

*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 19, 2020

**MOE BROTHERS LLC D/B/A LATINOS FALCON BAR & BILLIARDS
158 BROADWAY
CHELSEA, MA 02150
LICENSE#: 00087-RS-0202
VIOLATION DATE: 8/25/2020
HEARD: 10/20/2020**

After a hearing on October 20, 2020, the Commission finds Moe Brothers LLC d/b/a Latinos Falcon Bar & Billiards 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);
- 4) 204 CMR 4.03 (1) (c) Certain Practices Prohibited - No licensee or employee or agent of a licensee shall (c) Sell, offer to sell, or deliver to any person or group of persons any drink at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public.

On the first – third violations, 204 CMR 2.05 (2), to wit: Massachusetts Executive COVID-19 Orders No. 37, No. 40, and No. 4, the Commission **INDEFINITELY SUSPENDS** the license of Moe Brothers LLC d/b/a Latinos Falcon Bar & Billiards **effective forthwith** until further written order of the Commission.

On the fourth violation, 204 CMR 4.03 (1) (c) Certain Practices Prohibited, the Commission issues a **WARNING**.

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.~~

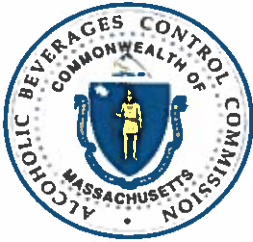
ALCOHOLIC BEVERAGES CONTROL COMMISSION



Jean M. Lorizio
Chairman

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cc: Local Licensing Board
Frederick G. Mahony, Chief Investigator
Kyle E. Gill, Esq., Associate General Counsel
David Bolcome, Investigator
Joseph Di Cicco, Investigator
Robert Gardner, Investigator
Michael Flanagan, Dept. of Labor Standards
Audie Cote, Esq.
Administration, File



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

**MOE BROTHERS LLC D/B/A LATINOS FALCON BAR & BILLIARDS
158 BROADWAY
CHELSEA, MA 02150
LICENSE#: 00087-RS-0202
VIOLATION DATE: 8/25/2020
HEARD: 10/20/2020**

Moe Brothers LLC d/b/a Latinos Falcon Bar & Billiards (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 Tuesday, October 20, 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 Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020);
- 4) 204 CMR 4.03 (1) (c) Certain Practices Prohibited - No licensee or employee or agent of a licensee shall (c) Sell, offer to sell, or deliver to any person or group of persons any drink at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the public.

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

The following documents are in evidence:

1. Investigator Bolcome's Report;
 2. ~~Licensee Stipulation of Facts with Amendment;~~
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3. Copy of License Transfer Approval, 7/27/2016;
 4. City of Chelsea Local Board Decision, 5/3/2019;
 5. Massachusetts Executive COVID-19 Order No. 37, June 6, 2020;
 6. Massachusetts Executive COVID-19 Order No. 40, June 19, 2020;
 7. Massachusetts Executive COVID-19 Order No. 46, August 7, 2020;
 8. Massachusetts COVID-19 Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 8/10/2020;
 9. ABCC Enforcement Memorandum, 10/14/2020.
- A. Copies of Employees' Serv Safe Training Certificates;
B. Copies of Licensee's Receipts for 8/28/2020.

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

FINDINGS OF FACT

1. On August 28, 2020, Investigators Di Cicco, Gardner, and Bolcome ("Investigators") conducted an investigation of Moe Brothers LLC d/b/a Latinos Falcon Bar & Billiards 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. Investigators were accompanied by Police Officers from the City of Chelsea. (Testimony, Exhibit 1)
2. At approximately 9:30 p.m., Investigators entered the licensed premises where they observed a night club atmosphere with a disc jockey ("DJ"), an open dance floor, and flashing lights. Investigators did not observe anyone on the dance floor and most customers in possession of alcoholic beverages were seated at tables. Id.
3. Investigators observed several male patrons seated at a thin, stand-alone countertop which ran along the dance floor. The male patrons were in possession of alcoholic beverages with no food. Id.
4. The manager, Nelson, approached Investigators who reviewed the COVID-19 guidelines and Sector Specific Workplace Safety Standards for Restaurants with him. Id.
5. While speaking with Nelson, Investigators observed a customer without a facial covering, walk towards the bar where he ordered, received, and paid for a bottle of beer. Id.
6. Investigators accompanied Nelson to the bottom floor of the premises where they observed customers with buckets of beer on ice. Nelson explained that he offers a discount of six bottles of beer for \$20.00, which gives each customer one free beer. The price for one bottle of beer is normally \$4.00. Id.
7. Investigators informed Nelson that such discounts are prohibited. Nelson stated that he would cease the practice. Id.
8. Investigators informed Nelson of the violations and that a report would be filed with the Chief Investigator for further review. One of the Chelsea Police Officers who had joined Investigators on the licensed premises advised Nelson of specific City of Chelsea ordinances that he was required to follow. Id.

9. Mr. Nelson Molina, Licensee and Manager, appeared at the Commission hearing along with Counsel. The Commission was informed that Mr. Molina has received his Serv-Safe Covid-19 Precaution certificate. (Exhibit A)
10. Mr. Molina testified that he has hired additional security personnel to assist in ensuring compliance with the COVID-19 Orders. (Testimony)
11. Since the date of this incident, the Investigators have been back and found no additional violations. (Testimony)
12. The Licensee has held a license under M.G.L. c. 138, § 12 since 2016. (Exhibit 3)

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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On the first – third violations, 204 CMR 2.05 (2): Massachusetts Executive COVID-19 Orders No. 37, No. 40, and No. 46, the Commission hereby **INDEFINITELY SUSPENDS** the license of Moe Brothers LLC d/b/a Latinos Falcon Bar & Billiards **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.

On the fourth violation, 204 CMR 4.03 (1) (c) Certain Practices Prohibited, the Commission issues a **WARNING**.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Deborah A. Baglio, Commissioner Deborah A. Baglio

Jean M. Lorizio, Chairman Jean M. Lorizio

Crystal Matthews, Commissioner Crystal Matthews

November 19, 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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