages and without facial coverings. Id.
7. The Investigator observed six tables with several patrons, none of whom wore any facial covering. Id.
8. The Investigator identified himself to Jody and asked to speak with the manager on duty. Id.
9. The manager, Carolyn Capone, stepped onto the patio to speak with Investigator Binienda. Id.

10. Investigator Binienda informed Carolyn of his observations and reviewed the COVID guidelines and Sector Specific Safety Standards with her. The Investigator gave Carolyn his business card and requested that the owner contact him. *Id.*
11. Investigator Binienda informed Carolyn of the violations and that a report would be filed with the Chief Investigator for further review. *Id.*
12. Brian Crocker, Licensee and Manager of Record, and Tracey Dunnington, Licensee, appeared at the Commission hearing. Mr. Crocker testified that food had been served; and added that food is served on disposable plates with tables being cleared as patrons finish eating. (Testimony)
13. The Licensee has held a license under M.G.L. c. 138, § 12 since 2006 with no prior violations. (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;

Violation of Massachusetts Executive COVID-19 Order No. 55 (November 2, 2020);

Violation of Massachusetts Executive COVID-19 Order No. 57 (December 8, 2020); and

Violation of Massachusetts Executive COVID-19 Order No. 58 (December 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;

Customers must wear face coverings unless seated at tables;

Customers may only remove face coverings in the actual act of eating and drinking;

All customers must be seated.

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

The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2) to wit Massachusetts Executive COVID-19 Orders 37, 40, 55, 57, and 58 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;
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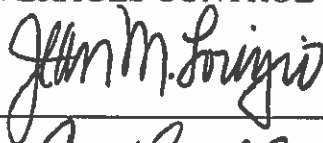
The Commission hereby **INDEFINITELY SUSPENDS** the license of Batman Corp. d/b/a The Parrot Bar & Grille **effective forthwith** until further written order of the Commission.

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

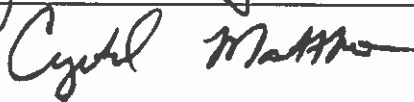
Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards ("DLS") as to a reopening plan. The Licensee must submit to the 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](mailto:michael.flanagan@mass.gov)) and Mary Dozois ([mary.dozois@mass.gov](mailto:mary.dozois@mass.gov)) requesting review and approval.

**ALCOHOLIC BEVERAGES CONTROL COMMISSION**

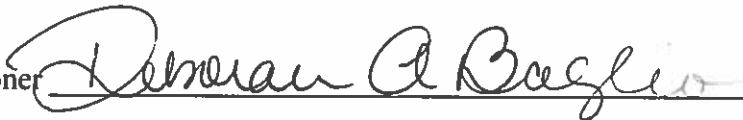
Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: March 22, 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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