

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Hernandez Market
Lizbeth Castellano, Permittee
Cristino Hernandez, Backer
Permit No. LGB.14401
Docket No. 2014-296

Case No. 2015-1312
June 28, 2016

MEMORANDUM OF DECISION

This matter involves a grocery store beer liquor permit issued to Hernandez Market, 45 Cherry Street, Waterbury, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on May 5, 2016. Cristino Hernandez, backer, appeared at the hearing.

The allegations against the permit premises arose from a special investigation conducted by the Department of Consumer Protection's Liquor Control Division and the Department of Revenue Services. It is alleged that on or about December 2, 2015, the respondent violated: (1) Sec. 30-6-A24(a) of the Regulations of Connecticut State Agencies by engaging in unlawful conduct by selling packs and cartons of cigarettes that were affixed with fraudulent tax stamps, untaxed tobacco products, loose cigarettes, and prescription medication; (2) Sec. 30-20(b) of the Connecticut General Statutes, (3) Sec. 30-76 of the Connecticut General Statutes, (4) Sec. 30-77-(a) of the Connecticut General Statutes and (5) Sec.30-6-A41(a) of the Regulations of Connecticut State Agencies in that alcohol other than beer was found on the premises; (6) Sec. 30-6-A12 of the Regulations of Connecticut State Agencies in that the permittee name sign was not posted adjacent to the main entrance; and

(7) Sec. 30-20(b) of the Connecticut General Statutes in that the beer prices were not posted.

The respondent denied charges 1, 2, 3, 4, 5 and 6 and admitted charge 7, and the matter proceeded to a hearing.

The following facts are found based upon the evidence adduced at the hearing.

Liquor Control Agent Lewis, Special Agent Colla, and Agent Kevin Saunders of the Department of Revenue Services, conducted a general inspection at the permit premises on December 2, 2015. Agent Saunders located packs and cartons of cigarettes that were affixed with fraudulent tax stamps; this premises was also selling untaxed tobacco products and loose cigarettes. Agent Lewis located Ampicilina and Lidoderm pills and patches. Mr. Hernández had purchased those medications in the Dominican Republic and they were for his personal use. The permittee name sign was not posted adjacent to the main entrance and the beer prices were not posted in or around the coolers. A 200-ml. bottle of Bukoff Vodka was found in the cooler underneath the sales counter.

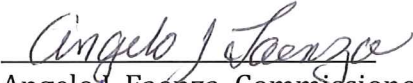
Based upon the testimony and documents submitted at the hearing, we dismiss that portion of Charge 1 as it relates to the sale of prescription medications and we find the respondent in violation of the remaining charges as alleged. The Liquor Control Act vests in the Commission a liberal discretionary power to determine factual matters with regard to liquor permits. *Gulia v. Liquor Control Commission*, 164 Conn. 537, 325 A.2d 455 (1973). Based upon the foregoing, we

hereby suspend the Respondent's grocery store beer permit for a period of five days. However, in lieu of such 5-day suspension, we will accept payment of a fine of \$375 in accordance with Section 30-6-A8(i) and (k) of the Regulations of Connecticut State Agencies.

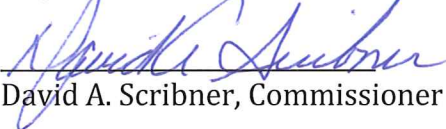
DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION



Anne K. Stiber, Esq.
Designated Hearing Officer



Angelo J. Faenza, Commissioner



David A. Scribner, Commissioner

Parties:

Lizbeth Castellano, 112 Preston Street, Apt. 1W, Hartford, CT 06114-2577
Christino A. Hernandez, 49 Crescent St., Apt. 3, Hartford, CT 06106-3120

Non-Parties:

John Suchy, Director, Liquor Control Division
Connecticut Beverage Journal
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106