

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

COMMISSIONER OF BANKS  
CHECK CASHER LICENSING  
Docket No. 2022-003

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In the Matter of )  
Brasileirinho Market, Inc. )  
d/b/a Emporium Brasileirinho )  
Marlborough, Massachusetts )  
\_\_\_\_\_ )

CEASE DIRECTIVE

WHEREAS, the Commissioner of Banks (“Commissioner”), having determined that Brasileirinho Market, Inc. d/b/a Emporium Brasileirinho (“Emporium Brasileirinho” or the “company”), located at 581 Boston Post Road East, Marlborough, Massachusetts, has engaged, or is engaged in, or is about to engage in, acts or practices constituting violations of Massachusetts General Laws (M.G.L.) chapter 169A and applicable regulations found at 209 CMR 45.00 *et seq.*

The Commissioner hereby issues the following ORDER TO CEASE AND DESIST pursuant to M.G.L. chapter 169A, section 9.

FINDINGS OF FACT

1. The Division of Banks (“Division”), through the Commissioner, has jurisdiction over the licensing and regulation of persons or entities engaged in cashing checks, drafts, or money orders for a consideration in excess of one dollar per item pursuant to M.G.L. chapter 169A.
2. According to records maintained on file with the Division and the Nationwide Multi-State Licensing System and Registry (“NMLS”), Emporium Brasileirinho has never obtained a license from the Commissioner, pursuant to General Laws chapter 169A, section 2, to engage in cashing checks, drafts, or money orders for consideration in excess of one dollar per item.

3. On June 27, 2022, an examiner for the Division entered the premises of Emporium Brasileirinho located at 581 Boston Post Road East, Marlborough, Massachusetts.
4. The examiner inquired with the store clerk about whether the examiner could cash a check within the store.
5. The store clerk relayed to the examiner that Emporium Brasileirinho could cash checks. Additionally, in exchange for the service, the store clerk informed the examiner that the company charged consumers 2.0% and 3.0% of the check amount for personal/payroll checks and business checks, respectively.
6. The examiner also observed an advertisement displayed on the window of Emporium Brasileirinho. The advertisement contained the statement “Troca de Cheques” which translates from the Portuguese language to the English language as “check cashing” or words to that effect.
7. The company has not implemented practices or procedures that would have prohibited the company from charging consideration in excess of one dollar per item.

#### CONCLUSIONS OF LAW

8. Based upon the information contained in paragraphs 1 through 7, Emporium Brasileirinho is acting as a “check casher” as that term is defined by the Division’s regulation 209 CMR 45.02.
9. Based upon the information contained in paragraphs 1 through 7, Emporium Brasileirinho has unlawfully acted as a check casher for consideration in excess of one dollar per transaction without a license from the Commissioner, in violation of M.G.L. chapter 169A, section 2.

10. Based upon the information contained in paragraphs 1 through 7, the Commissioner has determined that Emporium Brasileirinho has engaged, or is about to engage in, acts or practices which warrant the belief that the Company is not operating honestly, fairly, soundly, and efficiently in the public interest in violation of standards governing the licensing and conduct of a check casher including, but not limited to, the provisions under M.G.L. 169A and the Division's regulations at 209 CMR 45.00 *et seq.*

#### CEASE DIRECTIVE

After taking into consideration the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby directed:

11. Emporium Brasileirinho shall immediately cease from engaging directly or indirectly in the business of cashing checks, drafts, or money orders for consideration in excess of one dollar per item, or otherwise acting as a check casher, without a license from the Commissioner, in violation of M.G.L. chapter 169A, section 2.
12. Emporium Brasileirinho must submit a response within five (5) days of receipt of this Directive. The response submitted by Emporium Brasileirinho must also include a signed copy of the enclosed affidavit, attesting that Emporium Brasileirinho will immediately cease from acting as a check casher in Massachusetts, as that term is defined by the Division's regulation 209 CMR 45.02.
13. Emporium Brasileirinho shall within five (5) days of the effective date of this Directive provide the Division with a complete accounting of all checks, drafts, and money orders cashed at its place of business January 1, 2020 through the effective date of this Directive.
14. Emporium Brasileirinho shall reimburse all person identified in paragraph 13 for whom a check, draft, or money order was cashed at 581 Boston Post Road East, Marlborough,

Massachusetts without a license from the Commissioner. Reimbursements shall be made to each person on a per transaction basis in an amount equal to the total fee charged on the transaction less one dollar. A record shall be provided to the Division of the names and addresses of all individuals for whom the Company has cashed a check, draft, or money order for consideration in excess of one dollar, the amount of each check, draft, or money order, the total fees charged on each transaction, check numbers of payments issued by the Company to evidence reimbursements made to consumers, and the amount reimbursed to each individual.

#### NOTICE OF RIGHT TO A HEARING

15. Emporium Brasileirinho has the right to request a hearing to contest the charge(s) described herein. In order to request a hearing, Emporium Brasileirinho or its authorized representative is required to file a notice of claim for an Adjudicatory Proceeding within thirty (30) days of the effective date of this Cease Directive, pursuant to the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01(6)(b) and (c). If requested, the hearing would be conducted according to M.G.L., chapter 30A, sections 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00. If Emporium Brasileirinho does not file a notice of claim for an Adjudicatory Proceeding within thirty (30) days of the effective date of this Cease Directive, the Company will permanently lose the right to contest the charge(s) described herein.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS.

Dated at Boston, Massachusetts, this 11<sup>th</sup> day of October, 2022.

By:

Mary L. Gallagher  
Commissioner of Banks