



*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**

October 21, 2020

**CONGA LOUNGE AND RESTAURANT CORP.  
D/B/A CONGA LOUNGE & RESTAURANT  
168-170 BROAD STREET  
LYNN, MA 01902  
LICENSE#: 04098-RS-0638  
VIOLATION DATE: 8/22/2020  
HEARD: 9/23/2020**

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After a hearing on September 23, 2020, the Commission finds Conga Lounge and Restaurant Corp. d/b/a Conga Lounge & 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 Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

Therefore, the Commission **INDEFINITELY SUSPENDS** the license Conga Lounge and Restaurant Corp. d/b/a Conga Lounge & 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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cc: Local Licensing Board  
Frederick G. Mahony, Chief Investigator  
Kyle E. Gill, Esq., Associate General Counsel  
Robert Gardner, Investigator  
Joseph Di Cicco, Investigator  
Dennis Keefe, Investigator  
Katelyn Quinn, Investigator  
Michael Flanagan, Dept. of Labor Standards  
David L'Esperance, Esq.  
Administration, File

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

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

**DECISION**

**CONGA LOUNGE AND RESTAURANT CORP.  
D/B/A CONGA LOUNGE & RESTAURANT  
168-170 BROAD STREET  
LYNN, MA 01902**

**LICENSE#: 04098-RS-0638**

**VIOLATION DATE: 8/22/2020**

**HEARD: 9/23/2020**

Conga Lounge and Restaurant Corp. d/b/a Conga Lounge & Restaurant ("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, September 23, 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).

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

The following documents are in evidence:

1. Investigator Gardner's Report;
2. Licensee Stipulation of Facts;
3. License Transfer Application Approval, 5/17/1918;
4. Massachusetts Executive COVID-19 Order No. 37;
5. Massachusetts Executive COVID-19 Order No. 40;
6. Massachusetts Executive COVID-19 Order No. 46;

7. Massachusetts COVID-19 Sector Specific Workplace Safety Standards, 8/10/2020;
8. ABCC Enforcement Memorandum, 9/22/2020.

A. Licensee's Sales Receipts for 8/22/2020 to 8/23/2020.

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

#### FINDINGS OF FACT

1. On Saturday, August 22, 2020, Investigators Di Cicco, Keefe, Quinn, and Gardner ("Investigators") conducted an investigation of Conga Lounge and Restaurant Corp. d/b/a Conga Lounge & Restaurant ("Licensee") 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. While outside the premises, at approximately 11:00 p.m., Investigators observed disco-type lights consistent with those found in night clubs displayed inside the premises. Investigators also observed an employee outside allowing individuals to enter the establishment. Investigators observed multiple individuals entering the premises with no facial coverings as well as approximately five (5) individuals exiting the premises without any facial covering.
3. Investigators accompanied by Lynn Police Officers ("Officers") entered the licensed premises and heard loud dance music. Investigators and Officers observed multiple individuals seated, standing side-by-side at the bar, and within the bar area, in possession of alcoholic beverages, with no indication of food service.
4. Investigators observed several tables where individuals were in possession of alcoholic beverages with no indication of food service.
5. Investigators observed multiple individuals dancing or walking around the premises without any facial covering.
6. The sector specific workplace safety standards state that, restaurants may not seat customer at the bar; All customers must be seated; eat-in service to standing customers is prohibited. Further that facial coverings are required for all customer and workers at all times, and restaurants must ensure separation of 6 feet or more between all individuals.
7. Investigators spoke to the manager, Edward Martinez and informed him of their observations. Mr. Martinez stated to Investigators that he understood and would take corrective action.
8. Investigators advised Mr. Martinez of the violations and that a report would be filed with the Chief Investigator for further review.
9. Counsel for the Licensee appeared at the Commission hearing with Mr. Martinez. Mr. Martinez testified that the night of the incident was their first night open since March. He stated that they had taken many precautions including providing hand sanitizer stations, and masks for anyone that did not bring one. Mr. Martinez testified that there were three cooks working on the night of the incident and that all patrons inside the premise had

ordered and eaten food. He acknowledged that some of them had eaten earlier and their tables had been cleared. Mr. Martinez further informed the Commission that he had not been aware that stand-up tables were prohibited and added that those stand-up tables have been replaced with sit-down tables.

10. The Licensee has held a license under M.G.L. c. 138, § 12 since 2018 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~~  
Massachusetts Executive COVID-19 Order No. 46 (August 7, 2020).

The Commission hereby **INDEFINITELY SUSPENDS** the license of Conga Lounge and Restaurant Corp. d/b/a Conga Lounge & 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/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](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

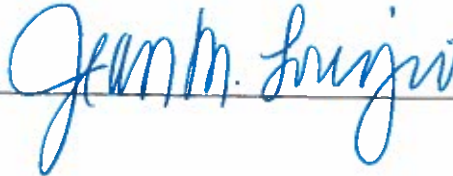
Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Jean M. Lorizio, Chairman



Dated: October 21, 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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