

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

BULLETIN 2040

April 18, 1972

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

BULLETIN 2040

April 18, 1972

1. COURT DECISIONS - SUE & FRANK CLUB, INC. v. NEWARK -
DIRECTOR AFFIRMED.

SUE & FRANK CLUB, INC.,
Appellant,

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-1019-70

v.

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE
CONTROL, et als.,

Respondents.

Submitted March 8, 1972 - Decided March 13, 1972.

Before Judges Sullivan, Leonard and Carton.

On appeal from the State Division of Alcoholic
Beverage Control.

Mr. Lawrence Friedman for appellant (Mr. Leon Sachs,
attorney).

Mr. Althea A. Lester, First Assistant Corporation
Counsel, for respondents (Mr. William H. Walls,
Corporation Counsel for the City of Newark, attorney).

Mr. George F. Kugler, Jr., Attorney General of
New Jersey, filed a Statement in Lieu of Brief of
Respondent Division of Alcoholic Beverage Control
(Mr. David S. Piltzer, Deputy Attorney General, of
counsel).

PER CURIAM.

On November 29, 1971 we vacated the Director's original
decision herein and remanded the matter for reconsideration in
the light of the Supreme Court's recent opinion in Ishmal v.
Div. of Alcoholic Bev. Control, 58 N.J. 347 (1971). We retained
jurisdiction.

The Director has reconsidered the case and filed new
conclusions and order, dated February 3, 1972, in which he reversed
the local board and ordered that appellant be granted a renewal
of its license upon specified conditions.

Appellant now argues that the Director lacks general
authority to impose such conditions and also that his action is
beyond the scope of the remand.

We have again reviewed the record in the light of the
Supplemental Conclusions and Order. The Director's conclusions are
supported by the evidence. The conditions he imposed in his order
are reasonable, are within the scope of his general authority and
within the scope of the remand. We affirm his decision of February
3, 1972. The stay heretofore issued by this court is hereby
terminated.

Affirmed.

2. APPELLATE DECISIONS - CHICKEN BARN, INC. v. KEARNY.

Chicken Barn, Inc., t/a Two Guys)
Chicken Barn,)
Appellant,) On Appeal
v.) CONCLUSIONS
Town Council of the Town of) and
Kearny,) ORDER
Respondent.)
-----)
Gillespie & Gillespie, Esqs., by Frederick S. Gillespie, Esq.,
Attorneys for Appellant
Norman A. Doyle, Jr., Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant, the holder of a plenary retail distribution license for premises 175 Passaic Avenue, Kearny, was found guilty in disciplinary proceedings by the respondent (hereinafter Council) of a charge alleging a sale of alcoholic beverages to a minor on October 22, 1971, in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20; whereupon its license was suspended for ten days, effective December 18, 1971.

An order was entered by the Director on December 17, 1971 staying the Council's order of suspension pending the determination of this appeal.

In its petition of appeal appellant alleges that the Council's action was erroneous because:

"The decision of the governing body was not in accordance with the evidence submitted; it was discriminatory; and the penalty was excessive."

In its answer, the Council denies the allegations of the petition and states that the decision was based upon the evidence after a public hearing, and that the decision was not discriminatory, nor the penalty excessive.

This matter was presented for determination upon the transcript of the hearing before the Council, pursuant to Rules 6 and 8 of State Regulation No. 15, and was supplemented by summation of the attorneys for the parties at this de novo hearing.

Appellant's allegation that the guilty finding was not in accordance with the evidence submitted and was discriminatory will be handled in summary fashion since the attorney for appellant forthrightly admitted, in his argument at this de novo appeal hearing that a sale was, in fact, made to a twenty-year old minor on the date alleged herein and that the appellant failed to meet the exculpatory requirements in order to establish a complete defense, under R.S. 33:1-77.

Under the provisions of that statute and the rules and regulations of this Division, it must be established that the minor made a false representation in writing at the time of the said purchase and that the sale was made in good faith relying upon such written representation and in the reasonable belief that the minor was of age. Melstan Corp. v. Randolph, Bulletin 1496, Item 1; Sportsman 300 v. Nutley, 42 N.J. Super. 488 (App. Div. 1956). See Special Note to Rule 1 of State Regulation No. 20 (p. 86 of the Rules and Regulations).

The facts, as reflected in the transcript established that on October 22, 1971 at about 9:10 p.m. two local police officers observed the minor emerge from a motor vehicle, proceed to the appellant's liquor store and purchase two six-packs of beer and two bottles of beer. He paid the clerk and the minor did not produce any identification in writing with respect to his age, nor was he requested to make a written representation with respect to his age.

Upon leaving the store he was confronted by the police officers and reluctantly admitted that he was not of statutory maturity. The officers then entered the liquor store and upon questioning, the clerk admitted that he did not ask the minor for any identification at this or at any other time.

Ronald -- the minor testified that he was a minor on the date charged herein and admitted making the said purchase without being questioned as to his age.

Therefore, the only substantive issue herein was whether the penalty of suspension of ten days imposed by the Council was so excessive as to amount to an abuse of discretion. The authority of the Director to reduce or modify a penalty imposed by the issuing authority will be sparingly exercised and then, only with the greatest caution. Pete Jacobs, Inc. v. Winslow, Bulletin 1568, Item 1; Buckley v. Wallington, Bulletin 1772, Item 1; Edelson v. Paterson, Bulletin 1988, Item 3.

The penalty to be imposed in disciplinary proceedings by a local issuing authority rests within its sound discretion in the first instance. The fact that a penalty may be severe does not of itself justify reduction on appeal. De Luccia v. Paterson, Bulletin 1781, Item 1.

The established penalty in this Division for a sale to a twenty-year old minor, upon conviction, and absent prior adjudicated record is ten days. Cf. Nieciecki and Grodzki, Bulletin 2020, Item 8; Re Buckwald, Bulletin 1982, Item 8. Thus, the penalty imposed by the Council was not so severe as to form a basis for modification on appeal.

The prevention and sale of intoxicating liquor to minors not only justifies but necessitates the most rigid control. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956); In re Schneider, 12 N.J. Super. 449 (App. Div. 1951).

I have considered the other matters raised in the petition of appeal and find they are lacking in merit.

The attorney for the appellant, at its January 12, 1972 meeting, requested that the Council certify to the Director that it is willing to agree to the imposition of a fine in lieu of suspension in accordance with Chapter 9 of the Laws of 1971. In a letter to the Director dated January 17, 1972, the Council expressed its disapproval of such compromise.

However, I feel that since the appellant does not have a prior adjudicated record of violation, and under the circumstances of this case, the request for the imposition of a fine in lieu of suspension should be favorably considered by the Director.

Therefore, it is recommended that an order be entered dismissing the appeal and further staying the effective dates for the suspension imposed by the Council and stayed by the Director; and that appellant's application for an offer in compromise to pay a fine in an amount to be fixed by the Director in lieu of suspension, be favorably considered.

Conclusions and Order

Written exceptions to the Hearer's report, with supportive argument, were filed by respondent and written answers to the said exceptions, with supportive argument, were filed by appellant pursuant to Rule 14 of State Regulation No. 15.

I have fully considered the exceptions to the Hearer's report and find them lacking in merit.

Having carefully considered the entire record herein, including transcript of the testimony, the exhibits, the Hearer's report, the written exceptions filed with respect thereto and the answers to the said exceptions, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Appellant requests permission to apply to the Director for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971 in the event that the action of respondent is affirmed. Respondent opposes the imposition of a fine in lieu of suspension. However, upon full consideration of all the facts and circumstances herein, and particularly in view of the fact that the charge involves a sale to a twenty-year-old minor by appellant, and appellant has no prior adjudicated record of violations, I have in the exercise of my discretion determined to accept such offer in compromise to pay a fine in lieu of suspension and shall defer the imposition of such suspension in order to give appellant the opportunity to file a petition for such compromise.

Accordingly, it is, on this 8th day of March 1972,

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

ORDERED that the order dated December 17, 1971, staying respondent's order of suspension pending determination of this appeal shall remain effective until the entry of a further order herein; and it is further

ORDERED that appellant be and it is hereby directed to file a petition forthwith for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971 and shall fully comply with all the procedural requirements necessary for the computation, imposition and prompt payment of the said fine.

Robert E. Bower
Director

3. DISCIPLINARY PROCEEDINGS - GAMBLING (USE OF TAPE MEASURE) -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Reimar Tavern (Corp.)
t/a La Perla
5801 Hudson Avenue
West New York, N.J.,

)
)
) CONCLUSIONS
) and
) ORDER

Holder of Plenary Retail Consumption
License C-50, issued by the Board of
Commissioners of the Town of
West New York.

-----)
Greenberg and Feiner, Esqs., by Robert Greenberg, Esq., Attorneys
for Licensee
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
July 30, 1971, it allowed gambling on the licensed premises,
viz., gambling by use of a tape measure, in violation of Rule 7
of State Regulation No. 20.

Absent prior record, the license will be suspended
for fifteen days, less five days for the plea entered, leaving
a net suspension of ten days. Re LeMarr Co. of Rahway, Inc.,
Bulletin 1930, Item 8.

Accordingly, it is, on this 7th day of March 1972,

ORDERED that Plenary Retail Consumption License C-50,
issued by the Board of Commissioners of the Town of West New
York to Reimar Tavern (Corp.), t/a La Perla, for premises 5801
Hudson Avenue, West New York, be and the same is hereby sus-
pended for ten (10) days, commencing 3:00 a.m. on Tuesday,
March 21, 1972, and terminating 3:00 a.m. on Friday, March 31,
1972.

Robert E. Bower
Director

4. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES
FROM OTHER RETAILERS VIOLATING RULE 15 OF STATE REGULATION
NO. 20 - PRIOR SIMILAR OFFENSES AND PRIOR DISSIMILAR OFFENSES -
LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Zimcon, Inc.,
t/a Zimps
459 Ocean Avenue
Jersey City, N. J.,

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption
License C-357, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Jersey City.

-----)
Licensee, Pro se

Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
divers dates between June 7, 1971 and October 29, 1971, it
purchased alcoholic beverages from other retailers, in violation
of Rule 15 of State Regulation No. 20.

Licensee has a prior record of suspensions as follows:
(1) by the Director, effective October 21, 1969, for ten days for
similar offense (Re Zimcon, Inc., Bulletin 1886, Item 8); (2)
by the local issuing authority for fifteen days, effective
February 8, 1971, for gambling on licensed premises; and (3) an
officer of the licensee corporation, James Smith, holder of license
for premises 237 Randolph Avenue, Jersey City, had that license
suspended by the Director for ten days for purchase of alcoholic
beverages from retailer, effective October 21, 1969 (Re James
Smith, Bulletin 1886, Item 10).

The license will be suspended for fifteen days on the
charge herein (Re Holiday Lounge, Inc., Bulletin 1958, Item 6), to
which will be added ten days by reason of the similar violations
occurring within the past five years ((1) and (2) being considered
as one offense emanating from one state of facts), and five days
for the dissimilar offense occurring within the past five years,
making a total of thirty days, with remission of five days for the
plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 8th day of March 1972,

ORDERED that Plenary Retail Consumption License C-357,
issued by the Municipal Board of Alcoholic Beverage Control of the
City of Jersey City to Zimcon, Inc., t/a Zimps, for premises
459 Ocean Avenue, Jersey City be and the same is hereby suspended
for twenty-five (25) days, commencing 2:00 a.m. on Thursday,
March 23, 1972, and terminating 2:00 a.m. on Monday, April 17,
1972.

Robert E. Bower
Director

5. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR SIMILAR
OFFENSE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

The White House (A Corp.))
N.E. Corner Washington &)
Atlantic Avenues)
Margate City, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-5, issued by the Board of
Commissioners of the City of Margate)
City.
-----)

Licensee, by Alan M. Cohen, President, Pro se
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that
on September 5, 1971 it sold alcoholic beverages to a minor,
age 19, in violation of Rule 1 of State Regulation No. 20.

Licensee has a prior record of suspension by the
Director of license for ten days effective September 6, 1966,
for a similar offense (Re The White House Corp., Bulletin 1696,
Item 6).

The license will be suspended for fifteen days (Re
Rea, Bulletin 2003, Item 8), to which will be added five days
by reason of the similar offense occurring within the past ten
years, making a total of twenty-days, with remission of five
days for the plea entered, leaving a net suspension of fifteen
days.

Accordingly, it is, on this 9th day of March 1972,

ORDERED that Plenary Retail Consumption License C-5,
issued by the Board of Commissioners of the City of Margate
City to The White House (A Corp.), for premises N.E. Corner
Washington & Atlantic Avenues, Margate City, be and the same
is hereby suspended for fifteen (15) days, commencing at 4 a.m.
Thursday, March 23, 1972, and terminating at 4 a.m. Friday,
April 7, 1972.

Robert E. Bower,
Director.

6. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES
WHILE ON NON-DELIVERY LIST - LICENSE SUSPENDED FOR 20 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary)	
Proceedings against)	
Yrral Corp.)	
t/a The Groovy)	CONCLUSIONS
248 Mulberry Street)	and
Newark, N. J.,)	ORDER
Holder of Plenary Retail Consumption)	
License C-278, issued by the Municipal)	
Board of Alcoholic Beverage Control)	
of the City of Newark.)	
- - - - -)		
William Osterweil, Esq., Attorney for Licensee		
Walter H. Cleaver, Esq., Appearing for Division		

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
divers days from February 1, 1971 to November 15, 1971, while
on the Non-Delivery list, it obtained alcoholic beverages except
from the holder of a New Jersey manufacturer's or wholesaler's
license or pursuant to a special permit first obtained, in
violation of Rule 15 of State Regulation No. 20.

Absent prior record, the license will be suspended for
twenty days (Re Micwill, Inc., Bulletin 2023, Item 5), with
remission of five days for the plea entered, leaving a net
suspension of fifteen days.

Accordingly, it is, on this 9th day of March 1972,

ORDERED that Plenary Retail Consumption License C-278,
issued by the Municipal Board of Alcoholic Beverage Control of
the City of Newark to Yrral Corp., t/a The Groovy, for premises
248 Mulberry Street, Newark, be and the same is hereby suspended
for fifteen (15) days, commencing 2:00 a.m. on Thursday, March 23,
1972, and terminating 2:00 a.m. On Friday, April 7, 1972.

Robert E. Bower
Director

7. APPELLATE DECISIONS - SUE & FRANK CLUB, INC. v. NEWARK.

#3512, 3581)	
Sue & Frank Club Inc.,)	
)	
Appellant,)	On Appeal
v.)	
)	SUPPLEMENTAL ORDER
Municipal Board of Alcoholic)	
Beverage Control of the City)	
of Newark,)	
Respondent.)	
-----)	

Leon Sachs, Esq., Attorney for Appellant
 William H. Walls, Esq., by Althea A. Lester, Esq., Attorney for
 Respondent

BY THE DIRECTOR:

On January 29, 1971, Conclusions and Order were entered affirming the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Newark which on June 24, 1970 denied appellant's application for renewal of its plenary retail consumption license for the 1970-71 license period for premises 89½ Seventh Avenue, Newark. Sue & Frank Club Inc. v. Newark, Bulletin 1963, Item 2. On appeal to the Appellant Division of the Superior Court the said court vacated my order and remanded the matter for reconsideration in the light of the Supreme Court's recent opinion in Ishmal v. Div. of Alcoholic Beverage Control, 58 N.J. 347 (1971). The court retained jurisdiction. Sue & Frank Club Inc. v. Mun. Bd. of Alcoholic Beverage Control (App.Div. 1971), Not approved for publication, recorded in Bulletin 2016, Item 1.

Upon reconsideration, supplemental Conclusions and Order dated February 3, 1972 were entered, which reversed the action of respondent and ordered that appellant be granted renewal of its license upon specified conditions contained in the said order. Sue & Frank Club v. Newark, Bulletin 2032, Item 2. The Appellate Division of the Superior Court affirmed the decision of the Director as set forth in the supplemental Conclusions and Order dated February 3, 1972, and terminated its stay and jurisdiction. Sue & Frank Club Inc. v. Municipal Board of Alcoholic Beverage Control (App.Div., March 13, 1972), recorded in Bulletin 2040, Item 1.

During the pendency of these proceedings, which related to renewal of the license for the 1970-71 license period, appellant filed an application for renewal of its license for the current license period. Upon denial of the said application by respondent, appellant filed an appeal with this Division from the said action, which appeal is presently pending. I am advised by the attorney for respondent that the denial thereof was based upon the same grounds as the prior denial, and that no new matters were relied upon or considered by respondent as a basis for its said denial. Therefore I shall enter an order reversing the action of respondent, and direct that it grant appellant's application for renewal of its license for the current 1971-72 license period upon the same specified conditions as set forth and contained in my February 3, 1972 order (Bulletin 2032, Item 2).

Accordingly, it is, on this 17th day of March 1972,

ORDERED that the said action of respondent in denying renewal of appellant's license for the current 1971-72 license period be and the same is hereby reversed; and it is further

ORDERED that the said matter be and the same is hereby remanded and the respondent Board is directed to grant renewal of appellant's license for the current license period upon the specified conditions contained in my supplemental Conclusions and Order dated February 3, 1972 (Bulletin 2032, Item 2).

Robert E. Bower
Director

8. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto.Susp. #348)	
In the Matter of a Petition to)	
Lift the Automatic Suspension of)	
Plenary Retail Distribution License)	
D-13, issued by the City Council of)	
the City of Hackensack to)	On Petition
)	
Ivy Spirits, Inc.)	O R D E R
t/a Paradise Liquors)	
75 Main Street)	
Hackensack, N. J.)	

Licensee, Pro se

BY THE DIRECTOR:

It appears from the records of this Division that on October 6, 1971 Louis J. Schwartz, president and principal stockholder of the corporate licensee herein, was convicted in the Hackensack Municipal Court of the sale of alcoholic beverages to a minor at the licensed premises on September 17, 1971, in violation of R.S. 33:1-77, and was fined \$100 and \$10 court costs. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that in disciplinary proceedings instituted by this Division the licensee was fined \$220 in lieu of a five-days suspension upon the licensee's plea of guilty to a charge alleging the same sale to the minor. Re Ivy Spirits, Inc., Bulletin 2029, Item 11. The said fine having been paid, I shall lift the statutory automatic suspension. Re North Dean Corporation, Bulletin 1917, Item 6.

Accordingly, it is, on this 14th day of March 1972,

ORDERED that the statutory automatic suspension of the said License D-13 be and the same is hereby lifted, effective immediately.

Robert E. Bower,
Director.

9. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary)
 Proceedings against)

The Vacston Co., Inc.)
 t/a Village Barn)
 502 Frelinghuysen Avenue)
 Newark, N. J.,)

AMENDED ORDER

Holder of Plenary Retail Consumption)
 License C-335, issued by the Municipal)
 Board of Alcoholic Beverage Control of)
 the City of Newark.)

-----)
 Sheldon and Freda, Esqs., by Victor J. Freda, Esq., Attorneys)
 for Licensee)
 Dennis M. Brew, Appearing for Division)

BY THE DIRECTOR:

On March 3, 1972 I entered an order suspending the subject license for forty days commencing March 16, 1972, after finding the licensee guilty of charges alleging (1) that it permitted lewdness and immoral activity on the licensed premises, in violation of Rule 5 of State Regulation No. 20, (2) it possessed contraceptive devices upon the licensed premises, in violation of Rule 9 of State Regulation No. 20, and (3) it permitted an obscene object on the licensed premises, in violation of Rule 17 of State Regulation No. 20. Re The Vacston Co., Inc., Bulletin , Item .

The attorney for the licensee, by letter dated March 9, 1972, has requested that the commencement of the suspension be deferred until March 30, 1972, because of certain private parties scheduled and because the licensee finds it necessary "to give sufficient notices to his employees."

Good cause appearing, I shall grant the request and shall defer the commencement of the suspension until March 30, 1972.

Accordingly, it is, on this 13th day of March 1972,

ORDERED that the order dated March 3, 1972 be and the same is hereby amended as follows:

"ORDERED that Plenary Retail Consumption License C-335, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to The Vacston Co., Inc., t/a Village Barn, for premises 502 Frelinghuysen Avenue, Newark, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m. Thursday, March 30, 1972, and terminating at 2 a.m. Tuesday, May 9, 1972."

Robert E. Bower,
 Director.

10. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto. Susp. #349)
 In the Matter of a Petition to)
 Lift the Automatic Suspension of)
 Plenary Retail Distribution License)
 D-8, issued by the Town Council of) On Petition
 the Town of Kearny to.)
) O R D E R
 James V. Sylvester, Inc.)
 179-181 Kearny Avenue)
 Kearny, New Jersey)
 - - - - -)
 Licensee, Pro se

BY THE DIRECTOR:

It appears from the records of this Division that on November 22, 1971, James V. Sylvester, principal officer and stockholder of James V. Sylvester, Inc., the corporate licensee herein was convicted in the Kearny Municipal Court of the sale of alcoholic beverages to a minor at the licensed premises on October 7, 1971, in violation of R.S. 33:1-77, and was fined \$100. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that James V. Sylvester, Inc., the licensee herein was found guilty of the unlawful sale of alcoholic beverages to the same minor, in disciplinary proceedings by the local issuing authority and its license was suspended for fifteen (15) days, effective December 21, 1971. The licensee has appealed the said conviction to this Division and the appeal is presently pending. I entered an order on December 20, 1971 staying the said order of suspension pending the determination of the appeal.

A supplemental petition to lift the automatic suspension may be filed with me by the licensee in the event the said conviction is affirmed and suspension is served.

In fairness to the licensee I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Woltz, Bulletin 1965, Item 8.

Accordingly, it is, on this 14th day of March 1972,

ORDERED that the statutory automatic suspension of license D-8, be stayed pending the entry of a further order herein.

Robert E. Bower
 Director

11. DISCIPLINARY PROCEEDINGS - PERMITTING LEWDNESS (INDECENT ENTERTAINMENT) ON LICENSED PREMISES - LICENSE SUSPENDED FOR 45 DAYS, LESS 9 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

The Lamp Post (Corp.)
617-619 Frelinghuysen Avenue
Newark, N. J.,

Holder of Plenary Retail Consumption
License C-763, issued by the Municipal
Board of Alcoholic Beverage Control of
the City of Newark.

CONCLUSIONS
and
ORDER

A. King Braelow, Esq., Attorney for Licensee
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 23, 1971, it permitted lewdness, viz., indecent dance, upon the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigators indicated that the dancer made repeated obscene gestures and involved patrons in aspects of her dance.

Absent prior record the license will be suspended for forty-five days (Re Band Box, Bulletin 1899, Item 3), with remission of nine days for the plea entered, leaving a net suspension of thirty-six days.

Accordingly, it is, on this 14th day of March 1972,

ORDERED that Plenary Retail Consumption License C-763, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to The Lamp Post (Corp.) for premises 617-619 Frelinghuysen Avenue, Newark, be and the same is hereby suspended for thirty-six (36) days, commencing 2:00 a.m. on Friday, March 17, 1972, and terminating 2:00 a.m. on Saturday, April 22, 1972.

Robert E. Bower
Director

12. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 5 DAYS BY MUNICIPAL ISSUING AUTHORITY - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)
Proceedings against)

Charles L. Paulin, Jr.)
t/a Paulin's Tavern)
1104 Highway #36)
Hazlet, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-11, issued by the Township)
Committee of the Township of Hazlet.)

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

BY THE DIRECTOR:

Licensee pleaded guilty to a charge preferred by the Township Committee of the Township of Hazlet that he sold alcoholic beverages to a minor, age 18, in violation of Rule 1 of State Regulation No. 20, in consequence of which his license was suspended for a period of five days.

The aforesaid suspension was stayed upon application of licensee to this Division for the imposition of a fine in lieu of said suspension in accordance with the provisions of Chapter 9 of the Laws of 1971. It also appears that the local issuing authority adopted a resolution concurring with the request of the licensee for the imposition of a fine in lieu of suspension of license.

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 suspension.

Accordingly, it is, on this 14th day of March 1972,

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

Robert E. Bower
Director

13. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #347)	
In the Matter of a Petition to)	
Lift the Automatic Suspension of)	
Plenary Retail Distribution License)	
D-4, issued by the Mayor and Council)	
of the Borough of East Paterson to)	On Petition
)	ORDER
Edward Prager)	
t/a Ed Prager's Liquors)	
73 Broadway)	
East Paterson, New Jersey)	

 Licensee, Pro se

BY THE DIRECTOR:

It appears from the records of this Division that on August 24, 1971, Edward R. Prager, the licensee herein was given a suspended sentence and fined \$10 court costs in the East Paterson Municipal Court after being convicted of the charge of sale of alcoholic beverages to a minor on July 10, 1971, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that the Director has suspended the license for fifteen days, effective July 26, 1971, after finding the licensee guilty of a charge in disciplinary proceedings alleging the same sale to the minor.

The said suspension having been served, I shall lift the statutory automatic suspension. Re North Dean Corporation, Bulletin 1917, Item 6; Re Edward Prager, Bulletin 1998, Item 9.

Accordingly, it is, on this 15th day of March 1972,

ORDERED that the statutory automatic suspension of the said license D-4, be and the same is hereby lifted, effective immediately.

Robert E. Bower
 Director

14. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #350)
 In the Matter of a Petition to)
 Lift the Automatic Suspension of)
 Plenary Retail Distribution License)
 D-9, issued by the Mayor & Council) On Petition
 of the City of East Paterson to)
) ORDER
 E. & R. Testa, Inc.)
 t/a The Boulevard Sweet Shoppe)
 401 Boulevard)
 East Paterson, New Jersey)

 Grabow, Verp & Rosenfelt, Esqs., by George S. Grabow, Esq.,
 Attorneys for Licensee

BY THE DIRECTOR:

It appears from the records of this Division that on August 24, 1971, Roland Testa, the president of E. & R. Testa, Inc., t/a The Boulevard Sweet Shoppe, licensee herein, was given a suspended sentence and fined \$10 court costs after being convicted in the East Paterson Municipal Court of the charge of sale of alcoholic beverages to a minor on July 11, 1971, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that E. & R. Testa, Inc., t/a The Boulevard Sweet Shoppe was found guilty in disciplinary proceedings instituted by the local issuing authority of a charge of sale of alcoholic beverages to a minor, involving the same minor. The suspension of license was stayed pending determination by the Director of the petitioner-licensee's application for the imposition of a fine in lieu of suspension in accordance with Chapter 9 of the Laws of 1971.

The application was favorably considered and the licensee paid a fine in the sum of \$590 which was accepted by me in lieu of suspension of the license for ten days. I shall, therefore, lift the statutory automatic suspension.

Accordingly, it is, on this 15th day of March 1972,

ORDERED that the statutory automatic suspension of License D-9, be and the same is hereby lifted, effective immediately.

Robert E. Bower
 Director

15. STATE LICENSES - NEW APPLICATIONS FILED.

Jos. Schlitz Brewing Company, 235 West Galena St. Milwaukee,
 Wisconsin.

Applications filed April 13, 1972 for two new additional warehouse licenses, operated under Limited Wholesale License WL-27, for premises 1200 Rt. 46, St. Phillips Drive, Clifton, N.J. and 2201 Route 38, Cherry Hill, N. J.

Frank V. Porcellini, t/a Lanoka Farms, 615 Rt. #9, Lanoka Harbor,
 Lacey Twp., N. J.

Application filed April 13, 1972 for person-to-person and place-to-place transfer of State Beverage Distributor's License SBD-71 from Richard F. Ruddy, t/a The Beverage Warehouse, 1340 W. 7th St. Piscataway, N. J.

Robert E. Bower
 Robert E. Bower
 Director