

**STATE OF CONNECTICUT**

**DEPARTMENT OF CONSUMER PROTECTION**

**IN THE MATTER OF**

Assaggio

Phillip G. Barabrito a/k/a

Phillip G. Barrett, Jr., Permittee

Assaggio, LLC, Backer

Permit No. LIR.16459

Docket No. 09-256

Case No. 2008-2532

March 5, 2009

**MEMORANDUM OF DECISION**

This matter involves a restaurant liquor permit issued to Assaggio, 168 Montowese Street, Branford, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on February 26, 2009. Proper notice of the hearing was provided; however, the Respondent failed to appear.

The following charges are alleged against the Respondent. It is alleged that on or before June 3, 2008, the respondent violated (1) Sec. 30-39(b)(1) of the Connecticut General Statutes by offering live entertainment which had not been listed on the 2007-08 renewal application; (2) Sec. 30-53 of the Connecticut General Statutes by failing to record the liquor permit with the Branford Town Clerk; (3) Sec. 30-54 of the Connecticut General Statutes by failing to hang the liquor permit in the room where sales of alcohol are carried on; (4) Sec. 30-22(a) of the Connecticut General Statutes by serving alcohol on an unapproved patio;

(5) Sec. 30-6-B29 of the Regulations of Connecticut State Agencies by utilizing a service bar as a consumer bar; (6) Sec. 30-6-B25a of the Regulations of Connecticut State Agencies by failing to maintain daily sales records broken down into sales of food and sales of alcohol; (7) Sec. 30-6-A23(a)(1) of the Regulations of Connecticut State Agencies in that fruit flies were found in bottles of alcohol; and (8) Sec. 30-6-A27(c) of the Regulations of Connecticut State Agencies in that that the rubber stamp utilized to stamp liquor invoices bore the name of the prior permittee.

We find the following facts. On June 3, 2008, Liquor Control Agent Cianci conducted a general inspection at Assaggio. He was assigned to conduct the inspection because the department has received a complaint that live entertainment was being offered. He entered the premises and observed two barstools near a service bar; he did not observe any patrons seated or being served alcohol at the service bar. Agent Cianci observed three open bottles of alcohol behind the bar which had been contaminated by fruit flies. The liquor permit had not been recorded with the Branford Town Clerk, as required, nor was the liquor permit on display to the general public; the liquor permit was in the kitchen. The daily sales records were not broken down into sales of food and sales of alcohol as required. While the rubber stamp utilized by this location to stamp liquor invoices bore the name of Paul Iannaccone, the prior

permittee, Agent Cianci did not observe any liquor invoices which had been stamped with the incorrect information, which would have been in violation of the regulation. He observed two patrons seated on an outside patio consuming wine. On June 3, 2008, this outdoor patio had not been approved by the department for service of alcohol. Following the agent's inspection and discussion with the permittee, Mr. Barabrito a/ka/a Barrett requested and was granted patio approval by the department on June 17, 2008. Assaggio had been offering live jazz entertainment without having notified the department of this form of live entertainment. Assaggio has since come into compliance with regard to the entertainment on its premises. Based upon the evidence adduced, the Respondent is found in violation of Charges # 1, 2, 3, 4, 6, and 7. Charges 5 and 8 are dismissed for lack of substantial evidence.

The Liquor Control Act vests in the Commission a liberal discretionary power to determine factual matters with regard to liquor permits. Dadiskos v. Liquor Control Commission, 150 Conn. 425, 190 A.2d 490 (1963). Based upon the foregoing, we hereby suspend the Respondent's liquor permit for a period of one day, and for an additional seven days. In lieu of the additional 7-day suspension, however, we will accept payment of a fine of \$525.00 in accordance with Section 30-6-A8(i) and (k) of the Regulations of Connecticut State Agencies.

**DEPARTMENT OF CONSUMER PROTECTION  
LIQUOR CONTROL COMMISSION  
BY:**

---

Elisa A. Nahas, Esq.  
Designated Presiding Officer

---

Stephen R. Somma, Commissioner

Parties:

Phillip Barabrito, Permittee, Assaggio, 168 Montowese Street, Branford,  
CT 06405

Phillip G. Barabrito a/k/a Philip G. Barrett Jr., 25 Church Street,  
Branford, CT 06405-3829

Non-Parties:

John Suchy, Director, Liquor Control Division  
Connecticut Beverage Journal

Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106