

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

BULLETIN 1615

May 26, 1965

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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 1615

May 26, 1965

1. APPELLATE DECISIONS - LARK, INC. v. PATERSON.

LARK, INC., t/a WAYNE WINE & LIQUOR SHOP,)	
)	
Appellant,)	
v.)	ON APPEAL
)	CONCLUSIONS
BOARD OF ALCOHOLIC BEVERAGE CONTROL FOR THE CITY OF PATERSON,)	AND ORDER
)	
Respondent.)	

Louis R. Cerefice, Esq., Attorney for Appellant.
Theodore D. Rosenberg, Esq., by William J. Rosenberg, Esq.,
Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the action of respondent Board of Alcoholic Beverage Control for the City of Paterson (hereinafter Board) wherein it suspended appellant's license for a period of one hundred twenty days, effective December 7, 1964, after finding it guilty in disciplinary proceedings of having allowed, permitted and suffered the sale of alcoholic beverages to a minor at its licensed premises, in violation of Rule 1 of State Regulation No. 20.

Upon the filing of the appeal, an order dated December 4, 1964, was entered by the Director staying the effect of respondent's order of suspension pending the determination of this appeal. R.S. 33:1-31.

In its petition of appeal, appellant alleges that the action of respondent was erroneous and should be reversed for the following reasons:

(a) The verdict was contrary to the weight of the evidence;

(b) It was unreasonable and unlawful;

(c) Respondent failed to consider the evidence and testimony of appellant's witnesses;

(d) Appellant exercised "every possible precaution and did everything possible to prevent the violation charge, and that, therefore, the appellant was not guilty as charged"; and

(e) Respondent failed to prove a prima facie case and erroneously denied a motion for dismissal.

At the plenary de novo hearing before me, the additional ground was urged that the penalty imposed was unduly harsh and excessive; this amendment to the petition of appeal was accordingly allowed.

Respondent, in its answer, admitted the jurisdictional facts and denied the substantive allegations of the petition. It stated that its verdict and decision were based upon the testimony of the witnesses and was both "fair and reasonable in view of the aggravating circumstances involved in the instant matter."

The hearing on appeal was de novo pursuant to Rule 6 of State Regulation No. 15. The stenographic transcript of the hearing below was submitted in accordance with notice prescribed by Rule 8 of State Regulation No. 15 and was supplemented at this hearing by testimony of witnesses produced on behalf of both the appellant and the respondent.

In support of respondent's case, it produced the minor Robert --- (age 17 years) whose testimony was corroborated by three other minors, namely, Sandra --- (age 16), James --- (age 19) and Marilyn --- (age 16). All minors testified on behalf of respondent in the proceeding before the Board as well as at this plenary hearing. It should be noted, however, that Robert testified at this hearing as a witness called by appellant.

The picture reflected from the testimony of these minors is as follows: Robert and James drove to a local dancehall in a car driven by James on the evening of November 14 and at the dance met Sandra and Marilyn. At about 9:15 p.m. of that evening, they decided to go for a ride and to buy some liquor. At approximately 9:30 p.m., James parked his car on Union Avenue at or near the intersection of Wayne Avenue, in the City of Paterson. It was then decided that Robert would purchase alcoholic beverages from appellant whose premises is located on Union Avenue two doors inside of Wayne Avenue. The reason Robert went in, rather than James (who is several years older), was that Robert had purchased beer at these premises the week before. While the other three remained in the motor vehicle at a point of observation, Robert entered appellant's premises and purchased a quart of Thunderbird wine and a pint of Seagram's whiskey from Kenneth Gottlieb (president of the corporate appellant, who was also the manager at these premises). He handed him a ten-dollar bill for the purchase amounting to \$4.25, from which he received \$5.75 change. Five minutes thereafter he emerged from these licensed premises and re-entered the automobile.

The three minors who were in the car testified that they saw Robert leave the car without any package, enter the said premises and, within five minutes thereafter, emerge therefrom with a brown paper bag which they ascertained contained the said alcoholic beverages, after Robert re-entered the motor vehicle. They also stated that they could not see anybody inside the premises but described the outside of the premises as having white, square, wide windows.

All four minors also stated that, during the time they observed this transaction, no patrons entered or emerged from the said store. Robert stated that a woman (Mrs. Gottlieb) might have been in the store at the time of the purchase (although he was not certain of that) but that there

were no other patrons in the premises at that time. Sandra, James and Marilyn were positive in their identification and description of these premises. They stated that they lived within five or six blocks of the licensed premises and frequently passed by. In fact, on week-ends, the two females often joined their high school classmates in a candy store located nearby and were familiar with the location of appellant's premises. Robert, of course, stated that he had visited these premises for the purpose of purchasing beer on the week before this date, and was therefore equally positive in his identification.

After Robert re-entered the motor vehicle driven by James, they drove around for about twenty minutes and parked on a dead-end street near the river. James insists that he did not drink any of the whiskey but that half of the bottle of the whiskey was consumed by Robert. Sandra and Marilyn drank the bottle of Thunderbird wine, and there is some evidence that Sandra also drank some of the whiskey. As a result of this drinking Sandra was rendered unconscious. Marilyn took the empty bottle of Thunderbird wine and the partially empty bottle of Seagram's whiskey and threw them into the river. They then drove to a nearby coffee shop where paper cups of coffee were purchased by James. While the three conscious minors were consuming the coffee, a police squad car approached and questioned them. When they observed Sandra lying unconscious in the rear of the car, an ambulance was summoned. They were taken to the hospital where Sandra regained consciousness on the following day, and was finally discharged from the hospital three days later.

Robert and James were taken to police headquarters directly from the hospital and gave voluntary, signed statements. While Robert was dictating his statement, Gottlieb and his wife appeared at police headquarters and, upon confrontation, Robert identified Gottlieb as the one who sold him the said alcoholic beverages.

Detective John Phelan, of the Paterson Police Department, testified that he was assigned to investigate this matter as a result of a call from the hospital that a girl had been taken ill from consumption of alcohol. He questioned these minors and took Robert back to police headquarters. At that time Robert stated that he thought that he bought this liquor at the A & B Liquors which is located in Totowa Township.

However, from his description, it was apparent that the location was the exact location of appellant's licensed premises on Union Avenue near Wayne Avenue. Robert was then asked, in the presence of Gottlieb and several other detectives, whether he could identify the person who sold him the liquor and did make the said identification.

Sergeant Peter J. Klikier, of the Paterson Police Department, was also assigned to this investigation and actually typed the statement dictated to him by Robert. It appears that when the confrontation was made, Gottlieb shook his head in a negative manner, but refused to give a statement.

Rose Gottlieb, testifying on behalf of appellant, testified that she was in the premises at the time herein alleged and in fact was there from 6:30 p.m. until closing. She vigorously denied that the minor entered the premises or

that he was ever sold any alcoholic beverages by her husband or anyone else in the premises. She also stated that a Mr. Vreeland, a regular patron, entered the premises at about 9:20 and remained there until 9:42. She also remembered that there were several other persons who came into the premises but she does not recall their names.

Kenneth Gottlieb (the president of the corporate appellant) stated that he is the manager of the said premises and was working in the premises on that date from 8:30 a.m. until closing; that his wife entered the premises at 6:30 p.m. and remained in the premises until closing. He also emphatically denied that this minor had entered the premises on the night in question, or that he had ever seen this minor before the time of confrontation at police headquarters. He corroborated his wife's testimony with respect to her presence thereat and also stated that a Mr. Vreeland, a neighbor, had made two visits on that night. Vreeland first came at 8:30, remained there for about ten minutes, at which time he bought a bottle of Four Roses and some other items. He then returned at about 9:20 p.m. and remained there until 9:42 p.m., during which time he purchased another bottle of whiskey, some potato chips and soda. At this hearing he produced a register tape, but there was nothing on the tape to support a sale of \$4.25. Gottlieb stated that said sale would be broken up or combined, "depends on how busy I am." The tape reflected an item of \$14 which he insists was the purchase made by Vreeland. He also insists that there were a half-dozen additional sales made from 9:42 until 10 p.m. when he closed the premises.

Arthur G. Vreeland, testifying on behalf of appellant, stated that he visited these premises on two occasions on the date in question. He remembers this date because it was his thirty-second wedding anniversary and he was having a party at his home. He entered the premises at 8:30 and purchased liquor, potato chips and soda. However, when he arrived home he found that additional company had come in and he decided to go back to this store and purchase additional whiskey. He arrived at approximately 9:22, purchased whiskey and cigarettes and got into a conversation with Gottlieb. He finally left the premises at 9:42.

He denied having seen the minor enter the premises or make any purchases during the time that he was there. On cross examination, he admitted that he did not recall the exact price of the half-gallon of Four Roses whiskey that he purchased, nor did he remember how much he actually spent on his second visit to these premises. He insisted, however, that on his second visit, there were two other customers present, and he recalls Mrs. Gottlieb ringing up a sale on the cash register.

Mrs. Gloria Broder and Mrs. Mimi Gallo were called as character witnesses, and both testified to the good reputation of Gottlieb for integrity or honesty. However, it was shown that appellant had purchased the liquor store from Mrs. Gallo and her husband and that they are mortgagees of the said business.

In evaluating the testimony and its legal impact, the following principles of law should be restated: We are dealing here with purely disciplinary measures and their alleged infractions; such measures are civil in nature and not criminal. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). Thus the proof must be supported by a fair preponderance of the credible evidence. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956).

The credibility of witnesses must be evaluated and the trier of facts must act accordingly. 34 C.J.S. at p. 321. As Prof. Wigmore pointed out:

"There is no measure of the weight of evidence (unless the witnesses on the evidential facts are counted) other than the feeling of probability which it engenders." Wigmore Evidence 3d Ed., sec. 2948.

Further, it should be pointed out that the ultimate test must be one of reasonableness on the part of the Board. In other words, could the Board, as reasonable men, acting reasonably, have come to its determination based upon the credible evidence presented.

The Director's function on an appeal of this kind is not to substitute his personal opinion for that of the issuing authority but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal views. Broadley v. Clinton & Klingler, Bulletin 1245, Item 1; Tash v. Princeton, Bulletin 1585, Item 3. In other words, the Director should not reverse unless he finds as a fact that there was a clear abuse of discretion or unwarranted finding of fact or mistake of law by the issuing authority.

I have carefully evaluated the transcript of the hearing below and the testimony adduced before me at this plenary de novo hearing. I have also carefully observed the demeanor of the four minors and have examined their testimony under searching cross examination. I am imperatively persuaded that their testimony was unequivocal, convincing and forthright. Each of these minors made a positive identification of appellant's licensed premises, and I cannot conceive that under the circumstances they were mistaken. This is particularly emphasized by the fact that the three minors who corroborated the testimony of the alleged purchaser Robert live in the vicinity of these premises and are familiar therewith. It is also important to underscore the fact that they had never met appellant's employees, and there is no reason to suggest that there is any improper motivation in coloring their testimony to support respondent's charges against said appellant. It is interesting also to note that these minors are not friendly with each other and deny that they discussed the matter among themselves before these hearings.

Thus the testimony of the minor, together with the empiric and unfortunate circumstances which resulted from the said purchase, stands in a much more convincing posture than the testimony adduced by appellant. I am particularly unimpressed with Mr. Vreeland's testimony in the light of common experience. It will be recalled that he stated that he first visited the licensed premises at 8:30 on the night in question to make purchases for an anniversary party; that he then returned to the licensed premises at 9:20 on that night for additional purchases and remained there for approximately twenty-two minutes. It seems to me highly improbable (and the Board apparently reacted in the same manner) that Vreeland made a second visit to the premises, and remained there for twenty-two minutes, while his invited guests had congregated at his home at a party in his honor. On the basis of common experience, this is quite unbelievable and, in my opinion, seriously affects his credibility.

Similarly, therefore, it affects the credibility of the Gottliebs who aver that he was present at the time that Robert testified that he made his purchases. I also want to observe, with respect to Gottlieb, that at the time of the initial confrontation at police headquarters, he refused to make a voluntary statement to the police authorities.

Under all of these circumstances, I believe there is the necessary quantum of proof, namely, by a preponderance of the believable evidence, of appellant's guilt. I also conclude that the Board, acting reasonably, in the absence of improper motivation (not suggested in this case) reached a reasonable conclusion in its determination. In its petition of appeal, appellant urges, additionally, that it exercised "every possible precaution and did everything possible to prevent the violation charged", and therefore, appellant is not guilty as charged. Since the testimony reflects a denial that the minor ever entered the premises, such allegation is inconsistent, and unsupported, and must be rejected. I therefore conclude that appellant has failed to carry the burden of establishing that respondent's action was erroneous and against the weight of the evidence as required by Rule 6 of State Regulation No. 15.

Appellant, however, asserts that the penalty imposed by the Board was unduly harsh, unreasonable and excessive. In this connection, appellant called as its witness William W. Harris, the secretary of the Board, who was present at the hearing on the above charge. He testified that Commissioner Pasquariello recited the fact that there were four minors involved and moved "the licensee be found guilty as charged and penalty of 30 days imposed for each minor involved making this an aggravated case." Thereupon the Board imposed a penalty of suspension of license for one hundred twenty days.

At the hearing I questioned counsel for the Board with respect to the formula used, in view of the fact that only one of the minors made the actual purchase; and there is no testimony to suggest that appellant's agents knew of the involvement of the other three minors who were outside the premises and not within the view of the said agents. Counsel stated that, if the Commissioner (one of the Board members) made these statements, "I am quite frankly flabbergasted. Now, if he did make that statement and if he compounded the penalty of 30 days for each minor, I, frankly feel he was in error. I have to be truthful."

It has generally been held by this Division that a suspension imposed in a disciplinary proceeding rests in the first instance within the sound discretion of the local issuing authority, the power of the Director to reduce or modify it will be sparingly exercised, and only with the greatest caution. Harrison Wine and Liquor Co., Inc. v. Harrison, Bulletin 1296, Item 2; Rigoletti v. Wayne, Bulletin 1430, Item 2. The Director has, however, modified such penalty where it has been manifestly unreasonable or unduly excessive. Cf. Ziomek v. Clementon, Bulletin 381, Item 3 (reduction from four months to thirty days); Howell v. Branchville, Bulletin 385, Item 5 (reduction from ninety days to forty-five days); Kovacs v. South River, Bulletin 1008, Item 2 (reduction from revocation of license to twenty days); Conklin v. Bridgewater, Bulletin 809, Item 7 (reduction from revocation of license to twenty days); Rigoletti v. Wayne, *supra* (reduction from one year to sixty days); Lazzara v. North Arlington, Bulletin 1581, Item 1 (reduction from one hundred twenty days to sixty days).

In view of the fact that there was only one minor involved in the alleged purchase, I conclude that the penalty imposed herein was excessive. The usual penalty imposed by this Division on the sale to a seventeen-year-old minor is twenty days. Re Sender, Bulletin 1583, Item 9. However, under all of the circumstances in this case, I recommend that the action of the Board in ordering the penalty of one hundred twenty days suspension be modified and that an order be entered reducing the said suspension of appellant's license to a suspension of thirty days. Mitchell v. Cavicchia, 29 N.J. Super 11 (App. Div. 1953).

Conclusions and Order

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

In his report, the Hearer recommends that the Director affirm the action of the Board in finding the appellant guilty of sale to a minor but recommends a reduction of the penalty imposed from one hundred twenty days to thirty days.

While I concur in the recommended conclusions of the Hearer, I do not adopt that portion of his report wherein he states, "In view of the fact that there was only one minor involved in the alleged purchase, I conclude that the penalty imposed herein was excessive." A penalty of one hundred twenty days for sale to minors is not per se unduly harsh, unreasonable and excessive. Each case must be decided on the facts and circumstances surrounding the imposition of the penalty and the established policy and precedents of the Board toward the specific violation involved.

Under the peculiar set of facts in this case, it appears that the Board was in error when it imposed a suspension period of one hundred twenty days. There is testimony in the record that Commissioner Pasquariello noted at the hearing below that there were four minors involved and moved a penalty of thirty days be imposed for each minor. The motion was approved unanimously by the Board as evidenced by the imposition of a penalty of suspension of license for one hundred twenty days. No testimony was offered by the respondent to refute this statement nor were any objections taken to the Hearer's Report. Since only one of the minors made the purchase and the record is void of any testimony that suggests that appellant's agents knew of the involvement of the other three minors who were never in the premises, it was manifestly unfair to add an additional thirty days for each of the minors. Counsel for the respondent so stated at the end of the entire case.

For the foregoing reasons, it would appear that the penalty of thirty days, as recommended by the Hearer, is reasonable and I concur therewith.

After carefully considering the entire record herein, including the transcript taken before respondent Board, the testimony taken at the hearing of said appeal, the oral argument of counsel contained therein, and the Hearer's Report, I concur in the findings and conclusions of the Hearer, with the noted exception hereinabove, and adopt them as my conclusions herein.

Accordingly, it is, on this 31st day of March, 1965,

ORDERED that Plenary Retail Distribution License D-8, issued by the Board of Alcoholic Control for the City of Paterson to Lark, Inc., t/a Wayne Wine & Liquor Shop, for premises 356 Union Avenue, Paterson, be and the same is hereby suspended for thirty (30) days, commencing at 9:00 a.m. Wednesday, April 7, 1965, and terminating at 9:00 a.m. Friday, May 7, 1965.

JOSEPH P. LORDI
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) -
LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)	
)	
EMPIRE BAR, INC.)	
268 Washington Street)	CONCLUSIONS
Newark, N. J.)	AND ORDER
)	
Holder of Plenary Retail Consumption License C-148, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)	
)	

Saul C. Schutzman, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

"1. On July 13 and 15, 1964, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game'; in violation of Rule 7 of State Regulation No. 20.

"2. On July 13 and 15, 1964, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

The Division offered the testimony of Agents S and C in substantiation of the charges.

Although it is clear that the numbers bets were made by the agents and accepted by a numbers writer on the licensed premises on the dates alleged, in considering the testimony concerning the circumstances surrounding the placement and acceptance of the bets which is the basis for the charge relating to occurrences of July 15, 1964, I am of the opinion that the totality of the evidence is insufficient to establish that the licensee "allowed, permitted and suffered" the acceptance of the bets as alleged. Hence I shall confine my references to the occurrences of July 13, 1964.

The testimony of Agent S may be summarized as follows: On July 13, 1964, at 1:15 p.m., he and Agent C entered the licensed premises and sat near the "L" towards the front of the bar. Farris Lipsey was tending bar at the "L" of the bar, about three or four feet away, when a patron known as Robbie spoke out and said, "Clu", pointing down to the other side of the bar, "is the bookie." Agent S stated that when he asked Farris Lipsey, "Is it O.K. to give him my number action," Lipsey replied, "Hell, yes. He is the bookie in the joint." Clu was identified as Henry William Tyler.

After relating that Clu came down to his position at the bar between him and Agent C, Agent S testified as follows:

"I said to Clu, 'I've got some number action. Could you take it?' He said, 'Yes.' I said, 'I got a tip on a number. I want to play a few bucks on it. Will I get paid off?' Clu said, 'Ask Farris if I pay off.' Farris was still on the business side of the bar as I placed him before. I said, 'Farris, is he O.K.? Will I get paid off?' Farris said, 'come tomorrow; your dough will be here if you hit.' At that time I said to Farris, 'You know I was O.K.'d by my friend Chet. I don't want to get stuck.' And Farris remarked back to me he knew I was O.K.'d; if I wasn't O.K.'d I wouldn't be allowed to place my action in the joint; go ahead, I'll get paid off."

While Lipsey was still in the same position three or four feet away, Agent S placed numbers bets with Clu. This was followed by Agent C placing numbers bets with Clu, with Farris Lipsey still in the same position at the bar. The agent further testified that he saw other patrons come into the licensed premises; go straight to Clu who was standing in the middle portion of the bar; pull out the same paper on which he wrote his (the agent's) numbers bets; accept money from the patrons and they would depart without patronizing the bar.

On cross examination Agent S admitted that he couldn't tell whether or not Lipsey observed Clu's activities with the other patrons on July 13, 1964.

Agent C mainly corroborated the occurrences of July 13, 1964, as recited by Agent S.

In its defense the licensee produced the testimony of Farris Lipsey who denied that any gambling took place upon the licensed premises as charged.

Thus, a factual question is presented.

It is a well established principle of law that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373, 378 (1956); Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501, 503. This principle was restated in the recent case of Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1963), not officially reported, reprinted in Bulletin 1491, Item 1, where the court said:

"The truth of charges in a proceeding before an administrative agency need be established only by a preponderance of the believable evidence, not beyond a reasonable doubt. *Atkinson v. Parsekian*, 37 N.J. 143, 149 (1962)."

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. 32 C.J.S. Evidence, sec. 1042.

My evaluation and consideration of the testimony lead me to the conclusion that the Division has established the truth of the charges herein by a fair preponderance of the evidence, and I recommend that the licensee be found guilty as to so much of said charges as particularly refers to July 13, 1964, and I further recommend that there be a finding of not guilty as to so much of the charges as relates to July 15, 1964.

The licensee has no prior adjudicated record of suspension of license. I recommend that the license be suspended for sixty days. Re Nicolai, Bulletin 1593, Item 5.

Conclusions and Order

No written exceptions to the Hearer's Report were filed within the time limited by Rule 6 of State Regulation No. 16. However, when reviewing the record, I decided to hear oral argument thereon and, accordingly, pursuant to notice given, the attorney for the licensee and the attorney for the Division appeared before me.

After careful and detailed consideration of the arguments advanced by the attorney for the licensee, which I find do not in any degree change the testimony taken at the hearing on the facts in the case, and after full review of the record of that testimony, which I also find the Hearer has accurately summarized in his Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

I am additionally persuaded by reason of the fact that John H. Troxler, an eighty per cent shareholder and secretary-treasurer of the corporate licensee, testified at the original hearing that he was acquainted with Henry W. Tyler for some time prior to the dates of the alleged violations herein, and that he knew Tyler to be a lottery operator. While Troxler claimed he had no knowledge of Tyler "plying his trade" in the tavern and that Tyler "knows better than to do it in my place", the record is barren of any testimony to show that Tyler was ever warned against taking bets in the tavern; that any particular watch was made over his activities while in the tavern; or that Troxler ever told the bartender, Farris Lipsey, that he knew Tyler was a lottery operator. In this respect, it is noted that Lipsey testified at the original hearing that he had no knowledge prior to July 15, 1964, that Tyler was a "numbers man." Hence, on the basis of the proof presented on the licensee's behalf, both at the original hearing and at the oral argument, it does not appear that any serious effort was ever made by the licensee to control or supervise the activities of Tyler, despite the fact that Troxler, a member of the corporation, had knowledge of Tyler's activities as a lottery operator. Cf. Re Llewellyn Recreation Center, Bulletin 1146, Item 1.

Accordingly, it is, on this 29th day of March 1965,

ORDERED that Plenary Retail Consumption License C-148, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Empire Bar, Inc. for premises 268 Washington Street, Newark, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Monday, April 5, 1965, and terminating at 2:00 a.m. Friday, June 4, 1965.

JOSEPH P. LORDI
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - FRONT - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO LIFT AFTER 30 DAYS UPON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against)

LINDA'S CLIFF HOUSE (A CORP.))
t/a THE CLIFF HOUSE)
100 Brighton Avenue)
Long Branch, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-15, issued by the City Council of the City of Long Branch.)

Samuel D. Bozza, Esq., Attorney for Licensee.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges as follows:

"1. In your application dated May 8, 1964, filed with the City Council of the City of Long Branch, upon which you obtained your currently effective plenary retail consumption license, you falsely stated 'No' in answer to Question No. 31 thereof which asks: 'Have you agreed to pay (by way of rent, salary or otherwise) to any employee, or other person, any portion or percentage of the gross or net profits or income derived from the business to be conducted under the license applied for?', whereas in truth and fact you had agreed to pay Fred Weber all the profits derived from your licensed business after payment to you of a monthly fee; in violation of R.S. 33:1-25.

"2. You failed to file with the City Council of the City of Long Branch, within ten days after the occurrence hereinafter stated, written notice of change of facts set forth in your answer to Question No. 31 of your above mentioned license application, upon which you obtained your currently effective plenary retail consumption license, such change being that on or about August 1, 1964, you agreed to pay to Chien Chung Wu all the profits derived from your licensed business after payment to you of a monthly fee; in violation of R.S. 33:1-34.

"3. You knowingly aided and abetted the following persons, during the following periods, to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses: Fred Weber from on or about August 30, 1963 to on or about July 15, 1964, and Chien Chung Wu from on or about August 1, 1964 to date; in violation of R.S. 33:1-52."

The facts are sufficiently set forth in the quoted charges when there is added the fact that Chien Chung Wu is a non-resident of New Jersey.

To date there is no indication that correction of the unlawful situation has been accomplished.

Absent prior record, and considering the confessional plea entered, 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 for lifting of the suspension whenever the unlawful situation has been corrected but in no event sooner than thirty days from the commencement of the suspension herein. Cf. Re The Sports Corner, Inc., Bulletin 1581, Item 7.

Accordingly, it is, on this 30th day of March, 1965,

ORDERED that Plenary Retail Consumption License C-15, issued by the City Council of the City of Long Branch to Linda's Cliff House (A Corp.), t/a The Cliff House, for premises 100 Brighton Avenue, Long Branch, be and the same is hereby suspended for the balance of its term, viz., until June 30, 1965, effective at 2:00 a.m. Thursday, April 1, 1965; with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the unlawful situation for lifting of the suspension of the license on or after 2:00 a.m. Saturday, May 1, 1965.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 BERNIE'S TAVERN, INC.
 81 First St.
 Elizabeth, N. J.
 Holder of Plenary Retail Consumption License C-13, issued by the City Council of the City of Elizabeth.

CONCLUSIONS AND ORDER

 Licensee, by Bronislaw Brodzicki, President, Pro se.
 Morton B. Zemel, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 23, 1965, it possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for twenty days effective November 4, 1959, for sale to a minor, employing a minor as bartender, permitting foul language and sale during prohibited hours. Re Bernie's Tavern, Inc., Bulletin 1313, Item 3.

The prior record of suspension for dissimilar violations occurring more than five years ago disregarded, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re McEvoy, Bulletin 1594, Item 8.

Accordingly, it is, on this 15th day of March, 1965,

ORDERED that Plenary Retail Consumption License C-13, issued by the City Council of the City of Elizabeth to Bernie's Tavern, Inc. for premises 81 First Street, Elizabeth, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, March 22, 1965, and terminating at 3:00 a.m. Saturday, March 27, 1965.

JOSEPH P. LORDI
 DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
WILLIAM ZAKTANSKY)
t/a TRIANGLE CAFE)
181 New Brunswick Avenue)
Perth Amboy, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-32, issued by the Board of)
Commissioners of the City of Perth)
Amboy.)

Warren W. Wilentz, Esq., Attorney for Licensee.
Morton B. Zemel, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on
February 8, 1965, he possessed an alcoholic beverage in one
bottle bearing a label which did not truly describe its contents,
in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for
ten days, with remission of five days for the plea entered,
leaving a net suspension of five days. Re McEvoy, Bulletin 1594,
Item 8.

Accordingly, it is, on this 15th day of March, 1965,

ORDERED that Plenary Retail Consumption License C-32,
issued by the Board of Commissioners of the City of Perth Amboy
to William Zaktansky, t/a Triangle Cafe, for premises 181
New Brunswick Avenue, Perth Amboy, he and the same is hereby
suspended for five (5) days, commencing at 2:00 a.m. Monday,
March 22, 1965, and terminating at 2:00 a.m. Saturday, March
27, 1965.

JOSEPH P. LORDI
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MONTICELLO WINE, LIQUOR & TOBACCO CORP.)
88 Monticello Ave.)
Jersey City, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-114, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Licensee, by Oscar Strohbach, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 2, 1965, it sold a 4/5 quart bottle of whiskey below filed price, in violation of Rule 5 of State Regulation No. 30.

Licensee has a previous record of suspension of license by the municipal issuing authority for three days effective February 19, 1940, for sale during prohibited hours.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Hubro Industries, Inc., Bulletin 1607, Item 11.

Accordingly, it is, on this 5th day of April, 1965,

ORDERED that Plenary Retail Distribution License D-114, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Monticello Wine, Liquor & Tobacco Corp. for premises 88 Monticello Avenue, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, April 12, 1965, and terminating at 9:00 a.m. Saturday, April 17, 1965.

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CITY HALL WINES & LIQUORS, INC.)
t/a CITY HALL WINES & LIQUORS)
361 Main Street)
East Orange, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange.)

Brass & Brass, Esqs., by Leonard Brass, Esq., Attorneys for Licensee.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 3, 1965, it sold six 4/5 quart bottles of whiskey and six 4/5 quart bottles of whiskey at less than filed price, in violation of Rule 5 of State Regulation No. 30.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Hubro Industries, Inc., Bulletin 1607, Item 11.

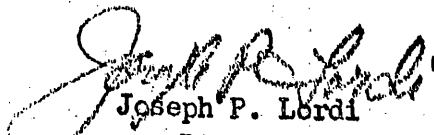
Accordingly, it is, on this 5th day of April, 1965,

ORDERED that Plenary Retail Distribution License D-1, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange to City Hall Wines & Liquors, Inc., t/a City Hall Wine & Liquors, for premises 361 Main Street, East Orange, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, April 12, 1965, and terminating at 9:00 a.m. Saturday, April 17, 1965.

JOSEPH P. LORDI
DIRECTOR

8. STATE LICENSES - NEW APPLICATION FILED.

A & A Beverage Distributors Company, Inc.
34-36 Lee Avenue, New Brunswick, N. J.
Application filed May 20, 1965 for person-to-person, place-to-place transfer of State Beverage Distributor's License SBD-217 from Breton Woods Beverage Distributors, Inc., t/a Laurelton Home Beverage, 1712 State Highway #88 Laurelton, New Jersey


Joseph P. Lordi
Director