



New Bedford Board of Health

CEASE AND DESIST ORDER

UNDER MASSACHUSETTS EMERGENCY COVID ORDERS

AND OR M.G.L. c. 111, § 122

EFFECTIVE IMMEDIATELY

Date: 12/2/ 2020

Name of Business/Landowner/Individual: The Bar

(Hereafter referred to as "Respondent") Robert A. Faria

Address of Business/Landowner/Individual: 266 Dartmouth St.

The above-named Board of Health, working under the authority of the Governor's Emergency Orders, including, without limitation, COVID-19 Orders Numbered 37, 53, 54 and 55 M.G.L. c. 111, § 122, hereby issues a **CEASE AND DESIST ORDER** to the Respondent identified above, for the reasons stated herein.

The specific violation(s) leading to the issuance of this Cease and Desist Order include one or more of the following:

☐ The Respondent is a business, organization, or enterprise that is not an industry permitted to be open under the currently achieved Phase of the scheduled "Phased Reopening" plans and has not closed their physical workplaces and facilities to workers, customers, and the public, pursuant to the applicable Massachusetts COVID-19 Orders.

☒ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders mandating the **wearing of facial coverings, including masks**, and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☐ The Respondent has violated applicable laws and regulations pertaining to **Isolation and Quarantine** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☐ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **maximum premises capacity** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☐ The Respondent has violated applicable laws and regulations pertaining to

COVID-19 Orders regulating **indoor and/or outdoor entertainment** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☐ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **proper “social distancing” of patrons or guests** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☒ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **food service** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☒ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **indoor and/or outdoor recreational activities** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☐ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **summer day camps** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☐ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **day care services** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☐ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **congregate living facilities** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☐ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **public gatherings** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122.

☒ The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders as follows:

The New Bedford Health Department has received multiple notifications from the New Bedford Police Department on 10/14/2020 and 11/14/2020, implicating your facility in violation of the COVID-19 mandatory safety standards for restaurants and outdoor gatherings. On 11/21/2020 and 11/28/2020 the New Bedford Police Department reported **employees and patrons not wearing masks. Additionally, on 11/21/2020 the New Bedford Police Department reported patrons playing billiards without wearing masks.** The owner also indicated to the New Bedford Police Officers that he had no intention on complying with the COVID19 orders and/or regulations.

and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §122. Therefore, you are hereby ordered to immediately close your establishment and you may not be allowed to re-open until Phase 4.

PENALTIES:

☒ **Operation of Enterprise or Other Individual Action in Violation of COVID-19 Orders:** Violation of terms of COVID-19 Order Nos. 37 and 53, 54 and 55 may result in a civil fine up to \$300 *per violation*, in the manner provided for in M.G.L. c. 277, § 70C, and M.G.L. c 40, §21D.

☐ Prior to the issuance of this Cease and Desist Order, if the situation was non- emergent, the Respondent received a verbal consultation and redirection; a written redirection; and up to three escalating fines of not more than \$300.00 each, and the issues complained of herein have not been cured to the satisfaction of the Board of Health or its agent, which has resulted in the issuance of this Cease and Desist Order.

X Operation of Enterprise or Other Individual Action in Violation of Nuisance Statute: Violation of M.G.L. c. 111, § 122 may result in a civil fine up to \$1000 *per day per violation*.

You are hereby ordered to pay the amount of \$2900 by check or money order made payable to the **City of New Bedford Health Department** within twenty-one (21) days of receipt of this order to the address below.

ENFORCEMENT:

The City of New Bedford, Board of Health or its agent may be assisted by the Massachusetts Department of Labor Standards and/or the Massachusetts

Department of Public Health for matters that fall within the statutory purview of those Departments, together with local Police or State Police in the enforcement of this Cease and Desist Order.

ABATEMENT:

Failure to submit proof of compliance with this Cease and Desist Order within one calendar day of receipt, to the above-named Board of Health via email at gail.joseph@newbedford-ma.gov, may constitute a further violation punishable by additional fine(s) as set forth above.

APPEAL:

If you are aggrieved by this order, you have the right to request a Hearing before the above-named Board of Health. **This request must be made by you, in writing, and filed within seven (7) days after the date this Order was served or actually received.** Any affected party has a right to appear at said hearing.

Signed by:

Paul Reynolds
Respondent or Representative

12/2/2020
Date:

Sofia C. Dalosta
Agent of the New Bedford Health Department

12/2/2020
Date:

☐ Response refused to sign

Date:

Address: 1213 Purchase St. New Bedford Ma. 02740