

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

BULLETIN 2056

August 15, 1972

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

BULLETIN 2056

August 15, 1972

1. COURT DECISIONS - RE S. EDWARD HAUSNER - DIRECTOR REVERSED.

SUPREME COURT OF NEW JERSEY
NO. A-121 - September Term 1971

In the Matter of)
Disciplinary Proceedings against)
S. EDWARD HAUSNER,)
t/a Skyline Lounge.)

Argued June 5, 1972. Decided June 22, 1972.

On certification to the Appellate Division.

Mr. James J. Shrager argued the cause for the appellant S. Edward Hausner, t/a Skyline Lounge (Messrs. Hannoch, Weisman, Stern & Besser, attorneys).

Mr. David S. Piltzer, Deputy Attorney General, argued the cause for the respondent Division of Alcoholic Beverage Control (Mr. George F. Kugler, Jr., Attorney General of New Jersey, attorney).

PER CURIAM:

The Division of Alcoholic Beverage Control suspended the license of S. Edward Hausner, t/a Skyline Lounge, for possession of contraceptive devices and obscene literature in violation of Rules 9 and 17 of State Regulation 20. The Appellate Division affirmed (116 N.J. Super. 206 (1971)) and we granted certification (59 N.J. 526 (1971)).

Hausner operates a substantial restaurant with thirty employees at 789 Dowd Avenue, Elizabeth. His premises include rooms where food and liquor are served, a coffee shop, and a small office. The office, which has an entry door bearing a "private" sign, contains a couch, safe, desk, filing cabinet and lavatory facilities. Hausner was separated from his wife and used his office as living quarters, keeping his clothes there. He testified that he always kept the entry door to his office locked and kept the keys in his pocket.

During the afternoon of August 27, 1969 an ABC agent, in the company of several law enforcement officers, entered Hausner's restaurant to investigate a report that there was stolen liquor on the premises. They found no stolen property and at the conclusion of their search of the remainder of the premises they asked to be taken to his office. He unlocked the entry door and they looked around. The ABC agent then directed Hausner to open the safe, filing cabinet and desk, all of which were locked, and he did so with his keys. In the filing cabinet the agent found three books which the ABC Director later determined to be not obscene. In the desk he found three catalogs which the Director later determined to be obscene within the meaning of Rule 17 of State Regulation 20 which prohibits a licensee from having in his possession on the licensed premises any "obscene, indecent, filthy, lewd, lascivious or disgusting recording, printing, writing, picture or other matter." In the safe he found three male contraceptives along with a partially used tube of Ortho Vaginal Jelly and an Ortho diaphragm, which the

Director later determined were possessed in violation of Rule 9 of State Regulation 20 which provides that no licensee shall possess "any contraceptive or contraceptive device" on the licensed premises. See 116 N.J. Super. at 208.

Hausner testified that the male contraceptives had been given to him for his own use and that the jelly and diaphragm belonged to his wife. He testified further that he received the catalogs unsolicited in the mail and was holding them at the request of a municipal councilman who was conducting a local anti-smut campaign. Although the Director did not express any opinion as to Hausner's testimony he did not suggest that there was anything to indicate a connection between the materials taken from Hausner's office and the operation of the restaurant or the sale of alcoholic beverages. To the contrary, the record leaves little room for doubt that the materials were strictly for Hausner's private use.

The Director's holding was that the mere presence of the materials within the technical outer borders of the licensed premises constituted regulatory violations warranting a substantial suspension of the license regardless of the undisputed indications that they were possessed by the licensee strictly for his private use under objective physical arrangements which more than adequately evidenced the strictly private nature of the possession. The Director's conclusions dealt only summarily with the private aspect of the possession; he said that he did not consider it any defense that the obscene material "was merely retained after it was received in the mail without solicitation" and that all licensees must see to it that no prohibited materials are ever "found on their licensed premises."

Some question has been raised as to whether the office was technically part of the licensed premises. We assume, for present purposes, that on August 27, 1969 it was part of such premises although shortly thereafter the licensee's application was amended to exclude it. We assume, further, that if the catalogs or contraceptives were displayed or used or were available for display or use in connection with the operation of the restaurant or the sale of alcoholic beverages their presence on the licensed premises would violate lawful regulatory provisions. See Jeanne's Enterprises, Inc. v. State of N.J., etc., 93 N.J. Super. 230 (App.Div.), aff'd o.b., 48 N.J. 359 (1966); Mazza v. Cavicchia, 15 N.J. 498 (1954); In re Club "D" Lane, Inc., 112 N.J. Super. 577 (App.Div. 1971); Davis v. New Town Tavern, 37 N.J. Super. 376 (App.Div. 1955). These assumptions lead us to the points which Hausner has advanced in support of his appeal, only the first of which we need deal with here. He urges in his first point that "the enforcement of an absolute prohibition against possession of the articles in question upon the facts presented is unwarranted, unreasonable and unconstitutional." See One Eleven Wines & Liquors, Inc. v. Div. Alcoholic Bev. Cont., 50 N.J. 329 (1967); Gallagher v. City of Bayonne, 106 N.J. Super. 401 (App.Div.), aff'd o.b., 55 N.J. 159 (1969); Paterson Tav. & Grill Owners Assn. v. Bor. of Hawthorne, 57 N.J. 180 (1970); cf. Griswold v. Connecticut, 381 U.S. 479, 14 L.Ed. 2d 510 (1965); Stanley v. Georgia, 394 U.S. 557, 22 L.Ed. 2d 542 (1969); Eisenstadt v. Baird, U.S. ___, 31 L.Ed.2d 349 (1972); State v. Baird, 50 N.J. 376 (1967).

In One Eleven we passed on a departmental regulation which imposed a flat prohibition on the congregation of apparent homosexuals in licensed premises. The regulation was an early one which was continued by the department in its absolute terms despite growing public tolerance and deeper public understanding of the subject. We pointed out that the department's concern with improper conduct at licensed premises could readily be dealt with by "a fair and sensible regulation which, while permitting apparent homosexuals to assemble in and patronize licensed establishments, prohibits overtly indecent conduct and public displays of sexual desires manifestly offensive to currently acceptable standards of propriety." 50 N.J. at 342. We rejected, as unsupported by evidence, the Division's position that the flat prohibition was necessary as an enforcement measure and we struck it as unreasonable and as going beyond the public need. 50 N.J. at 341.

In Gallagher the Appellate Division voided an ordinance provision which prohibited women at public bars; the court referred to the changing public attitudes and stressed the principles set forth in One Eleven that liquor regulations adopted in the exercise of police powers "must be reasonable and not go beyond the public need." 106 N.J. Super. at 405. On appeal, we affirmed on the opinion below. 55 N.J. 159. In Hawthorne we invalidated an ordinance restriction against female bartenders. In the course of our opinion we noted that "although in earlier times, comparable restrictions in the liquor field were generally sustained, the recent opinions in One Eleven and Gallagher indicate that our courts will now direct their attention more pointedly to the controlling requirements of reasonableness and public need." 57 N.J. at 188-89.

The Division does not now assert that it had any proper concern with Hausner's private moralities or that it considers that there was actually some factual relationship between the prohibited articles and the operation of the restaurant or the sale of alcoholic beverages. As indicated earlier in this per curiam, the Division takes the position that, notwithstanding that there was no such factual relationship, its proof that the prohibited articles were found within the technical outer borders of the licensed premises was sufficient in itself and that the Division would be "considerably hampered" in the discharge of its responsibilities if it were obliged to establish more. But at this advanced stage in the Division's experience, it may no longer fairly be presumed, and nothing at all has been placed before us to indicate, that sound liquor control would in anywise be interfered with if a showing of the presence of the articles were deemed to constitute a prima facie case, leaving to the licensee the right to establish by way of affirmative defense, as was done here, that he possessed the articles strictly for his private use in objective circumstances which adequately evidenced the strictly private nature of the possession.

It appears clear to us that Rules 9 and 17 of State Regulation 20, insofar as they flatly exclude any such right in the licensee to defend in the manner aforementioned, are oppressive and go beyond any current public need; to that extent they are deemed unreasonable. There should be early revision of them in the light of the currently controlling principles expressed in One Eleven Wines & Liquors, Inc. v. Div. Alcoholic Bev. Cont., supra, 50 N.J. 329 and reaffirmed in Gallagher (106 N.J. Super. 401) and Hawthorne (57 N.J. 180); in the course of their revision consideration might perhaps be given to the suggestions of language imprecision and constitutional infirmity made by the licensee during the course of these proceedings. Compare Jeanne's Enterprises, Inc. v. State of N.J., etc., supra, 93 N.J. Super. 230 and In re Club "D" Lane, Inc., supra, 112 N.J. Super. 577 with LaRue v. State of California, 326 F.Supp. 348 (C.D. Cal.), prob.juris.noted, 404 U.S. 999, 30 L.Ed.2d 551 (1971) and Bruno v. City of Kenosha, 333 F.Supp. 726, 729-30 (E.D.Wis. 1971).

Reversed, with direction that the suspension of the license be vacated.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - POSSESSION OF INDECENT TABLOID PUBLICATIONS - LICENSE SUSPENDED FOR 40 DAYS, LESS 8 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Brookside Alleys, Inc.)
Stelton & Ethel Roads)
Piscataway Township)
PO Box 328, Edison, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Township Council of the Township of Piscataway.)

John F. Bracaglia, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to two charges alleging that on November 19, 1971 it (1) sold alcoholic beverages to two minors, both age 20, in violation of Rule 1 of State Regulation No. 20, and (2) it possessed lewd and indecent matter, viz., indecent photos in playing cards and tabloid publications, in violation of Rule 17 of State Regulation No. 20.

Absent prior record of suspension, the license will be suspended for ten days on the first charge (Re Ocean Drive Hotel, Inc., Bulletin 1887, Item 9) and thirty days on the second charge (Re Manthey, Bulletin 2017, Item 5), or a total of forty days, with remission of eight days for the plea entered, leaving a net suspension of thirty-two days.

Accordingly, it is, on this 31st day of May 1972,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Council of the Township of Piscataway to Brookside Alleys, Inc., for premises at Stelton & Ethel Roads, Piscataway Township, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1972, commencing at 2 a.m. Thursday, June 15, 1972; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2 a.m. Monday, July 17, 1972.

Robert E. Bower,
Director.

3. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES FROM PROHIBITED SOURCE WHILE ON NON-DELIVERY LIST - PRIOR SIMILAR AND PRIOR DISSIMILAR OFFENSES - LICENSE SUSPENDED FOR 70 DAYS, LESS 14 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Club 339, Inc.)
t/a Central Bar & Grill)
339 Mulberry Street)
Newark, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-673, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

-----)
Percy H. Penn, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee entered a plea of non vult to a charge alleging that on divers days between October 4, 1971 and February 18, 1972, while on the non-delivery list, it purchased alcoholic beverages from prohibited sources, in violation of Rule 15 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for fifteen days effective March 31, 1969 for sale of alcoholic beverages during prohibited hours, and by the Director for twenty-five days effective September 15, 1969 for purchase of alcoholic beverages from another retailer and filing false beverage tax bureau reports. Re Club 339, Inc., Bulletin 1881, Item 11. In addition, license held by Club 232, Inc. for premises 232 Mulberry Street, Newark, in which the licensee corporation is linked by common stockholders, officers and directors, was suspended by the Director for twenty days effective Sept. 16, 1969, also for purchase of alcoholic beverages from another retailer and filing false beverage tax bureau reports. Re Club 232, Inc., Bulletin 1882, Item 6. Its license was further suspended by the Director for twenty days effective July 15, 1970, on charges of failing to keep records and making false statements in its application. Re Club 339, Inc., Bulletin 1926, Item 7.

The license will be suspended on the charge herein for twenty days (Re Yrral Corp., Bulletin 2040, Item 6), to which will be added an additional forty days by reason of the two similar violations occurring within the past five years, together with an additional ten days by reason of the two prior dissimilar offenses occurring within the same five-year period, making a total of seventy days, with remission of fourteen days for the plea entered, leaving a net suspension of fifty-six days.

Accordingly, it is, on this 31st day of May 1972,

ORDERED that Plenary Retail Consumption License C-673, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Club 339, Inc., t/a Central Bar & Grill, for premises 339 Mulberry Street, Newark, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1972, commencing at 2 a.m. Thursday, June 8, 1972; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2 a.m. Thursday, August 3, 1972.

ROBERT E. BOWER
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against	:	
	:	
	:	
Alhe, Inc.	:	
t/a Erin Bar	:	
300-302-304 No. Broadway	:	AMENDED ORDER
Gloucester City, N.J.	:	

Holder of Plenary Retail Consumption: License C-31, issued by the Mayor and Common Council of the City of Gloucester City.

.....
Wilinski, Coruzzi & Suski, Esqs., by Robert Wilinski, Esq.,
On Petition.
Novack and Trobman, Esqs., by David Novack, Esq., Attorneys
for Licensee.
Dennie M. Brew, Appearing for Division.

BY THE DIRECTOR:

On May 9, 1972 Conclusions and Order were entered suspending the license for the balance of its term, with leave to the licensee or any bona fide transferee of the license to file a verified petition establishing the correction of the unlawful situation set forth therein for lifting of the suspension on or after June 8, 1972 after the license had been suspended for thirty days.
Re Alhe, Inc., Bulletin 2051, Item 3 .

The thirty day suspension was predicated upon a thirty-five day suspension with remission of five days for the plea entered. The licensee should have been credited with seven days for the plea entered, in accordance with Division policy, leaving a net suspension of twenty-eight days.

Furthermore, by the Order dated May 30, 1972, the suspension was inadvertently terminated effective 2:00 A.M. Thursday, June 8, 1972 upon the filing of a verified petition of Guy M. Leone, bona fide transferee of the subject license setting forth that the unlawful situation has been corrected. Since the effective date of the suspension was May 22, 1972, the termination date should be twenty-eight days from that date, viz.: Monday, June 19, 1972. I shall, therefore, enter a corrective Order lifting the said suspension in accordance therewith.

Accordingly, it is on this 6th day of June, 1972

ORDERED that the Order entered herein on May 30, 1972 be and the same is hereby amended as follows:

ORDERED that the suspension heretofore imposed herein be and the same is hereby terminated, effective 2:00 A.M. Monday, June 19, 1972.

Robert E. Bower,
Director

5. DISCIPLINARY PROCEEDINGS - PURCHASED ALCOHOLIC BEVERAGES WHILE ON DEFAULT LIST -- AND ON NON-DELIVERY LIST - SALE LESS THAN FILED PRICE - LICENSE SUSPENDED FOR 35 DAYS, LESS 7 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Livingston Avenue Liquors, Inc.)
18 Elizabeth Street)
New Brunswick, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution License D-9, issued by the City Council of the City of New Brunswick.)

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

BY THE DIRECTOR:

Licensee pleads non vult to three charges alleging that:

- "1. On divers dates between February 3, 1969 and May 11, 1970, while you were listed on the Default List you purchased or accepted deliveries of alcoholic beverages except for payment of cash on delivery; in violation of Rule 4(a) of State Regulation No. 39.
- 2. On divers dates between May 11, 1970 and June 22, 1970, you purchased or accepted deliveries of alcoholic beverages when your name appeared on the Non-Delivery List at the time of such purchases or deliveries; in violation of Rule 4(b) of State Regulation No. 39.
- 3. On or about May 27, June 3, June 4, July 2 and July 3, 1970, you sold and offered for sale, at retail, directly or indirectly, bottles of various kinds and brands of alcoholic beverages, at less than the prices thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

Absent prior record the license will be suspended for ten days on the first charge (Re B & T, Inc., Bulletin 1305, Item 1), on the second charge for fifteen days (Re Harrington & Burns, Inc., Bulletin 1882, Item 5) and on the third charge for ten days (Re Bergenfield Liquor Shop, Inc., Bulletin 1934, Item 11) making a total of thirty-five days, with remission of seven days for the plea entered leaving a net suspension of twenty-eight days.

Accordingly, it is, on this 3rd day of April 1972,

ORDERED that Plenary Retail Distribution License D-9 issued by the City Council of the City of New Brunswick to Livingston Avenue Liquors, Inc. for premises 18 Elizabeth Street, New Brunswick, be and the same is hereby suspended for twenty-eight (28) days, commencing 2:00 a.m. Monday, April 17, 1972 and terminating 2:00 a.m. Monday, May 15, 1972.

Robert E. Bower
Director

6. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against
 Livingston Avenue Liquors, Inc.
 18 Elizabeth Street
 New Brunswick, N.J.

Holder of Plenary Retail Distribution License D-9, issued by the City Council of the City of New Brunswick.

.....
 Spritzer & Spritzer, Esqs., by Harry M. Spritzer, Esq.,
 Appearing for Licensee.
 Edward F. Ambrose, Esq., Appearing for Division.

AMENDED ORDER

BY THE DIRECTOR:

On April 3, 1972, Conclusions and Order were entered in the above matter suspending the license for a period of twenty-eight days, commencing April 17, 1972, following a non vult plea to varied charges set forth therein. (Re Livingston Avenue Liquors, Inc., Bulletin

Thereafter, the suspension was stayed pending application by licensee for the imposition of a fine in lieu of suspension in accordance with 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 \$1,500.00 in lieu of suspension. I shall, therefore, vacate the aforementioned order of suspension and enter this order accepting the offer in compromise.

Accordingly, it is on this 31st day of May, 1972

ORDERED that the suspension heretofore imposed is hereby vacated and that payment of a fine in the amount of \$1,500.00 by the licensee is hereby accepted in lieu of the suspension of license for twenty-eight days.

Robert E. Bower,
Director

7. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)
Proceedings against)

The Coronet Bar & Liquor Co., Inc.)
t/a The Coronet)
73-75 Dodd Street)
East Orange, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-7, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of East Orange.)

-----)
Thomas C. Brown, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 3, 1971 it sold alcoholic beverages to three minors, ages 18, 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior adjudicated record of suspensions within the past ten years, the license would normally be suspended for twenty days with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Woodstock II, Inc., Bulletin 1942, 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 \$2,385 in lieu of suspension.

Accordingly, it is, on this 1st day of June 1972,

ORDERED that the payment of a \$2,385 fine by the licensee is hereby accepted in lieu of the suspension of license for fifteen days.

Robert E. Bower,
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

R.G.W., Inc.)
t/a "Waddel's")
108 White Horse Pike)
Egg Harbor City, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution License D-4, issued by the Common Council of the City of Egg Harbor City.)

Frank M. Lario, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 4, 1972 it sold alcoholic beverages to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license would normally be suspended for fifteen days with remission of five days for the plea entered, leaving a net suspension of ten days. (Re Urna, Bulletin 2042, Item 7). 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 \$430 in lieu of suspension.

Accordingly, it is, on this 1st day of June 1972,

ORDERED that the payment of a fine in the amount of \$430 by the licensee is hereby accepted in lieu of the suspension of license for ten (10) days.

Robert E. Bower,
Director.

9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against :

Barkey's Bar & Grill, Inc. :
420-422 Ocean Avenue :
Jersey City, N.J. :

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-59 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. :

.....

Licensee, Pro Se.
Peter E. Rhatican, Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Sunday, January 9, 1972 about 2:20 P.M. it sold alcoholic beverages for off premises consumption in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license would normally be suspended for fifteen days with remission of five days for the plea entered, leaving a net suspension of ten days. Re Barrell Tavern, Inc., Bulletin 2043, Item 12.

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 \$400.00 in lieu of suspension.

Accordingly, it is on this 1st day of June, 1972

ORDERED that the payment of a \$400.00 fine by the licensee is hereby accepted in lieu of the suspension of license for ten days.

Robert E. Bower,
Director

10. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - CHARGE OF MUNICIPAL ISSUING AUTHORITY - LICENSE SUSPENDED 20 DAYS ON PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against Camar, Inc., t/a Beachwood Plaza Bar & Liquors s/s at Route #9 Beachwood Plaza Shopping Center Berkeley Township PO Bayville, N. J.,

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Berkeley)

Novins, Novins & Farley, Esqs., by Harvey L. York, Esq., Attorneys for Licensee Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges before the municipal issuing authority that on March 10, 1972 it sold alcoholic beverages to two minors, in violation of Rule 1 of State Regulation No. 20, in consequence of which the license was suspended for twenty days commencing June 1, 1972. The effective date of commencement of suspension was deferred pending licensee's application made to the Director for the imposition of a fine in lieu of suspension in accordance with Chapter 9 of the Laws of 1971. The local issuing authority has indicated that it has no objection to the imposition of a fine by the Director in lieu of suspension.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$1,420 in lieu of suspension.

Accordingly, it is, on this 6th day of June 1972,

ORDERED that the payment of a \$1,420 fine by the licensee is hereby accepted in lieu of the suspension of license for twenty (20) days.

Robert E. Bower, Director.

11. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary)
 Proceedings against)
 Ted Mil, Inc.)
 t/a Ted Du Bois Gaslight)
 411 White Horse Pike)
 Lindenwold, N. J.,) SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption)
 License C-2, issued by the Mayor and)
 Council of the Borough of Lindenwold.)

 Tencza, Feinstein & Manfre, Esqs., by Miles Feinstein, Esq.,
 Attorneys for Licensee
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On April 29, 1971 Conclusions and Order were entered herein suspending the license for sixty days commencing May 17, 1971, and further suspending any renewal license until July 16, 1971, after licensee was adjudged guilty of a charge alleging lewdness and immoral activity, in violation of Rule 5 of State Regulation No. 20. Re Ted Mil, Inc., Bulletin 1983, Item 4.

Prior to the effectuation of said suspension, on appeal filed the Appellate Division of the Superior Court, by order dated May 13, 1971, stayed the operation of the suspension until the determination of the appeal. The court affirmed the Director's action on May 8, 1972. Re Ted Mil, Inc. v. McDonough, Director, etc., (App. Div. 1970), not officially reported, recorded in Bulletin , Item .

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

ORDERED that Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of Lindenwold to Ted Mil, Inc., t/a Ted DuBois Gaslight, for premises 411 White Horse Pike, Lindenwold, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1972, commencing at 3 a.m. Thursday, June 22, 1972; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3 a.m. Monday, August 21, 1972.

Robert E. Bower,
Director.

12. DISCIPLINARY PROCEEDINGS - DISPLAY OF ALCOHOLIC BEVERAGES BY CONSUMPTION
LICENSEE IN OTHER THAN A BARROOM - SITUATION CORRECTED - CORRECTION PRIOR TO
DETERMINATION OF CHARGES - CHARGES OF VIOLATION OF RULE 1 OF STATE
REGULATION NO. 32 and N.J.S.A. 33:1-12.23 NOLLE PROSSED.

In the Matter of Disciplinary)
Proceedings against)
)
Swiss House, Inc.)
t/a Alpine Lounge & Liquors)
Westerly side State Highway 42)
Monroe Township (Gloucester County))
PO Williamstown, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption
License C-5, issued by the Township)
Committee of the Township of Monroe.

Piarulli and Vittori, Esqs., by Michael J. Piarulli, Esq.,
Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee entered a plea of not guilty to charges alleging that on May 20, 1971 it (1) displayed alcoholic beverages for off-premises consumption in other than a bona fide barroom, in violation of Rule 1 of State Regulation No. 32, and (2) displayed alcoholic beverages for sale for off-premises consumption in other than a bona fide barroom, in violation of N.J.S. 33:1-12.23.

Both charges were consolidated for hearing in this Division and, upon failure of licensee to attend, were heard ex parte. Prior to the determination of the charges it was revealed that both prior to and concurrent with the charges made the licensee had undertaken to comply with the applicable regulations and statutes and, in consequence, verily believed a further opportunity would be afforded to defend the matter upon subsequent reexamination of the licensed premises by agents of this Division.

In view of the licensee's good faith, efforts to be in compliance and upon the submission of "sketched" and "proposed floor plan" of the licensed premises, followed by review and further examination of the premises by agents of this Division, it is apparent that the original charges were initiated without the knowledge by this Division of the licensee's efforts to correct. The alleged unlawful situation has now been fully corrected. In fairness to the licensee I have determined to dismiss the said charges.

Accordingly, it is, on this 12th day of June 1972,

ORDERED that the charges against the licensee herein be and the same are hereby nolle prossed.

Robert E. Bower,
Director.

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

In the Matter of Disciplinary Proceedings against)

Steven Venturini)
t/a Steve's Bar & Grill)
Route 17 & Berry Avenue)
Carlstadt, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-21, issued by the Mayor and Borough Council of the Borough of Carlstadt.)
-----)

M. Harry Muser, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleaded non vult to a charge alleging that on December 30, 1971 he possessed three bottles of alcoholic beverages the labels of which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Peshek, Bulletin 2029, Item 10.

Accordingly, it is, on this 12th day of June 1972,

ORDERED that plenary retail consumption license C-21, issued by the Mayor and Borough Council of the Borough of Carlstadt to Steven Venturini, t/a Steve's Bar & Grill, for premises Route 17 and Berry Avenue, Carlstadt, be and the same is hereby suspended for the balance of its term, viz., midnight June 30, 1972; commencing 3 a.m. Thursday, June 22, 1972; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3 a.m. Friday, July 7, 1972.

Robert E. Bower,
Director.

- 14. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION TO PAY FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

Frank's Family Liquors, Inc.)
 t/a Liquor Mart)
 Delsea Drive & Carteret Avenue)
 Deptford Township, N. J.,)

CONCLUSIONS
 and
 ORDER

Holder of Plenary Retail Distribution License D-3, issued by the Township Committee of the Township of Deptford.)

Harris Y. Cotton, Esq., Attorney for Licensee
 Peter E. Rhatican, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 15, 1972 it sold alcoholic beverages to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Urna, Bulletin 2042, Item 7.

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 \$1,700 in lieu of suspension.

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

ORDERED that the payment of a \$1,700 fine by the licensee is hereby accepted in lieu of the suspension of license for ten (10) days.

ROBERT E. BOWER
 DIRECTOR

- 15. STATE LICENSES - NEW APPLICATION FILED.

The Guinness Harp Corporation, 37-88 Review Avenue, Long Island City, New York
 Application filed August 11, 1972 for place-to-place transfer of
 Limited Wholesale License WL-28 to include a warehouse in New Jersey
 at Route 22 & Hudson St., Union, N. J.

Robert E. Bower
 Robert E. Bower
 Director