

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Elmer's Place
Kenneth H. Cook, Jr., Permittee
5165
Great Oaks, Inc., Backer
141
Liquor Permit LIR.16791

Case No. 2007-
Docket No. 08-
March 4, 2008

MEMORANDUM OF DECISION

This matter involves a restaurant liquor permit issued to Elmer's Place, 1433 East Street, New Britain, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on January 3, 2008, at which time Kenneth H. Cook, Jr., permittee, appeared.

It is alleged that on or about March 2, 2007, the Respondent: (1) sold or delivered alcoholic liquor to a minor in violation of Section 30-86, Connecticut General Statutes; and (2) violated Sec. 30-6-B25a of the Regulations of Connecticut State Agencies by failing to maintain two years of daily records on the permit premises. The Respondent denied both of the alleged violations, and the matter proceeded to a hearing.

The following facts are found based upon the evidence adduced at the hearing. On March 2, 2007, liquor control agents entered the premises in an undercover capacity. They observed Jessica Labbe-Trudeau approach the bar. She ordered and received a rum and Coke

from the bartender who did not ask her for age identification prior to serving her alcohol. Ms. Labbe-Trudeau's date of birth is March 13, 1987; she was 19 years of age at the time of the incident and thus a minor. Ms. Labbe-Trudeau presented another person's Connecticut license to the doorman at the time she entered the premises. A video was made of Ms. Labbe-Trudeau entering, and the identification presented was photographed. Ms. Labbe-Trudeau's face was partially obscured by a hooded sweatshirt at the time she was carded.

With regard to the daily records, we find that at the time of the inspection the Respondent's daily records were in the custody of his accountant for the purpose of preparing tax returns, and we dismiss the alleged violation of Sec. 30-6-B25a of the Regulations of Connecticut State Agencies. We find the Respondent to be in violation of Sec. 30-86, Connecticut General Statutes, for the sale of alcohol to Ms. Labbe-Trudeau, a minor. 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 circumstances, we hereby suspend the Respondent's restaurant liquor permit for a period of one day; such suspension shall be held in abeyance for one year until March 4, 2009 for any future violations of Sec. 30-86, sale to minor, during such time.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

Angelo J. Faenza, Commissioner

Gary W. Berner, Commissioner
Presiding Officer

Parties:

Kenneth H. Cook, Jr., Permittee, Elmer's Place, 1433 East Street, New Britain, CT 06053

Nonparties:

John Suchy, Director, Liquor Control Division
Conn. Beverage Journal, 2508 Whitney Ave., P.O. Box 185159,
Hamden, CT 06518
Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106