



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

**IN THE MATTER OF:
Milano's Pizza
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 20-79 ("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 Milano's Pizza ("Respondent") is in violation of applicable Executive Orders and/or the Safe Regulations, which violation 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 located at 659 Smith Street in Providence.
- 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 July 30, 2020, a Task Force inspector attempted to conduct a Healthy Environment inspection of the Respondent. Based on the uncooperative nature of the employee, the inspection was unable to be completed. Of note, however, was the fact that the employee was not wearing a cloth face covering. The employee did not claim an exception, nor was the employee able to continuously maintain physical distancing.
- IV. On or about August 15, 2020, a different Task Force inspector met with the Manager and conducted a reinspection of the Respondent. The inspector performed a checklist inspection of eleven (11) items based on the Safe Regulations and determined that Respondent scored a 6/11 for overall requirements. Again, an issue of significant concern was the fact that out of the seven (7) employees observed in the establishment, none was wearing a cloth face covering.
- V. As a result of the Respondent's continued lack of compliance with applicable Executive Orders and the Safe Regulations, particularly as it concerned the failure of Respondent to ensure its employees wore cloth face coverings, a Compliance Order was issued on August 18, 2020. (See "Exhibit A")
- VI. On August 20, 2020, a Task Force inspector conducted a reinspection of the Respondent to determine compliance with the Order issued on August 18, 2020. The inspector performed a checklist inspection of eleven (11) items based on the Safe Regulations and determined that

Respondent scored an 11/11 for overall requirements. In addition, all employees observed were observed to be wearing cloth face coverings.

- VII. On September 29, 2020, a Task Force inspector conducted a reinspection of the Respondent. The inspector performed a checklist inspection of eleven (11) items based on the Safe Regulations and determined that Respondent scored an 8/11 for overall requirements. Once again though, Respondent employees were not wearing cloth face coverings.
- VIII. 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 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 29, 2020 reinspection:

- I. Respondent is in violation of Section 7.3(B) of the Safe Regulations, which requires all individuals in public or in an establishment to wear a cloth face covering unless physical distancing can be maintained easily and continuously, or an exemption applies, and Section 7.4.1(A)(3) of the Safe Regulations, which requires each covered entity to instruct any person entering an establishment to wear cloth face coverings except when physical distancing from others in the establishment is easily, continuously, and measurably maintained or an exception applies, and to deny access to any employee who refuses to wear a cloth face covering when required. The inspector observed three (3) employees in the establishment, one (1) of which was at the counter, and two (2) who were in the kitchen area. None of the three (3) was wearing a cloth face covering and none claimed an exception or was able to continuously maintain physical distancing.

ORDER

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

- I. Respondent shall develop and implement a corrective plan that brings Respondent into compliance with applicable Executive Orders and the Safe Regulations.
- II. 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.

Entered this 1st day of October 2020.



Nicole Alexander-Scott, MD, MPH
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EXHIBIT A



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

**ELIZABETH M. TANNER, ESQ.
IN HER CAPACITY AS CHAIR OF THE
RHODE ISLAND COVID-19 ENFORCEMENT
TASK FORCE**

**IN THE MATTER OF:
Milano's Pizza
Violations of Executive Orders and
RI Department of Health Regulations**

NOTICE OF VIOLATION AND COMPLIANCE ORDER

Now comes the Chair (the "Chair") of the Rhode Island COVID-19 Enforcement Task Force ("Task Force") and pursuant to R.I. Gen. Laws § 23-1-20, Executive Order 20-32, Executive Order 20-40, Executive Order 20-58, and Rhode Island Department of Health ("RIDOH") regulation 216-RICR-50-15-7 (the "Safe Regulations"), determines there are reasonable grounds to believe that Milano's Pizza ("Respondent") is in violation of Executive Order and or the Safe Regulations, and provides notice thereof.

REASONABLE GROUNDS FOR DETERMINATION OF VIOLATION

- IX. Respondent is a dining establishment located at 659 Smith Street in Providence.
- X. Respondent is a covered entity as defined in the Safe Regulations. As such, the Respondent is required to comply with applicable Executive Orders and the Safe Regulation.
- XI. On or about July 30, 2020, a Task Force inspector attempted to conduct a Healthy Environment inspection of the Respondent. The employee of the Respondent would not acknowledge the

presence of the inspector or the inspector's request to conduct the inspection, so the inspector left the premise without performing the inspection. It should be noted that the employee who the inspector attempted to interact with was not wearing a cloth face covering.

- XII. On or about August 15, 2020, a different Task Force inspector conducted an inspection of the Respondent. The inspector met with owner Asamad Abk and performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent scored a 6/11 for overall requirements. The issue of greatest significance was the fact that no employees were observed to be wearing cloth face coverings and it appeared that management had no desire to ensure compliance with this requirement.
- XIII. Therefore, as a result of the Respondent's failure to comply with applicable Executive Orders and the Safe Regulations, and in the absence of any other information to rebut the allegations above, RIDOH has drawn the conclusion that the above allegations are true, and the Respondent is not in compliance with applicable Executive Orders and/or the Safe Regulations.

ALLEGED VIOLATIONS

The following alleged violations stem from the August 15, 2020 reinspection.

- 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. The inspector observed 7 employees behind the service counter, none of which were wearing cloth face coverings. Although 2 employees did don their cloth face coverings when the inspector entered, the rest did not. In addition, the manager with whom the inspector was speaking did not put a mask on during their entire conversation.

- II. Respondent is in violation of Section 7.4.1(A)(6) & (7) of the Safe Regulations, which requires each covered entity to ensure the performance of environmental cleaning of their establishments once per day and to maintain records documenting such environmental cleaning. Upon request, a cleaning log was presented. However, no entries had been made since July 25. Therefore, the required environmental cleaning was not being properly documented.
- III. Respondent is in violation of Section 7.4.1(A)(6) of the Safe Regulations, which requires each covered entity to clean commonly touched surfaces, such as shared workstations, elevator buttons, door handles and railings in accordance with CDC guidance for specific industries. Based on the condition of the service counter, which the inspector noted to be dirty, it was apparent that the Respondent was not cleaning commonly touched surfaces in accordance with CDC Guidance, which would require the countertop to be wiped down between each use.¹
- IV. Respondent is in violation of Section 7.4.1(A)(5) of the Safe Regulations, which requires all covered entities to ensure that their establishments have their restrooms open, and that they have running water and are stocked with hand soap. If access to restrooms or running water is limited, the establishment shall ensure ready access to hand sanitizer at all times. Upon observation, the Respondent did not have its restrooms open and did not have ready access to hand sanitizer available.

ORDER

It is hereby ORDERED, that on or before the tenth (10th) day from service of this Notice of Violation and Compliance Order, Respondent shall remedy the above cited violations and come into full compliance with applicable Executive Orders and Regulations, by fulfilling the conditions as set forth below:

¹ <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/business-employers/bars-restaurants.html>

- III. Respondent shall require all employees in its establishment to wear cloth face coverings unless physical distancing can be easily and continuously maintained, or an exception applies.
- IV. Respondent shall ensure the performance of environmental cleaning of its establishment once per day and maintain records documenting such environmental cleaning.
- V. Respondent shall clean all high touch surfaces in accordance with CDC guidelines, in accordance with its specific industry, and maintain records documenting such cleaning.
- VI. Respondent shall ensure that its establishment has its restroom open, and that they have running water and are stocked with hand soap. If access to restrooms or running water is limited, the establishment shall ensure ready access to hand sanitizer at all times.

Failure to comply with this ORDER may result in the imposition of civil fines, the issuance of an immediate compliance order, and/or any other action authorized by regulation, the Act, or other applicable law.

Entered this 18th day of August 2020.



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**A WRITTEN REQUEST FOR A HEARING MAY BE FILED IN WRITING WITHIN
TEN DAYS AFTER THIS NOTICE**