

*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**

May 12, 2021

**HENAGHAN HOLDINGS LLC D/B/A NOBILITY HILL TAVERN  
421-423 MAIN STREET  
STONEHAM, MA 02180  
LICENSE#: 04029-RS-1242  
VIOLATION DATE: 2/11/2021  
HEARD: 3/30/2021**

After a hearing on March 30, 2021, the Commission finds Henaghan Holdings LLC d/b/a Nobility Hill Tavern 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: Mass. Exec. COVID-19 Order No. 58 (Dec. 8, 2020) – Failure to comply with rules applicable to Step 1 of Phase III of the Re-Opening Plan.

Therefore, the Commission **INDEFINITELY SUSPENDS** the license of Henaghan Holdings LLC d/b/a Nobility Hill Tavern **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  
Joseph Di Cicco, Investigator  
Michael Flanagan, Dept. of Labor Standards  
Administration, File



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*Alcoholic Beverages Control Commission*  
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*Chairman*

**DECISION**

**HENAGHAN HOLDINGS LLC D/B/A NOBILITY HILL TAVERN**  
**421-423 MAIN STREET**  
**STONEHAM, MA 02180**  
**LICENSE#: 04029-RS-1242**  
**VIOLATION DATE: 2/11/2021**  
**HEARD: 3/30/2021**

Henaghan Holdings LLC d/b/a Nobility Hill Tavern (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, March 30, 2021, 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: Mass. Exec. COVID-19 Order No. 58 (Dec. 8, 2020) – Failure to comply with rules applicable to Step 1 of Phase III of the Re-Opening Plan.

The following documents are in evidence:

1. Investigator Di Cicco's Report;
2. ABCC Application Summary Review, New License Approval, 4/23/2018;
3. Massachusetts Executive COVID-19 Order No. 37, 6/6/2020;
4. Massachusetts Executive COVID-19 Order No. 40, 6/19/2020;
5. Massachusetts Executive COVID-19 Order No. 58, 12/8/2020;
6. Massachusetts Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19, 2/4/2021;
7. ABCC Enforcement Memorandum, 3/25/2021.

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

## FINDINGS OF FACT

1. On Thursday, February 11, 2021, Investigator DiCicco ("Investigator") conducted an investigation of Henaghan Holdings LLC d/b/a Nobility Hill Tavern 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. At approximately 11:45 p.m., Investigator DiCicco was outside of the licensed premises. He was able to see inside the establishment and observed people dancing, standing and/or walking around, in close proximity to one another, and consuming alcoholic beverages. Some patrons were not wearing any facial covering. Id.
3. The right-hand side of the establishment contained a bar and tables and chairs while the left-hand side appeared to be a dining room with tables and chairs. Id.
4. Investigator DiCicco entered the licensed premise through the right-hand side and observed an individual, without any facial covering, standing at the bar. He observed the bar had a plexiglass barrier separating the bartender from the customers. Id.
5. Investigator DiCicco then entered the dining room of the establishment and again observed individuals dancing, standing, and walking in close proximity to each other. Id.
6. The Investigator heard music playing and observed individuals singing with a microphone. Id.
7. Investigator DiCicco spoke with the Licensee, John Henaghan, who stated the individuals in the dining room were celebrating a 50<sup>th</sup> birthday. Id.
8. The Investigator reviewed the COVID guidelines and Sector Specific Safety Standards with Mr. Henaghan, informed him of the violations and that a report would be filed with the Chief Investigator for review. Id.
9. Mr. Henaghan appeared at the Commission hearing. He testified he makes every effort to abide by all COVID guidelines and has put many precautions in place, including hiring additional staff. He stated he had explained to the hosts of the birthday party that guests must abide by COVID restrictions. He had checked on them to ensure compliance numerous times throughout the night. Mr. Henaghan was in the office with an employee when Investigator DiCicco arrived. He stated the patrons at the birthday party admitted to him they had gotten out of control and he immediately put an end to the party. (Testimony)
10. The Licensee has held a license under M.G.L. c. 138, § 12 since 2018, with no prior violations. (Exhibit 2, Commission Records)

## 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;

The Executive COVID-19 Orders require adherence to all Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (February 4, 2021) including:

Require face coverings for all customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability;

Customers must wear face coverings unless seated at tables;

All customers must be seated; and

Licensees must ensure separation of 6 feet between all individuals.

Sector Specific Workplace Safety Standards for Restaurants to Address COVID-19 (February 4, 2021)

Direct evidence was presented through the testimony of Investigator DiCicco, and corroborated by the Licensee, as to patrons standing inside the establishment, some without any facial coverings, in close proximity to one another and consuming alcoholic beverages.

The Commission is persuaded by the evidence that a violation of 204 CMR 2.05(2), to wit: Massachusetts Executive Orders 37, 40, and 58 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: Mass. Exec. COVID-19 Order No. 58 (Dec. 8, 2020) – Failure to comply with rules applicable to Step 1 of Phase III of the Re-Opening Plan.

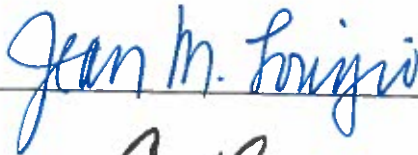
The Commission hereby **INDEFINITELY SUSPENDS** the license of Henaghan Holdings LLC d/b/a Nobility Hill Tavern **effective forthwith** until further written order of the Commission.

The Commission will not issue any further order without a written request from the licensee showing good cause to reconsider this indefinite suspension.

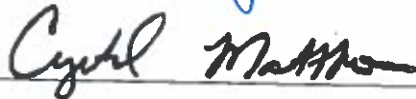
Good cause for the Commission to consider issuing a further written order revising the order of indefinite suspension will include, but not be limited to the Licensee receives approval from the Massachusetts Department of Labor Standards (“DLS”) as to a reopening plan. The Licensee must submit to the DLS a COVID Control Plan to reopen (see link here: <https://www.mass.gov/doc/sector-specific-workplace-safety-standards-for-restaurants-to-address-covid-19-030121/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

Jean M. Lorizio, Chairman



Crystal Matthews, Commissioner



Deborah A. Baglio, Commissioner



Dated: May 12, 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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