

STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF HEALTH

IN THE MATTER OF:
Vibe Lounge and Hookah Bar
Violations of Executive Orders and

RI Department of Health Regulations

IMMEDIATE COMPLIANCE ORDER

Now comes the Director of the Rhode Island Department of Health ("RIDOH"), as informed by the Chair ("Chair") of the Rhode Island COVID-19 Enforcement Task Force ("Task Force"), and pursuant to R.I. Gen. Laws § 23-1-21, Executive Orders 20-32 and 20-98 ("Executive Orders"), and the RIDOH rules and regulations pertaining to Safe Activities By Covered Entities During the COVID-19 Emergency (216-RICR-50-15-7) ("Safe Regulations"), determines that Vibe Lounge and Hookah Bar ("Respondent") is in violation of applicable Executive Orders and/or the Safe Regulations, which violations require immediate action to protect the health, welfare, and safety of the public.

NEED FOR IMMEDIATE ACTION

On March 9, 2020, Governor Gina M. Raimondo declared a state of emergency for the State of Rhode Island due to the dangers to health and life posed by COVID-19. The Safe Regulations were promulgated as an emergency rule, pursuant to R.I. Gen. Laws § 42-35-2.10, based on a finding that an imminent peril to the public health, safety, or welfare required immediate promulgation of the rule, specifically that "[i]n order to prevent further spread of COVID-19 as individuals begin to leave their homes more frequently and establishments begin to reopen, protective measures must be followed and

implemented for individuals and establishments to resume operations so that the public's health and welfare is protected."

GROUNDS FOR DETERMINATION OF VIOLATIONS

- I. Respondent is a lounge and hookah bar located at 25 Broad Street in Pawtucket.
- II. Respondent is a covered entity, as defined in the Safe Regulations. As such, Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. On or about October 17, 2020, at approximately 11:30 p.m., a Task Force inspector conducted a spot check of the Respondent to determine compliance with bar requirements. Upon entry, the inspector observed multiple violations of Executive Orders and the Safe Regulations. As a result of this spot check, an Immediate Compliance Order ("Order") and Citation, which set forth the observed violations, were served upon the Respondent on October 22, 2020. (See "Exhibit 1") Among other things, the Order directed Respondent to close for a period of not less than fourteen (14) days.
- IV. Additionally, prior to being allowed to reopen, the Respondent was required to meet certain requirements as stated in the Order. One of these requirements was that Respondent meet with representatives from RIDOH and the R.I. Department of Business Regulation to discuss safety concerns and the Respondent's plan to comply with all applicable Executive Orders and the Safe Regulations.
- V. The required meeting was held on or about October 30, 2020. In the meeting, Respondent acknowledged that it had failed to comply with the Executive Orders and Safe Regulations and agreed that it would do so moving forward. As a result of the Respondent's assertions, it was allowed to reopen shortly thereafter.
- VI. On November 25, 2020, at approximately 8:10 p.m., a Task Force inspector arrived at the Respondent establishment to conduct a spot check. The inspector observed a number of vehicles

in the parking lot and observed numerous individuals enter the establishment. When the inspector entered, herself, she did not see any of the individuals she had seen enter within the establishment's club area.

- VII. The inspector spoke with the owner and asked where all the patrons were. At first, the owner denied that there was anyone present. The inspector inquired whether there was another social room somewhere in the club, but the owner denied its existence. The owner stated that there was only an "employee area" down the hall.
- VIII. The inspector proceeded down the hall to investigate. First, she observed that there were approximately five (5) hookah pipes that were set up and in operation, though not presently being smoked. Next, she observed an employee go through a door into what appeared to be another room. When the inspector entered the room, she discovered that it was a private function room which was hosting a birthday party. When the inspector confronted the owner about her discovery, all the owner did was apologize.
- IX. Based on the foregoing, and in the absence of any other information to rebut the allegations, the Director of RIDOH has determined that Respondent is in present violation of multiple provisions of applicable Executive Orders and/or the Safe Regulations and that immediate action is necessary to protect the health, welfare, or safety of the public. Moreover, the Director of RIDOH has determined that Respondent is not presently safe to be open because of the severity of these violations and because the establishment has been operated in a manner that significantly increased the likelihood of employees, patrons, and visitors (including vendors) of being exposed to COVID-19.

VIOLATIONS

The following violations stem from the November 24, 2020 spot check.

- I. Respondent is in violation of Section 7.4.1(A)(3) of the Safe Regulations, which requires all individuals in an establishment to wear cloth face coverings unless physical distancing or an exception applies and requires establishments to deny entry to any employee, who is not otherwise exempt from the requirement, who refuses to wear a cloth face covering when required. When the inspector entered the establishment, she observed one (1) employee in the front bar area who was not wearing a cloth face covering. The employee did not claim an exception. In addition, In the rear function room, the inspector observed numerous patrons mingling who were not wearing any cloth face coverings. (See "Exhibit 2")
- II. Respondent is in violation of Section 7.4.1(A)(1)(a) of the Safe Regulations, which requires establishments to ensure compliance with a plan that includes procedures relative to, among other things, physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible. The inspector observed that, as evidenced by the high volume of patrons in the function room, physical distancing was not being maintained to the extent feasible. In addition, there were no measures in place to ensure that physical distancing was maintained.
- III. Respondent is in violation of Section 7.4.1(A)(12) of the Safe Regulations, which prohibits congregating and/or mingling in an establishment or areas under the establishment's control. The inspector observed numerous patrons in the Respondent establishment who were not seated and were congregating, mingling, and/or dancing. (See "Exhibit 2")
- IV. Respondent is in violation of Section 7.4.2(A)(6) of the Safe Regulations, which requires that:
 - a. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier of appropriate height and made of a material which complies with the interior finish requirements of the State Fire Code, is installed between the bar work areas and customers; and

- b. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
- c. working bar areas (e.g. drink making stations or glassware storage) must be located at least six (6) feet from these gaps. Drinks and/or food may not be passed to customers under, over, or around such barrier by staff behind the bar.

The inspector observed that, in the function room where the party was being held, there were numerous parties at the bar who were being served though there was no physical, non-porous barrier of appropriate height separating the patrons from the bar work areas.

ORDER IMMEDIATE COMPLIANCE

It is hereby **ORDERED**, that Respondent is to immediately close for a period of no less than fourteen (14) days, which is the incubation period for COVID-19. Respondent may not reopen until such time that all violations have been remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent must develop and incorporate into its written control plan a strategy to prevent the violations listed above from reoccurring. Said written plan shall incorporate, but not be limited to, the following:
 - a. Respondent shall require all employees in its establishment to wear cloth face coverings unless physical distancing can be continuously maintained, or an exception applies. In accordance with Section 7.4.1(3)(a) of the Safe Regulations, Respondent shall deny access to its establishment to any employee who refuses to wear a cloth face covering when required by the Safe Regulations unless an exception applies.
 - Respondent shall instruct all patrons in its establishment to wear cloth face coverings unless an exception applies.

- c. Respondent shall ensure compliance with its plan for safe operation, required pursuant to Section 7.4.1(A)(1) of the Safe Regulations, including compliance with, among other things, procedures consistent with the Safe Regulations relative to physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.
- Respondent shall ensure that service is made only to seated customers and that no service to standing customers occurs.
- e. Respondent shall ensure that no congregating and/or mingling occurs within the establishment or any area under the establishment's control and that all patrons are seated.
- f. Respondent shall ensure that no hookah or waterpipes are used indoors.
- g. Respondent shall ensure that:
 - when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier (i.e., plexiglass) of appropriate height is installed between the bar work areas and customers; and
 - ii. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
 - iii. working bar areas (e.g. drink making stations or glassware storage) are located at least six (6) feet from these gaps and that drinks and/or food is not passed to customers under, over, or around such barrier by staff behind the bar.
- II. In addition to the conditions as set forth above, Respondent may not reopen until such time that the following conditions are met, to the satisfaction of the Director of RIDOH:

- a. Email the following documents to: DBR.CovidTaskForce@dbr.ri.gov
 - i. An updated control plan which, in addition to addressing the matter set forth above in this ICO, must detail a strategy to ensure your employees and patrons are adhering to other applicable RIDOH regulations found here: https://rules.sos.ri.gov/regulations/part/216-50-15-7
 - ii. Your establishment's employee worklog, dating back two weeks from the date the violations outlined in the ICO were witnessed by a Task Force inspector.
- Respondent shall attend and participate in a meeting with representatives of RIDOH.
 You will be emailed the RIDOH contact information so you can schedule your meeting.
- c. After you have met with RIDOH, unless instructed otherwise, please contact

 <u>DBR.CovidTaskForce@dbr.ri.gov</u> to schedule an inspection of your establishment.
- Respondent establishment shall be completely cleaned and sanitized in accordance with applicable CDC guidance.
- e. All employees must be trained on, and comply with, Respondent's updated written control plan.
- f. Any area within Respondent establishment or under the Respondent's control where patrons can congregate and/or mingle, e.g., dance floors, shall be roped off or otherwise made inaccessible to patrons.
- g. Respondent shall determine its regular indoor seating capacity and shall limit the number of patrons allowed to enter the establishment in accordance with the present capacity limit, as set forth in applicable executive order or regulation. Such capacity limitation must be identified in the modified control plan described above.

III. In addition, Respondent may not reopen until such time that Respondent engages, at its own

expense, an independent monitor acceptable to RIDOH to monitor Respondent's compliance

with all applicable laws, regulations, and guidance relative to COVID-19 ("Applicable Law").

Such monitor must (i) have demonstrated knowledge of Applicable Law, and (ii) be sufficiently

independent, to the satisfaction of RIDOH, such that the monitor can impartially ensure

RIDOH of Respondent's effective compliance with Applicable Law. Unless modified by RIDOH,

on request of Respondent, such monitor shall be retained for the duration of the Rhode Island

state of emergency declared due to the dangers to health and life posed by COVID-19.

Respondent shall ensure that the monitor provides weekly reports to RIDOH relative to

Respondent's compliance in a form approved by RIDOH.

This order, as well as any other supporting information shall be provided by RIDOH to the local board of

licenses/municipality which holds the Respondent establishment's liquor license.

Entered this 27th Day of November, 2020.

Nicole Alexander-Scott, MD, MPH

Director

Rhode Island Department of Health

Cannon Building, Rm. 401

Three Capitol Hill

Providence, RI 02908



CITATION/ACCOUNT NUMBER	D.								
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RHODE ISLAND DEPARTMENT OF HEALTH later than ten (10) days after the date of this citation. Payment must be made via				
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STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF HEALTH

IN THE MATTER OF:
Vibe Lounge and Hookah Bar
Violations of Executive Orders and

RI Department of Health Regulations

IMMEDIATE COMPLIANCE ORDER

Now comes the Director of the Rhode Island Department of Health ("RIDOH"), as informed by the Chair ("Chair") of the Rhode Island COVID-19 Enforcement Task Force ("Task Force"), and pursuant to R.I. Gen. Laws §§ 23-1-20 and 23-1-21, Executive Orders 20-32 and 20-79 ("Executive Orders"), and the RIDOH rules and regulations pertaining to Safe Activities By Covered Entities During the COVID-19 Emergency (216-RICR-50-15-7) ("Safe Regulations"), determines that Vibe Lounge and Hookah Bar ("Respondent") is in violation of applicable Executive Orders and/or the Safe Regulations, which violations require immediate action to protect the health, welfare, and safety of the public.

NEED FOR IMMEDIATE ACTION

On March 9, 2020, Governor Gina M. Raimondo declared a state of emergency for the State of Rhode Island due to the dangers to health and life posed by COVID-19. The Safe Regulations were promulgated as an emergency rule, pursuant to R.I. Gen. Laws § 42-35-2.10, based on a finding that an imminent peril to the public health, safety, or welfare required immediate promulgation of the rule, specifically that "[i]n order to prevent further spread of COVID-19 as individuals begin to leave their homes more frequently and establishments begin to reopen, protective measures must be followed and

implemented for individuals and establishments to resume operations so that the public's health and welfare is protected."

GROUNDS FOR DETERMINATION OF VIOLATIONS

- I. Respondent is a lounge and hookah bar located at 25 Broad Street in Pawtucket.
- II. Respondent is a covered entity, as defined in the Safe Regulations. As such, Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. On or about October 17, 2020, at approximately 11:30 p.m., a Task Force inspector conducted a spot check of the Respondent to determine compliance with bar requirements. Upon entry, the inspector observed multiple violations of Executive Orders and the Safe Regulations as described below.
- IV. Based on the foregoing, and in the absence of any other information to rebut the allegations, the Director of RIDOH has determined that Respondent is in present violation of multiple provisions of applicable Executive Orders and/or the Safe Regulations and that immediate action is necessary to protect the health, welfare, or safety of the public.

VIOLATIONS

The following violations stem from the October 17, 2020 spot check.

I. Respondent is in violation of Section 7.4.1(A)(3) of the Safe Regulations, which requires all individuals in an establishment to wear cloth face coverings unless physical distancing or an exception applies and requires establishments to deny entry to any employee who is not otherwise exempt from the requirement or who refuses to wear a cloth face covering when required. The inspector observed approximately six (6) employees in the establishment, two (2) of which were not wearing cloth face coverings. None claimed an exception to the requirement to wear a cloth face covering, nor were they able to maintain physical distancing. The inspector

- also observed numerous patrons mingling within Respondent establishment who were not wearing any cloth face coverings. (See "Exhibit A")
- II. Respondent is in violation of Section 7.4.1(A)(1)(a) of the Safe Regulations, which requires establishments to ensure compliance with a plan that includes procedures relative to, among other things, physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible. The inspector observed that, as evidenced by the high volume of patrons in the establishment, physical distancing was not being maintained to the extent feasible. (See "Exhibit B") In addition, there were no measures in place to ensure that physical distancing was maintained.
- III. Respondent is in violation of Executive Order 20-61, which requires that all establishments open past 11:00 p.m. must, from 11:00 p.m. until closing, close their bar areas, including, but not limited to the bar counter and seating at the bar counter, and ensure that the bar area is not accessible to patrons. At or before 11:00 p.m. every night, all such bars, restaurants, and other establishments must rope off the bar area and make seating at the bar counter unavailable to customers. The inspector conducted the inspection at 11:30 p.m. and observed that the bar area was not roped off and that there were approximately ten (10) patrons standing at the bar and being served. The inspector concluded, therefore, that the bar remained accessible to customers after 11:00 p.m. (See "Exhibit A")
- IV. Respondent is in violation of Section 7.4.2(A)(3) of the Safe Regulations, which prohibits service to standing customers. The inspector observed approximately ten (10) patrons standing at the bar area and being served. (See "Exhibit A")
- V. Respondent is in violation of Section 7.4.1.(A)(12) of the Safe Regulations, which prohibits congregating and/or mingling in an establishment or areas under the establishment's control. The

- inspector observed numerous patrons in the Respondent establishment who were not seated and were congregating and/or mingling. (See "Exhibits A, B, and C")
- VI. Respondent is in violation of Section 7.4.1.(A)(11) of the Safe Regulations, which prohibits the use of hookah or waterpipes indoors. The inspector observed numerous patrons using hookah indoors. (See "Exhibit C")
- VII. Respondent is in violation of Section 7.4.2(A)(6) of the Safe Regulations, which requires that:
 - a. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier of appropriate height and made of a material which complies with the interior finish requirements of the State Fire Code, is installed between the bar work areas and customers; and
 - b. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
 - c. working bar areas (e.g. drink making stations or glassware storage) must be located at least six (6) feet from these gaps. Drinks and/or food may not be passed to customers under, over, or around such barrier by staff behind the bar.

The inspector observed that there were numerous parties standing at the bar and being served though there was no physical, non-porous barrier of appropriate height separating the patrons from the bar work areas. (See "Exhibit A")

ORDER IMMEDIATE COMPLIANCE

It is hereby **ORDERED**, that Respondent is to immediately close for a period of no less than fourteen (14) days. Respondent my not reopen until such time that all violations have been remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent must develop and incorporate into its written control plan a strategy to prevent the violations listed above from reoccurring. Said written plan shall incorporate, but not be limited to, the following:
 - a. Respondent shall require all employees in its establishment to wear cloth face coverings unless physical distancing can be continuously maintained, or an exception applies. In accordance with Section 7.4.1(3)(a) of the Safe Regulations, Respondent shall deny access to its establishment to any employee who refuses to wear a cloth face covering when required by the Safe Regulations unless an exception applies.
 - Respondent shall instruct all patrons in its establishment to wear cloth face coverings unless physical distancing or an exception applies.
 - c. Respondent shall ensure compliance with its plan for safe operation, required pursuant to Section 7.4.1(A)(1) of the Safe Regulations, including compliance with, among other things, procedures consistent with the Safe Regulations relative to physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.
 - d. Respondent shall ensure that from 11:00 p.m. until closing, it closes its bar area, including, but not limited to the bar counter and seating at the bar counter, and ensure that the bar area is not accessible to patrons. The Respondent shall also ensure that, at or before 11:00 p.m. every night, the bar area is roped off and seating at the bar counter is unavailable to customers.
 - e. Respondent shall ensure that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous barrier of an appropriate height.
 - f. Respondent shall ensure that service is made only to seated customers and that no service to standing customers occurs.

- g. Respondent shall ensure that no congregating and/or mingling occurs within the establishment or any area under the establishment's control and that all patrons are seated.
- h. Respondent shall ensure that no hookah or waterpipes are used indoors.
- i. Respondent shall ensure that:
 - i. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier (i.e., plexiglass) of appropriate height is installed between the bar work areas and customers; and
 - ii. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
 - iii. working bar areas (e.g. drink making stations or glassware storage) are located at least six (6) feet from these gaps and that drinks and/or food is not passed to customers under, over, or around such barrier by staff behind the bar.
- II. In addition to the conditions as set forth above, Respondent may not reopen until such time that the following conditions are met, to the satisfaction of the Director of RIDOH:
 - a. Email the following documents to: DBR.CovidTaskForce@dbr.ri.gov
 - i. An updated control plan which, in addition to addressing the matter set forth above in this ICO, must detail a strategy to ensure your employees and patrons are adhering to other applicable RIDOH regulations found here: https://rules.sos.ri.gov/regulations/part/216-50-15-7

- ii. Your establishment's employee worklog, dating back two weeks from the date the violations outlined in the ICO were witnessed by a Task Force inspector.
- b. Ensure all persons on the worklog are tested for COVID-19.
- c. Once all employees have been tested AND their results are available, send confirmation of such to: DBR.CovidTaskForce@dbr.ri.gov
- d. Respondent shall attend and participate in a meeting with the Rhode Island Department of Health to discuss health concerns. You will be emailed the contact information of the RI Department of Health (RIDOH) so you can schedule your meeting with RIDOH.
- e. After you have met with RIDOH, please contact: DBR.CovidTaskForce@dbr.ri.gov to schedule an inspection of your establishment.
- f. Respondent establishment shall be completely cleaned and sanitized in accordance with applicable CDC guidance.
- g. All employees must be trained on, and comply with, Respondent's updated written control plan.
- h. Any area within Respondent establishment or under the Respondent's control where patrons can congregate and/or mingle, e.g., dance floors, shall be roped off or otherwise made inaccessible to patrons.
- i. Respondent shall determine its regular indoor seating capacity and shall limit the number of patrons allowed to enter the establishment at any one time to sixty-six percent (66%) of that indoor seating capacity. Such capacity limitation will be identified in the modified control plan described above.

j. Respondent shall ensure that information be collected from all visitors and other entrants who have interacted with others present on site solely for the purposes of contact tracing. Said information must be maintained for a period of thirty (30) days

This order, as well as any other supporting information shall be provided by RIDOH to the local board of licenses/municipality which holds the Respondent establishment's liquor license.

and made available to the Department of Health upon request.

Entered this 22nd Day of October 2020.

 ${\it Nicole\ Alexander-Scott,\ MD,\ MPH}$

Director

Rhode Island Department of Health

Cannon Building, Rm. 401

Three Capitol Hill

Providence, RI 02908

EXHIBIT A

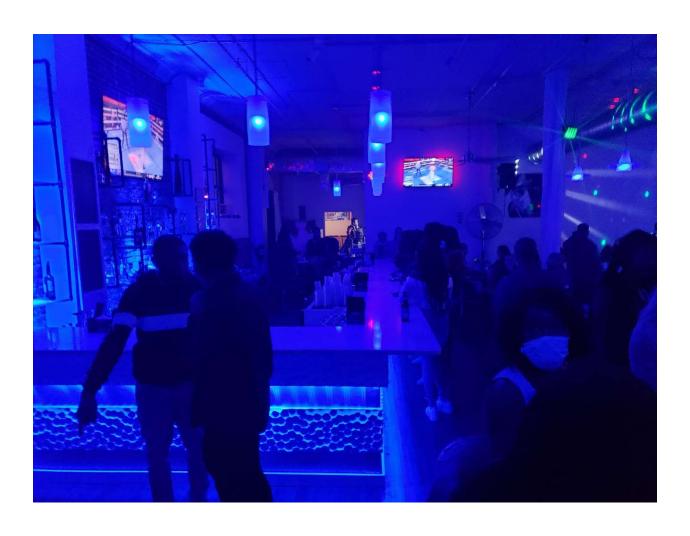


EXHIBIT B



EXHIBIT C

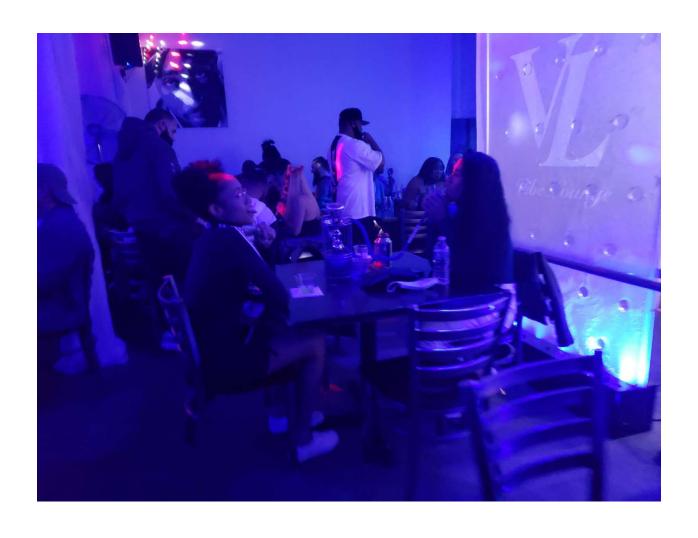




EXHIBIT 2

