

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Farmington Package Store
Welborn LLC, Backer
Taiesha Welborn, Permittee
Permit No. LIP.14281
Docket No. 2011-432

Case No. 2011-432
July 14, 2011

MEMORANDUM OF DECISION

This matter involves a package store liquor permit issued to Farmington Package Store, 489 Farmington Avenue, Hartford, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on May 5, 2011. Taiesha Welborn, permittee and member of the backer limited liability company, appeared at the hearing.

The allegation against the permit premises arose from a special investigation conducted by the Department of Consumer Protection's Liquor Control Division. It is alleged that on or about September 23, 2010, the Respondent violated: (1) Section 30-86 of the Connecticut General Statutes in that it sold or delivered alcoholic liquor to five minors; (2) Section 30-53 of the Connecticut General Statutes by failing to have its liquor permit filed with the Hartford Town Clerk; (3) Section 30-6-A24(g) of the Regulations of Connecticut State Agencies by failing to have age statement forms available; and, (4) Section 30-6-A12 of the Regulations of Connecticut State Agencies by failing to

post the permittee's name on a sign adjacent to the main entrance. The respondent denied violating Section 30-86 and Section 30-6-A24(g) and admitted violating Section 30-53 and Section 30-6-A12, and the matter proceeded to a hearing.

Based upon the testimony and documents presented at the hearing, the alleged sale to the minor Holly S. Rilley is dismissed based upon a lack of direct testimony and substantial evidence. Administrative findings must be based upon substantial evidence. Nelseco Navigation Company v. Department of Liquor Control, 34 Conn. App. 352, 354, 641 A.2d 827 (1994).

With regard to the remaining charges in dispute, the following facts are found based upon the evidence and direct testimony submitted at the hearing. On September 23, 2010, beginning at approximately 8:05 p.m., liquor control agents conducted surveillance at Farmington Package Store. They had a clear and unobstructed view of the front door. Almost immediately after establishing surveillance, the agents observed two young-looking females enter Farmington Package Store empty handed. When they exited a short time later, one girl was carrying a bag. Danielle Dilena whose date of birth is April 28, 1990, had purchased a 1-liter bottle of Smirnoff Passion Fruit vodka from the store clerk. Ms. Dilena was 20 years of age. She was not asked to show any age identification prior to her purchase of the alcohol, and did not present any form of age identification to the store clerk on September 23, 2010.

While the liquor control agents were interviewing Ms. Dilena, they observed three young-looking males enter Farmington Package Store empty handed. When they exited, two of the males were each carrying a small paper bag and one male was carrying a case of beer. Kevin Cunningham, whose date of birth is April 23, 1990, had purchased a 23.5 oz. can of Jungle Juice, an alcoholic beverage, from the store clerk; Jake Haber, whose date of birth is October 7, 1989, had purchased a 23.5 oz. can of Jungle Juice, an alcoholic beverage, from the store clerk; and Mark Savo, whose date of birth is April 19, 1990, had purchased a 30-pack of Keystone Light beer from the store clerk. Mr. Haber, Mr. Cunningham and Mr. Savo were each 20 years of age. None of them had been asked for age identification prior to purchasing the alcohol from the store clerk and each had each paid for his purchase separately.

Ms. Dilena, Mr. Haber and Mr. Savo had purchased alcohol at this premises on previous occasions. All are students at the University of Hartford. Farmington Package is known on the University of Hartford campus as a store at which underaged persons can easily purchase alcohol and which does not ask for age identification.

After the liquor control agents had completed their interviews of the minors, they entered the store and conducted a general inspection. The liquor permit had not been filed with the Hartford Town Clerk, as required. No age statement forms were available on the premises, and the permittee's name had not been posted on a sign adjacent to the entrance.

Accordingly, we find the Respondent to be in violation of Section 30-86, Connecticut General Statutes, in four counts, as well as the remaining charges. 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 package store liquor permit for nineteen (19) days, seven (7) of which will be held in abeyance for six months from the date of this decision, and impose a \$1,000 civil penalty.

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

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Taiesha N. Welborn, Permittee, Farmington Package Store, 89 Farmington Avenue, Hartford, CT 06105 (Via US Mail and Certified Mail # 7010 1670 0000 0761 7146)
Taiesha N. Welborn, 9 Holland View Drive, Bloomfield, CT 06002
(Via US Mail and Certified Mail # 7010 1670 0000 07061 7153)

Non-Parties:

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