

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Taurus Café
Larry Livingston, Permittee
Taurus Café, Inc.. Backer
Permit #LCA.5887
Docket No. 07-815

June 21, 2007

MEMORANDUM OF DECISION

This matter involves a remonstrance filed against the renewal of a café liquor permit issued to Taurus Café, 520 Winchester Avenue, New Haven, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection, Liquor Control Commission, at which Larry Livingston, permittee, sole owner and president of the backer corporation, appeared with counsel. The hearing commenced on January 4, 2007, and continued on January 10, 2007, March 6, 2007, March 8, 2007, March 20, 2007, April 17, 2007, April 19, 2007, April 25, 2007, May 17, 2007, and concluded on May 31, 2007. The record was held open until June 19, 2007 for the submission of briefs.

The hearing was held in accordance with Section 30-39(c), Connecticut General Statutes, as a result of a legally sufficient remonstrance questioning the suitability of Mr. Livingston, as the renewal applicant, and the suitability of the location of the place of business. This remonstrance is the first which has been filed against Mr.

Livingston and the Taurus Café. Mr. Livingston has been the permittee and president of the backer corporation for approximately seventeen years. Over the ten days of hearings, the Commission heard testimony and received evidence - both in opposition and in support of the renewal of the liquor permit - from remonstrants, police officers including the Chief of Police, local officials, and neighborhood residents.

In reaching a determination as to whether to renew the café liquor permit for Mr. Livingston, we are guided by the parameters set forth in Section 30-46(a), Connecticut General Statutes, with regard to the suitability of the location, and by Section 30-47, Connecticut General Statutes, with regard to the grounds for suitability or disqualification of the applicant. A determination of unsuitability on either ground would be dispositive of the issue.

The following facts are found based upon the testimony and documents presented at the hearing. Larry Livingston employs several people to work at his café in various capacities, including bartender, barmaid, and security. These individuals are his “employees”, in that he controls their work and directs them, their activities and their hours of employment at the Taurus Café. He is the person who hires them, and he has the ability to fire them. However, by his own admissions, Mr.

Livingston does not maintain any employee or payroll records, such as W-2 forms. He does not file any returns on behalf of his employees at the Taurus Café, nor does he pay any federal or state unemployment taxes; thus, he does not report or pay the employer's share of the FICA contribution for Social Security. Substantial evidence adduced at the hearing revealed that, in exchange for the services rendered by at least two employees, Mr. Livingston provides apartments rent-free, and that the market rate for such apartments is approximately \$850 per month.

Accordingly, based upon the foregoing, it is clear that Mr. Livingston operates his business in a questionable manner with regard to state and federal labor and/or taxation laws. Under the Liquor Control Act, the resolution of factual matters with respect to applications is vested in the Liquor Control Commission and it has a liberal discretion in determining the suitability of a permittee. Dadiskos v. Liquor Control Commission, 150 Conn. 422, 425, 190 A.2d 490. Based upon the substantial evidence presented, we hereby must find that in accordance with Section 30-47(1), Larry Livingston is financially irresponsible and disqualified as an applicant to obtain a renewal liquor permit. Accordingly, we hereby uphold the remonstrance with regard to the suitability of the applicant and deny Larry Livingston's 2006-2007 renewal café liquor permit application, effective June 21, 2007.

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

Elisa A. Nahas, Esq.
Presiding Officer

Angelo J. Faenza
Commissioner

Parties:

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Nonparties:

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