

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

December 17, 2020

BANDA SENHORA DA CONCEICAO MOSTEIRENSE, INC.
369 HOPE STREET
FALL RIVER, MA 02720
LICENSE#: 00183-CL-0388
VIOLATION DATE: 10/28/2020
HEARD: 12/08/2020

After a hearing on December 8, 2020, the Commission finds Banda Senhora da Conceicao Mosteirens, Inc. 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 Banda Senhora da Conceicao Mosteirens, Inc. **effective forthwith** until further written order of the Commission.

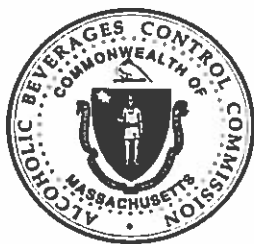
You are advised that you have the right to appeal this decision under M.G.L. c. 30A to Superior Court within thirty (30) days upon receipt of this notice.

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
Robert Gardner, Investigator
Nicholas Velez, Investigator
Michael Flanagan, Dept. of Labor Standards
Gloria Pacheco, Esq.
Administration, File



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

DECISION

BANDA SENHORA DA CONCEICAO MOSTEIRENSE, INC.
369 HOPE STREET
FALL RIVER, MA 02720
LICENSE#: 00183-CL-0388
VIOLATION DATE: 10/28/2020
HEARD: 12/08/2020

Banda Senhora Da Conceicao Mosteirens, Inc. (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, December 8, 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 partially stipulated to the facts alleged in Investigator Gardner's Report.

The following documents are in evidence:

1. Investigator Gardner's Report;
2. Licensee Partial Stipulation of Facts;
3. Copy of New License Approval, 9/15/1993;
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 Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 10/01/2020;
8. ABCC Enforcement Memorandum, 12/7/2020.

A. (12) Photos of the Interior and Exterior of Licensed Premises.

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

FINDINGS OF FACT

1. On Wednesday, October 28, 2020, at approximately 8:00 p.m., Investigators Velez and Gardner (“Investigators”) conducted an investigation of Banda Senhora Da Conceicao Mosteirense, Inc. 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.
2. Investigators observed (approximately 10) ten individuals inside the licensed premises without any facial coverings, some of whom were seated at tables and others standing at the bar. Some of these individuals were within 6 feet of one another and some were in possession of alcoholic beverages.
3. Investigators spoke with Miguel Nunes, the former vice-president of the organization. Mr. Nunes was also not wearing a facial covering.
4. Investigators informed Mr. Nunes of their observations and reviewed the COVID-19 guidelines and Sector Specific Safety Standards for Restaurants with him.
5. Investigators advised Mr. Nunes of the violations and that a report would be filed with the Chief Investigator for further review.
6. Attorney Gloria Pacheco appeared at the Commission hearing on behalf of the Licensee. Attorney Pacheco conceded that violations of the safety standards occurred on October 28, 2020. However, she informed the Commission that the Licensee had protocols in place to address concerns regarding COVID-19 which included sanitizing surfaces, reducing the number of tables and chairs to provide greater distance between patrons, and reducing the number of people allowed inside.
7. The Licensee has held a license under M.G.L. c. 138, § 12 since 1993 with no prior violations.

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 Banda Senhora da Conceicao Mosteirense, Inc. **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.

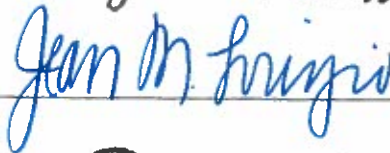
Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards ("DLS") as to a reopening plan. The Licensee must submit to the 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.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Crystal Matthews, Commissioner



Jean M. Lorizio, Chairman



Deborah A. Baglio, Commissioner



Dated: December 17, 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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