



**STATE OF RHODE ISLAND  
RHODE ISLAND DEPARTMENT OF HEALTH**

**IN THE MATTER OF:  
Mahogany Shoals  
Violations of Executive Orders and  
RI Department of Health Regulations**

**IMMEDIATE COMPLIANCE ORDER  
HEALTHY ENVIRONMENT**

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 20-67 (“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 Mahogany (“Respondent”) is in violation of applicable Executive Orders and/or the Safe Regulations, which violations requires 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 VIOLATIONS**

- I. Respondent is a dining establishment which maintains a bar area at 111 Ocean Ave in New Shoreham.
- 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. Over the course of the summer, numerous verbal conversations were had with owner Sands Payne over the need to control the crowds in Respondent establishment. Despite these conversations, overcrowding, congregating, and mingling continued to occur in violation of the Safe Regulations.
- IV. On August 1, 2020 and August 8, 2020, a Task Force inspector conducted an inspection of the Respondent. Of note during each of the inspections were observations of impermissible overcrowding, congregating, and mingling.
- V. On August 14, 2020, Respondent was served with a Compliance Order based on violations which stemmed from overcrowding, congregating, and mingling.
- VI. On or about August 18, 2020 the Respondent purported to address the violations and the Order was lifted.
- VII. On or about August 29, 2020, at approximately 11:25 p.m., a Task Force inspector performed a spot inspection of the bar area and observed that Respondent establishment was again overcrowded with patrons congregating and mingling. As a result, Respondent was issued Citation Number 80000006, which cited the Respondent for multiple violations of Executive Orders and the Safe Regulations.

- VIII. On or about September 5, 2020, at approximately 11:00 p.m., a Task Force inspector performed a spot inspection of the bar area and observed that Respondent establishment was again overcrowded with patrons congregating and mingling and that the Bar was still accessible to patrons after 11:00 p.m.
- 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 continues to be in 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 September 5, 2020 spot check:

- I. 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 a large number of patrons who were crowded into the outdoor bar area. The inspector also observed that there were no measures in place to ensure that physical distancing was maintained and as a result of the large number of patrons, physical distancing was not maintained to the extent feasible.
- II. 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 that there were a large number of patrons at the outdoor bar area, most of which were congregating and/or mingling.
- 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 11:00 p.m. and observed that patrons were still mingling and/or congregating in the bar area and that the bar area was not roped off, and concluded, therefore, that the bar area was accessible to patrons after 11:00 p.m.

### **ORDER**

It is hereby **ORDERED**, that Respondent is to immediately close its outdoor bar area until such time as the following violations are remedied to the satisfaction of the Director of RIDOH:

- I. Respondent shall develop and implement a written corrective plan that brings Respondent into compliance with applicable Executive Orders and the Safe Regulations. This written plan shall be incorporated into Respondent's control plan and shall, at a minimum, address how it will comply with the following orders.
- II. 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 to include additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.
- III. Respondent shall ensure that no congregating and/or mingling occurs within the establishment or any area under the establishment's control.
- IV. 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 to 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.

Entered this 9th day of September 2020.

A handwritten signature in black ink, appearing to read "Nicole Alexander-Scott". The signature is fluid and cursive, with a large initial "N" and "A".

---

Nicole Alexander-Scott, MD, MPH  
Director  
Rhode Island Department of Health  
Cannon Building, Rm. 401  
Three Capitol Hill  
Providence, RI 02908