

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

E&J Package Store
E&J Package Store LLC, Backer
Angelo Preci, Permittee
Permit # LIP.13624
Docket No. 2009-534

May 7, 2009

MEMORANDUM OF DECISION

This matter involves a package store liquor permit issued to E&J Package Store, 4500 Main Street, Bridgeport, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on April 9, 2009. Angelo Preci, the permittee and member of the backer limited liability company, appeared at the hearing with counsel.

The allegation against the permit premises arose from a referral made by the Bridgeport Police Department. It is alleged that on or about March 27, 2008, the Respondent sold or delivered alcoholic liquor to a minor in violation of Section 30-86, Connecticut General Statutes. The Respondent denied admitted the charge and the matter proceeded to a hearing.

The following facts are found based upon the evidence adduced at the hearing. On March 27, 2008, the Bridgeport Police Department conducted an underage drinking compliance check utilizing a volunteer female undercover operative whose date of birth is September 12, 1988.

She was 19 years of age at the time. Prior to the commencement of the operation, the undercover minor was given two marked \$20 bills. She was searched for any other money or contraband. She carried her own Connecticut license, in the vertical format, which bore the notation "Under 21 until 9-12-2009." She was instructed not to leave a store with any alcohol she was able to purchase.

On March 27, 2008, Sgt. Jersey entered E&J Package Store. Ten to twenty seconds later, the female undercover operative entered the store. She selected a bottle of wine, went to the sales counter, and placed the wine on the counter. The sales clerk, Angelo Preci, asked the undercover minor for her identification, and she presented her valid Connecticut license with her correct date of birth which bore the notation "Under 21 until 9-12-09." Mr. Preci looked at the license which showed she was not of legal age to purchase alcohol and returned it to the undercover minor. She gave him a \$20 bill and he gave the minor change for her \$20 bill, completing the sale. Sgt. Jersey was approximately eight to ten feet away, and he had a clear and unobstructed view of the transaction.

After completing the sale, Mr. Preci again asked the undercover minor for her license. Sgt. Jersey intervened and took the change from the undercover minor. The minor turned and exited the store, without

the alcohol as she had been instructed. Sgt. Jersey returned the change to Mr. Preci and retrieved the marked \$20 bill.

The Liquor Control Act grants the Liquor Control Commission a liberal discretionary power to determine factual matters with regard to liquor permits and to suspend or revoke the permit after a hearing. Balog v. Liquor Control Commission, 150 Conn. 473, 191 A.2d 20 (1963). This power to suspend or revoke a liquor permit is exercised conservatively, but mindful that dispensing liquor is a privilege, not a right. Beckanstin v. Liquor Control Commission, 140 Conn. 185, 99 A.2d 119 (1953). The Liquor Control Act vests in the Commission a liberal discretionary power to determine credibility of witnesses and factual matters with regard to liquor permits. Fenton v. Liquor Control Commission, 151 Conn. 537, 539, 200 A.2d 481 (1964).

Therefore, based upon the substantial evidence presented, we hereby find that a purchase occurred and the Respondent guilty of violating Section 30-86, Connecticut General Statutes, as alleged. The Respondent's liquor permit is suspended for a period of five days and for an additional twenty days. In lieu of the additional 20-day suspension, however, we will accept payment of a fine of \$1,500 in accordance with Sections 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

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Angelo Preci, Permittee, E&J Package Store c/o Michael T. Barrett, Esq.,
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Non-Parties:

Sgt. Ron Jersey, Bridgeport Police Department
John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106