

*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**

January 28, 2021

**JULIEME FRIENDS LOUNGE, INC.  
D/B/A PRETO'S ISLAND COUSINE RESTAURANT  
250 MAIN STREET  
BROCKTON, MA 02301  
LICENSE#: 05215-RS-0144  
VIOLATION DATE: 10/09/2020  
HEARD: 10/28/2020**

After a hearing on October 28, 2020, the Commission finds Julieme Friends Lounge, Inc. d/b/a Preto's Island Cousine Restaurant 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 Mass. Exec. COVID-19 Order No. 52 (September 29, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Julieme Friends Lounge, Inc. d/b/a Preto's Island Cousine Restaurant **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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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  
Nicole Smith, Investigator  
Christopher Temple, Investigator  
Lisa Watson, Investigator  
Michael Flanagan, Dept. of Labor Standards  
Administration, File



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

**Jean M. Lorizio, Esq.**  
*Chairman*

**DECISION**

**JULIEME FRIENDS LOUNGE, INC.  
D/B/A PRETO'S ISLAND COUSINE RESTAURANT  
250 MAIN STREET  
BROCKTON, MA 02301  
LICENSE#: 05215-RS-0144  
VIOLATION DATE: 10/09/2020  
HEARD: 10/28/2020**

Julieme Friends Lounge, Inc. d/b/a Preto's Island Cousine Restaurant (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 hearing on Wednesday, October 28, 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;
- 3) 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Violation of Mass. Exec. COVID-19 Order No. 52 (September 29, 2020).

Prior to the commencement of the hearing, the Licensee stipulated to the facts alleged in Investigator Smith's Report.

The following documents are in evidence:

1. Investigator Smith's Report;
2. Licensee Stipulation of Facts;
3. Copy of New License Approval, 10/01/2019;
4. Massachusetts Executive COVID-19 Order No. 37;
5. Massachusetts Executive COVID-19 Order No. 40;
6. Massachusetts Executive COVID-19 Order No. 52;

7. Massachusetts COVID-19 Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 10/01/2020;
8. ABCC Enforcement Memorandum, 10/27/2020.

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

#### FINDINGS OF FACT

1. On Friday, October 9, 2020, at approximately 9:10 p.m., Investigators Temple, Watson, and Smith (“Investigators”) conducted an investigation of Julieme Friends Lounge, Inc. d/b/a Preto’s Island Cousine Restaurant 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. While outside the premises, Investigators observed through the windows of the establishment approximately ten (10) individuals inside. Id.
3. Investigators observed three (3) staff members who were standing behind the bar without any facial covering, and four (4) individuals seated at the bar, consuming alcoholic beverages. Investigators observed staff members working behind the bar and it appeared there was no physical barriers between the employees and patrons. Id.
4. Investigators observed four (4) patrons seated at a table in the dining room, consuming alcoholic beverages with no indication of food service. Id.
5. Investigator Temple made a telephone call to the establishment and spoke to the manager, Isabelle, about their observations. Isabelle agreed to meet with Investigators outside the establishment. Id.
6. Investigators reviewed the COVID-19 guidelines and Sector Specific Safety Standards for Restaurants with Isabelle. Investigators advised Isabelle of the violations and that a report would be filed with the Chief Investigator for further review. Id.
7. Mr. Manuel DaSilva, the Licensee, appeared at the hearing before the Commission and testified that he had had a sinus infection in the days leading up to the inspection and at times he had to remove his mask to wash his face. At the time the Investigators observed him without a mask, he had just washed his face and was going behind the bar to get a new one. (Testimony)
8. Mr. DaSilva further explained to the Commission that the group of four (4) individuals seated at the table was celebrating a 15-year anniversary and had ordered dinner prior to Investigators’ observations and was finishing their bottle of wine. Id.
9. Mr. DaSilva also informed the Commission that he in fact does have a “shield” on the bar, but the Investigators could not see it from the outside. Id.
10. The Licensee has held a license under M.G.L. c. 138, § 12 since 2019 with no prior violations.

## 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

Massachusetts Executive COVID-19 Order No. 52 (September 29, 2020).

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (October 1, 2020) including:

Face coverings must be worn by customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability; and

Alcoholic beverages may only be served for on-site consumption if accompanied by food prepared on-site.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (October 1, 2020)

Direct evidence was presented through the testimony of Investigator Smith. Employees were not wearing facial coverings. While Mr. DaSilva may have momentarily removed his mask due to a medical condition, there were additional employees who were not wearing facial coverings. The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2), to wit: Massachusetts Executive Orders 37, 40, and 52 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 Mass. Exec. COVID-19 Order No. 52 (September 29, 2020).

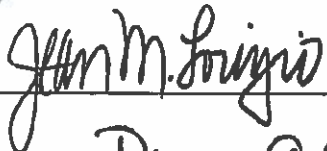
The Commission hereby **INDEFINITELY SUSPENDS** the license of Julieme Friends Lounge, Inc. d/b/a Preto's Island Cousine Restaurant **effective forthwith** until further written order of the Commission.

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-phase-iii-step-1-for-restaurants-to-address-covid-1/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**

Crystal Matthews, Commissioner 

Jean M. Lorizio, Chairman 

Deborah A. Baglio, Commissioner 

Dated: January 28, 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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