

IN THE MATTER OF

MICHAEL P. CROISSANT

Respondent

A proceeding under Article 16 of the New York Labor Law  
(Explosives).

**REPORT  
&  
RECOMMENDATION**

GA-08-0124

To: Honorable Colleen C. Gardner  
Commissioner of Labor  
State of New York

Pursuant to a Notice of Hearing, and in accordance with Labor Law article 16, a hearing was held in this matter on December 12, 2011 at Albany, New York. The purpose of the hearing was to inquire into and report findings of fact, conclusions of law and recommendations to the Commissioner of Labor regarding the denial, by the Division of Safety and Health (“Division”) of the New York State Department of Labor (“Department”), of an application submitted by Michael P. Croissant (“Respondent”) for an explosives license.

**APPEARANCES**

The Division was represented by Acting Department Counsel, Pico Ben-Amotz, Benjamin Shaw, Senior Attorney, of Counsel.

The Respondent initially appeared by and through David R. Biondi, Esq. by service of an “Objection to Notice of Hearing and Designation of Hearing Officer” dated September 1, 2009. (Hearing Officer Ex. 3) Thereafter, the proceeding was adjourned at Attorney Biondi’s request to accommodate his combat service in the United States military. A new Notice of Hearing and Designation of Hearing Officer dated March 9, 2010 was again served on the Respondent on March 10, 2010 setting a new hearing date of April 19, 2010. (Hearing Officer Exhibits 4, 5). A Notice of Rescheduled Hearing scheduling a hearing date of December 12, 2011 was served on the Respondent and Attorney Biondi on October 14, 2011. (Hearing Officer Exhibits 6, 7). No answer to the charges incorporated in the March 9, 2010 Notice of Hearing was served by or on

behalf of the Respondent and there was no appearance made by or on behalf of the Respondent at the December 12, 2011 hearing, although the Respondent and his attorney were duly served with a copy of the Notice of Hearing. The Respondent was deemed to be in default in this proceeding. (T. 3)

### **FINDINGS OF FACT**

On or about March 12, 2008, the Respondent submitted to the Division an Application for a License to Purchase, Own, Possess and/or Transport Explosives. (Dept Ex 3)

On April 10, 2008, the Division interviewed the Respondent. (Dept. Ex. 3) During the interview, the following discrepancies in the information contained in the application were discovered: the Respondent's home address on the application did not match his home address indicated on his New York State driver's license; the Respondent's social security number could not be confirmed; the Respondent was not able to provide proof of any pyrotechnic training or employment with July 4 Ever as listed in his application; and the Respondent's answers to questions 18 (periods of experience or training) and 19 (total years of experience or training) were not consistent. In addition, it was discovered during the interview that in or about September 2004 the Respondent's type 54 Federal Explosive Permit was revoked by the Bureau of Alcohol, Tobacco, and Firearms ("ATF"). (Dept. Exs. 1, 3, 5; T. 16)

By reason of the foregoing findings and discrepancies, by notice dated July 3, 2008, the Division denied the Respondent the requested explosives license. (Dept. 1)

The Respondent filed a timely request for a hearing by letter dated July 15, 2008. (Dept. Ex. 2)

### **CONCLUSIONS OF LAW**

Labor Law section 459 (1) provides that:

A license or certificate, its renewal or continuation may be denied where the commissioner has probable reason to believe, based on knowledge or reliable information, or finds, after due investigation that the applicant or any officer, servant, agent or employee of the applicant is not sufficiently reliable and experienced to be

authorized to own, possess, store, transport, use, manufacture, deal in, sell, purchase or otherwise handle, as the case may be, explosives...

I find that the Respondent's inconsistent answers in his license application; his failure to verify his social security number, home address, and professional experience; and the loss of his Federal Explosive Permit demonstrate that he is not sufficiently reliable to be authorized to own, possess, store, transport, use, deal in, sell, purchase or otherwise handle explosives. Under these circumstances, the Division had reasonable and just cause to deny the Respondent's application for a license to purchase, own, possess, transport and use explosives.

### **RECOMMENDATIONS**

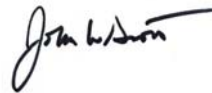
I RECOMMEND that the Commissioner of Labor adopt the Findings of Fact and Conclusions of Law as the Commissioner's determination of the issues raised in this case, and based on those Findings and Conclusions, the Commissioner should:

DETERMINE that the Division had sufficient grounds to deny the Respondent's application for a license to purchase, own, possess, transport and use explosives; and

ORDER that the Respondent be denied a license to purchase, own, possess, transport and use explosives.

Dated: February 6, 2012  
Albany, New York

Respectfully submitted,



John W. Scott, Hearing Officer