

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

Guayama Market
Marlene Morel, Permittee and Backer
Permit No. LGB.14111
Docket No. 2010-1327

Case No. 2009-573; 2009-5675
November 4, 2010

MEMORANDUM OF DECISION

This matter involves a grocery store beer permit issued to Guayama Market, 254 Orchard Street, Bridgeport, Connecticut. A formal administrative hearing was held before the Department of Consumer Protection on October 7, 2010. Proper notice of the hearing was provided; however, the Respondent failed to appear.

The alleged violations came to the attention of the Department of Consumer Protection by way of two police referrals from the Bridgeport Police Department. It is alleged that on or about January 14, 2009, the Respondent: (1) sold or delivered alcoholic liquor to a minor in violation of Sec. 30-86 of the Connecticut General Statutes and (2) violated Sec. 30-91(d) of the Connecticut General Statutes by selling alcoholic liquor during prohibited hours. It is further alleged that on or about August 22, 2009, the Respondent: (3) sold or delivered alcoholic liquor to a minor in violation of Sec. 30-86 of the Connecticut General Statutes and (4) violated Sec. 30-91(d) of the Connecticut General Statutes by selling alcoholic liquor during prohibited hours.

The following facts are found based upon the evidence adduced at the hearing. On Sunday morning, January 14, 2009, at approximately 12:13 a.m.,

Bridgeport Police Officer Pizzaro was on duty, on the corner of Orchard Street and Pearl Street, with a clear and unobstructed view of the interior of the permit premises. He observed James Malcolm, whose date of birth is May 25, 1990, exit the premises carrying two heavy black plastic bags. Mr. Malcolm was 18 years of age at the time of the incident and thus a minor. Officers approached Mr. Malcolm and determined that the bags contained beer. Mr. Malcolm had just purchased four 40 oz. Old English beers from the clerk at Guayama Market. Officers entered the premises and determined that the clerk who had made the after hours sale to an underage person was Marlene Morel, the permittee and backer. Ms. Morel had charged Mr. Malcolm \$8 per 40-oz. beer, a considerable premium over the usual cost of a 40-oz. bottle of Old English beer. Ms. Morel was arrested by Bridgeport police officers and charged with violating Sec. 30-86, Connecticut General Statutes, for sale to minor, and Sec. 30-91, Connecticut General Statutes, for sales of alcohol after hours, on Sunday.

On August 22, 2009, at approximately 11:47 p.m., Bridgeport Police Officer Ruffin was on patrol in the area of the permit premises. He is familiar with Connecticut law governing the legal age to purchase alcohol and the legal hours during which alcohol may be sold. Officer Ruffin was stopped at a stop sign across from Guayama Market. He had a clear and unobstructed view of the interior of Guayama Market. He observed Flores Cruz, whose date of birth is November 24, 1991, exit the premises carrying two heavy black plastic bags. Mr. Cruz was 17 years of age at the time of the incident and thus a minor. Officer Ruffin approached Mr. Cruz and determined that the bags contained beer. Mr. Cruz had just purchased two 6-packs of Bud Light beer from the clerk at

Guayama Market. Officers entered the premises and observed the permittee and backer, Marlene Morel, to be behind the counter and thus aware of the improper transaction. Section 30-91(d) provides that the sale of beer at this location is prohibited after 9:00 p.m., and this transaction was almost three hours beyond the legal hours of sale.

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). The facts found warrant firm enforcement action by this agency. The Respondent's blatant disregard for the laws governing the sale and delivery of alcohol mandates that immediate enforcement action be taken. Furthermore, we note that despite notice, Ms. Morel chose not to appear at either the compliance meeting or the formal administrative hearing concerning these matters.

Based upon the testimony and documents adduced at the hearing, we hereby find the Respondent in violation of Charges One, Two, Three, and Four, that is two counts of violation of Sec. 30-86, Connecticut General Statutes, sale to a minor, and two counts of violation of Sec. 30-91(d), sale of alcohol during prohibited hours. Again, we note that Ms. Morel was on the premises during both incidents and either actively participated or acquiesced in the after hours sale to the underage persons. Accordingly, based upon the foregoing, we hereby

revoke the Respondent's grocery beer liquor permit effective immediately, in accordance with Section 30-6-A8(c) of the Regulations of Connecticut State Agencies.

**DEPARTMENT OF CONSUMER PROTECTION
LIQUOR CONTROL COMMISSION**

BY:

Elisa A. Nahas, Esq.
Designated Presiding Officer

Angelo J. Faenza, Commissioner

Stephen R. Somma, Commissioner

Parties:

Marlene Morel, Permittee, Guayama Market, 254 Orchard Street, Bridgeport, CT 06608

(Via US Mail and Certified Mail # 7010 1670 0000 0761 8938)

Marlene Morel, 201 Bretton St., Apt. D-10, Bridgeport, CT 06608

(Via US Mail and Certified Mail # 7010 1670 0000 0761 8945)

Marlene Morel, 491 Ogden Street, Bridgeport, CT 06608-1730

(Via US Mail and Certified Mail# 7010 1670 0000 0761 8945)

Non-Parties:

Director John Suchy, 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