

STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

IN THE MATTER OF

New England Wines & Spirits Inc.
Michael F. O'Hara, Shipper Permittee
New England Wines & Spirits, Inc., Backer
Liquor Permit LIW.534
Docket No. 14-739

Case No. 2014-899
January 6, 2015

MEMORANDUM OF DECISION

This matter involves a request by New Mexico Wineries, Inc. (hereinafter "New Mexico"), for the termination of New England Wine & Spirits, Inc. (hereinafter "New England") as distributor in the State of Connecticut of its products. New England is the holder of wholesaler liquor permit LIW.534 and New Mexico is the holder of out of state winery liquor permit LSW.679.

A formal administrative hearing was held on November 6, 2014, at which time, Michael F. O'Hara, shipper permittee, appeared on behalf of New England and Sandra Pacheco appeared on behalf of New Mexico. At the conclusion of the hearing, the record was left open until such time as New Mexico picked up and reimbursed New England for cases of Soleil Mango Mimosa product that had been previously recalled, cases of out-of-date "mini" cans, and cases of Lime-A-Rita product; this reimbursement occurred on December 11, 2014.

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. In late 2011, New Mexico appointed New England as distributor of its Soleil Mimosa brand products and St. Clair brand products. In December 2011, New England placed its first order for these products. Additional orders for product were placed in 2012, and in 2013 a smaller format of the product called "minis" was introduced. New England purchased cases of the "minis" as well as cases of 750 ml. bottles.

New Mexico has supported the brand in Connecticut and has provided marketing and samples for tastings and has participated at wine festivals in Connecticut. A change of staff occurred at New England in early 2013 and it appears that New England is no longer interested in promoting Soleil Mimosa brand products and St. Clair brand products and has not purchased any of these products since 2013.

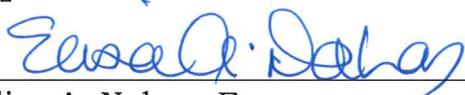
The Soleil products are represented in 44 states in the United States and have been doing very well on a national level. New England is currently the

sole distributor of Soleil brand products and St Clair brand products in Connecticut

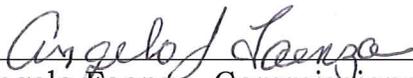
The determination of what constitutes “just and sufficient cause” is a matter for this Commission, after considering the equities of both parties to ascertain whether termination is warranted. Schiefflin & Co. v. Department of Liquor Control, 194 Conn. 165, 479 A.2d 1191 (1984).

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 New England as the distributor of Soleil Mimosa brand products and St. Clair brand products, effective immediately. New Mexico’s request to terminate New England is hereby granted.

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



Elisa A. Nahas, Esq.
Presiding Officer



Angelo Faenza, Commissioner



Steven Somma, Commissioner

Parties:

New England Wines & Spirits Inc.,
Michael F. O'Hara, Shipper Permittee
420 Frontage Road, Unit 3
P.O. Box 26186
West Haven, CT 06516-0961
(Via US Mail and Certified Mail # 7012 2920 0000 4562 7425)

Michael F. O'Hara
163 Harvey Road
Durham, CT 06422-1905

New Mexico Wineries Inc.
Attention: Sandra Pacheco, Nat'l Sales Director
P.O. Box 1180
Deming, NM 88031
(Via US Mail and Certified Mail # 7012 2920 0000 4562 7432)

Non-Parties:

John Suchy, Director, Liquor Control Division, Department of Consumer
Protection

Connecticut Beverage Journal
2508 Whitney Ave.
P.O. Box 185159
Hamden, CT 06518

Connecticut State Library
231 Capitol Avenue
Hartford, CT 06106