

Graham 25
Ambrose

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1984

July 9, 1971

TABLE OF CONTENTS

ITEM

1. COURT DECISIONS - JOHNNIE MAE ISHMAL v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL, ET AL. - SUPREME COURT (APPELLATE DIVISION, SUPERIOR COURT REVERSED).
2. APPELLATE DECISIONS - BUITENHUIS ET AL. v. FREEHOLD.
3. DISCIPLINARY PROCEEDINGS (Elizabeth) - LEWD AND IMMORAL ACTIVITY (HOMOSEXUALS) - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Wildwood) - SUPPLEMENTAL ORDER IMPOSING DEFERRED SUSPENSION.
5. CANCELLATION PROCEEDINGS (Passaic) - LICENSEE DECEASED - NOLLE PROSSED.
6. DISCIPLINARY PROCEEDINGS (Bergenfield) - POSSESSION OF PINBALL MACHINES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.
7. DISCIPLINARY PROCEEDINGS (Hoboken) - SURRENDER OF LICENSE BY LICENSEE - NOLLE PROSSED.
8. DISCIPLINARY PROCEEDINGS (Hanover Township) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Long Branch) - SALE TO MINORS - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Camden) - SALE TO MINOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Newark) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
12. STATE LICENSES - NEW APPLICATION FILED.

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1984

July 9, 1971

1. COURT DECISIONS - JOHNNIE MAE ISHMAL v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL, ET AL. - SUPREME COURT (APPELLATE DIVISION, SUPERIOR COURT REVERSED).

SUPREME COURT OF NEW JERSEY
A-100 September Term 1970

JOHNNIE MAE ISHMAL,
defendant-appellant,

v.

DIVISION OF ALCOHOLIC BEVERAGE
CONTROL and JOSEPH KEEGAN,
DIRECTOR OF THE DIVISION OF ALCOHOLIC
BEVERAGE CONTROL,

plaintiffs-respondents.

Argued March 9, 1971. Decided May 24, 1971.

On appeal from the Superior Court of New Jersey,
Appellate Division.

Miss Nadine Taub argued the cause for appellant
(Community Legal Action Workshop, attorneys;
Miss Taub, of counsel; Mr. Martin Cazakoff,
Newark-Essex Joint Law Reform Project, on the brief).

Mr. Stephen Skillman, Assistant Attorney General of
New Jersey, argued the cause for respondent
(Mr. George F. Kugler, Jr., Attorney General of New
Jersey, attorney; Mr. Skillman, of counsel and on
the brief; Mr. Charles R. Parker, Deputy Attorney
General, on the brief).

The opinion of the Court was delivered by

SCHETTINO, J.

Pursuant to a plenary liquor consumption license, covering the licensing period July 1, 1967 to June 30, 1968, Mrs. Johnnie Mae Ishmal operated a tavern, the Back Room, in Newark, N. J. On June 20, 1968, following a disciplinary hearing, the Newark Municipal Board of Alcoholic Beverage Control revoked Mrs. Ishmal's license. The State Director of the Division of Alcoholic Beverage Control affirmed the action of the municipal licensing authority. On appeal, in an unreported per curiam opinion, the Appellate Division concluded that the Director's determinations were supported by substantial evidence in the record. We agreed to review the matter.

By N.J.S.A. 33:1-31(g), local licensing authorities [here the Newark Board of Alcoholic Beverage Control, N.J.S.A. 33:1-5.1] are granted power to "suspend or revoke any license issued by it, for ***[a]ny violation of rules and regulations" See, Benedetti v. Bd. of Com.'rs. of Trenton, 35 N.J. Super. 30

(App.Div. 1955); Voight v. Board of Excise, 59 N.J.L. 358 (Sup. Ct. 1896). It was pursuant to this statutory authority that the Board in the present case acted to revoke Mrs. Ishmal's license, finding that certain conduct occurring in and around the Back Room Tavern violated rules 4 and 5 of the State Liquor Regulation 20. Insofar as they are here pertinent to the instant appeal, those rules provide:

Rule 4. No licensee shall allow, permit or suffer in or upon the licensed premises ... any unlawful possession of or any unlawful activity pertaining to narcotic drugs as defined by R.S. 24:18-2...

Rule 5. No licensee shall engage in or allow, permit or suffer in or upon the licensed premises any ... immoral activity ... nor shall any licensee allow, permit or suffer the licensed place of business to be conducted in such manner as to become a nuisance.

The Municipal Board specifically concluded that the Back Room Tavern had become a "hang out" for narcotics addicts and "pushers" and constituted a nuisance; that drug traffic was rampant on the licensed premises; that the licensee's efforts to eliminate the drug problem on the licensed premises were merely "token"; and that the revocation of Mrs. Ishmal's license was an appropriate sanction for suffering such a nuisance to exist.

In affirming the findings and conclusions of the Municipal Board, the Director held that the record made before the local board supported an inference that arrangements for the sale and procurement of drugs were concluded on the licensed premises and that such arrangements constituted "unlawful activity" within Rule 4; that the mere "congregation of drug addicts" or "the mere presence of a person for the purpose of selling, obtaining, transferring or using such drugs" is immoral activity and a nuisance within Rule 5; and that Mrs. Ishmal suffered both sorts of conduct to exist.

On this appeal, the licensee argues that the findings of violations and the imposition of sanctions were error, contending that her persistent efforts to eradicate the problems caused by the presence of drug addicts and pushers on the premises belie the conclusion reached below, that she "allowed, permitted or suffered" any conduct proscribed by the rules. We agree with Mrs. Ishmal that her conduct convincingly demonstrates that she did not permit, allow or suffer rule violations to occur in any manner.

At the disciplinary hearing, several members of the Newark Police Department testified to the effect that the tavern and its immediate vicinity were focal points of narcotics activity; and that on account of the "continuous pattern" of illicit drug traffic present there, the tavern had been kept under constant police surveillance from December 1965 through the end of 1967. At least 20 persons were arrested, approximately half of them on the tavern premises, for the sale or possession of narcotics during this period. Of those persons arrested outside the tavern, all had been in and out of the premises several times just prior to consummation of their illicit transactions and subsequent arrests.

The scope of the drug activity is not, however, fully reflected in these arrest statistics. In the opinion of each officer, the tavern was "a source of heavy narcotic activity" or "a distributing center for drug pushers and addicts." Mrs. Ishmal herself conceded of the use, possession and sale of narcotics in and around the premises, that "[t]here was a problem." Indeed, she stated quite openly that the disorderly behavior of addicts compelled her to make some 75 to 100 complaints to the police; that addicts caused much physical damage to the property; and, according to one detective with whom she communicated, that addicts "were ruining her business." Finally, both parties agreed that addicts and traffickers were frequent and, we gather, constant patrons of the tavern.

The record is clear, however, that Mrs. Ishmal seriously endeavored to eradicate the drug problem in and around the tavern property. Indeed, she had strong incentive to do so since, by her testimony, addicts had been responsible for causing the tavern much physical damage. Mrs. Ishmal stated that, as noted above, she had called the police 75 to 100 times with complaints relative to narcotics, that she had a policy of refusing to serve and ejecting persons under the influence of drugs and that she instructed her bartenders to do the same. Although Mrs. Ishmal admitted that addicts not under narcotic influence were served in the tavern, she stated this service was pursuant to police instructions to serve such persons provided they did not cause disturbances. Finally, Mrs. Ishmal revealed that she had previously operated a tavern around the corner from her present location and had not experienced any "problem" with addicts and pushers.

Mrs. Ishmal's efforts to eliminate the tavern's drug difficulties were attested to by two Newark City police officers. Detective Cottrell stated that he was called on "at least fifty occasions" by Mrs. Ishmal or her employees and asked "to assist her in whatever manner that I could in helping her to get rid of the [narcotic problem]." He added that not only did Mrs. Ishmal request his aid but she fully cooperated with his efforts by instructing her son, who worked as a bartender on the premises, to render the detective whatever assistance was necessary. Detective Ballard stated that he, too, received numerous calls from Mrs. Ishmal complaining that "drug addicts... were ruining her business and selling narcotics on the street"; that two in-tavern arrests for illicit drug sales were the direct result of these complaints; and that Mrs. Ishmal furnished him with the names and descriptions of persons known to her to be pushers. But despite these good faith attempts on the part of the licensee and the cooperation of the police to prohibit regulatory violations and criminal offenses, they continued unabated.

Rules 4 and 5 of State Regulation 20 promulgated by the Director impose on the licensee the responsibility, at the peril of its license, for precluding offensive and unlawful conduct in its establishment during the licensing year. One Eleven Wines & Liquors, Inc. v. Division of Alcoholic Bev. Cont., 50 N.J. 329, 340 (1967). In our view, the record convincingly demonstrates that Mrs. Ishmal met her responsibility in this respect. Her good faith efforts to control the drug problem preclude a finding that she was guilty of wrongdoing; and, it clearly appears that the tavern's character as a "trouble spot" of narcotics activity was due to its physical location rather than culpable conduct on her part. We think it clear,

therefore, that Mrs. Ishmal did not "allow, permit or suffer" the drug problem at the tavern; and without that element the finding that Rules 4 and 5 were violated cannot stand.

It, of course, does not follow that the licensing authorities could not, in such circumstances, protect the public interest by appropriate action. The licensing authorities could refuse to permit the continuation of the business at that location. But, where the problem thus inheres in the location, rather than the quality of the licensee's performance, the licensee in fairness should be offered a chance to secure another location. Accordingly, the judgment of the Appellate Division is reversed; and the matter remanded to the Newark Municipal Board of Alcoholic Beverage Control with direction to permit Mrs. Ishmal to apply promptly for a place-to-place transfer of the license to a suitable location.

2. APPELLATE DECISIONS - BUITENHUIS ET AL. v. FREEHOLD.

| | | |
|--------------------------------------|---|-------------|
| BERNARDUS BUITENHUIS and |) | |
| ANNA P. BUITENHUIS, |) | |
| t/a FREEHOLD MOTOR HOTEL, |) | |
| a/k/a FREEHOLD CONGRESS MOTOR HOTEL, |) | ON APPEAL |
| |) | CONCLUSIONS |
| Appellants, |) | AND ORDER |
| |) | |
| v. |) | |
| |) | |
| TOWNSHIP COMMITTEE OF THE TOWNSHIP |) | |
| OF FREEHOLD, |) | |
| |) | |
| Respondent. |) | |

Keith, Keith and Winters, Esqs., by Barry D. Keith, Esq.,
Attorneys for Appellants
Donald Cunningham, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Township Committee of the Township of Freehold (hereinafter Committee) wherein it unanimously adopted a resolution on November 23, 1970 denying appellants' application for a plenary retail consumption license for premises U.S. 9 and N.J. 522, Lot 16-17, Township of Freehold.

The resolution appealed from is quoted in full as it pertinently expresses both factual background as well as the attitude of the Committee:

"WHEREAS the Township Clerk has received and filed a petition for the issuance of a plenary retail consumption liquor license from Bernard and Anna P. Buitenhuis on behalf of the Freehold Motor Hotel, and

"WHEREAS the said petition has annexed to it copies of Building Permit number 636; a Township Committee resolution of June 27, 1966 approving such license subject to certain conditions; an affidavit setting forth a history of the subject application signed by the said Bernard Buitenhuis and dated November 6, 1970; and a copy of the application heretofore made on June 4, 1965; all of which the Township Committee has considered, and

"WHEREAS the Township Committee has been advised by the Township Attorney, Donald J. Cunningham, that the subject license was not issued prior to the amendment of the pertinent N.J. statute which requires one hundred (100) units to exempt the subject premises from the provisions of such statute (R.S. 33:1-12.20) and now,

"BE IT RESOLVED that the said petition of Bernard and Anna P. Buitenhuis be and hereby is denied without prejudice to the rights of the petitioners to appeal such denial to the Director of the Division of Alcoholic Beverage Control for review by the said Director."

The matter was presented upon an agreed statement of facts pursuant to Rule 8 of State Regulation No. 15.

Appellants received a building permit for their motel on April 12, 1965. On June 4, 1965 they applied for a plenary retail consumption license covering premises to be embraced by the motel. This application rested until passage of an ordinance on February 28, 1966, by which the municipality inter alia excluded prospective licenses for motels from the general limitation of licenses thereafter issued and outstanding in the municipality. On June 27, 1966 a resolution was adopted granting a plenary retail consumption license to appellants conditioned as follows:

"1. The license will not be issued unless and until the proposed premises have been duly completed, in keeping with the filed and approved plans and specifications, as a hotel or motel containing at least 50 sleeping rooms.

"2. No renewal or transfer of this license will be approved unless for or to premises operated by the licensee as a hotel or motel containing at least 50 sleeping rooms."

Appellants experienced the usual delay in obtaining financing, obtaining the State permits, and in building in general, which eventuated in a certificate of occupancy obtained from the State in August 1970. On November 6, 1970 appellants applied for the license and were rejected by the Committee for the reasons cited in the resolution.

At the time the initial application was approved and the resolution adopted granting the license on condition that fifty sleeping rooms be constructed; the applicable law was contained in Chapter 94, p. 502, of Public Laws of 1947 (R.S. 33:1-12.20), the pertinent portion of which provided:

"Nothing in this act shall prevent the issuance, in a municipality, of a new license to a person who operates a hotel containing fifty sleeping rooms or who may hereafter construct and establish a new hotel containing at least fifty sleeping rooms."

Before the statute was later amended to add "motel", it had been judicially determined that "hotel" was synonymous with "motel" (Silver Sands Motel v. Point Pleasant Beach, Bulletin 1624, Item 1; Hackensack Motel Corp. v. Little Ferry, Bulletin 1648, Item 1) so that, at the Committee's initial approval, it was lawfully authorized to grant the said application.

Prior to fulfilling the conditions as specified by the Committee in its initial resolution, i.e., the State issuance of a Certificate of Occupancy showing completion of appellants' fifty-room motel in August 1970, the Legislature had amended the statute by Chapter 359 of Public Laws of 1968 (R.S. 33:1-20, as amended), which law became effective January 1, 1969, and increased the required number of guest sleeping rooms from fifty to one hundred. On that basis the 1970 resolution denying the issuance of the license was adopted.

The Committee's attorney advised that the change in the law precluded the Committee from granting the license, suggesting that "petitioner's appeal such denial to the Division." The Legislature was no doubt mindful of the decisions long controlling in parallel situations, that "status of law in respect to validity of use of property for particular purpose is to be determined as of time when court is called upon to act, rather than as of time when property owner applied for official permission to make use...." Roselle v. Moonachie, 48 N.J. Super. 17 (App.Div. 1957); cf. Ziffrin v. United States, 318 U.S. 73; 87 L. Ed. 621. However, in order to protect the rights of persons whose application for such license was approved subject to completion of premises, the act increasing the number of guest rooms from fifty to one hundred contained the following provision:

"Nothing in this act shall affect the right of the holder of any license issued or approved for issuance, contingent on completion of construction for a hotel or motel premises to use and to renew such license." (Emphasis added) R.S. 33:1-12.20a as amended.

Certainly the resolution of the Committee adopted June 27, 1966 provided for a license approved for issuance contingent on completion of construction. Hence the amendment to the act did not negate the rights of the appellants and they are entitled to the warmth of the protection. Cf. Aiello v. West Milford et al., Bulletin 1741, Item 2.

I am advised by the clerk of the Committee that appellants filed applications for renewal for the intervening years, although the Committee failed to pass the requisite resolutions renewing the said license subject to the conditions imposed upon the original application. This is confirmed by Division records.

Accordingly, it is recommended that the Committee's action be reversed; that the Committee be directed to (1) adopt resolutions approving the applications for renewal of said license for the intervening years subject to the aforementioned conditions in order to effect lawful continuity thereof; and (2) to grant the license to appellants for the current licensing period in accordance with the application filed therefor.

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 stipulated statement of facts and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 30th day of April 1971,

ORDERED that the Committee's action be and the same is hereby reversed; and it is further

ORDERED that the Committee be and the same is hereby directed to adopt appropriate resolutions approving the applications for renewal of a plenary retail consumption license for the intervening years nunc pro tunc subject to the conditions imposed upon the original application; and it is further

ORDERED that the Committee be and the same is hereby directed to grant appellants' application for renewal of said license for the 1970-71 licensing period for premises U. S. 9 & N. J. 522, Lot 16-17, Freehold, in accordance with the application filed therefor.

RICHARD C. McDONOUGH
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - LEWD AND IMMORAL ACTIVITY (HOMOSEXUALS) - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MELLO-D-CLUB, INC.
t/a Joe Oliveri's Niteclub
606 Livingston Street
Elizabeth, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)

Holder of Plenary Retail Consumption License C-82, issued by the City Council of the City of Elizabeth for the 1970-71 licensing period.

Donald W. Rinaldo, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 24, August 1, 2, 14, 15, 22, 23, 28, 29, September 1, 12, 25 and 26, 1970, it permitted lewdness and immoral activity (indecent conduct by apparent male and female homosexual patrons) on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that females have been dancing together in an indecent manner, caressing each other immorally on their genital parts and using vile, obscene and vulgar words loudly within hearing of other patrons and employees of the licensee. Males were observed lightly embraced while kissing each other mouth to mouth in an obscene manner, within observation of the licensee.

The licensee has a prior adjudicated record. Effective February 3, 1958, its license was suspended by the Director for 10 days for permitting indecent (double entendre) recordings to be played on the premises. Re Mello-D-Club, Inc., Bulletin 1213, Item 6. Effective January 3, 1961, its license was suspended by the Director for thirty-five days for (a) sales to an intoxicated person and (b) conducting business as a nuisance, including "B" girl, hostess activity "clipping" and "bad" language. Re Mello-D-Club, Inc., Bulletin 1380, Item 6. Effective September 26, 1963, its license was suspended for two hundred days for (a) lewdness and immoral activity (room renting) and (b) sale in violation of State Regulation No. 38. Re Mello-D-Club, Inc., Bulletin 1536, Item 1.

The previous record of suspension for dissimilar violations occurring more than five years ago disregarded, the license will be suspended for forty-five days with remission of five days for the plea entered leaving a net suspension of forty days. Re Danny's Red Ball, Inc., Bulletin 1940, Item 7.

Accordingly, it is, on this 17th day of May, 1971,

ORDERED that Plenary Retail Consumption License C-82, issued by the City Council of the City of Elizabeth to Mello-D-Club, Inc., t/a Joe Oliveri's Niteclub, for premises 606 Livingston Street, Elizabeth, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1971, commencing at 2:00 a.m. Wednesday, June 2, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Monday, July 12, 1971.

RICHARD C. McDONOUGH
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against)

Rio Grande Cafe, Inc.)
t/a Rio Grande Cafe)
447 W. Rio Grande Avenue)
Wildwood, N. J.,)

SUPPLEMENTAL

Holder of Plenary Retail Consumption License C-8, issued by the Board of Commissioners of the City of Wildwood.)

ORDER

Licensee, by Michael J. Gallo, Sr., President, Pro se
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On October 19, 1970 I entered an Amended Order suspending the subject license for ten days, the effective date of said suspension to be fixed by further order because the premises were not in actual operation and thus no effective penalty could have been imposed at that time. Re Rio Grande Cafe, Inc., Bulletin 1943, Items 9 and 10.

It now appears from report of investigation that the licensee has resumed normal operation and the licensed premises are presently being operated on a substantial full-time basis. Therefore the penalty may now be reimposed.

Accordingly, it is, on this 17th day of May 1971,

ORDERED that Plenary Retail Consumption License C-8, issued by the Board of Commissioners of the City of Wildwood to Rio Grande Cafe, Inc., t/a Rio Grande Cafe, for premises 447 W. Rio Grande Avenue, Wildwood, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Tuesday, June 1, 1971, and terminating at 3 a.m. Friday, June 11, 1971.

RICHARD C. McDONOUGH
DIRECTOR

5. CANCELLATION PROCEEDINGS - LICENSEE DECEASED - NOLLE PROSSED.

In the Matter of Cancellation)
Proceedings against)

STANLEY URBANOWSKI)
t/a Gold Arrow Cafe)
142 Passaic Street)
Passaic, N. J.)

CONCLUSIONS)
AND ORDER)

Holder of Plenary Retail Consumption)
License C-56, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Passaic.)

Joseph M. Keegan, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

On March 29, 1971, Stanley Urbanowski was ordered to show cause why Plenary Retail Consumption License C-56 heretofore issued to him for premises 142 Passaic Street, Passaic, should not be cancelled and declared null and void based upon his alleged disqualification to hold such license.

By letter dated April 14, 1971, attorney for Stanley Urbanowski notified the Division that Urbanowski died on April 12, 1971. Thereafter, a certified copy of the Death Certificate issued by the Registrar of Vital Statistics of the City of Passaic was filed with the Division.

Upon the death of Stanley Urbanowski the license automatically lapsed and these proceedings against him terminated. Re Brennan, Bulletin 113, Item 1.

Generally, an extension of the license results in reactivation of cancellation proceedings under R.S. 33:1-31. Re Fetter, Bulletin 1620, Item 6. However, in this matter the question of disqualification of the licensee being personal to him and not the result of the license privilege itself, the death of the licensee shall abate the action. Re Campbell, Bulletin 676, Item 9.

Accordingly, it is, on this 17th day of May, 1971,

ORDERED that the cancellation proceedings herein be and the same are hereby nolle prossed.

RICHARD C. McDONOUGH
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - POSSESSION OF PINBALL MACHINES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against 450 Bowla-Bowla, Inc. 450 So. Washington Avenue Bergenfield, N. J., Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Bergenfield.

CONCLUSIONS and ORDER

Cole, Geaney & Yamner, Esqs., by Murray L. Cole, Esq., Attorneys for Licensee Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 20, 1971 it possessed four pin-ball machines on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license would normally be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Morris Hills Lanes, Inc., Bulletin 1835, Item 13. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$200 in lieu of the suspension.

Accordingly, it is, on this 17th day of May 1971,

ORDERED that the payment of a \$200 fine by the licensee is hereby accepted in lieu of a suspension of license for five days.

RICHARD C. McDONOUGH DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SURRENDER OF LICENSE BY LICENSEE - NOLLE PROSSED.

In the Matter of Disciplinary Proceedings against
 Emil Maisano
 900 Park Avenue
 Hoboken, N. J.,
 Holder of Plenary Retail Distribution License D-33, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.

CONCLUSIONS
 and
 ORDER

 Licensee, Pro se
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

By notice dated April 1, 1971 the Division preferred charges against the above-named licensee alleging that (1) on March 23, 1971 he purchased or obtained alcoholic beverages from other than a manufacturer or wholesaler licensee, in violation of Rule 15 of State Regulation No. 20, and (2) he transported alcoholic beverages in a vehicle bearing no transit insignia, in violation of Rule 2 of State Regulation No. 17.

Thereafter, on April 8, 1971 the licensee notified this Division by letter that he acknowledged receipt of the charges so preferred and that, in consequence, he has terminated his business at the licensed premises 900 Park Avenue, Hoboken, and surrendered the license certificate to the City Clerk of the City of Hoboken.

This was corroborated by letter dated April 14, 1971 from Anthony J. Amoruso, Secretary of the Board of Alcoholic Beverage Control of the City of Hoboken by the following letter acknowledging that the licensed business was terminated on April 6, 1971, and the acceptance by the said Board of the surrender of said license certificate.

Accordingly, it is, on this 17th day of May 1971,

ORDERED that the disciplinary proceedings herein be and the same are hereby nolle prossed.

RICHARD C. McDONOUGH
 DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MICHAEL YURIK
t/a Mickey's
960 Route 10
Hanover Township
PO Whippany, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)
)

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of Hanover Township.

Harold Gurevitz, Esq., Attorney for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 1, 1971, he possessed alcoholic beverages in four bottles bearing labels which did not truly describe their contents in violation of Rule 27 of State Regulation No. 20.

Licensee has a prior record of suspension of license privilege for 10 days by local issuing authority for sale to a minor effective March 22, 1954.

The prior record of the suspension for dissimilar violation in 1954 occurring more than ten years ago from the date of the said charge disregarded, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Three Sisters, A Corp., Bulletin 1945, Item 6.

Accordingly, it is, on this 18th day of May, 1971,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of Hanover Township to Michael Yurik, t/a Mickey's, for premises 960 Route 10, Hanover Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Wednesday, June 2, 1971, and terminating at 2:00 a.m. Thursday, June 17, 1971.

RICHARD C. McDONOUGH
DIRECTOR

- 9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 DeSTEFANO LIQUORS, INC.)
 t/a Strollo's Bar)
 188 Westwood Avenue)
 Long Branch, N. J.)
 Holder of Plenary Retail Consumption License C-36 issued by the City Council of the City of Long Branch.)

CONCLUSIONS AND ORDER

 Licensee, Pro Se.
 Edward F. Ambrose, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on April 7, 1971, it sold alcoholic beverages to three minors, two age 19 and one age 18, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director on two occasions: effective April 21, 1970 for 10 days following a charge of sale to minors Re DeStefano Liquors, Inc., Bulletin 1908, Item 7; thereafter effective December 21, 1970 for thirty-five days on charges (a) sale to minors and (b) sales during prohibited hours Re DeStefano Liquors, Inc., Bulletin 1950, Item 12.

The prior record of suspensions of license for two similar violations considered, both having occurred within the past five years, the license shall be suspended for forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days. Re McClain, Bulletin 1582, Item 8; Re Kit-Kat Club, Inc., Bulletin 1692, Item 5.

Accordingly, it is, on this 18th day of May, 1971,

ORDERED that Plenary Retail Consumption License C-36 issued by the City Council of the City of Long Branch to DeStefano Liquors, Inc., t/a Strollo's Bar for premises 188 Westwood Avenue, Long Branch, be and the same is hereby suspended for the balance of its term, viz., at midnight June 30, 1971, commencing at 2:00 a.m., Wednesday, June 2, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Wednesday, July 7, 1971.

RICHARD C. McDONOUGH
 DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

WALTER & FRANCES A. BEMBAS)
t/a Walt's Cafe)
1197 Lansdowne Avenue)
Camden, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-41 issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Camden.)

Levy and Lacktman, Esqs., by Morrey Lacktman, Esq., Attorneys
for the Licensees.

Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on
February 5, 1971, they sold drinks of beer to a minor, age 17,
in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for
twenty days, with remission of five days for the plea entered,
leaving a net suspension of fifteen days. Re Gilbert, Bulletin
1921, Item 2.

Accordingly, it is, on this 18th day of May, 1971,

ORDERED that Plenary Retail Consumption License C-41,
issued by the Municipal Board of Alcoholic Beverage Control
of the City of Camden to Walter & Frances A. Bembas, t/a Walt's
Cafe, for premises 1197 Lansdowne Avenue, Camden, be and the
same is hereby suspended for fifteen days commencing at 2:00 a.m.
Wednesday, June 2, 1971 and terminating at 2:00 a.m. Thursday,
June 17, 1971.

RICHARD C. McDONOUGH
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SKY-BURT, INC.
t/a V.I.P.
130 Elizabeth Avenue
Newark, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)

Holder of Plenary Retail Consumption License C-790, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Fast & Fast, Esqs., by Herman L. Fast, Esq., Attorney for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 16, 1970, it possessed three bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Crystal Bay Inn, Inc., Bulletin 1968, Item 3.

Accordingly, it is, on this 18th day of May, 1971,

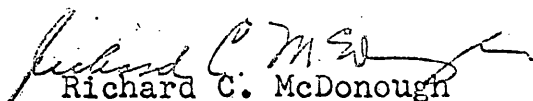
ORDERED that Plenary Retail Consumption License C-790, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Sky-Burt, Inc., t/a V.I.P., for premises 130 Elizabeth Avenue, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Wednesday, June 2, 1971 and terminating at 2:00 a.m. Thursday, June 17, 1971.

Richard C. McDonough
Director

12. STATE LICENSES - NEW APPLICATION FILED.

Fedway Associates, Inc.
t/a Henderson Stuart Company and Androb Imports
315 Clendenny Avenue
Jersey City, New Jersey

Application filed July 6, 1971 for additional warehouse license, for premises Building 44, Port Kearny, New Jersey, in connection with Plenary Wholesale License W-29.


Richard C. McDonough
Director