

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 Commerce Drive Cranford, N.J. 07016

BULLETIN 2257

June 24, 1977

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STATE OF NEW JERSEY
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25 Commerce Drive Cranford, N.J. 07016

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June 24, 1977

1. APPELLATE DECISIONS - BILLFIN, INC. v. PATERSON.

Billfin, Inc. t/a Ron's,

Appellant,

v.

Municipal Board of Alcoholic
Beverage Control for the City
of Paterson,

Respondent.

Neil Chessin, Esq., Attorney for Appellant
Joseph A. La Cava, Esq., by Ralph L. De Luccia, Jr., Esq.,
Attorneys for Respondent

On Appeal

CONCLUSIONS
AND
ORDER

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control for the City of Paterson (hereinafter Board) which, on June 9, 1976, suspended appellant's Plenary Retail Consumption License C-235, for twenty-five days, following a finding of guilt to a charge alleging that, on March 13, 1976, appellant allowed and permitted a brawl, act of violence to occur in its licensed premises; in violation of Rule 5 of State Regulation No. 20.

Appellant contends, in its petition of appeal, that the Board erred in its finding because there was insufficient evidence upon which to base its determination. The Board denied this contention.

A de novo appeal was heard in this Division pursuant to Rule 6 of State Regulation No. 15 in which the parties were permitted to introduce evidence and cross-examine witnesses. However, in lieu of the introduction of testimony, the parties, by stipulation, relied upon the transcript of the testimony before the Board at its hearing, in accordance with Rule 8 of said Regulation; and they argued such testimony with oral argument at this hearing.

The suspension imposed by the Board was stayed by the Director of this Division by Order of June 17, 1976, pending the determination of this appeal.

The hearing before the Board related to two charges: (1) the subject of this appeal and (2) a charge that appellant had sold alcoholic beverages to a minor, upon which charge a finding of not guilty resulted. The subject minor, about whose conduct both charges resulted, failed to appear at the hearing before the Board. Much of the testimony taken alluded to the issue of consumption by the minor.

The Board heard testimony of four Paterson Police Officers, the sister of the subject minor, two patrons of the establishment, (one of whom had been struck by the minor), the bartender and the owner of the appellant's establishment.

During oral argument in this Division, it was apparent that the sole and central issue to be determined in this matter was whether or not the act of violence initiated by the minor could have been reasonably anticipated by the appellant, and thus, forestalled; or, conversely whether appellant's agents were sufficiently prudent, under the circumstances.

Appellant contends that there was no way that the act of violence by the minor could have been anticipated. The Board maintains that the agent of appellant did not act with sufficient alacrity to prevent the act of violence.

From the testimony of the Police Officers, it appears that about 11:40 p.m. on March 13th, a citizen alerted the police, who were then nearby, that a fight was in progress in appellant's establishment. Upon their entry, they found a young female lying on a pool table in an unconscious condition. They called for assistance and, in consequence of which call, the female was removed to a hospital. Detectives from the Special Squad immediately responded. Their reports related that the young female had been struck by her minor brother who, in turn, had been engaged in a short fight with another patron. The minor was apparently under the influence of alcoholic beverages.

From the testimony of the witnesses produced by appellant, the following incident was related:

Seventeen - year old Joey D-- visited appellant's establishment after ten o'clock in the evening of March 13, 1976. His entry was interrupted by the bartender, Robert Gates, who permitted him to enter only for the purpose of talking with the minor's father who was seated at the bar.

Sometime thereafter, Joey made an unprovoked assault upon a patron, James 'Tommy' Schuller, who, in defense, stuck back. Joey's sister, Katherine, was also a patron at the time. Her father told Katherine that "Joey hit somebody"; whereupon Katherine left her position at the bar, strode its length to her brother and began remonstrating with him. Thereupon, Joey

"ripped off his shirt" and took one heavy punch at his sister, rendering her unconscious. The Police arrived shortly thereafter.

The Board had the benefit of observing each of the witnesses and was able to judge the credibility of their testimony. The conflicts in the testimony of the many witnesses left the Board in the position of determining who, among the witnesses was believable.

The testimony of bartender Gates could well have been totally disbelieved by the Board. He stated that he permitted the entry of minor Joey merely to talk to his father. However, he denied serving the boy, who, he said, was in the premises merely ten or fifteen minutes. Joey's sister, Katherine, timed the entry of Joey to "a little after 10 he came in". His denial of having served Joey any drink whatever was specifically refuted by Katherine who related that her father said to the bartender "Joey wants a glass of 7-up" which she saw delivered to Joey who consumed some of it.

The bartender declared that he responded upon Joey's first blow upon patron Schuller; but Schuller's wife Patty, in response to an inquiry concerning Gates's activity said "No, he stood there", and specifically denied that the bartender made any attempt to get to the minor.

The bartender further asserted that he had called the police; but when asked that question on cross examination, he responded "I believe I did personally call the police." The testimony of the police officers was that a citizen coming from the appellant's premises related that a fight was going on there. No additional testimony was offered to substantiate that a call had been placed to the police station from appellant's premises.

Nelda Panns, one of the corporate stockholders of appellate corporation, testified that she had had a prior experience with Joey who, when asked to depart replied "If you don't want me, call the cops." In consequence of the difficulties which Joey caused, Mrs. Panns issued orders that he was not to be admitted to the premises. The bartender obviously knew this, for, in response to a question relative to asking Joey to leave, he said "...I told him to get out. I have known the fellow for years."

It is worth noting that although the minor Joey did not appear, and that a warrant had issued to insure his presence, the appellant did not call upon Joey's father to testify. It was to him, the father, that Joey addressed his preliminary remarks, and it was when Joey was standing near his father that he uncontrollably struck Schuller. It was the father's daughter, Katherine, who lay unconscious on the pool table. Yet, if, indeed any effort was made to obtain his testimony; no explanation was given for its absence.

The burden of establishing that the action of the Board was erroneous and should be reversed rests entirely upon appellant. Rule 8 of State Regulation No. 15. As the court pointed out in Cooley's etc. Foundation v. Legalized Games, etc. Com. 78 N.J. Super. 128 at 140:

"The question in every case is whether a reasonable man, acting reasonably, could have reached the administrative agency decision under review, from the evidence found in the entire record, including the inferences to be drawn therefrom."

The test in matters involving acts of violence is:

"...The question involved here is whether the licensees could reasonably have taken steps to prevent the act of violence and disturbance that took place on their licensed premises, but failed to do so." Riverside Corp. v. Elizabeth, Bulletin 2144, Item 3, and citations therein.

There is substantial credible evidence to support the finding of guilt. The Board properly found that the bartender knew of Joey's predisposition toward creating difficulties, and, despite this admitted knowledge, permitted the minor to patronize the premises. Cf. Hernandez and Fernandez v. Union City, Bulletin 2225, Item 2.

Further, it is noted that the appellant has had a prior similar charge resulting in a guilty finding and suspension to which an appeal was taken to the Director two years ago. In that matter, Billfin, Inc. v. Paterson, Bulletin 2164, Item 1, the pertinent applicable law was set forth, of which appellant by virtue of that decision, should be fully aware.

In oral argument, appellant's attorney made reference to the prior similar matter, contending that the Board made its present determination mindful of the prior incident; hence its judgment was biased. I do not find that the testimony of the present matter would have lent itself, despite the existence of the prior similar matter, to any other conclusion.

Hence, upon full examination of the testimony presented to the Board, I find that this charge was established by a preponderance of the believable evidence. I, thus, conclude that the appellant has failed to sustain the burden of establishing that the Board's action was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

Accordingly, it is recommended that the action of the Board be affirmed and the appeal be dismissed. It is, further,

recommended that the Order of the Director staying the suspension be vacated, and that an order be entered reimposing the suspension heretofore imposed by the Board.

Conclusions and Order

No Exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, and the Hearer's report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 3rd day of February 1977,

ORDERED that the action of the respondent, Municipal Board of Alcoholic Beverage Control for the City of Paterson be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed; and it is further

ORDERED that my Order of June 17, 1976 staying the Board's order of suspension, pending determination of this appeal, be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-235, issued by the Municipal Board of Alcoholic Beverage Control for the City of Paterson to Billfin, Inc. t/a Ron's, for premises 803 Market Street, Paterson, be and the same is hereby suspended for twenty-five (25) days commencing 3:00 a.m. Thursday, February 17, 1977 and terminating 3:00 a.m. Monday, March 14, 1977.

Joseph H. Lerner
Director

2. DISCIPLINARY PROCEEDINGS - LEWDNESS - INDECENT DANCE - OBSCENE LANGUAGE - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against

Richard's Cymbal, Inc. t/a Richard's Lounge 1038 River Avenue Lakewood, N.J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Township Committee of Township of Lakewood.

Richard L. Barbour, Esq., Appearing for Licensee Carl A. Whyopen, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein: Hearer's Report

Licensee pleads "not guilty" to the following charges:

- 1. On October 31, 1975, into November 1, 1975 you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you allowed, permitted and suffered a male person, while performing on your licensed premises for the entertainment of your customers and patrons to engage in conduct of a lewd, indecent and immoral manner and to commit and engage in acts, gestures and movements of and with his hands, legs and other parts of his body in a manner and form having lewd, indecent and immorally suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20."
2. On October 31, 1975 into November 1, 1975, you allowed, permitted and suffered in and upon your licensed premises, foul, filthy, indecent and obscene language; in violation of Rule 5 of State Regulation No. 20."

In support of the charge, ABC agent B testified that, accompanied by three other ABC agents he entered the licensed premises on October 31, 1975, at approximately 10:30 P.M. The room contained a long bar along the right side wall, restrooms along the right rear, a "discoteque" area, a table and lounge area in the center and a raised platform containing a stage at the rear of the room.

The patronage of approximately seventy persons increased to approximately eighty, evenly divided between the sexes. One male, later identified as Richard Stein, the corporate licensee's sole stockholder, was tending bar. Three waitresses, Jean Kluff, Adreinne Lipken and Jacquelyn Delaporte were serving the table and lounge area. Two of the agents seated themselves at the bar. Agents B and C sat in the lounge area which contained couches; they sat approximately thirty to forty feet from the stage. A singer, later identified as Tony Mason, who accompanied himself on the guitar was performing at the time.

At 12:30 A.M. a male dressed in a woven leather jockstrap and red tassel who was called "Sweet Pie", and was later identified as Paul Winer, entered the room. He moved about the lounge areas talking to patrons at various tables. He had long hair which was combed over and partially obscured his face. The only physical contact between "Sweet Pie" and patrons was handshaking. He asked various patrons "Do you swallow it?" which elicited various responses, (none angry) as well as laughter. He performed for at least one hour, singing, joking and engaging in repartee. The act was tape-recorded by agent B with a mini-cassette recorder with which he entered the premises and used for that purpose. It contained what he stated to be substantially the entire act.

He stopped the recorder several times in order to check its operation and to ascertain that he had not reached the end of the tape, and also, to reverse it when its first side was exhausted. He asserted that each interruption was of approximately 30 seconds duration; none longer. The act was replete with obscene words and, in particular a four letter word, and phrases the recital of which would serve no useful purpose. At one point during the act he blew up a prophylactic, suggested several alternate uses for it and put it at the end of his nose. He made a hand sign which agent B interpreted as symbolic of male masturbation. At the conclusion of the act the four agents identified themselves, requested and obtained the woven leather jockstrap as evidence. This was done in the presence of several members of the Lakewood Police Department, who did not otherwise participate.

In behalf of the licensee, Richard Stein explained that he had been a musician in various bands playing throughout the country. It had been his longtime ambition to own a small lounge or club and to showcase new talent. He selects all the entertainment who perform at the Club. The acts vary but all must have "integrity", "proper motivation" and "professionalism".

Stein described a young piano player who has since gone on to record four or five albums for a major record company who was discovered and featured by Stein at his Club. Performers are given a free hand to allow their artistic talents to flow; the management does not restrict them. Stein testified that he controls his Club as to patronage behavior and there have been no altercations or brawls .

On cross-examination, he conceded that he was fined for minor things that resulted from lack of knowledge of the Division Regulations, not from a deliberate, conscious intent to violate the law.

When he feels that an act is vulgar or obscene he has not permitted it, even though the act generates sell-out attendances. "Sweet Pie" performed several times a year for the past three years at his Club; the local police have witnessed the performances in their official capacities, and also while off-duty, in the company of their wives. None had given any indication that "Sweet Pie's" act was offensive, or in violation of local or State ABC regulations.

Stein has had many opportunities to see "Sweet Pie" perform, and stated he was impressed with the act. He did not consider it vulgar or obscene, but conceded it was risque. He would not allow minors to attend this particular show, although, on occasion, he has allowed them, when accompanied by their parents, to see other performers.

In the foyer, he had a large sign posted which stated, in effect, that "this is an adult act, and is risque. If certain language offends you, please do not enter".

Lastly, Stein admits receiving a warning letter dated April 15th, 1976, which advised him that "this Division is in receipt of information indicating...that on occasions heretofore you have permitted an entertainer to engage in the use of foul, filthy and obscene language entirely without restraint completely audible throughout your barroom..." The letter cited Rule 5 of State Regulation No. 20. Licensee was advised to "tighten up" his control hereafter. Stein responded on April 25th and stated:

"Your division has specifically and forcibly directed my attention to Rule #5 of State Regulation #20. While you have made it perfectly clear that you are giving me the benefit of the doubt in withholding the institution of disciplinary proceedings against me, I must say that I am confused by your charges. In the four and one half years that I have been here, I have prided myself on both my entertainment policy and my clientele, While your warning will be taken with the seriousness that you have shown; I find, after searching my obligated moral and value systems that I have not breeched any rules as stated by the Alcoholic Beverage Control Division.

For fifty two weeks of each year, there are fifty two new acts presenting their talents. It is inconceivable to me and hopefully to you, that it would be possible to satisfy everyone. If I could speak directly to the complainers I then possibly could take some constructive steps to alleviate whatever the problem may be."

He testified that no response to this request was ever received.

"Sweet Pie" testified in defense of the licensee. He is a nudist and dresses either in very brief shorts or a loin cloth garment with either no top or as brief a top as weather and circumstances allow. He wears only the minimum necessary to have free passage although he is frequently questioned. He views himself as a musical entertainer. He does no dancing whatsoever, but is often confused with male go-go dancers. He opined that the only reason his act was noticed by the ABC was because of male go-go dancers similarly attired, who are, perhaps, appealing in body contact to a different audience. He adopted this attire long before male go-go dancer acts were conceived. He uses no body movements that in anyway can be called suggestive, sexual, or arousing. Using abstracts of his testimony, he describes his act as follows:

"My act is a joke on myself, that in a sense opens up the same ability for other people to laugh at themselves. Everything that seems shocking about my act in the beginning is not shocking at all. In fact, all the differences that seem apparent are irrelevant by the end of my act..."

The tape(made by agent B) which was played here would have shown that if the one song that was missing on the tape--almost five minutes in length rather than 30 seconds--was there. It was a Dinah Washington song, which is one of the heavier songs in my show, that somewhat brings out and it fills out the experience the audience has.

I feel the tape that was played here is not my act. That's a portion of my act.....

....My act is approximately a two and a half hour encounter with an audience in the course of an evening....

--It's like a play. You cannot take Act 2 out of "Equus" and suggest that this play is about male nudity. It's not....

My act is always somewhat spontaneous based on songs I've recorded or written, songs I've learned, songs I've made up, encounter, ad-libbing with the audience...

I think what the tape is missing is my initial encounter with the audience where an audience generally does go aaah like this because people----I'm a unique act. There's not another act performing in the country quite like my act.

In that initial encounter with the audience I teach how to use what I am doing. That's not on the tape because the inspector was not there during that portion of the performance....There is nothing sexual in my show at all. There is no sex acts performed. There is no sexual gesticulating performed. There is no sexual fondling.

If anything, my show uses a sexual reference to recreate a parody on human relations, ethnic minorities, social relations, social and governmental institutions and a general wherewithal these people together. I'm a political act. I'm a political comedy."

Illustrative of the thrust of Sweet Pie's parody is the following:

"One of the areas I create parody in is the line of the law. I am on the line of the law. Its not been my professional business to break the law and I work 350 nights a year on the stage. I've been working these same eight States for seven years...."

He then described some of the incidents he has had in other states with their various ABC Divisions.

Preliminarily, I observe that, in matters of this nature we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373(1956).

In appraising the factual picture presented herein, the credibility of witnesses must be weighed. Testimony, to be believed, must not only proceed from the

mouth of a credible witness but must be credible in itself. It must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App.Div.1961).

The general rule in these cases is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

After carefully considering and evaluating the testimony of the witnesses herein, I accept as factual and credible the Agent's version of the performance given by the entertainer. I find that his graphic, detailed and explicit portrayal of the performance was wholly believable.

In adjudicating matters of this kind, I observe that the question of lewdness must be evaluated according to the legal and decisional precedents followed by the Division. See Re Club "D" Lane, Inc., Bulletin 1900, Item 3; aff. 112 N.J. Super 577 (App. Div. 1971) wherein the court reaffirmed the long established principle that "...we are not here concerned with the censorship of a book, nor with the alleged obscenity of a theatrical performance. 'Our immediate interest and attention is confined to the disciplinary action taken against the licensee of a public tavern, whose privileges may lawfully be tightly restricted to limit to the utmost the evils of the trade.' McFadden's Lounge, Inc. v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 61,68 (App.Div.1954). Lewdness or immorality for the purpose of alcoholic beverage control may be determinable on a distinctly narrower basis than for purposes of regulation of commercial entertainment generally. Davis v. New Town Tavern 37 N.J. Super. 376,378 (App. Div. 1955); Jeanne's Enterprises, Inc., v. New Jersey, etc., 93 N.J. Super. 230 (App.Div.1966), aff'd 48 N.J. 359 (1966)."

The right of free speech, protected by the First Amendment and mirrored in the Fourteenth of our Federal Constitution is not absolute at all times and under all circumstances. The conduct of those who have been granted the special privilege of vending alcoholic beverages at designated locations "may lawfully be tightly restricted to limit to the utmost the evils of the trade" McFadden's Lounge v. Division of Alcoholic Beverage Control, *Supra*.

That there was foul, filthy, indecent or obscene language employed on the night in question is indisputable. I find, as a fact, that agent B's testimony was credible and required no further probative embellishment such as any consideration on my part of the tape recording of the act. I further find, as a fact, that "Sweet Pie's" monologue on licensed premises was "foul, filthy and obscene" within the meaning and the intentment of the rule alleged to be violated. Vide, Re Ted Mil, Inc. Bulletin 1983, Item 4, (affirmed App. Div. 1972, opinion not approved for publication).

Licensee argued that Rule 5 of State Regulation - No. 20 is "unconstitutional as vague and overly broad". That attack has been repeatedly rejected by the Appellate Division, recently in Re Cella Realty Co., Inc., Bulletin 2199, Item 1, (affirmed Appellate Division 1976, opinion not approved for publication). See also Re Irving Reingold and Brothers Two of Oradell, Inc. Bulletin 2212, Item 2, (affirmed Appellate Division 1976, opinion not approved for publication).

Licensee's argument of discriminatory enforcement because the Division Agent chose to disregard the act of the guitarist who was wearing conventional attire is sheer sophistry. Assuming other violations occurred that evening, the licensee cannot seriously argue that he was prejudiced because he was not charged with them. In any event, a determination of guilt is made by the Hearer initially and ultimately by the Director. A Division Agent merely reports his observations.

I have considered the testimony of the Division Agent wherein he explained that Sweet Pie was attired in a see-through Jockstrap. I have examined the exhibit and also determined that it is see-through. However, there is lacking testimony that, considering the lighting effects in the licensed premises, there was any exposure of the genital area or otherwise which would compel me to make a finding of guilt in this regard. In any event, this is not to be construed as a tacit approval of the entertainer's attire. I merely distinguish this case from a Re Mrs. Jay's, Inc., Bulletin 1903, Item 3, (affirmed Appellate Division 1971, opinion not approved for publication, see Bulletin 1967, Item 2) wherein a waitress wore a see-through blouse. In that case testimony was adduced that the lighting was such that the waitress' breasts were exposed resulting in a finding of guilt of violation of the subject rule.

It must be emphasized that a liquor licensee who permits the wearing of see-through articles of attire covering certain areas of the anatomy, runs the risk of being in violation Rule 5 of State Regulation No. 20.

Accordingly, after a careful evaluation and consideration of the testimony adduced herein, and the legal principles applicable thereto, I conclude and find that the Division has established the truth of the charges by a preponderance of the evidence, indeed, by substantial evidence; thus, I recommend that it be adjudged guilty thereof.

Although two counts are contained in the charge both of which allege a violation of Rule 5 of State Regulation No. 20, I recommend that the counts be merged as a single violation of the quoted Rule for penalty purposes.

Licensee has no prior chargeable record.

I further recommend that the license be suspended for thirty days.

CONCLUSIONS AND ORDER

Written exceptions to the Hearer's Report, with supportive argument were filed by the licensee, pursuant to Rule 6 of State Regulation No. 16.

In its exceptions, licensee contends that the Hearer concluded that there was no finding that the licensee allowed and permitted a lewd act on its licensed premises. He reasons that, since the Hearer stated that the two charges should be merged, the Hearer recommended a finding of guilty on the first count while at the same time "apparently finding him (sic) not guilty of obscene language".

The licensee clearly mis-reads the Hearer's findings. The Hearer states: "that there was foul, filthy, indecent or obscene language employed on the night in question was indisputable"; and, further: "I further find as a fact, that "Sweet Pie" monologue on licensed premises was "foul, filthy and obscene" within the meaning and intendment of the Rule alleged to be violated.

The Hearer finally concludes and finds that "the Division has established the truth of the charges by the preponderance of the evidence, indeed by substantial evidence; thus I recommend that it be adjudged guilty thereof".

From my reading of the record I see no justification for the Hearer's recommendation that the counts be merged as a single violation. However, it is noted that the Hearer conditioned such merger for "penalty purposes" only.

I have examined and analyzed the exceptions and find that they are devoid of merit.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's Report and the exceptions filed with respect thereto, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

The licensee sets forth that, in the event the Hearer's Report is adopted, it makes application for the imposition of a fine, in compromise, in lieu of suspension. It gives, as its reasons, the fact that the licensee has no prior chargeable record and that there is a contract of a sale which has been entered into for the sale of the said licensed premises.

I shall impose a suspension of thirty (30) days as recommended by the Hearer, but shall consider an application by the licensee for the payment of a fine in lieu of suspension, on condition that the licensee complies with all procedural requirements with respect to the said application prior to the commencement date of the suspension herein imposed.

Accordingly, it is, on this 24th day of February 1977,

ORDERED that Plenary Retail Consumption License C-5 issued by the Township Committee of the Township of Lakewood to Richard's Cymbal, Inc., t/a Richard's Lounge for premises 1038 River Avenue, Lakewood be and the same is hereby suspended for thirty (30) days commencing at 2:00 a.m. Wednesday, March 9, 1977 and terminating at 2:00a.m. Friday, April 8, 1977.

Joseph H. Lerner
Director

3. APPLICATION FOR EXTENSION OF SPECIAL PERMIT - RUTGERS STUDENT CENTER -
APPLICATION GRANTED.

In the Matter of the Application .
of .

College Avenue Tavern Association .
Rutgers Student Center .
126 College Avenue .
New Brunswick, New Jersey .

CONCLUSIONS
and
ORDER

for Extension of Special Permit
No. SM 11709, issued by the Director .
of the Division of Alcoholic Beverage.
Control.

Applicant, by John O. McKnight, Associate Dean of Students, Director
of Rutgers Student Center

BY THE DIRECTOR:

The "College Avenue Tavern Association" of the Rutgers Student Center, holder of Special Permit No. SM11709, applied to the Director of this Division for an extension of its permit in order to allow the sale and consumption of alcoholic beverages in an area of a building presently encompassed by its permit, but not presently designated for such use under the said permit.

At a hearing on this application in this Division John O. McKnight, Associate Deane of Students and Director of the applicant Student Center, testified that, adjacent to what is designated as a "Pub Seating Area" on a sketch of the building in which the present permit applies, is an area designated as a "Food Service Serving Area" consisting of several rooms surrounding a "Pub Area". In fact, that area contains more than forty tables located in one large hall.

It is the intention to have the permit embrace a private dining room adjacent thereto, as well as two or three service areas which surround the entire facility. The permit would increase the number of persons who would be served to about twenty, and would facilitate the service of alcoholic beverages to the private functions as well as to the adjacent service areas.

From the application, the specific area which would be affected by the permit are the "Student Center Snack Bar Dining Area", "Refrigerated Storeroom Area", "Storeroom #230", "Dining Area #101", "Refrigerated Storeroom #101A" and "Storeroom #101B", all of which are part of the facilities used in the service of the major dining areas.

The permission of the University authorities for this application has been obtained, as evidenced by a letter to this Division, which has been made part of this file.

Notice of the subject application was duly published in the Home News, a local newspaper, by which objectors were informed of the opportunity to register objections with the Director of this Division. No objections were recieved in opposition to this application.

A review of the records of this Division concerning the conduct of applicant reveals that no disciplinary proceedings against the applicant have been noticed to the attention of the Director of this Division. It must be, thus, assumed that the permit-premises are being properly operated. This assumption is buttressed by the absence of any objections raised to the subject application.

By the subject application, it is intended that, if the permit be granted, the additional private dining room not presently embraced by the permit in existence, would be covered by this extension. Additionally, all of the storage areas presently used for foods could be available for the storage and security of alcoholic beverages. This would provide a stricter measure of control over such storage of the alcoholic beverages.

I find that the application is in proper order, is in compliance with the applicable statutes, N.J.S.A. 33:1-74,42, and would benefit the campus community.

Accordingly, it is, on this 16th day of February 1977,

ORDERED that Special Permit No. SM 11709, issued to College Avenue Tavern Association of the Rutgers Student Center, the applicant herein, be and the same is hereby extended, to include the additional areas described in its application filed therefore, designated as "Dining Area #101", "Refrigerated Storeroom Area and Area 101A", and "Storerooms #230 and 101B" as set forth on sketch attached to said application; and it is further

ORDERED that such extension of the aforesaid Special Permit No. SM 11709, shall have the same conditions attached to the extended areas as are upon the existing permit.

Joseph H. Lerner
Director

4. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against)

Tee Runyon Bar, Inc.)
t/a Runyon Bar)
59 East Runyon Street)
Newark, N.J.)

AMENDED ORDER

Holder of Plenary Retail Consumption License C-487, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

Leon Sachs, Esq., Attorney for Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

On February 11, 1977 the subject license was suspended for the balance of its term, viz., until midnight, June 30, 1977 effective on February 23, 1977, after the licensee pleaded non vult to charges set forth in the said Order. The said Order states that, in view of the fact that the unlawful situation had not been corrected as of the date of the said Order, the licensee or the bona fide transferee of the licensee is granted leave to apply to the Director, by verified petition, for the lifting of the suspension whenever the unlawful situation has been corrected, but, in no event, sooner than sixty-eight days from the commencement of the said suspension.

Prior to the commencement of the said suspension, an inspection by agents of this Division disclosed that these licensed premises were closed, and that, therefore, the licensee was not in full-time operation thereof. In order to make the suspension meaningful, I shall enter an Amended Order so that the suspension may take effect only after the operation of the said premises are resumed on a substantial full-time basis.

Accordingly, it is, on this 9th day of March 1977,

ORDERED that Plenary Retail Consumption License C-487, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Tee Runyon Bar, Inc. t/a Runyon Bar for premises 59 E. Runyon Street, Newark, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1977, the effective commencement date of which shall be set by further Order if and when the licensee or a bona fide transferee of the licensee resumes operation thereof, whereupon leave shall be granted to the said licensee or any bona fide transferee of the licensee to apply to the Director, by verified petition, for the lifting of the suspension whenever the unlawful situation has been corrected, but, in no event, sooner than sixty-eight (68) days from the commencement of the said suspension.

Joseph H. Lerner
Director

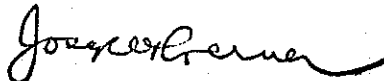
5. STATE LICENSES - NEW APPLICATIONS FILED.

M.S. & W. Distributors, Inc.
Langdon & Meadow Streets
Wharton, New Jersey

Application filed June 15, 1977
for person-to-person transfer of
Limited Wholesale License WL-50
from Suffern Tri County Distributors, Inc.

Garden State Beverage Centers
481 Smith Street
Perth Amboy, New Jersey

Application filed June 14, 1977 for
person-to-person and place-to-place
transfer of State Beverage Distributor's
License SBD-20 from LAB Soda and Beer
Distributors, Inc., 403 Amboy Avenue,
Perth Amboy, New Jersey.



Joseph H. Lerner
Director