

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

BULLETIN 2044

May 3, 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 2044

May 3, 1972

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

Chicken Barn, Inc., t/a Two)	
Guys Chicken Barn,)	
)	On Appeal
Appellant,)	
v.)	SUPPLEMENTAL ORDER
Town Council of the Town of)	
Kearny,)	
)	
Respondent.)	
-----)	

Gillespie & Gillespie, Esqs., by Frederick S. Gillespie, Esq.,
Attorneys for Appellant
Norman A. Doyle, Jr., Esq., Attorney for Respondent

BY THE DIRECTOR:

On March 8, 1972 Conclusions and Order were entered dismissing appellant's appeal but further staying the effective dates for the suspension imposed by respondent Town Council in order to consider an application by appellant to the Director for the imposition of a fine in lieu of the suspension.

Appellant has made such application in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the said application, I have determined to accept an offer in compromise by the licensee-appellant to pay a fine of \$1,000 in lieu of suspension.

Accordingly, it is, on this 10th day of April 1972,

ORDERED that the payment of a fine of \$1,000 is hereby accepted in lieu of the suspension of license for ten days.

Robert E. Bower,
Director.

2. DISCIPLINARY PROCEEDINGS - IMMORAL ACTIVITY (PROSTITUTION) - LICENSE SUSPENDED FOR NINETY DAYS.

In the Matter of Disciplinary Proceedings against)

Betty Carmazino)
t/a New Uncle Joe's)
199 Halsey Street)
Newark, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-14, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

-----)
Mayer and Mayer, Esqs., by Abraham I. Mayer, Esq., Attorneys for Licensee

Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On April 15, 1971, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., solicitation for prostitution and the making of overtures and arrangements for acts of illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20."

Agent S testified that, accompanied by agent C, he entered the licensed premises (a barroom) on April 15, 1971 at approximately 2:30 p.m. They sat next to each other at the front end of the bar. A few minutes later, agent Cu entered and positioned himself at the bar seven or eight feet distant. The patronage of approximately fifteen patrons increased to approximately thirty patrons. A male, identified as William C. Siele was tending bar.

At approximately 3:00 p.m. a female identified as Lynn H--- entered the barroom and socialized with ABC agents S and C for thirty minutes and then said that she had to leave, but would return in forty-five minutes. The female requested agent C to wait for her. Upon request, the bartender handed Lynn her coat which he had kept under the bar.

After the female departed from the premises the following colloquy took place between the agents and the bartender:

"Well, Investigator [C] and I, in a conversation with the bartender, he stated, 'Where is she going?' and [C] said, 'She's going out but will be back in 45 minutes'. The bartender stated, 'That's how long it takes to get laid.'"

Upon returning forty-five minutes later, the female sat to the right of agent C and ordered a beverage. She then asked the bartender for paper and pencil and, upon receiving it, she wrote a telephone number and address on it, gave it to agent C

and said, "Anytime you want to get laid or anything else here's my apartment and my address." Continuing, Lynn said "If you fellows want any action now, yes or no, you can come up to my apartment and get laid. It's \$20 and anything else you want." Agent C answered "Yes" and attempted to hand her two ten-dollar bills, the serial numbers of which were prerecorded. Lynn requested agent C to obtain two five-dollar bills from the bartender. The bartender changed one of the ten-dollar bills for two five-dollar bills. At Lynn's request that he give her the money later, agent C retained possession of the money.

After the bartender made change of the ten-dollar bill, agent C asked the bartender if Lynn "...was okay, was she clean". Siele responded "She's okay". Prior to departing from the premises, agent C beckoned to Siele and told him that his buddy (pointing to agent C) was hustled by the female and that she wanted \$20 to engage in sexual intercourse at her apartment in East Orange. The bartender replied, "That your business. I don't know from nothing."

At approximately 4:55 p.m. agent S left the premises, accompanied by agent C and Lynn. Agent Cu followed thereafter. The agents identified themselves to the female and called the local police for assistance. After the police responded, and at agent Cu's request, Lynn took out a ten and two five-dollar bills from her handbag. The ten dollar bill was the "marked" bill given to the female by the agent.

At approximately 5:15 p.m. the agents, accompanied by two local patrolmen, re-entered the licensed premises and identified themselves to Siele. Agent S informed Siele that agent C was solicited by the female for sexual intercourse for the sum of \$20. The bartender replied, "That's right. You fellows did tell me you were going to get laid with her for \$20." At the time of this occurrence, the licensee was seated at approximately the middle of the bar. Over the objection of the licensee, this Hearer admitted in evidence the slip containing the telephone number and address of the female, the marked ten-dollar bill and the marked money list.

On cross examination, the agent asserted that he had been in the subject licensed premises on five occasions prior to April 15, 1971, the first visit of which was in February 1971. He was not originally assigned to investigate solicitation for prostitution. However, on April 15th he did enter the premises prepared to investigate solicitation for prostitution because he had observed various females enter the licensed premises alone and exit therefrom accompanied by a male.

On redirect examination, agent S testified that less than ten minutes elapsed between the time that he informed the bartender that the female had solicited agent C and the time that they departed from the premises. During that period of time he did not hear the bartender say anything to the female. On two prior visits, he observed three or four females approach patrons at the bar, have a drink, leave with the patron, return alone and then sit with someone else. He conceded that he did not know where these females went after they departed with the male patrons.

It was stipulated by the attorneys that the testimony of agent C on direct examination would be corroborative of the testimony offered by agent S.

On cross examination, the agent testified that he did not know where the bartender was positioned when Lynn wrote what purported to be her address and telephone number on a slip of paper and did not know whether the bartender observed the writing.

In referring to agent C's written activity report, the following testimony was elicited:

"Q Now, is this, and listen very carefully, now, because I think this is an important factor in this case, and I want a truthful answer to this particular item. Listen very carefully, 'Your agent [S] was the heard to say', and I assume you meant 'then'?"

A 'Then'.

Q 'My buddy was hustled by her, at the same time pointing to the female (is he clean?) at the bar for \$20 to get laid at her apartment in East Orange. Is it okay? He, the bartender, then replied, waving his arms, 'I don't know from nothing. That's your business'. The bartender then walked away and no attempt was made by him to stop this in any way'. Is that what happened?"

A That's what happened."

In defense of the charge, the licensee, Bettye Carmazino, testified that she was aware that acts of solicitation for prostitution was prevalent in other taverns in the area. On the advice of her attorney, concerning solicitation by females for acts of prostitution, she and her husband instructed the bartenders "... to strictly have nothing to do, no speaking with the girls, to have nothing to do with any activity like this."

On cross examination, the witness testified that no solicitation for prostitution ever occurred in her tavern. Her awareness that it was prevalent in other taverns was based on hearsay.

On the afternoon in question she was seated on the customers side of the bar and paid no attention to what the agents or the female were doing. She was not acquainted with Lynn.

William Siele, who was the bartender on duty at the time of the alleged occurrence, testified that, insofar as females patronizing the licensed premises were concerned, his employer's instructions were:

"To be completely devoid of them, in other words, no personal contact, answer no questions of any customers about them, not to get involved whatsoever with any of them personal or business wise, except serving drinks."

Prior to April 15, 1971 he was not personally acquainted with Lynn. Prior to that date he had seen her in the tavern three or four times. At no time did he see her exit with a male. He did not know where she resided, the nature of her employment or whether she was a prostitute. He never heard her solicit a male on this day or on any other occasion.

Agent S made some reference to the female; he could not recall the exact wording; he was very busy; he responded, "I know nothing about her, just a customer" and continued to tend bar. He did not recall either of the agents informing him that they were going out with the female for the purpose of engaging in intercourse for the price of \$20. He did not see a note being written on the bar. Although he could have given the agents two \$5 bills for a \$10 bill, he has no specific recollection thereof. He did recall agent C mention that the female was leaving and would return in forty-five minutes and then ask "I wonder where she's going?" Siele testified that he replied that he didn't know.

Continuing, the bartender testified that he did not see either of the agents or the female leave the barroom. When the agents returned, they identified themselves. Agent S informed him thusly:

"You know we have been here a few times and we have talked to you";

further:

"You're not involved in anything. Don't worry about it";

and finally:

"We'll write it up in our reports that you had nothing to do with anything any time we were here or with this incident."

On cross examination, the witness asserted that when the agents had a discussion with him concerning Lynn, he replied, "I know nothing about her. I don't know her." He denied that the agents mentioned anything pertaining to solicitation for prostitution. He denied seeing Lynn leaving alone or in the company of the agents or that he spoke with her concerning solicitation for prostitution.

In rebuttal, agent S denied informing the bartender that he was not involved in the occurrence which is the subject of this proceeding.

Licensee contends that the Division has not sustained the burden of proving that the licensee allowed, permitted and suffered the making of overtures or arrangements for prostitution and was completely unaware of any act of solicitation for prostitution.

The specific charge herein alleges that the licensee had violated Rule 5 of State Regulation No. 20, by allowing, permitting and suffering the solicitation for prostitution and the making of overtures and arrangements for acts of illicit sexual intercourse. Our courts have consistently maintained that "the commission of an overt act on the licensed premises in furtherance or promotion or encouragement of an illicit purpose is in itself an immoral activity comprehended by the scope of the regulatory rule." In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). The court stated in Schneider, supra at p.458:

"The object manifestly inherent in the rule with which we are here concerned is primarily to discourage and prevent not only lewdness, fornication, prostitution, but all forms of licentious practices and immoral indecency on the licensed premises. The primary intent of the regulation is to suppress the inception of any immoral activity...."

See In re Olympic, Inc., 49 N.J. Super. 299 (App. Div. 1958).

Unquestionably, an arrangement was made on the date charged between a female (Lynn) and the agents in the licensed premises for acts of illicit sexual intercourse.

Therefore, the sole remaining dispositive issue is, whether the licensee did "allow, permit or suffer" the act of lewdness and immoral activity in and upon the licensed premises.

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

Applying this principle, I am convinced that agent S's testimony of his conversation with Siele, the bartender, concerning the arrangements made with Lynn (corroborated by the testimony of agent C) was not a fabrication or preconceived in order to falsely and maliciously inculcate an innocent licensee. Although the Division witnesses were subjected to intensive cross examination by counsel for the licensee, their testimony remained unshaken.

As part of the factual complex herein, it is noteworthy that the licensee was aware, at least by hearsay, that acts of solicitation for prostitution were prevalent in other taverns in the area. The licensee's instructions to the bartender were that they were not to have anything to do with setting up anything and not to speak with the females. I am of the opinion that in the circumstances herein existing, that is, where the licensee has been made aware of an act of solicitation, it is incumbent upon the licensee to at least make inquiry of the female of the alleged immoral activity and not stand idly by and in effect say, "I am blameless; I saw nothing, I heard nothing." The nonfeasance of the licensee, or of his agent, concomitant with circumstances above related, will render him liable to the same extent that he would be liable as in the case of his active misfeasance.

From the evidence presented, it is manifest that the licensee permitted and suffered the solicitation for prostitution to take place on the licensed premises as charged.

As the Supreme Court said in Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947), at p.31:

"Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. Guastamachio v. Brennan, 128 Conn. 356; 23 Atl. Rep. (2d) 140."

It has long been held that the solicitation for immoral purposes and the making of arrangements for sexual intercourse cannot and will not be tolerated on licensed premises. The public is entitled to protection from these sordid and dangerous evils. Re 17 Club, Inc., Bulletin 949, Item 2, aff'd In re 17 Club, Inc., 26 N.J. Super. 43 (App. Div. 1953).

The licensee is clearly inculcated by the misconduct of his employee. Such conduct constitutes a grave threat to the public welfare and morals and, unless eliminated, tends towards the abuse and abasement. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); In re Schneider, supra. Furthermore, it is a basic principle that, in disciplinary proceedings, the licensee is fully accountable for all violations committed, or permitted and suffered by his servants, agents or employees. Rule 33 of State Regulation No. 20.

After carefully considering and evaluating all of the evidence adduced herein, and the legal principles applicable thereto, I conclude that the Division has proved its case by clear and convincing testimony and by a fair preponderance of the credible evidence. I, therefore, recommend that the licensee be found guilty as charged.

Licensee has no prior adjudicated record of suspension of license. I, further, recommend that the license be suspended for ninety days. (Re Club Aquarius, Inc., Bulletin 2017, Item 1).

Conclusions and Order

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

I have carefully analyzed the arguments set forth in the exceptions and find that they have either been satisfactorily considered and resolved in the Hearer's report or are lacking in merit.

Licensee contends that the penalty recommended by the Hearer is too severe. The recommended penalty is consonant with established precedents and is fully warranted under the circumstances herein. As a matter of fact, if the employee himself had procured the female to solicit the agents for prostitution, revocation would have been justified. See Re Tiny's Bar & Grill, Inc., Bulletin 1718, Item 1; Re Soto Pruna, Bulletin 1713, Item 1.

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

The attorney for the licensee requested that a compromise by the imposition of a fine in lieu of the suspension be considered, in accordance with the provisions of Chapter 9 of the Laws of 1971. Under present Division policy, the subject charge is not one for which the imposition of a fine in lieu of suspension may be favorably considered. Therefore, the request for same is denied, and a suspension of license for ninety days will be imposed.

Accordingly, it is, on this 10th day of April 1972,

ORDERED that Plenary Retail Consumption License C-14, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Bettye Carmazino, t/a New Uncle Joe's, for premises 199 Halsey Street, Newark, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1972, effective 2:00 a.m. Tuesday, April 25, 1972; 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 24, 1972.

Robert E. Bower
Director

3. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against)
)
 Play Pen Inc.)
 t/a Play Pen) Amended Order
 789 Palisade Avenue)
 Cliffside Park, N.J.,)
 Holder of Plenary Retail Consumption License C-11, issued by the Mayor and Council of the Borough of Cliffside Park.)
 -----)
 Licensee, Pro se
 Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On April 5, 1972 I entered Conclusions and Order herein suspending subject license for forty-eight days, commencing Tuesday, April 18, 1972, after licensee pleaded non vult to two charges alleging (1) that on December 13, 1970 it sold alcoholic beverages during hours prohibited by local ordinance; and (2) that on the said date it failed to close its entire premises during prohibited hours, in violation of local ordinance. Re Play Pen Inc., Bulletin _____, Item ____.

Prior to the effectuation of the suspension herein, investigation by agents of this Division disclosed that the premises were destroyed by fire and that the licensed business is not presently conducted under the said license. Thus, no effective penalty can be imposed at this time. Hence, the effective dates for the suspension will be fixed by the entry of a further order herein, if and when the licensed business has been fully resumed on a substantial full-time basis by the licensee or a transferee of the license.

Accordingly, it is, on this 10th day of April 1972,

ORDERED that the order dated April 5, 1972 be and the same is hereby amended as follows:

ORDERED that Plenary Retail Consumption License C-11 issued by the Mayor and Council of the Borough of Cliffside Park to Play Pen, Inc., t/a Play Pen, for premises 789 Palisade Avenue, Cliffside Park, be and the same is hereby suspended for forty-eight (48) days, the effective dates of such suspension to be fixed by further order, as aforesaid.

Robert E. Bower
Director

- 4. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against :

Chicken Barn, Inc. :
 t/a Two Guys Chicken Barn :
 243 Route 10 :
 East Hanover Township :
 P.O. Hanover, N.J. :

CONCLUSIONS
 and
 ORDER

Holder of Plenary Retail Consumption License C-9 issued by the Township Committee of the Township of East Hanover. :

.....
 Scerbo, Glickman & Kobin, Esqs., by Herbert S. Glickman, Esq., Attorneys for the Licensee.
 Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

The licensee pleads non-vult to a charge that on July 3, 1971, it sold alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

While the licensee has no record of prior suspensions for the premises embraced by this license, other licensed premises owned and operated by this licensee have been the locus of prior violations, i.e. (1) for premises 1445 Kennedy Blvd., North Bergen, its license was suspended for fifteen days by the local issuing authority effective November 1, 1966 for sale to minors; (2) for premises Route 206 Bordentown Twp., its license was suspended for twenty days by the Director effective January 17, 1961 for sale to minors and (3) for premises 30 Lincoln Place, Garfield, its license was suspended for twenty-five days by the Director effective July 12, 1971 for sale to minors. (Re Chicken Barn, Inc., Bulletin 1989, Item 8) (Re Chicken Barn, Inc., Bulletin 1992, Item 10).

The license would normally be suspended for ten days on the charge herein to which would be added ten days by reason of the violation for similar offense occurring within the past five years, and five days by reason of the violation for similar offense occurring more than five but less than ten years ago, making a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Bourvalis, Bulletin 2028, Item 9.

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 \$2300.00 in lieu of the suspension.

Accordingly, it is, on this 10th day of April, 1972

ORDERED that the payment of a \$2300.00 fine by the licensee is hereby accepted in lieu of a suspension of license for twenty days.

Robert E. Bower,
 Director

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - SUCCESSIVE OFFENSES - AGGRAVATED - LICENSE SUSPENDED FOR 55 DAYS, LESS 11 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 Gem Liquor Store Corporation)
 t/a Gem Liquor Store)
 1737 Atlantic Avenue)
 Atlantic City, New Jersey)
 Holder of Plenary Retail Distribution License D-7, issued by the Board of Commissioners of the City of Atlantic City.)
 -----)
 Licensee, Pro se)
 Dennis M. Brew, Appearing for Division)

CONCLUSIONS and ORDER

BY THE DIRECTOR:

Licensee pleads non vult to two charges alleging that (1) on December 27, 1971 it sold alcoholic beverages to a minor, age 16, and (2) on December 28, 1971 it sold alcoholic beverages to a minor, age 17, in its licensed premises, both charges being violative of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty-five days on the first charge (Re Doyle, Bulletin 2013, Item 6) and for twenty days on the second charge (Re Top Spirits, Inc., Bulletin 2028, Item 6); and deeming the situation aggravated by reason of the offenses occurring in such close proximity to each other, an additional ten days will be added, making a total suspension of fifty-five days, with remission of eleven days for the plea entered, leaving a net suspension of forty-four days.

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

ORDERED that Plenary Retail Distribution License D-7, issued by the Board of Commissioners of the City of Atlantic City to Gem Liquor Store Corporation, t/a Gem Liquor Store, for premises 1737 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for forty-four (44) days, commencing 7:00 a.m. on Monday, April 24, 1972, and terminating 7:00 a.m. Wednesday, June 7, 1972.

Robert E. Bower
Director

6. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 100 DAYS, LESS 20 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
Michael LaBruno)	CONCLUSIONS
t/a Duncan Bar)	and
268 Duncan Avenue)	ORDER
Jersey City, N.J.,)	

Holder of Plenary Retail Consumption License C-235, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

-----)
 Boffa & Willis, Esqs., by Peter R. Willis, Esq., Attorneys for Licensee
 Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 13, 14, 20, 27, 29 and August 12, 20 and 24, 1971, he permitted the sale of rights and participation rights in a lottery commonly known as the "numbers game", and possessed such tickets on his licensed premises, in violation of Rule 6 of State Regulation No. 20.

Licensee has a prior record of suspension by the Director for dissimilar violations occurring in 1956 (Re LaBruno, Bulletin 1124, Item 1) a suspension for fifty-five days, effective September 13, 1967 by the Director for varied dissimilar violations (Re LaBruno, Bulletin 1759, Item 2), and a further suspension for fifteen days, effective December 1, 1969 by the Director for sale to minors (Re LaBruno, Bulletin 1893, Item 7).

The prior record of dissimilar offenses occurring in 1956 disregarded for penalty purposes, the license will be suspended for ninety days (Re X.P.Y. Corp., Bulletin 2033, Item 2) to which will be added ten days by reason of the two dissimilar violations occurring within the past five years, making a total of one hundred days, with remission of twenty days for the plea entered, leaving a net suspension of eighty days.

Accordingly, it is, on this 10th day of April 1972,

ORDERED that Plenary Retail Consumption License C-235, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Michael LaBruno, t/a Duncan Bar, for premises 268 Duncan Avenue, Jersey City, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1972, commencing at 2:00 a.m. Monday, April 24, 1972; 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. Thursday, July 13, 1972.

Robert E. Bower
 Director

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against The Great Atlantic & Pacific Tea Company, Inc. 607 Bloomfield Avenue Bloomfield, N. J.,

CONCLUSIONS

and

Holder of Plenary Retail Distribution License D-12, issued by the Town Council of the Town of Bloomfield.

ORDER

Haskins, Robottom & Hack, Esqs., by William J. O'Day, Esq., Attorneys for Licensee Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 15, 1971 it sold alcoholic beverages to a minor, age 17, in its licensed premises, in violation of Rule 1 of State Regulation No. 20.

Licensee, holder of a plenary retail distribution license in Plainfield, has a prior record at those premises of suspension by the municipal issuing authority for two days effective September 10, 1962 for sale to a minor.

License will be suspended for twenty days (Re Kidawa, Bulletin 2032, Item 3), to which will be added five days by reason of the similar offense occurring within the past ten years, making a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

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

ORDERED that Plenary Retail Distribution License D-12, issued by the Town Council of the Town of Bloomfield to The Great Atlantic & Pacific Tea Company, Inc., for premises 607 Bloomfield Avenue, Bloomfield, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, April 25, 1972, and terminating at 2 a.m. Monday, May 15, 1972.

Robert E. Bower, Director.

8. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN APPLICATION - FRONT - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 7 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Fortuna Club, Inc., t/a The Meadow Club 579-581 Jackson Avenue Elizabeth, N. J.,)

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-220, issued by the City Council of the City of Elizabeth.)

Anthony P. Spirito, Esq., Attorney for Licensee Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges: (1) that in its short-form application, it failed to disclose that one Raymond Sherrier was the beneficial owner of the stock of the licensee corporation, which said false statement was in violation of N.J.S.A. 33:1-25; (2) in the aforesaid application it failed to disclose that the said Raymond Sherrier had a direct interest in the business conducted, which false statement was violative of N.J.S.A. 33:1-25; (3) in the aforesaid application it failed to disclose that said Raymond Sherrier retained the profits from the licensed business in violation of N.J.S.A. 33:1-25; and (4) it abetted the said Raymond Sherrier to exercise the rights of the license, in violation of N.J.S.A. 33:1-52.

Licensee has a prior record of suspensions: by the local issuing authority for ten days, effective November 4, 1968, for sale to a minor; by the Director for twenty-five days, effective August 7, 1969, for sale of alcoholic beverages during "prohibited" hours and below filed price (Re Fortuna Club, Inc., Bulletin 1880, Item 5); and by the Director for twenty days, effective May 11, 1971, for purchase of alcoholic beverages from unauthorized source. (Re Fortuna Club, Inc., Bulletin 1942, Items 7 and 8, and Bulletin 1978, Item 3).

The license will be suspended for twenty days to which will be added fifteen days by reason of the three prior dissimilar offenses occurring within the past five years, making a total of thirty-five days, less remission of seven days for the plea entered, leaving a net suspension of twenty-eight days. Re Ciccone, Bulletin 2021, Item 4.

However, as the unlawful situation has not to date been corrected, the license will be suspended for the balance of its term, with leave granted to the licensee or any bona fide transferee of the license to apply to the Director for lifting of the suspension whenever the unlawful situation has been corrected, but such lifting shall not be granted in any event sooner than twenty-eight days from the commencement of the suspension herein.

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

ORDERED that Plenary Retail Consumption License C-220, issued by the City Council of the City of Elizabeth to Fortuna Club, Inc., t/a The Meadow Club for premises 579-581 Jackson Avenue, Elizabeth be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1972, effective 2:00 a.m. Friday, April 21, 1972, with leave to the licensee or any bona fide transferee of the licensee to file a verified petition establishing correction of the unlawful situation for lifting of the suspension of the license on or after 2:00 a.m. Friday, May 19, 1972.

Robert E. Bower
Director

9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against Geray Liquors, Inc. t/a Klecha's Geray Liquors 158 President Street Passaic, N.J.
Holder of Plenary Retail Consumption License D-16 issued by the Municipal Board of Alcoholic Beverage Control of the City of Passaic.
.....

CONCLUSIONS
and
ORDER

Licensee, Pro Se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on Sunday, November 7, 1971 about 2:55 P.M. it sold alcoholic beverages for consumption off licensed premises, in violation of Rule 1 of State Regulation No. 38. Licensee has record of suspension for ten days by municipal issuing authority effective October 31, 1966 for dissimilar offense.

The prior record of the licensee considered, the license would normally be suspended for 20 days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Alston, Bulletin 2000, Item 9. 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 \$600.00 in lieu of suspension.

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

ORDERED that the payment of a \$600.00 fine by the licensee is hereby accepted in lieu of a suspension of license for 15 days.

Robert E. Bower,
Director

10. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Ye Olde Tymers Club of Camden and Philadelphia) 924 South 5th Street Camden, N. J.,)

CONCLUSIONS and ORDER

Holder of Club License CB-2, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

Licensee, Pro se Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 5, 1971, it sold alcoholic beverages to non-members in its licensed premises, in violation of Rule 8 of State Regulation No. 7.

Licensee has a prior record of suspension by the Director for twenty-five days, effective July 15, 1971, on charges of selling alcoholic beverages in violation of local "hours" ordinance, and selling such beverages to non-members. Re Ye Olde Tymers Club of Camden and Philadelphia, Bulletin 1995, Item 5.

Prior suspension for similar violation occurring within the past five years considered, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Cranbury Vikings & Sportsmen's Club, Inc., Bulletin 2020, Item 9; Re Progressive Democratic Club, Bulletin 1911, Item 7.

The licensee is hereby further warned that another similar or substantial violation may well result in the outright revocation of the license.

Accordingly, it is, on this 10th day of April 1972,

ORDERED that Club License CB-2, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Ye Olde Tymers Club of Camden and Philadelphia for premises 924 South 5th Street, Camden, be and the same is hereby suspended for twenty-five (25) days, commencing 2:00 a.m. on Monday, April 24, 1972, and terminating 2:00 a.m. on Friday, May 19, 1972.

Robert E. Bower Director

11. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
Hour Bar, A Corporation)
t/a Sammie Del's & Lafrican)
504-506 - 21st Avenue)
Paterson, N. J.,)
Holder of Plenary Retail Consumption)
License C-216, issued by the Board)
of Alcoholic Beverage Control for the)
City of Paterson.)
-----)

CONCLUSIONS

and

ORDER

Herman W. Steinberg, Esq., Attorney for Licensee
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to two charges alleging that on January 7, 1972 it (1) sold alcoholic beverages to two minors, ages 17 and 20, in violation of Rule 1 of State Regulation No. 20, and (2) it hindered the agents of this Division in their investigation, in violation of N.J.S.A. 33:1-35.

Absent prior record, the license will be suspended on the first charge for twenty days (Re White Arrow Tavern Corp., Bulletin 1924, Item 4) and on the second charge for ten days (Re Doyle, Bulletin 2013, Item 6), 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 12th day of April 1972,

ORDERED that Plenary Retail Consumption License C-216, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Hour Bar, A Corporation, t/a Sammie Del's & Lafrican, for premises 504-506 - 21st Avenue, Paterson, be and the same is hereby suspended for twenty-five (25) days, commencing 3 a.m. Thursday, April 27, 1972, and terminating at 3 a.m. Monday, May 22, 1972.

Robert E. Bower,
Director.

12. STATE LICENSES - NEW APPLICATION FILED.

Falstaff Brewing Corporation, t/a P. Ballantine & Sons
2500 - 71st Street, North Bergen, New Jersey
Application filed May 1, 1972 for place-to-place transfer of
Limited Wholesale License WL-25 from 57 Freeman Street,
Newark, New Jersey.

Robert E. Bower
Robert E. Bower
Director