

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Legends Restaurant
Paul Paigo, Permittee
Divinity Enterprises, Inc., Backer
Case No. 2011-208
Permit No. LIR.14996

Docket No. 11-748
October 18, 2011

MEMORANDUM OF DECISION

This matter involves a restaurant liquor permit issued to Legends Restaurant, 192 Pine Street, Bristol, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on August 11, 2011. The record was held open until August 25, 2011 to allow Liquor Control Agent Colla to revisit the premises to determine compliance with the requirements of a restaurant permit.

The following charges are alleged against the Respondent. It is alleged that on July 15, 2010, the Respondent (1) violated Sec. 30-6-A-10 of the Regulations of Connecticut State Agencies by failing to comply with the terms of a June 1, 2010 Offer in Compromise. It is further alleged that on January 28, 2011, the Respondent violated (2) Sec. 30-6-A1(f) and (3) Sec. 30-6-A6 of the Regulations of Connecticut State Agencies by failing to file a new application upon a change of ownership. Lastly, it alleged that on March 10, 2011, the Respondent violated (4) Sec. 30-6-A41(a) of the Regulations of Connecticut State Agencies and (5) Sec. 30-76 of the Connecticut General Statutes by purchasing alcohol from unauthorized sources; (6) Sec. 30-22(a) of the Connecticut General Statutes by allowing service of alcohol on an unapproved outside patio; (7) Sec.

30-22(f) of the Connecticut General Statutes and (8) Sec. 30-6-B29 of the Regulations of Connecticut State Agencies in that the dining room of this restaurant liquor permit premises was inadequately separated from the barroom; (9) Sec. 30-53 of the Connecticut General Statutes in that the liquor permit had not been filed with the Bristol Town Clerk; (10) Sec. 30-54 of the Connecticut General Statutes in that liquor permit was not hung in plain view; (11) Sec. 30-6-A24(g) of the Regulations of Connecticut State Agencies in that no age statement forms were found on the premises; and (12) Sec. 30-6-B25a of the Regulations of Connecticut State Agencies in that no records showing the daily sales of food and alcoholic beverages, totaled monthly, were available on the premises.

The respondent admitted Charges 1, 4, 5, 6, 7, 8, 9, 10, and 11. He denied Charges 2, 3 and 12, and the matter proceeded to a hearing.

We find the following facts. On March 10, 2011, Special Agent Colla conducted a special investigation at this premises. The investigation was prompted by concerns that that the Respondent had not complied with the terms of a June 2010 Offer in Compromise he had entered into with the department in which he was to file a café liquor permit application with this department within 45 days. Agent Colla had checked the department's licensing system and verified that a café liquor permit had not been submitted for this premises.

On March 10, 2011, Special Agent Colla and Agent Lewis entered the premises. They observed a partial wall approximately 4.5 feet high with a large, 10 to 15 foot wide, opening in it surrounding the bar. This wall did not provide adequate separation between the bar and the dining room. Therefore, the premises would be considered a one-room barroom and would not meet the

requirements for a restaurant permit as it lacked a separate dining room. Following the date of this hearing, Agent Colla and Lewis have since revisited the premises and have determined that the location now meets the separation requirements for a restaurant permit.

During the March 10, 2011 inspection, Agent Colla observed that the posted liquor permit had expired and the new permit, which had not been filed with the Bristol Town Clerk, was not hung in plain view but rather found in an envelope. Neither the bartender nor the manager could provide Agent Colla with age statement forms or daily records. Agent Lewis located an open 1.75-liter bottle of Grand Marnier liqueur behind the consumer bar. The bottle bore price tag residue indicating it had been purchased from a source other than a wholesaler, as required.

Agent Colla observed a covered patio with bench seating and a television set. A sign reading "Please put bottles in the case" was posted next to an empty beer case. Legends does not have patio approval from the department to use this outdoor space for the consumption of alcohol and is cautioned against using this area for the consumption of alcohol until it has obtained the appropriate approvals.

With regard to the ownership issue, during the time of the inspection, Special Agent Colla also found two sales tax permits posted on the premises, one in the name of Paul M. Paigo as an individual and the second in the name of Divinity Enterprises, Inc. The department's records show the backer of record for this permit is Divinity Enterprises, Inc. with Paul Paigo as the sole stockholder. The records of the Secretary of the State's Office, however, show John Moan as

president and treasurer and Barbara Moan as vice president. The most recent wage and tax statement submitted to the IRS dated January 28, 2011 is in the name of Legends Sports Bar LLC, signed by Paul Paigo as owner. The records of the Secretary of the State's Office, though, show the member of Legends Sports Bar LLC is John Moan. Mr. Paigo testified that he purchased Divinity Enterprises, Inc. from the Moans and was doing business as Legends Sports Bar. He indicated that the attorney handling the transaction was unwell at the time of closing and must have failed to file the appropriate documents with the Secretary of the State. Thereafter, Mr. Paigo was contacted by the Internal Revenue Service and began paying taxes as Legends Sports Bar, LLC. Mr. Paigo testified that the correct owner of this premises is Legends Sports Bar LLC, with himself as the sole owner.

Based upon the foregoing, we will allow Mr. Paigo 60 days from the date of this decision to take corrective action with both our department and the Secretary of the State's office to ensure that the records of both accurately reflect the correct name and the correct ownership of the backer. If Mr. Paigo fails to take appropriate corrective action within the prescribed time period, the department will consider such failure a violation of Sec. 30-6-A10 of the Regulations of Connecticut State Agencies and take further enforcement action against this permit.

Based upon the admissions of the respondent and the testimony and documents submitted at the hearing, the Respondent is found in violation of all charges alleged. 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). We hereby suspend the Respondent's permit for a period of three days.

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

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Paul Paigo, 53 Park Hill Road, Bristol, CT 06010
(Via US Mail and Certified Mail # 7010 1670 0000 0762 1082)

Non-Parties:

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