



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

**IN THE MATTER OF:
TaFino Restaurant & Lounge
370 Valley Street
Providence, RI 02908
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”), and pursuant to R.I. Gen. Laws § 23-1-21, Executive Orders 20-32 and 20-50 (“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 Tafino Restaurant & Lounge (“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.”

GROUND FOR DETERMINING VIOLATIONS

- I. Respondent is a restaurant and lounge located at 370 Valley Street, Providence, Rhode Island.
- 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 July 25, 2020, a RIDOH inspector met with Respondent owner, David Zayas (“Owner”), and conducted a Healthy Environment inspection of Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that Respondent scored 2/11 for overall requirements and 2/5 for dining requirements.
- IV. The inspector determined that Respondent was not in compliance with applicable Executive Orders and/or the Safe Regulations.
- V. Pursuant to the inspection, the inspector provided information and resources to Respondent to help it achieve full compliance. This included a recommendation to Respondent on how to access www.ReopeningRI.com and the relevant websites for the Executive Orders, rules, regulations, and guidance. Respondent was also advised that a reinspection would take place in the near future. The inspector noted that Respondent represented a desire to comply but stated, relative to the observed violations, that he cannot control his patrons.
- VI. 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 EO-50 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 July 25, 2020 inspection:

- I. Respondent is in violation of Section 7.4.1(A)(1) of the Safe Regulations, which requires that every covered entity develop and maintain a written plan for the safe operation of its establishment with regard to COVID-19 during the state of emergency (“Plan”) and make this plan available to RIDOH upon request. Owner was unable to provide the inspector with Respondent’s Plan and admitted to the inspector that he was unfamiliar with the Plan requirement and unaware of Respondent’s obligation.
- II. Respondent is in violation of Section 7.3(B) of the Safe Regulations, which requires all individuals 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), 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 eight Respondent employees inside the establishment during the inspection, four of whom were not wearing cloth face coverings despite being unable to maintain physical distancing. No employees claimed that an exemption to the requirement applied. Further, the inspector took note of approximately 15 patrons entering the establishment, none of whom were wearing masks and none of whom were instructed to wear cloth face coverings, as required in Section 7.4.1(A)(3) of the Safe Regulations, despite the fact that physical distancing could not be maintained within the establishment. The inspector noted, additionally, that nearly all of the approximately 60 patrons inside the establishment were not wearing cloth face coverings.
- III. Respondent is in violation of Section 7.3(A) of the Safe Regulations, which requires all individuals in public or in an establishment to maintain physical distancing at all times, to the extent feasible,

and Section 7.4.1(A)(12), which prohibits congregating and/or mingling in an establishment. The inspector observed that the majority of patrons within the establishment were not observing physical distancing requirements. Rather, as noted, almost all patrons were not wearing cloth face coverings, despite being within six feet of others without being separated by a physical barrier. Further, many patrons were standing, congregating within the establishment, dancing and mingling.

- IV. Respondent is in violation of Section 7.4.2(A)(1) of the Safe Regulations, which requires that all dining tables be separated by at least eight (8) feet from table edge to table edge or allow six (6) feet spacing between seated customers at different tables, unless separated by a physical, non-porous barrier of an appropriate height. The inspector observed that there were no barriers between tables and that the tables within the establishment were separated by less than six (6) feet.
- V. Respondent is in violation of Section 7.4.1(A)(2) of the Safe Regulations, which requires each covered entity to implement and ensure compliance with screening of all individuals entering its establishment at any time for any reason. The inspector observed approximately 15 patrons enter Respondent establishment, none of whom were screened by Respondent staff. Owner stated that patrons were being counted, which the inspector observed, but acknowledged that screenings were not being performed on staff or customers.
- VI. Respondent is in violation of Section 7.4.2(A)(8) which requires that information be collected from all visitors and other entrants who have interacted with others present on site for a period of 15-minutes or more solely for the purposes of contact tracing. The inspector observed no patrons of Respondent provide this information. When asked by the inspector to produce the information, Owner was unable to do so and admitted to the inspector that he was unfamiliar with the requirement and unaware of Respondent's obligation.

- VII. Respondent is in violation of Section 7.4.1(A)(8) of the Safe Regulations, which requires all covered entities to maintain an employee work log that identifies the full name, phone number, and the date and time of all shifts worked by each employee. When asked by the inspector to produce the work log, Owner was unable to do so and admitted to the inspector that he was unfamiliar with the log requirement and unaware of Respondent's obligation.
- VIII. Respondent is in violation of Sections 7.4.1(A)(6) and (7) of the Safe Regulations, which require each covered entity to ensure the performance of environmental cleaning of its establishments once per day, to clean commonly touched surfaces, such as shared workstations, elevator buttons, door handles, and railings in accordance with Centers for Disease Control ("CDC") guidance, and to maintain records documenting such environmental cleaning. Owner represented to the inspector that the required cleanings are being performed, but was unable to produce the cleaning documentation upon request. Owner admitted to the inspector that he was unfamiliar with the log requirement and unaware of Respondent's obligation.
- IX. Respondent is in violation of Section 7.4.1(A)(4) of the Safe Regulations, which requires each covered entity to ensure the placement of posters or signs at entry to its establishments educating any individual at the establishment concerning entry screening, required physical distancing, use of cloth face coverings, and other subjects as provided in guidance issued by the RIDOH. The inspector observed that required posters were absent from the entry to the establishment and concluded that Respondent failed to ensure the placement of required posters.

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:

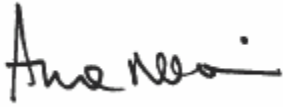
- I. Respondent shall develop and implement a corrective plan that brings Respondent into compliance with applicable Executive Orders and the Safe Regulations.
- II. Respondent shall develop and maintain a Plan and submit such Plan for approval to the RIDOH.
- III. Respondent shall require all employees 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.
- IV. Respondent shall ensure that physical distancing is maintained at all times, to the extent feasible, and that congregating and mingling is prohibited within the establishment.
- V. Respondent shall ensure that all dining tables are separated by at least eight (8) feet from table edge to table edge or allow six (6) feet spacing between seated customers at different tables, unless separated by a physical, non-porous barrier of an appropriate height.
- VI. Each employee shall be interviewed by RIDOH to ensure that none has symptoms of COVID-19. In accordance with Section 7.4.1(A)(2) of the Safe Regulations, any employee exhibiting multiple symptoms of COVID-19 or who is COVID-19 positive shall be denied access to the establishment.
- VII. Respondent shall ensure that all entrants to its establishment at any time for any reason are screened in accordance with Section 7.4.1(A)(2) of the Safe Regulations and that any individual identified as exhibiting multiple symptoms of COVID-19 or who is COVID-19 positive shall be denied access to the establishment.

- VIII. Respondent shall ensure that any person entering its establishment is, in accordance with Section 7.4.1(A)(3) of the Safe Regulations, instructed to wear cloth face coverings except when physical distancing from others in the establishment is easily, continuously, and measurably maintained or an exception applies.
- IX. Respondent shall ensure that, in accordance with Section 7.4.2(A)(8) of the Safe Regulations, information is collected from all visitors and other entrants who have interacted with others present on site for a period of 15-minutes or more solely for the purposes of contact tracing.
- X. Respondent shall maintain an employee work log, in accordance with Section 7.4.1(A)(8) of the Safe Regulations, that identifies the full name, phone number, and the date and time of all shifts worked by each employee
- XI. Respondent shall ensure that all required cleanings are logged in accordance with Section 7.4.1(A)(6) and (7) of the Safe Regulations.
- XII. Respondent shall ensure the placement of posters or signs at entry to the establishment educating any individual at the establishment concerning entry screening, required physical distancing, use of cloth face coverings, and other subjects as provided in guidance issued by RIDOH.

Failure to comply with this ORDER may result in the imposition of civil penalties and/or any other action authorized by applicable law or regulation.

[SIGNATURE PAGE FOLLOWS]

Entered this 28th day of July 2020.

A handwritten signature in black ink, appearing to read "Nicole Alexander-Scott". The signature is written in a cursive style with a horizontal line at the end.

for

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