

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

BULLETIN 2105

June 27, 1973

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1. APPELLATE DECISIONS - 177 CLUB, INC. v. NEWARK.

177 Club, Inc., t/a 177 Club,)	
)	
Appellant,)	
v.)	On Appeal
)	
Municipal Board of Alcoholic Beverage Control of the City of Newark,)	CONCLUSIONS and ORDER
)	
Respondent.)	

Harry T. Davimos, Esq., Attorney for Appellant
William H. Walls, Esq., by Irving R. Venokur, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from action of respondent Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) which on November 13, 1972 suspended appellant's plenary retail consumption license for premises 177 Clinton Avenue, Newark, for five days effective January 15, 1973, following a finding that appellant had violated Title #4 of the local ordinance, Section 4:1-4. In substance, that particular section of the ordinance provides that there shall be no change or alteration of the licensed premises undertaken prior to approval by the Board.

Upon filing of the said appeal the effective date of the suspension was stayed by the Director by order dated January 2, 1973, pending determination hereof and until further order herein.

The petition of appeal contends that the action of the Board was erroneous in that "The owner filled in a hole in the wall between the premises of Appellant and the store at 177½ Clinton Avenue caused by burglars breaking into appellant's premises, with a door instead of solid masonry which was covered later so that no door was visible between the store of the appellant and the next door store at the request of the respondent. All work in filling in the space broken into by the burglars was performed from the store next to the appellant."

The Board in its answer denied this allegation and contended that its determination was based upon the factual testimony before it.

At the outset of the hearing counsel for the Board indicated that, while stenographic transcripts of testimony before the Board are usually taken, none was taken in the instant matter because shortly prior to the hearing the then counsel for appellant had entered a plea of non vult on its behalf. Present counsel for appellant indicated surprise and asserted that he had been present at a hearing before the Board upon which its final action had been predicated. Both counsel were advised of the de novo character of the hearing in this Division and that full opportunity would be afforded each party to introduce evidence and cross-examine witnesses.

From the testimony of Nathaniel Hopkins, who claimed ownership of the licensed premises (and presumably is the owner of the corporate stock of appellant corporation) and that of attorney Harry T. Davimos testifying as the owner of the building in which the licensed premises and the adjacent store are housed, the following factual background emerged:

Some time in June 1971, during the early morning hours when no one was present in the licensed premises or in the vacant store alongside it, thieves obtained entry into the vacant store and thereupon broke through the wall separating the vacant store and the licensed premises. A hole about three feet by four feet was torn in the wall through which the thieves entered the licensed premises where a quantity of liquor was taken along with more than eight hundred dollars in cash. Upon discovering the theft and the broken wall, Hopkins called Davimos (his landlord) who promptly came and examined it. Thereupon he and Hopkins arranged for the installation of a steel door in place of the open hole.

A few months thereafter a restaurant was opened in the vacant store, with passage accessible between the two by the steel door. To this point, no notice had been given by appellant to the Board of any change in the wall. At a later date Hopkins was served with notice of the alleged violation and, after consultation with Davimos, placed a sheet of plywood across the door fastened by a two-by-four. After the hearing before the Board, the steel door was again covered on the licensed premises side by a sheet of face brick. Photographs of the covering over the door were admitted into evidence.

Detective Clifford Minor, of the Newark Police Department, testified that he is assigned to the Board as its investigating officer and as such had occasion to visit the premises concerning another subject. His first visit in January 1972 resulted in an observation of a metal door which led to an adjacent restaurant. On occasion he saw persons go through the door in or from the restaurant. Subsequent to the preferment of the charges against appellant, he returned to the licensed premises and found the steel door covered by a sheet of plywood.

He recalled that at a hearing before the Board appellant, appearing through Hopkins, entered a non vult plea. He has not been back to the premises since the photographs were taken showing the new covering of the door. He expressed belief that the capacity of the licensed premises had been increased by the introduction of the doorway between the premises and the restaurant.

The primary responsibility for enforcement of the laws pertaining to retail licenses rests upon the municipality. Benedetti v. Trenton, 35 N.J. Super. 30 (App.Div. 1955); Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App.Div. 1955).

Factually there can be no question that a door was erected between the licensed premises and a store later occupied as a restaurant, and that the existence of such doorway was not reported to the Board. The failure to report such door was an obvious violation of the ordinance. It is conceded that the doorway is now covered by brick and thus presently presents no violation. However, at the time of the preferment of the charges and the hearing thereon, there was a violation for which the five-day penalty was assessed. Such penalty was minimal for, had the door not been later bricked up, the license could well have been suspended for the balance of its term or until the doorway was eliminated.

Accordingly, I find that the Board properly exercised its discretion and its action was not erroneous or arbitrary. See Rule 6 of State Regulation No. 15. I recommend that an order be entered affirming the action of the Board, dismissing the appeal, vacating the order staying the suspension, and re-imposing 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 25th day of April 1973,

ORDERED that the action of the respondent be and the same is hereby affirmed and the appeal herein filed be and the same is hereby dismissed; and it is further

ORDERED that my order, dated January 2, 1973 staying the Board's order of suspension pending the determination of this appeal be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-759 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to 177 Club, Inc., t/a 177 Club for premises 177 Clinton Avenue, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. on Monday, May 7, 1973 and terminating at 2:00 a.m. on Saturday, May 12, 1973.

ROBERT E. BOWER
DIRECTOR

2. APPELLATE DECISIONS - IRIZARRY v. PASSAIC.

Maria H. Irizarry and Haydee)
Irizarry, t/a Union Tavern,)
)
Appellants,)
v.)
Municipal Board of Alcoholic)
Beverage Control of the City)
of Passaic,)
Respondent.)

On Appeal

CONCLUSIONS and ORDER

Harry Kampelman, Esq., Attorney for Appellant
William P. Schey, 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 Municipal Board of Alcoholic Beverage Control of the City of Passaic (hereinafter Board) which on January 9, 1973, denied appellants' application for a person-to-person transfer of a plenary retail consumption license from Stella Majewski and Marge Mikolzjozyk, t/a Union Tavern (present licensees) to themselves. The licensed premises are located at 198 Monroe Street, Passaic.

In their petition of appeal appellants contend that the action of the Board was arbitrary, capricious and unreasonable in that the Board did not approve the transfer because of a projected loan to be advanced to appellants by a vending machine company which was to be secured by chattels presumably located in the licensed premises and, additionally, that the husband of one of the appellants had been convicted on a book-making charge about five years ago. The Board in its answer denied these contentions and defended that its action was both reasonable and proper.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full right extended the parties to introduce evidence and to cross-examine witnesses.

The Board produced the testimony of Sergeant Alexander Sniatkowski of the Passaic Police Department, Commander of the Vice Squad. He stated that he was familiar with the application for transfer and in connection therewith submitted a report to the Board. That report, which consisted of a conclusion recommending that the application be denied, was based upon almost daily surveillance of gambling activity in the area where the licensed premises are located. There exists an extensive Spanish numbers operation in the area in the vicinity of the subject premises, and that operation appears to be conducted by Milton and Juan Irizarry (sons of appellant Haydee Irizarry). Additionally, appellant's husband Angel Irizarry has a record of conviction for maintaining a gambling resort and possessing lottery slips in 1966. The sons Milton and Juan have both been indicted for gambling activities and their trial is presently pending. These men were employed in a nearby tavern but have been discharged from that employment. Observation of both of them gives rise to the inference that neither has gainful employment and each spends his days "hanging around."

Louis Gill testified that he is the chairman of the Board and has been a member of the Board for five years. He voted against appellants' application for the person-to-person transfer for several reasons. He is of the opinion that a substantial loan to be advanced by a vending machine company to be used toward the purchase of a tavern gives rise to an unhealthy economic situation and affects the independence of the tavern owner. He was further convinced that the ownership by appellants would create an obvious "front" situation. He also was influenced by the vigorous and unequivocal recommendation of denial by the Police Department. The rejection by the Board was unanimous.

Chairman Gill further explained that, in conjunction with transfer applications, the Board demands that applicant accompany the application with an affidavit disclosing the source of the funds to be used by the applicant. In the instant matter appellants did file such affidavit which disclosed that, of the eight-thousand-dollar purchase price, three thousand dollars was to come from the loan above referred to, and appellant Maria Irizarry exhibited a savings-and-loan association account book showing five thousand dollars on deposit. Appellant Haydee Irizarry was to make no contribution toward the purchase. Neither of appellants (both women) had previous bar or liquor industry experience and, additionally, they would be operating in an area notorious for heavy gambling activity.

Board member Henry Alston testified that he has been such for four years and voted against appellants' application. His reasons were in substantial corroboration of those of the Chairman of the Board although he admitted that the prospective loan from a vending machine company would not in itself be sufficient to deny the application. However, he expressed doubt that the funds in appellant Maria Irizarry's account were the result of her savings.

Testifying on behalf of appellants, Stella Majewski (present co-owner of the subject premises) described the difficulties that she and her mother (the co-licensee) have encountered in operating the establishment. There has been a distinct neighborhood change in the past few years, during which people of Slavic extraction have been replaced by Spanish-speaking persons. She has had to employ a Spanish-speaking bartender. She affirmed that the vending company which has been willing to advance part of the purchase price is the same company which has operated machines in her premises for a long period of time.

Appellant Maria H. Irizarry, who appeared to be a young lady in her mid-twenties, testified that she and her mother-in-law (appellant Haydee Irizarry) contracted to purchase the licensed premises in October 1972 at a purchase price of \$8,000. She has five thousand dollars and the vending machine company will advance three thousand. This loan will be repaid from the profits made through the equipment. Her husband Juan is not presently employed and does have a gambling charge pending against him. She has been married about two years and has an eight-months-old child. She presented a long account of her working record for the past three years which, although it displayed commendable energies and ambition, from factory to school to factory, left the unintended impression that she was the basic support of her family. She accounted for her earnings and expenses and claimed the \$5,000 in the savings account was the result of her own accumulation. Her husband has not been regularly employed since their marriage. She admitted that a bartender would be required for the operation of the business. Her husband will not work in the tavern.

Appellant Haydee Irizarry, a motherly-looking woman appearing to be of middle age, testified through her daughter-in-law acting as an interpreter that about four years ago she terminated a restaurant business she had operated for about five years. Her husband is now working steadily and will not participate in the operation of the business. She has nine children, the youngest of whom is fourteen. She intends to spend her full time in the tavern but will hire a bartender to assist.

In matters involving transfer of liquor licenses, the responsibility of the municipal issuing authority is "high", its discretion "wide" and its guide "the public interest." Lubliner v. Paterson, 33 N.J. 428 (1960). Hence, in order to meet the burden required by Rule 6 of State Regulation No. 15, appellant must show manifest error and that the action of the Board was clearly against the logic and effect of the presented facts. Hudson Bergen County Retail Liquor Stores Assn. v. Hoboken, 135 N.J.L. 502 (1947); G.E.L.L. Inc. v. Newark, Bulletin 1911, Item 1.

The municipal action based upon its discretion will not be disturbed in the absence of clear abuse. Blanck v. Magnolia, 38 N.J. 484 (1962).

Guided by the above principles, it is abundantly clear that the Board, in the valid exercise of its discretion, determined that the public interest would not be well served if the application were granted. It is further clear that the Board felt that the proximity to the prospective licensed premises by the male members of the Irizarry family would place the license, the appellants and the public in jeopardy, which risk should not be encouraged by the Board. Such determination, in light of the facts presented, more than overcomes an abuse of discretion; it exemplifies a sound, cautious and concerned approach to the presented issues as related to the larger public interest.

Counsel for appellants vigorously urged that a denial of appellants' application was discriminatory in that appellants are a pair of mother-and-daughter women as are the present licensees. He argues that, even if the sons of appellant mother may be "black sheep", such fact should not inure to the detriment of appellants. Further, appellants' assurance that none of the male members of their family would participate in the licensed business should be accepted in the absence of proof to the contrary. Lastly, the objection to the loan-part of the purchase price by the vending company is also discriminatory in that an ordinary bank loan would not subject appellants to the same scrutiny. These factors, it was contended, illustrate unreasonableness.

In weighing the grant or rejection of a license transfer application, the Board uses as its scale the logic and effect of the presented facts. The Board here had grave doubts that the license was the independent purchase of appellants. Those doubts were partially substantiated by the testimony of one of the appellants whose account of her income and expenses for the past years clearly dispelled the implication that the funds were accumulated by her. The graver doubt that the licensed premises would be a convenience for local gambling operations has full substance when illuminated by the reflection of the past effort of the male members of the family to acquire other licensed premises, which effort was aborted. It is well within the Board's province to determine the worthiness of appellants and such determination, absent improper motive or unreasonableness, should not be disturbed. Deola v. Millville, Bulletin 789, Item 12; Chestnut Wines & Liquor v. West Orange, Bulletin 1740, Item 1.

I conclude, on the basis of the totality of the record, that the Board exercised its discretion reasonably and in the public interest. Thus, appellants have failed to sustain their burden of establishing that the action of the Board was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

It is therefore recommended that the action of the Board be affirmed and the appeal be dismissed.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's report were filed by the attorney for appellants. Answering arguments to such exceptions were filed by the attorney for respondent.

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

Accordingly, it is, on this 26th day of April 1973,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Passaic be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

ROBERT E. BOWER
DIRECTOR

- 3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against
Hillcrest Inc.
t/a Hillcrest
189-A-191 Avenel Street
Woodbridge Township
Avenel, N. J.,
Holder of Plenary Retail Consumption License C-68, issued by the Council of the Township of Woodbridge.

CONCLUSIONS
and
ORDER

Thomas W. Sharlow, Esq., Attorney for Licensee
Carla V. Bello, Deputy Attorney General, Appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleads not guilty to a charge alleging that on October 19, 1972 it sold alcoholic beverages to two minors, both 18 years of age, in violation of Rule 1 of State Regulation No. 20.

At the outset of the hearing, counsel for licensee challenged the action of the Division in permitting the matter to be heard by its representative instead of by a hearing officer independent and unattached to the Division. This argument is without legal validity for, until the Legislature amends the present alcoholic beverage law (N.J.S.A. Title 33), the hearings held in this Division shall follow statutory directives and decisions applicable. A further motion, addressed to the form of the complaint, raised the contention that the charge against the licensee was not sufficiently explicit upon which to base a defense. The Deputy Attorney General, in charge of prosecution of the complaint, advised that counsel was afforded full opportunity to examine the Division file and did so. Hence the contention respecting the complaint is without merit; the opportunity to be fully cognizant of the details of the charge being made known to licensee's counsel, the objection is not now well founded.

Counsel for the Division called the alleged minors Eileen --- and Mary --- merely to prove their ages, admitting that such testimony would be usable only to substantiate their ages; proof of the charge was presented through the testimony of other witnesses.

On behalf of the Division, Eileen --- testified that she was born on March 23, 1954, and Mary --- testified that she was born on May 6, 1954, both girls being eighteen years old on the date of the offense.

ABC Agent B testified that on October 19, 1972, accompanied by ABC Agent P, he entered the licensed premises about midnight. After then positioning themselves at the bar, he observed a number of young people congregating in an area toward the rear of the premises in which were located pool tables. Upon moving themselves to that area, they noticed three females, two being the minors named in the charge herein, who appeared to be minors. One of their number, who later proved to be an adult, identified as Nadine Snyder or Schneider, returned to the bar and purchased two mugs of beer, giving one to Eileen and keeping the other for herself. Mary also sipped from the beer mug given Eileen. Thereupon the agents summoned the local police, identified themselves to the girls, seized the beer mugs, and identified themselves to the bartender. Agent B obtained prepared empty sample bottles from his car and the remaining contents of the beer mugs were placed in those containers.

On cross examination Agent B admitted that his recollection was dim as to the exact place where the transfer of the remaining beer in the girl's mugs to the evidence bottles was done. He further admitted that, while the mugs with the unconsumed portions rested on a shuffleboard as he departed the premises to his car to obtain the sample bottles, they were out of his sight; he affirmed, however, that Agent P, as well as two local police officers, were alongside the bottles during this period.

Agent P testified that she accompanied Agent B into the premises and generally corroborated Agent B's account of what transpired. She was more definite as to precise details, indicating that she seized the beer mugs which she took toward the entrance area of the premises. She was adamant in her contention that the beer mugs were unmoved during Agent B's visit to his car and were untouched in that period.

On behalf of the licensee, Frederick A. Freeman testified that he was in the licensed premises on the night in question and saw the two ABC agents present. He was playing pool with friends and saw neither Mary nor Eileen drinking anything. But he did see Nadine have beer. Surrounding the pool tables were about ten persons playing or watching.

Eileen --- testified that she did not purchase beer nor did Nadine purchase beer for her. She recalled seeing a mug of beer resting on a table and did take a mouthful of it. She did not know to whom the mug belonged.

Mary --- testified that she bought no beer nor was beer bought for her by Nadine. She did buy coke during the evening, as she rarely drinks beer. She recalled the two agents with two beer mugs in their hands and that she was directed by them to accompany them toward the front of the bar.

Another patron, Dennis Dunigan, testified that he was playing pool with Freeman, saw the three girls (Mary, Eileen and Nadine) but saw no sales to the minors nor did Nadine make a purchase of beer for them.

Joseph M. Asmonda testified that he is a principal owner of the licensed premises and on the night in question was tending bar. He served both Eileen and Mary cans of coke but neither girl was served beer nor was beer sold for their use. He observed two local policemen enter and the agents accompanied by the girls join the police who were near the middle of the bar.

Agent B came back in the premises with two empty bottles and proceeded to take two mugs of beer which were lying on the bar and pour their contents into the bottles. The beer mugs, which Agent B used, did not come from the rear of the premises but were those used by other patrons. He had sold two mugs of beer to Nadine, knowing she was an adult, after receiving assurance that the beer was for her and Freddy.

He recounted that Mary and Eileen had arrived individually, shortly before midnight, and it was about a half-hour afterwards before the agents identified themselves. He did not go into the rear room nor could he see it easily from behind the bar.

In adjudicating matters of this kind, we are guided by the long established principle that disciplinary proceedings against liquor licensees are civil in nature and not criminal, and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956).

Since the testimony herein presents a sharp factual conflict, the credibility of witnesses must be weighed. Evidence, to be believed, must not only proceed from the mouths of credible witnesses but must be credible in itself and 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).

It may be here noted that, with the exception of the principal owner of the license, Asmonda, all of the witnesses were, at the request of counsel for licensee, sequestered. Wigmore ranks the sequestration of witnesses "... just below cross-examination as a device to expose untruthfulness." State of N.J. in interest of W.O., 100 N.J. Super. 358, 363 (App.Div. 1968).

The simple issue raised is whether or not the named minors consumed alcoholic beverage on the licensed premises. Having observed the demeanor of the witnesses, it was apparent to me that the minors did consume beer from the mugs seized. Although the bartender alleges that the purchase of the two mugs by the adult Nadine was on behalf of herself and "Freddy", nowhere in Frederick's testimony is there a reference to a purchase made by her for him.

One of the minor girls admitted that she surreptitiously took a sip of beer from someone's mug and, while such clandestine sip might not in itself inculcate the licensee, it defies the logic of the presented facts. It is common custom for the buyer or donee of a mug of beer to consider it his own; this minor's possessory right is universally acknowledged and, absent fixed custom to the contrary, one does not drink from the glass of another.

Similarly, the bartender attempted to imply that the agent, although trained and with four years experience, took a mug or glass of beer from some bar patron of the bar and filled the sample bottle with it. The minor girls described the action of the agent as having advanced toward the front of the bar, carrying the mugs of beer. The implication of switching beer mug contents must be summarily rejected.

The testimony of the agents was clear and convincing albeit the recollection of Agent B as to where he made the actual transfer and who carried what mugs was faulty. Memory lapses as to minor details are a human frailty which, when

weighed against the fixed recollection as to the important elements, are understandable. None the less, the actions of both agents was convincingly described by Agent P. It is inconceivable that trained agents, observing the drinking by the minors, calling the police and seizing the mugs of beer would have had to "invent" usable beer mugs in the presence of the police officers. Further, to assume, as the principal officer of the corporate licensee would have us believe, that Agent B took half-filled mugs from customers of the bar to fill the sample bottles, defies belief.

The licensee's principal officer observed teen-age girls arrive alone about midnight and repair to the gathering area in the rear. He did not leave the bar area and he knew the girls were manifestly under age. He served beer at the bar, relying on assurance that such beer would be consumed by adults; he was wrong in that assurance, and all of his vehement protestations of innocence cannot overcome the unbiased and objective evidence presented.

I find that the Division has established the charge by a fair preponderance of the believable evidence, indeed by substantial evidence. In consequence, I recommend that the licensee be found guilty of the charge.

The licensee has a record of a suspension of license for thirty-five days, effective January 23, 1973, on dissimilar charges. Re Hillcrest Inc., Bulletin 2089, Item 4. It is thus recommended that the license be suspended on the charge herein for fifteen days (Re McAndrew, Bulletin 2013, Item 5), to which should be added five days by reason of the dissimilar offense occurring within the past five years (Re Welcome Cafe, Inc., Bulletin 2038, Item 7), making a total suspension of twenty days.

Conclusions and Order

Written exceptions to the Hearer's report were filed by the attorney for the licensee pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcripts of the testimony, the exhibits, the Hearer's report and the exceptions filed thereto, which I find to be lacking in merit, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

The attorney for the licensee, in the exceptions filed, requests consideration of an application to pay a fine in lieu of suspension, in the event that I concur in the finding of the Hearer.

In view of the recency of the prior record of suspension on two charges (sales to apparently intoxicated person; permitting a brawl or act of violence in its licensed premises) the application for the imposition of a fine in lieu of suspension is hereby denied.

Accordingly, it is, on this 26th day of April 1973,

ORDERED that Plenary Retail Consumption License C-68, issued by the Council of the Township of Woodbridge to Hillcrest, Inc., t/a Hillcrest, for premises 189-A-191 Avenel Street, Woodbridge, be and the same is hereby suspended for twenty (20) days, commencing 2:00 a.m. on Wednesday, May 9, 1973 and terminating 2:00 a.m. on Tuesday, May 29, 1973.

ROBERT E. BOWER
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary Proceedings against)

Melrose Inc.)
144 Garfield Avenue East)
Wildwood, N.J.,)

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-21, issued by the Board of Commissioners of the City of Wildwood.)
- - - - -)

Licensee, Pro se
David S. Piltzer, Appearing for Division

BY THE DIRECTOR:

On November 9, 1972 Conclusions and Order were entered herein suspending the subject license for ten days after licensee pleaded non vult to a charge alleging that on July 21, 1972 it sold alcoholic beverages to a minor, age eighteen, in violation of Rule 1 of State Regulation No. 20. The effective dates of the said suspension were deferred until further order because the licensed premises were not then being operated on a substantial full-time basis. Re Melrose, Bulletin 2078, Item 1 AD.

Recent investigation by this Division now discloses that the licensed premises are now being operated on a substantial full-time basis. Thus, an effective suspension may now be imposed.

Accordingly, it is, on this 4th day of May 1973,

ORDERED that Plenary Retail Consumption License C-21, issued by the Board of Commissioners of the City of Wildwood to Melrose Inc., for premises 144 East Garfield Avenue, Wildwood, be and the same is hereby suspended for ten (10) days, commencing 3:00 a.m. on Monday, May 14, 1973 and terminating 3:00 a.m. on Thursday, May 24, 1973.

ROBERT E. BOWER
DIRECTOR

5. APPELLATE DECISIONS - 177 CLUB, INC. v. NEWARK.- ORDER.

177 Club, Inc. t/a 177)	
Club,)	
)	On Appeal
Appellant,)	
)	O R D E R
v.)	
)	
Municipal Board of Alcoholic)	
Beverage Control of the City)	
of Newark,)	
)	
Respondent.)	

-----)
 Harry T. Davimos, Esq., Attorney for Appellant
 William H. Walls, Esq., by Irving R. Venokur, Esq., Attorney
 for Respondent

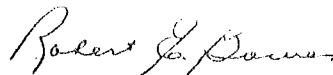
BY THE DIRECTOR:

On April 25, 1973, Conclusions and Order were entered herein affirming the action of the respondent, dismissing the appeal, vacating my order dated January 2, 1973 staying the effective dates of suspension pending determination of the said appeal, and reimposing a five-day suspension, commencing on Monday, May 7, 1973 and terminating on Saturday, May 12, 1973. Re 177 Club, Inc. v. Newark, Bulletin 2105, Item 1.

Prior to the effectuation of the said reimposed suspension the appellant 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. Pending consideration of the said application I shall stay the said suspension until the entry of a further order herein.

Accordingly, it is, on this 4th day of May 1973,

ORDERED that the suspension heretofore reimposed by my order dated April 25, 1973 upon Plenary Retail Consumption License C-759 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to 177 Club, Inc., t/a 177 Club for premises 177 Clinton Avenue, Newark, be and the same is hereby stayed, pending consideration of appellant's application for the imposition of a fine in lieu of the said suspension and until the entry of a further order herein.



Robert E. Bower
Director