

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Gathering Harvests
Donna J. Pace, Shipper Permittee
Gathering Harvests, Backer
Liquor Permit # LIW.651
Docket No. 14-467

Case No. 2014-664
August 26, 2014

MEMORANDUM OF DECISION

This matter involves a request by Pali Wine Company LP for the termination of Gathering Harvests as wholesaler in the State of Connecticut of Pali Wine Company bottled wines and Tower 15 Winery bottled wines. Pali Wine Company LP (hereinafter "Pali") is the holder of out-of-state winery liquor permit LSW.598, and Gathering Harvests is the holder of wholesaler liquor permit LIW.651. A formal administrative hearing was held on July 24, 2014. Donna J. Pace, Shipper Permittee, appeared on behalf of Gathering Harvests and John Ireland, partner, appeared on behalf of Pali. At the conclusion of the hearing the record was left open until August 7, 2014, for the submission of additional documents.

The hearing was held in accordance with Section 30-17(a)(2)(B) of the Connecticut General Statutes. Section 30-17(a)(2)(B) of the Connecticut General Statutes provides the method by which termination or diminishment of a distributorship may occur. The statute provides, *inter alia*,

No such termination or diminishment shall become effective except for just and sufficient cause, provided such cause shall be set forth in such notice and the Department of Consumer Protection shall determine, after hearing, that just and sufficient cause exists...For the purposes of this section, "just and sufficient cause" means the existence of circumstances which, in the opinion of a reasonable person considering all of the equities of both the wholesaler and the manufacturer or out-of-state shipper warrants a termination or a diminishment of a distributorship as the case may be.

The following facts are found based upon the evidence adduced at the hearing. Pali formally requested termination by its letter of June 11, 2014 to Gathering Harvests, citing as its reasons Gathering Harvests' failure to order Pali's products since January 2014 and its failure to respond to emails and telephone calls since February 25, 2014, at which time Pali had requested a voluntary release. The June 11, 2014 letter is attached hereto and identified as Exhibit A.

The following facts are found based upon the evidence adduced at the hearing. Pali is a small California winery which started in 2005 and is seeking to grow its business throughout the Northeast and the country. Gathering Harvests was appointed as exclusive distributor of its wines by Pali in March 2012. From the date of its appointment until November 2013, Gathering Harvests dealt with one sales representative, who is no longer with Pali; as of December 2013, Ms. Pace was advised that Mr. Ireland was to be her sales representative and point of contact with the company.

In 2012, Gathering Harvests placed four orders from Pali totaling 270 cases; in 2013, Gathering Harvests placed six orders totaling 438 cases; in

2014, Gathering Harvest placed one order in January for 62 cases and has not placed any orders since.

Initially, Gathering Harvests appeared to order from Pali every two to three months; however we find that it has not ordered any products since January 28, 2014. Based upon the testimony and documents submitted, we also find that neither Ms. Pace, nor anyone on behalf of Gathering Harvests has responded to any of Pali's attempts at communication since February 2014. It is impossible for any relationship to function or be successful when only one party communicates, despite repeated attempts.

The Liquor Control Commission's authority to prescribe the conditions under which distributorships may be terminated is a legitimate method of structuring the state's liquor distribution system. Schiefflin & Co., 194 Conn. at 183. Based upon the substantial evidence presented, we find there is just and sufficient cause to justify the termination of Gathering Harvests as the distributor of Pali wines, effective immediately, for the reasons set forth in Exhibit A. Pali's request to terminate Gathering Harvests is hereby granted.

**DEPARTMENT OF CONSUMER PROTECTION
BY**

**Elisa A. Nahas, Esq.
Presiding Officer**

Angelo Faenza, Commissioner

Stephen Somma, Commissioner

Parties:

Gathering Harvests, Donna J. Pace, Shipper Permittee, 281 Canal Street, Shelton, CT 06484

(Via US Mail and Certified Mail # 70122920 0000 4562 5094)

Donna J. Pace, 44 Westfair Drive, Westport, CT 06880

Pali Wine Company LP, Attention: Scott A. Knight, Partner, 1036 Aviation Drive, Lompoc, CA 93436-9777

(Via US Mail and Certified Mail # 7012 2920 0000 4562 5100]

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