

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Lady Cecy African Market
Mujinga K. Mwambayi, Permittee
Mujinga K. Mwambayi, Backer
Permit # LGB.14320

Case No. 2009-5591, 2009-5649
Docket No. 11-33
January 13, 2011

MEMORANDUM OF DECISION

This matter involves a grocery beer liquor permit issued to Lady Cecy African Market, 1683 Park Avenue, Bridgeport, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on January 6, 2011. Proper notice of the hearing was provided; however, the Respondent failed to appear.

The allegations against the permit premises arose from a joint investigation conducted by the Liquor Control Division and the Bridgeport Police Department on August 21, 2009, and a special investigation conducted by the Liquor Control Division on September 22, 2009. It is alleged that on or about August 21, 2009, the Respondent: (1) sold or delivered alcoholic liquor to a minor in violation of Section 30-86, Connecticut General Statutes. It is further alleged that on or about September 22, 2009, the Respondent: (2) was not primarily engaged in the sale of grocery items in violation of Sec. 30-20(c) of the Connecticut General Statutes; (3) failed to maintain a supply of age statement forms in violation of Sec. 30-6-A24(g) of the Regulations of

Connecticut State Agencies; and (4) failed to post a permittee name sign adjacent to the main entrance to the permit premises in violation of Sec. 30-6-A12 of the Regulations of Connecticut State Agencies.

The following facts are found based upon the evidence adduced at the hearing. On August 21, 2009, the Department of Consumer Protection's Liquor Control Division and the Bridgeport Police Department conducted underage alcohol compliance checks in Bridgeport, Connecticut, utilizing a female undercover operative whose date of birth is April 12, 1991. She was 18 years of age and thus a minor. During the compliance check, she carried her valid Connecticut driver's license with her correct date of birth. At approximately 4:53 p.m., Supervising Agent Burk entered Lady Cecy African Market and placed himself in a position in which he could observe any transaction. The undercover minor entered the premises shortly after Supervising Agent Burk. She obtained one 6-pack of Budweiser beer in cans from the beer cooler and approached the sales counter. Ms. Mwambayi, the permittee, sold the beer to the undercover minor, without asking the undercover operative for any age identification at any time during the transaction. At this time, Supervisor Burk observed very few grocery items in the store and noted that the store did not appear to be a bona fide "grocery store" within the meaning of the Liquor Control Act.

On September 22, 2009, Supervising Agent Burk and Agent Crowdis returned to the premises to conduct a follow-up inspection. They observed the store was stocked with minimal grocery items. The merchandise for sale was primarily CDs, DVDs, spices, health and beauty aid products, and beer. Ms. Mwambayi subsequently provided the agents with a Breakdown of Sales form showing that only 30 percent of her sales were from grocery items, while 45 percent of her sales were from nonedible items and 25 percent of her sales were from beer. During the September 22, 2009 inspection, the permittee, Ms. Mwambayi was unable to provide agents with any age statement forms upon request. Further, a sign showing the name of the permittee was not posted adjacent to the main entrance to the premises, as is required.

Based upon the evidence adduced, the Respondent is found in violation of all charges alleged. We further find that this premises is not primarily engaged in the sale of groceries as defined by the statute and does not qualify to hold a grocery beer permit. We are further very troubled by the fact that the permittee herself sold alcohol to an 18-year old minor. 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).

Therefore, we hereby **ORDER** the grocery store beer permit **revoked immediately** in accordance with § 30-6-A8(c) of the Regulations of Connecticut State Agencies.

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

Elisa A. Nahas, Esq.
Designated Hearing Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Mujinga K. Mwambayi, Permittee, Lady Cecy African Market, 183 Park Avenue, Bridgeport, CT 06604

(Via US Mail and Certified Mail # 7010 0780 0000 5441 8542)

Mujinga K. Mwambayi, 260 Dahl Avenue, Stratford, CT 06614-2791

(Via US Mail and Certified Mail # 7010 0780 0000 5441 8559)

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