

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1452

June 12, 1962.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

June 12, 1962

BULLETIN 1452

1. APPELLATE DECISIONS — BEDROCK, INC. v. ELIZABETH.

Bedrock, Inc., trading as)	
Billy's Tavern,	)	On Appeal
)	
Appellant,	)	CONCLUSIONS
	)	AND
v.	)	ORDERS
)	
City Council of the City of)	
Elizabeth,)	
)	
Respondent.)	
-----)	

Weiner, Weiner & Glennon, Esqs., by John T. Glennon, Esq.,
attorneys for appellant.
John L. Ard, Esq., by John M. Boyle, Esq., Attorney for
respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein.

"This is an appeal from the action of respondent which on June 29, 1961 denied the appellant's application for renewal of its plenary retail consumption license for the 1961-62 licensing year for premises 1060 Magnolia Avenue, Elizabeth. Respondent's resolution which was approved unanimously sets forth the following reasons for such denial:

'WHEREAS, the Municipal Board of Alcoholic Beverage Control has questioned the advisability of renewing the Plenary Retail Consumption License No. C-163 to BEDROCK, INC. t/a Billy's Tavern, for premises located at 1060 Magnolia Avenue, for the license period commencing July 1, 1961 and terminating June 30, 1962, for the reason that the licensed premises were conducted improperly and in violation of the Rules and Regulations of this Board and of the Division of Alcoholic Beverage Control of the State of New Jersey, as set forth in the attached report annexed hereto and made a part hereof; and

'WHEREOF, the Board after proper investigation has carefully evaluated the past record of the licensee and the application for renewal of said license, and it is the considered opinion of the Board that the licensee is unfit to operate said licensed premises for the reason that the said licensed premises were conducted improperly and in violation of the Rules and Regulations pertinent and relating to the conduct of the licensed premises; and

'WHEREAS, it would be contrary to the best interests of the public health, safety, welfare

and morals to approve the application for renewal of said licensed premises; now therefore

'BE IT RESOLVED, that the application of Bedrock, Inc., t/a Billy's Tavern, for renewal of Plenary Retail Consumption License No. C-163, for premises 1060 Magnolia Avenue, for the license period beginning July 1, 1961 and terminating June 30, 1962, be and the same is hereby denied.

Dated: June 29, 1961'

"Attached to the resolution were a statement of appellant's violations and the police report relating to incidents which occurred on the licensed premises.

"Upon the filing of the appeal, the Director entered an order on June 30, 1961 extending the term of appellant's license until further order herein.

"Appellant, in its petition of appeal, contends that respondent's action was erroneous in that it was arbitrary, capricious, and an unreasonable exercise of its discretion.

"The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15 and the following exhibits were received in evidence by stipulation:

"A-1. Respondent's resolution together with statement of violations and the police report.

"R-1. Certified copy of the minutes of special meeting of respondent held on June 29, 1961.

"R-2. Ordinance of the City of Elizabeth prescribing the Rules and Regulations relating to the sale of alcoholic beverages.

"The aforesaid statement of violations shows the following:

- { '1955 - Violation Rule 1 State Regulation No. 38,
Sale in original container on Sunday.
- { '1955 - Violation Section 8 of City Ordinance,
Sale on Sunday between prohibited hours.

License suspended six days for each violation.

1956 - Violation Rule 1 State Regulation No. 38,
Sale on Sunday in original container.
License suspended fifteen days.

1957 - Board called licensee before it and warned the licensee of his responsibility in the conduct of his licensed premises in accordance with City and State Rules and Regulations, and that any further disturbances at the premises would result in severe disciplinary action.

- { #1 1958 - Violation Rule 1 State Regulation 39, Sale in original container on Sunday.
- { #2 1958 - Violation Section 8 of City Ordinance, Sale on Sunday between prohibited hours.
 1. License suspended ten days
 2. License suspended twenty days
- { #1 1960 - January 31, Violation Rule 1 State Regulation No. 38, Sale in original container on Sunday.
- { #2 1960 - January 31, Violation Section 8 of City Ordinance, Sale on Sunday during prohibited hours.
- { #3 1960 - January 31, Violation of R.S. 33:1-12, contrary to R.S. 33:1-26 and R.S. 33:1-1(w). Sale of an alcoholic beverage at a place other than the licensed premises viz., an auto parked on the public street in front of licensed premises, in violation R.S. 33:1-2.

License suspended for sixty (60) days.

"The 1955, 1956 and 1958 suspensions were imposed by the local issuing authority and the 1960 suspension was imposed by the Director of this Division. The records of this Division further disclose that effective September 18, 1961 appellant's license was suspended for 190 days by the Director for permitting on the licensed premises obscene conduct and entertainment and female impersonators, for violating Rule 1 of State Regulation No. 38 and for hindering ABC agents in their investigation. Re Bedrock, Inc., Bulletin 1417, Item 1.

"The police report indicates that 35 or more separate incidents occurred in and upon the licensed premises from 1956 to 1961 involving riots, assault with a gun, assault with a knife, atrocious assault and battery, larceny, threats, bookmaking, disorderly persons and drunks.

"David Bedrock, appearing on behalf of appellant, testified that he holds 49 percent of the corporate licensee's stock; that he has been actually engaged in the operation of the licensed premises since 1955; that he is familiar with respondent's resolution and the attached statement and police report, copies of which were served upon him; and that no criminal charges respecting the aforesaid incidents were preferred against him. The remainder of his testimony and the testimony of Arthur Roberts (appellant's bartender) tended to exculpate appellant with respect to some of the incidents set forth in the police report.

"Witnesses appearing for respondent were Thomas Garvey, secretary of the Municipal Board of Alcoholic Beverage Control, Acting Chief W. J. Mulkeen and Lieutenant Kuleshewsky of the Elizabeth Police Department.

"Mr. Garvey testified that at the request of respondent, he prepared a statement of appellant's violations and obtained from Acting Chief Mulkeen a report of police calls to appellant's premises; that he presented the statement and report to respondent which, after considering them at a meeting held on June 29, 1961,

drew up the resolution denying appellant's application for renewal of its license.

"Acting Chief Mulkeen testified that at the request of Mr. Garvey he prepared the police report respecting the incidents which occurred in appellant's tavern and assigned Lieutenant Kuleshewsky, who was familiar with the incidents, to represent the police department at the meeting of respondent on June 29, 1961.

"Lieutenant Kuleshewsky testified that he is supervisor of the Elizabeth Police Department's Foot and Radio Patrol and has knowledge of the disturbances which occur throughout the city; that he appeared at the meeting held by respondent on June 29, 1961 'to bring out more clearly the report of Chief Mulkeen to the ABC Board' and to give 'my personal views as to what the conditions were in the surrounding area of the establishment known as Billy's Tavern'. He testified further that he 'worked' that area since 1950; that he personally responded to about ten calls from or concerning appellant's tavern; that appellant's tavern has been constantly under both foot and radio car patrol since 1957; that the disturbances necessitated putting an added foot patrolman in the area; and that 'Billy's Tavern was the cause of this patrol being put on'.

"Considering the evidence adduced at the hearing herein, I cannot find that respondent's action was arbitrary, capricious or an unreasonable exercise of its discretion. As was said in Zicherman v. Driscoll, 133 N.J.L. 586:

'The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. The common interest of the general public should be the guidepost in the issuing and renewal of licenses.'

See also Deutsch v. Somerville, Bulletin 915, Item 3; Schneider v. Dover, Bulletin 924, Item 4.

I conclude that appellant has failed to sustain the burden imposed upon it of establishing by a fair preponderance of the evidence that the action of respondent was erroneous. I recommend, therefore, that an order be entered dismissing the appeal and vacating the order extending the term of appellant's license."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument in substantiation thereof were filed with me by the attorney for appellant and written answering argument was filed by the attorney for respondent.

After carefully considering the entire record herein including the transcript of the proceedings, the exhibits, the briefs, the exceptions to the Hearer's Report and the arguments pro and con, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 16th day of April, 1962,

ORDERED that the action of respondent City Council of the City of Elizabeth in denying appellant's application for renewal of its license for the 1961-62 licensing year be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my order entered on June 30, 1961, extending the term of appellant's license, pending determination of the appeal herein, be and the same is hereby vacated.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - ROYAL GUNNING CLUB, INC. v. BUENA VISTA.

Royal Gunning Club, Inc.,
Appellant,

On Appeal

v.

CONCLUSIONS and ORDER

Township Committee of the
Township of Buena Vista,

Respondent.

Finn and Rimm, Esqs., by Marvin N. Rimm, Esq., Attorneys for
Appellant
Frank J. Testa, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on October 23, 1961, it denied by a vote of one-to-one appellant's application (dated September 8, 1961) for a club license for premises located on Lorraine Avenue, Richland, in Buena Vista Township.

"Appellant in its petition of appeal alleges that the action of respondent was erroneous in that it was an abuse of its discretionary power, and that no reason was given for its action.

"It appears that on October 17, 1960, respondent granted a prior club license application filed by appellant for the same premises and that, on appeal taken therefrom, the Director reversed respondent's action because the applicant did not have at least twenty-five regular members as required by Rule 1 of State Regulation No. 7. See Atlantic County Beverage Association v. Township Committee of Buena Vista Township and Royal Gunning Club, Inc., Bulletin 1404, Item 3.

"The evidence adduced at the hearing herein clearly establishes that the Royal Gunning Club, Inc., has been in exclusive, continuous possession of club quarters since 1934, and that at the time it filed the application in question it had thirty-five regular members entitled to vote and participate in the operation of the club. (It may be noted, in passing, that the recent amendment of Rule 1 of State Regulation No. 7 to increase the minimum number of members of club license applicants to sixty, effective February 1, 1962, was expressly conditioned not to apply, inter alia, to clubs whose applications for license were then pending. Re Club Licenses, Bulletin 1436, Item 1).

"Since appellant has met the requirements of State Regulation No. 7 existing at the time of its application, it becomes necessary to ascertain respondent's reason for denying the application. No reason was stated in a letter addressed to appellant by respondent's clerk notifying it of respondent's decision, and no specific reason for the denial is set forth in respondent's answer on appeal. In all fairness, a local issuing authority should state the reasons for its decision but its failure to do so is not

fatal. Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1. However, the testimony of Committeeman Berti, who voted to deny the application, supplies the reasons. He testified that, as Director of Public Safety and Chairman of the Board of Health, he inspected appellant's club quarters and found them to be unsuitable for a license because the structure presented a fire hazard; there was no running water and no proper toilet facilities.

"It has been decided that a local issuing authority may lawfully refuse to issue, renew or transfer a license when it appears that the premises are unfit or unsanitary. The Pines of Watchung v. Watchung et al., Bulletin 1061, Item 2.

"It appears from the evidence that the premises sought to be licensed consist of a plot of ground approximately 130' x 1150' on the south side of Lorraine Avenue, on which a 30' x 40' one-story frame building is located; that in the building is a 12' x 12' kitchen in which there is a sink with running water; an 8' x 8' storeroom and separate rest rooms for men and women; that the main hall can accommodate one hundred fifty persons and is equipped with chairs, tables, benches and booths; that the building has a double door in the front, two doors in the rear, eight windows on each side, two double windows in front, four windows in the rear, and that regularly checked fire extinguishers and sand buckets are maintained in the building. It further appears that appellant has permission to use as its shooting grounds an area on the north side of Lorraine Avenue, some fifteen hundred feet from the premises sought to be licensed; that both areas are in a sparsely settled section of the Township in which there are no schools or churches; that at the time Berti inspected the premises in 1961, rest rooms had not been installed in the building; that the water was shut off because there was no heat in the building and that, when Mr. Berti was informed by the President of the Club that rest rooms would be installed if the application were granted, he said 'That's all right, I don't see any reason why you shouldn't get your license.'

"Having carefully considered the evidence adduced herein, it is my considered opinion that appellant's club quarters, which have been in existence for more than three years, present no more of a fire hazard than any other frame building and that appellant's application should not have been denied for that reason. However, since the rest rooms had not been installed at the time the inspection was made, or when the application was filed, I recommend that the case be remanded to the issuing authority, directing it to grant appellant's application if and when proper toilet facilities have been installed."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15. Having carefully considered the record herein, including the transcript of the proceedings, the exhibits, the memoranda submitted by the attorneys for the respective parties hereto and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 17th day of April 1962,

ORDERED that the matter be and the same is hereby remanded to respondent for the purpose hereinabove set forth.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - SALE IN VIOLATION OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Hyman Straus 110 Morris Street Jersey City, New Jersey Holder of Plenary Retail Distribution License D-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS

AND

ORDER

Samuel Moskowitz, Esq., Attorney for Licensee. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on Friday, January 26, 1962, at about 10:20 p.m., he (1) sold six cans of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20 and (2) in violation of Rule 1 of State Regulation No. 38, and (3) attempted to hinder the investigation by offering a bribe to the investigating agents, in violation of R.S. 33:1-35.

The licensee has a previous record of suspension by the municipal issuing authority for (1) five days effective April 26, 1948 for violation of Rule 1 of State Regulation No. 38 and (2) twenty days effective February 28, 1956 for sale to a minor and (3) by the Director of this Division for ten days effective September 11, 1961 for violation of Rule 1 of State Regulation No. 38. Re Straus, Bulletin 1415, Item 6.

The prior record (excluding the 1948 suspension occurring more than ten years before the instant violations) considered, the license will be suspended for twenty days on the first charge (Cf. Re Carabelli, Bulletin 1428, Item 7), thirty days on the second charge (Re Corris & Riccardi, Bulletin 1407, Item 8) and twenty days on the third charge (Re Bedrock, Inc., Bulletin 1417, Item 1), or a total of seventy days, with remission of five days for the plea entered, leaving a net suspension of sixty-five days.

Accordingly, it is, on this 16th day of April, 1962,

ORDERED that Plenary Retail Distribution License D-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Hyman Straus for premises 110 Morris Street, Jersey City, be and the same is hereby suspended for sixty-five (65) days, commencing at 9:00 a.m., Monday, April 23, 1962, and terminating at 9:00 a.m., Wednesday, June 27, 1962.

WILLIAM HOWE DAVIS DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against)

Paddock International (A Corp.))
t/a Paddock International)
1643 Atlantic Avenue)
Atlantic City, New Jersey)

ORDER

Holder of Plenary Retail Consumption License C-98, issued by the Board of Commissioners of the City of Atlantic City.)

Leo J. Berg, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On November 29, 1961, I entered an order in the above matter deferring the license suspension of sixty-five days because it appeared that the licensed business was conducted only on a limited basis.

I am now satisfied that the suspension should be imposed.

Accordingly, it is, on this 16th day of April 1962,

ORDERED that plenary retail consumption license C-98, issued by the Board of Commissioners of the City of Atlantic City to Paddock International (A Corp.), t/a Paddock International, for premises 1643 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for sixty-five (65) days, commencing at 7 a.m. Monday, April 23, 1962, and terminating at 7 a.m. Wednesday, June 27, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

5. APPELLATE DECISIONS - MASELKO v. NEWARK

Theodore W. Maselko and Olga Maselko, t/a Teddy's Bar,)

Appellants,)

v.)

ORDER

Municipal Board of Alcoholic Beverage Control of the City of Newark,)

Respondent)

Appellants, Pro se
Vincent P. Torppey, Esq., Attorney for Respondent

BY THE DIRECTOR:

Appellants appeal from the action of respondent whereby on March 14, 1962, it denied appellants' application for transfer

of their plenary retail consumption license from premises 559 So. 19th Street to premises located at 297 Sixteenth Avenue, Newark.

Prior to the hearing on appeal appellant Theodore W. Maselko advised me and respondent, in writing, that appellants had lost proprietary interest in premises 297 Sixteenth Avenue and desired to withdraw the appeal. No reason appearing to the contrary,

It is, on this 17th day of April 1962,

ORDERED that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

6. APPELLATE DECISIONS - ALL CORP. v. BRIELLE.

All Corp. body corporate of New Jersey,)	
)	
Appellant,	)	On Appeal
)	
v.	)	O R D E R
)	
Borough Council of the Borough of Brielle,)	
)	
Respondent.)	

Anshelewitz & Barr, Esqs., Attorneys for appellant.
Frederick J. Moench, Esq., Attorney for respondent.

BY THE DIRECTOR:

Appellant appeals from denial by respondent on March 1, 1962, of its application for person-to-person and place-to-place transfer of plenary retail consumption license from Harry B. Tumen, Receiver for Bimini Yacht Club of Brielle, N. J. Ltd., Inc., and from premises Waterfront-Wainwright Place to premises located on State Highway 70, Brielle.

Prior to the hearing on appeal, by letter of April 20, 1962, appellant advised me that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 24th day of April, 1962,

ORDERED that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

ACTIVITY REPORT FOR APRIL 1962

7.

ARRESTS:

Total number of persons arrested - - - - -		21
Licensees and employees - - - - -	13	
Bootleggers - - - - -	8	

SEIZURES:

Motor vehicles - trucks - - - - -		1
Stillis - over 50 gallons - - - - -		1
Mash - gallons - - - - -		1,050
Distilled alcoholic beverages - gallons - - - - -		12,436
Wine - gallons - - - - -		6,750
Brewed malt alcoholic beverages - gallons - - - - -		563

RETAIL LICENSEES:

Premises inspected - - - - -		676
Premises where alcoholic beverages were gauged - - - - -		474
Bottles gauged - - - - -		7,985
Premises where violations were found - - - - -		103
Violations found - - - - -		163
Unqualified employees - - - - -	83	Disposal permit necessary - - - - - 4
Reg. #38 sign not posted - - - - -	37	Prohibited signs - - - - - 2
Application copy not available - - - - -	15	Improper beer taps - - - - - 1
Other mercantile business - - - - -	5	Other violations - - - - - 16

STATE LICENSEES:

Premises inspected - - - - -		23
License applications investigated - - - - -		7

COMPLAINTS:

Complaints assigned for investigation - - - - -		423
Investigations completed - - - - -		421
Investigations pending - - - - -		192

LABORATORY:

Analyses made - - - - -		225
Refills from licensed premises - bottles - - - - -		38
Bottles from unlicensed premises - - - - -		40

IDENTIFICATION:

Criminal fingerprint identifications made - - - - -		6
Persons fingerprinted for non-criminal purposes - - - - -		351
Identification contacts made with other enforcement agencies - - - - -		268
Motor vehicle identifications via N. J. State Police teletype - - - - -		7

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -		20
Violations involved - - - - -		24
Sale during prohibited hours - - - - -	16	Failure to afford view into premises during prohibited hours - - - - - 1
Sale to minors - - - - -	2	Failure to close premises during proh. hrs. - - - - - 1
Sale to non-members by club - - - - -	2	Licensee working while intoxicated - - - - - 1
Possessing chilled beer on prem. (DL lic.) - - - - -	1	
Cases instituted at Division - - - - -		14*
Violations involved - - - - -		18
Sale to minors - - - - -	6	Permitting immoral activity on premises - - - - - 1
Possessing liquor not truly labeled - - - - -	3	Permitting bookmaking on premises - - - - - 1
Sale during prohibited hours - - - - -	2	Permitting lottery activity on premises (numbers) - - - - - 1
Conducting business as a nuisance - - - - -	1	Fraud and front - - - - - 1
Combination sale - - - - -	1	
Sale at discount - - - - -	1	
*Includes one cancellation proceeding - license inadvertently issued		
Cases brought by municipalities on own initiative and reported to Division - - - - -		27
Violations involved - - - - -		28
Sale to minors - - - - -	18	Permitting gambling (card playing for money stakes) on premises - - - - - 1
Permitting brawls on premises - - - - -	4	Failure to display license certificate on premises - - - - - 1
Sale during prohibited hours - - - - -	4	

HEARINGS HELD AT DIVISION:

Total number of hearings held - - - - -		38
Appeals - - - - -	5	Seizures - - - - - 2
Disciplinary proceedings - - - - -	21	Applications for license - - - - - 1
Eligibility - - - - -	9	

STATE LICENSES AND PERMITS ISSUED:

Total number issued - - - - -		2,928
Licensees - - - - -	4	Wine permits - - - - - 1
Solicitors' permits - - - - -	43	Miscellaneous permits - - - - - 182
Employment permits - - - - -	2,252	Transit insignia - - - - - 49
Disposal permits - - - - -	54	Transit certificates - - - - - 6
Social affair permits - - - - -	337	

OFFICE OF AMUSEMENT GAMES CONTROL:

Licensees issued - - - - -	97	Enforcement files established - - - - - 18
Premises inspected - - - - -	42	Number of violations found - - - - -

WILLIAM HOWE DAVIS
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

8. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)	
)	
Barnegat Inn, Inc.)	
N.E. corner E. Bay St. & Highway No. 9	)	CONCLUSIONS
Union Township (Ocean County))	
PO Barnegat, New Jersey	)	and
Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of Union Township.	)	ORDER
)	

 Novins, Novins & O'Connor, Esqs., by Robert J. Novins, Esq., Attorneys for Defendant-licensee.
 Dora P. Rothschild, Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to a charge alleging that on September 15, 1961, it sold, served and delivered alcoholic beverages, directly or indirectly, to an 18-year-old minor, and permitted said minor to consume an alcoholic beverage in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

"To substantiate the charge, the Division produced as its witnesses Harold ---, Ernest --- and Robert ---.

"Harold testified that he is 18 years of age; that at about 9:45 p.m., Friday, September 15, 1961, he, Ernest, Robert and Thomas --- drove to defendant's licensed premises to purchase some beer; that he parked his car in the parking lot and went into the premises alone; that therein he asked for and received a bottle of beer from the bartender, who accepted "30 or 35 cents" in payment, but made no inquiry as to his age; that after consuming the beverage, he asked for a case of Schaefer beer; that when the bartender procured the beer from a storeroom, he paid him \$4.40, left the premises with his purchase, and put it in his car; that while he was driving along the highway, he was stopped by a State Trooper who detained the beer and took him and his companions to the Toms River Police Barracks. Harold testified further that on Sunday, September 17, 1961, a State Trooper took him to the Barnegat Inn, which he identified as the place where he obtained the beer, and therein identified Gaston Fichot as the bartender who served him.

"On cross-examination, Harold testified that other than the Schaefer beer, the Trooper found a six-pack carton containing two empty 12-ounce bottles labeled Schmidt's; that at first he told the Trooper he found the beer; that later he told him that he got both brands of beer at the Barnegat Inn and, when he was informed that the Barnegat Inn did not sell 12-ounce bottles of Schmidt's, he told the Trooper that he had obtained the Schaefer beer at the Barnegat Inn, but that the bottles labeled Schmidt's were left in his car by an adult male named Otis Brown, with whom he had gone fishing that morning. He testified further that the reason he told the untruth about the bottles labeled Schmidt's beer being in his car was because he didn't want to get Brown in trouble.

"Ernest and Robert testified that they went with Harold to the Barnegat Inn; that they remained in the car in the parking lot; that they saw Harold enter the licensed premises empty-handed and return in about fifteen minutes carrying a case of Schaefer beer, which he put in the car; that later, they were apprehended by a State Trooper, who found the Schaefer beer and the two empty bottles labeled Schmidt's, and that they confirmed Harold's statement to the Trooper that he had found the beer.

"Defendant produced as its witnesses Gaston Fichot, the bartender, Robert P. Buckner, manager, Charles Doremus, Fred L. Bahr, Acting Chief of Police, and James F. Citta, principal stockholder of the corporate-licensee.

"Mr. Fichot testified that he was tending bar on the night of September 15, 1961; that he sold a case of Schaefer beer to a tall blond man who paid him \$4.40 and left with his purchase. On cross-examination, he testified that he did not see Harold on the premises on September 15th.

"Mr. Buchner and Mr. Doremus whose wife works for the corporate-licensee, testified that they were present in defendant's premises on the night of September 15, 1961 and that they saw the bartender sell a case of Schaefer beer to a tall man with blond hair. They also testified that they saw Harold there at the same time.

"Acting Chief Bahr testified that he has been in the police department for fifteen years and that the Barnegat Inn is run in a very orderly manner.

"Mr. Citta testified that he is a stockholder of defendant corporate-licensee; that he has been in the tavern and restaurant business for twenty years; that he has never been charged with any prior violation of the rules and regulations of the Alcoholic Beverage Law and that he was not present in the Barnegat Inn when the violation charged herein is alleged to have occurred.

"The cash register tape indicating the prices charged for the merchandise sold on defendant's premises on September 15, 1961 was received in evidence and shows a sale made for thirty-five cents and the next sale made for \$4.40.

"Some time after the hearing, defendant submitted an affidavit, executed by one Otis Brown, which was accepted and made part of the record herein in lieu of the affiant's testimony. In the affidavit, Brown states that he did not go fishing with Harold on September 15, 1961 and that he did not place any six-pack of Schmidt's throw-away beer bottles in Harold's automobile.

"Considering the evidence adduced herein, and having had the opportunity to judge the credibility of the witnesses, I find that the minor in question consumed on defendant's licensed premises a bottle of beer served to him by the bartender, who requested no written representation as to the minor's age. I find further that said bartender sold, served and delivered a case of Schaefer beer to said minor. If, as testified to by defendant's witnesses, the case of beer was sold and delivered to an unidentified adult with whom, admittedly, the minor had been conversing, the reasonable inference is that the adult turned over the merchandise to the minor in the vestibule of the licensed premises for the testimony shows there is a vestibule; that there was only one case of Schaefer beer sold by the defendant on the date alleged and that the minor was seen to emerge from the vestibule carrying the case of beer. There is no testimony that the adult was seen leaving the licensed building with the case of beer. A sale to an adult under those circumstances

is no defense to the charge which alleges a sale indirectly to a minor in and upon licensed premises. I find further that defendant's contention that the minors' testimony should not be given credence because he, at first, told the State Trooper an untruth as to where both the Schaefer beer and the empty bottles labeled Schmidt's were obtained, is without merit. The minor's testimony under oath is highly credible and remained unshaken, notwithstanding the exhaustive cross-examination to which he was subjected.

"Considering all the facts and circumstances herein, I conclude that the Division has established the truth of the charge by a fair preponderance of the believable evidence, and I recommend that defendant be adjudged guilty as charged, and that an order be entered suspending defendant's license for a period of fifteen days, the minimum penalty imposed for the sale of alcoholic beverages to an 18-year-old minor. Re Soiffer, Bulletin 1307, Item 12."

Written exceptions to the Hearer's Report and written argument to substantiate the exceptions were filed with me within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the transcript of the proceedings herein, the exhibits, the Hearer's Report and the exceptions and argument with respect thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 16th day of April 1962,

ORDERED that plenary retail consumption license C-3, issued by the Township Committee of Union Township to Barnegat Inn, Inc., for premises at N.E. corner E. Bay St. & Highway No. 9, Union Township (Ocean County), be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, April 23, 1962, and terminating at 2 a.m. Tuesday, May 8, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against

Lanin Corporation
t/a Bamboo Club
2101 Pacific Ave. and
38 S. Arkansas Avenue
Atlantic City, New Jersey

Holder of Plenary Retail Consumption License C-156, issued by the Board of Commissioners of the City of Atlantic City.

ORDER

Elias G. Naame, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On November 29, 1961, I entered an order in the above matter deferring the license suspension of fifty days because it appeared that the licensed business was conducted only on a limited basis.

I am now satisfied that the suspension should be imposed.

Accordingly, it is, on this 16th day of April 1962,

ORDERED that plenary retail consumption license C-156, issued by the Board of Commissioners of the City of Atlantic City to Lanin Corporation, t/a Bamboo Club, for premises 2101 Pacific Ave. and 38 S. Arkansas Avenue, Atlantic City, be and the same is hereby suspended for fifty (50) days, commencing at 7 a.m. Monday, April 23, 1962, and terminating at 7 a.m. Tuesday, June 12, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

10. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #204)	
In the Matter of a Petition to)	
Lift the Automatic Suspension	)	On Petition
of Plenary Retail Consumption)	
License C-41, issued by the	)	SUPPLEMENTAL
Township Committee of the Town-)	
ship of Union, Union County, to	)	ORDER
)	
Albert Chaika)	
t/a Al's Tavern)	
2081 Springfield Ave.)	
Union, N. J.)	

A. Donald McKenzie, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

On March 2, 1962, an order was entered temporarily staying statutory automatic suspension of license of petitioner pending institution and determination of disciplinary proceedings against the license. Bulletin 1445, Item 6.

It now appears from supplemental petition filed herein that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for five days after the licensee pleaded guilty to a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. The suspension was effective from April 2 to April 7, 1962. It appearing that the suspension was adequate and that the suspension has been served, I shall lift the automatic suspension.

Accordingly, it is, on this 25th day of April, 1962,

ORDERED that the statutory automatic suspension of said license C-41 be and the same is hereby lifted, effective immediately.

WILLIAM HOWE DAVIS
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - MITIGATING CIRCUMSTANCE - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Caroline Szadowski t/a Allenhurst-Deal Inn 54 Atlantic Avenue Deal, New Jersey

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Board of Commissioners of the Borough of Deal

I George Rabin, Esq., Attorney for Licensee Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 8, 9, 14 and 15, 1962, she sold alcoholic beverages to three minors, age 17, 18 and 19, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective December 2, 1957, for violation of Rule 1 of State Regulation No. 38.

In mitigation it appears that the occurrence of the violations herein was voluntarily disclosed by the licensee to the municipal police and agents of this Division when a parent of one of the minors allegedly sought to "shake down" the licensee on threat of reporting the violations to the ABC.

The age and number of the minors involved, the number of occasions on which sales were made and the prior record considered, as well as the mitigating circumstance, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Tony Mart. Inc., Bulletin 1437, Item 4; Re LoPresti, Bulletin 1415, Item 8.

Accordingly, it is, on this 23rd day of April 1962,

ORDERED that plenary retail consumption license C-1, issued by the Board of Commissioners of the Borough of Deal to Caroline Szadowski, t/a Allenhurst-Deal Inn, for premises 54 Atlantic Avenue, Deal, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, May 1, 1962, and terminating at 2 a.m. Monday, May 21, 1962.

WILLIAM HOWE DAVIS DIRECTOR

12. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION AFTER STAY BY APPELLATE DIVISION.

In the Matter of Disciplinary Proceedings against

Ott's, Incorporated
t/a Laurel Run Tavern
Hartford & Moorestown Roads
Delran Township
PO Riverside, New Jersey,

ORDER

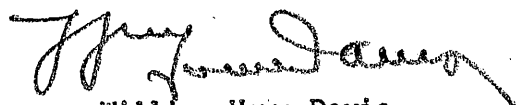
Holder of Plenary Retail Consumption License C-4 (for the 1960-61 and 1961-62 licensing years), issued by the Township Committee of the Township of Delran.

BY THE DIRECTOR:

On August 3, 1961, the license herein was suspended for 25 days. See Bulletin 1411, Item 3. Upon appeal to the Superior Court, Appellate Division, the court stayed the suspension pending the outcome of the appeal. The suspension having been sustained (Bulletin 1444, Item 1), the penalty may now be reimposed.

Accordingly, it is, on this 16th day of April 1962,

ORDERED that the aforesaid suspension of twenty-five (25) days of the plenary retail consumption license C-4, issued to Ott's, Incorporated, t/a Laurel Run Tavern, for premises at Hartford & Moorestown Roads, Delran Township, be and the same is hereby reimposed, commencing at 6 a.m. Monday, April 23, 1962, and terminating at 6 a.m. Friday, May 18, 1962.


William Howe Davis
Director