

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

E&J Package Store
Angelo Preci, Permittee
E&J Package Store, LLC, Backer
Permit #LIP.13624
Case No. 2007-6555
Docket No. 09-10

January 8, 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 October 7, 2008, at which time Angelo Preci, permittee, appeared with counsel.

There are two charges which were referred to the Department of Consumer Protection from the Bridgeport Police Department. It is alleged that: 1) on or about August 31, 2007, the Respondent sold or delivered alcoholic liquor to a minor in violation of Section 30-86, Connecticut General Statutes; and 2) on or about September 4, 2007, the Respondent sold or delivered alcoholic liquor to a minor in violation of Section 30-86, Connecticut General Statutes. The Respondent denied the violations and the matter proceeded to a hearing.

With regard to the first charge, the following facts are found based upon the evidence adduced at the hearing. On August 31, 2007, at approximately 7:10 p.m., Angelina Pierce purchased a 30-pack of beer

from the sales clerk at E&J Package Store. Ms. Pierce's date of birth is March 17, 1987; she was 20 years of age at the time and thus a minor. She was asked for age identification prior to purchasing the alcohol and she presented the sales clerk with an authentic New York driver's license that belonged to her cousin, Kristin Kennedy. The driver's license is no longer available, but Ms. Pierce stated that the photograph and description of Ms. Kennedy on the driver's license resembled Ms. Pierce. Ms. Pierce had purchased alcohol from E&J Package Store on three previous occasions. On one such occasion, she presented Ms. Kennedy's New York driver's license to the sales clerk and completed an age statement form in the name of Kristin Kennedy, attesting to her age as over 21.

Section 30-86a, Connecticut General Statutes provides, in pertinent part:

(b) In any case where such a statement has been procured and the permittee is subsequently charged with serving or furnishing alcoholic beverages to a minor, if such permittee, in proceedings before any court of this state or the Department of Consumer Protection, introduces such statement in evidence and shows that the evidence presented to him to establish the age of the purchaser was such as would convince a reasonable man, no penalty shall be imposed on such permittee.

Based upon the testimony and circumstances presented, we find it reasonable for the Respondent to have acted as he did in accepting and relying upon the driver's license and signed age statement form from Ms.

Pierce. Therefore, we hereby dismiss the first charge of Section 30-86, Connecticut General Statutes, sale to a minor.

With regard to the second charge, we find the following facts. On September 4, 2007, at approximately 8:50 p.m., James Muhlbauer purchased a 30-pack of beer and a bottle of Seagram's 7 whiskey from the sales clerk at E&J Package Store. Mr. Muhlbauer's date of birth is July 2, 1988; he was 19 years of age at the time and thus a minor. He was asked for age identification prior to purchasing the alcohol and he presented the sales clerk with his actual New York learner's permit, on which he had altered or "chalked" the birth date and expiration date, to represent that he born in 1983 rather than 1988, which would make him 24 years old. Based upon the substantial evidence presented, we find the Respondent to be in violation of Section 30-86, Connecticut General Statutes, with regard to the sale or delivery of alcohol to Mr. Muhlbauer, a minor.

At the hearing, Mr. Preci said the previous owners of the package store had a reputation for selling alcohol to minors, but he testified that he has attempted to be diligent with sales of alcohol, particularly since resolving a previous liquor violation in February 2006. He stated that he asks for age identification of his customers and confiscates fake ID's, if detected, and utilizes age statement forms. In November 2007, E&J Package Store was the subject of an undercover minor compliance check

conducted by Liquor Control Agents and the Bridgeport Police Department and successfully passed, without violation.

Based upon the foregoing, we hereby suspend the Respondent's permit for a period of one (1) day, and for an additional period of five (5) days. In lieu of the additional 5-day suspension, however, we will accept payment of a fine of \$375.00, 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.
Presiding Officer

Steven Somma, Commissioner

Angelo Faenza, Commissioner

Parties:

Angelo Preci, Permittee, E&J Package Store, 4500 Main Street,
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(Via US Mail and Certified Mail 7008 1300 0001 1619 4537)

Angelo Preci c/o Michael T. Barrett, Esq., 470 West Main St., 2nd Floor, Cheshire,
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Non-parties:

John Suchy, Director, Liquor Control Division

Connecticut Beverage Journal, 2508 Whitney Ave., P.O. Box 185159, Hamden,
CT 06518

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

