

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

BULLETIN 2051

JULY 12, 1972

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STATE OF NEW JERSEY
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BULLETIN 2051

JULY 12, 1972

1. APPELLATE DECISIONS - THE OPEN DOOR v. UNION CITY.

The Open Door,)	
Appellant,)	
v.)	On Appeal
Board of Commissioners of)	CONCLUSIONS
the City of Union City,)	and
Respondent.)	ORDER

-----)
Sidney Lasser, Esq., Attorney for Appellant
Edward J. Lynch, 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 Commissioners of the City of Union City (hereinafter Board) whereby it suspended Plenary Retail Consumption License C-181, issued to appellant for premises 414 - 38th Street, Union City, for a period of six months, effective December 13, 1971, following a finding that it permitted its premises to be used for the sale of narcotic drugs on two occasions, March 18 and March 25, 1971.

The suspension was stayed by order of the Director, dated December 9, 1971, pending the determination of the appeal herein.

The matter was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity for counsel to present testimony and to cross-examine witnesses.

The Board relied on the testimony of Sergeant Francis Mona of the Union City Police Department, and of Officer Carl Sicola, assigned to the Hudson County Prosecutor's Office. From the extensive testimony of both officers, it appeared that the licensed premises, as well as three other taverns, came under surveillance as part of an investigation of narcotic traffic existing within the City. Observations during the investigation revealed that six young men who were believed to be narcotic users entered and left the licensed premises on varied occasions. Earlier, in February, Sergeant Mona had arrested two other young men in the premises for possession of narcotics.

It was uncontroverted that sales of narcotics were made by tavern patrons to Officer Sicola on two occasions, March 18 and March 25, 1971. These purchases were but a small part of an undercover operation done by Officer Sicola to apprehend widespread narcotic sellers and users.

Neither police officers had a specific intention of obtaining evidence against the licensee; the charges preferred were the outgrowth from their investigation of narcotic-peddling. Thus, while it is uncontroverted that sales of narcotics took place within the licensed premises, the critical point of inquiry is whether or not such sales were known to take place by the licensee or its agents, or in parallel, should the licensee or its agents have had reason to become aware that there were narcotics in the possession of its patrons. In short, was there sufficient evidence upon which a conviction for "allowing, permitting or suffering" the licensed premises to be used for the sale of narcotics, can be based.

Detective Sergeant Francis Mona of the Union City Police Department testified that he is in charge of the local police Narcotic Division and developed the inquiry that led to the arrest of several persons on narcotic sale charges. In February 1971, he had arrested two young men within the licensed premises on narcotic charges, and, during the two-week period prior to the date of the charges herein, he had observed six other known narcotic users enter the premises. He had not personally made purchases of narcotics from any of the users, for he was a known police officer. However, he obtained the services of Officer Carl Sicola, attached to the Hudson County Prosecutor's Office who supplemented his investigation by making a purchase of narcotics on two occasions.

Officer Carl Sicola, assigned to the Hudson County Prosecutor's Office, testified that on March 18, 1971, having been assigned to assist Sergeant Mona in an undercover capacity, he bought drugs in the licensed premises from one Edward Rauscher, and from a girl named Cathy Flanagan. Rauscher was then "in bad shape", meaning that he was under the influence of a narcotic drug. On March 25, 1971, the officer purchased narcotics in the licensed premises from one Dugal Watkins, who with his friend Fallon, was under the influence of narcotics. On cross examination, the officer admitted that, on the occasion of the purchases, the bar was quite crowded, he paid no attention to the bartender, and has no recollection of what drink he ordered. He admitted that the purchase from the girl was done below the level of the bar so that the sale would not have been readily visible to the bartender. On the visit of March 25th, the officer could not recall who was in charge of the bar. He admitted their voices would have been drowned out by the television set. With his back to the bar, the officer received two small glassine bags. There was no prior conversation with any patron, bartender or the ostensible owner of the establishment.

Rose Glarner, the majority stockholder of the licensee corporation and for practical purposes, the owner of the premises, testified that she is a widow and has managed the establishment, in its present location, for the past five years. She resides in the back of the tavern and usually is its sole bartender, except on some occasions when she is aided by her son-in-law. The first notice that she received concerning the use of drugs on her premises was the service upon her of the complaint, which she received November 23, 1971. She had no recollection whatever of any event occurring either on March 18 and March 25, particularly as these dates were not called to her attention until nearly eight months later. She recalled seeing the names of two of her patrons in a news story which related that drug arrests were made; however, she had no knowledge that either of them had ever been under the influence of drugs or had behaved in any improper manner in her establishment. She declared that she would not know a narcotic addict if she saw one, and had no

knowledge of the symptoms of narcotic use. She had no recollection of ever having seen the detective or the police officer who had testified, in her premises. Certainly at no time was her attention ever called to narcotics activity there until service of the complaint upon her.

Stephen Quinlan testified on behalf of the licensee that he never participated in the sale of narcotics in the licensed premises as had been charged by the testimony of Officer Sicola. He denied each of the statements made concerning him and apart from the admission that some of the young men were drug users, denied the transactions as described by the officer. His arrest, stemming from the alleged purchase in the licensed premises, did not take place until May. At no time did he apprise the licensee of any charge against him.

Despite the denials by Quinlan, I find it to have been fact that the officer made purchases within the licensed premises as described and other than Quinlan's testimony, such sales are uncontroverted. However, the issue transcends the actual sale of narcotics. It embraces, as hereinabove set forth, the question of scienter by the licensee or its agents. Scienter may be established by facts surrounding the circumstances and by an examination of those facts.

There was no testimony advanced as to the participation, if any, of the licensee or its agents, servants or employees in the investigation and arrest of the narcotic sellers and users. If there could be any incrimination of the licensee, it must come under the charge of "suffering" such sales to have taken place. As the Supreme Court said in Essex Holding Corp. v. Hock, 136 N.J.L. 28, 31:

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

The testimony of Officer Sicola was completely barren in reference to the licensee or its agents. He could not recall who served him, whether it was Mrs. Glarner or someone else. He thinks it was a male bartender. He admits that all of his conversations respecting the purchase of narcotics were done without any participation of the licensee or its agents. He paid no heed as to the presence or proximity of the bartender, if indeed, there was one nearby, and he admitted that no one could have heard his conversation except those for whom it was intended. Although Mrs. Glarner lives on the premises and is there every night, Officer Sicola could not recall her presence, and on his first visit could not recall who was behind the bar. His recollection would be admittedly clouded because of the great passage of time between the visits and the testimony.

Sergeant Francis Mona was not in the premises on the dates charged in the complaint, so that, with the exception of the receipt of the purchased narcotics, he could give no support to the participation, or lack of it, by the licensee or its agents.

Hence, a conclusion must be foregone; there is no proof whatsoever upon which a guilty finding could have been predicated. It is beyond question that the police officers did an exemplary job in ferreting out narcotic sellers, but in that great effort the tangential by-product became obscured. The officers assumed their prodigious efforts involved the licensee sufficient to inculcate it within the framework of the charges. However, no proof could be adduced upon which such conclusion could be grounded.

Accordingly, I find that the appellant has sustained the burden of establishing that the action of the Board was erroneous and should be reversed. Rule 6 of State Regulation No. 15. It is, therefore, recommended that an order be entered reversing the action of the Board and dismissing the said charge.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

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

ORDERED that the action of respondent be and the same is hereby reversed and that the charges herein be and the same are hereby dismissed.

ROBERT E. BOWER
DIRECTOR

2. APPELLATE DECISIONS - HOLLY ENTERPRISES, INC. v. CAMDEN.

Holly Enterprises Inc., t/a)	
Holly Lounge,)	
)	On Appeal
Appellant,)	
v.)	CONCLUSIONS and ORDER
Municipal Board of Alcoholic)	
Beverage Control of the City)	
of Camden.)	
Respondent.)	
-----)	

Wallace, Douglas, Gerry & Mariano, Esqs., by Peter R. Thorndike, Esq., Attorneys for Appellant
Albert Rathblott, Esq., by Samuel T. French, Jr., Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Respondent Municipal Board of Alcoholic Beverage Control of the City of Camden (hereinafter Board) suspended appellant's plenary retail consumption license for a period of one hundred thirty days upon conviction of a charge that appellant permitted solicitation for prostitution on the licensed premises on December 10, 1971. Appellant appeals,

grounding the appeal upon two contentions: (a) that the evidence before the Board was not sufficient to justify such finding and (b) that the amount of the suspension of one hundred thirty days was under the circumstances unreasonable and arbitrary. The Board answered that the finding was based upon the evidence before it and that the suspension was justified.

Upon filing of the appeal an order was entered by the Director on February 25, 1972, staying respondent's order of suspension until entry of a further order herein.

The appeal herein was heard de novo pursuant to Rule 6 of State Regulation No. 15. Testimony was presented by both appellant and respondent pursuant to Rule 6 of said regulation.

Agent P of this Division testified that on December 18, 1971, about 10:30 p.m., on an assignment to assist the Camden Vice Squad, he met members of that squad and Agent W of this Division and they formulated plans to investigate alleged prostitution solicitation taking place in appellant's premises. He entered alone and sat at the bar next to a female whom he later identified as Sharon ---. Shortly thereafter Agent W joined them. Sharon asked him if he was looking for a girl and, upon his affirmative response, indicated that she was available for \$25. At this solicitation he called the bartender (later identified as Eddie Morgan) and "I told him I was going with Sharon to go get laid for \$25.00, and I said, 'I won't get rolled or anything? Will she?'" to which the bartender responded, "No. She's a friend of mine. OK." The agent gave Sharon \$25 in marked money and left the premises, followed by Sharon. On the sidewalk in front of the premises Sharon was arrested by two Camden detectives and the marked money taken from her. She was thereupon charged with solicitation for prostitution.

Agent W corroborated the testimony of Agent P. He testified that, shortly after Agent P entered the premises, he did likewise and sat alongside Sharon. He heard Agent P ask her if she was available and that she affirmed that she was, for \$25. He further heard Agent P ask her if there was any danger of his getting rolled; she responded, "No. You have no sweat there. You can ask Eddie and he'll vouch for me." Eddie was then asked by Agent P that, if he went with the girl for \$25, would he get rolled. The bartender answered, "No. She's a good friend of mine. There's no chance." The witness saw Agent P hand the girl \$25 which she put into her pocket. Upon seeing this, Agent W departed the premises and informed awaiting detectives what had transpired and, upon the departure of Agent P and the girl, saw the detectives apprehend her and recover the money from her pocket. The witness later attended the hearing in the Municipal Court where the girl was charged. She entered a guilty plea and was fined \$100 and costs.

George D. Pugh testified that he is a sergeant in charge of the Vice Control Unit of the Camden Police Department. Upon receipt of prior information that prostitutes were soliciting in appellant's premises, he contacted the ABC investigating unit and sought its aid. He was present when that agent entered appellant's premises and, at the agent's exit with Sharon, arrested her and retrieved the \$25 from her pocket. Sharon was charged, entered a guilty plea, and was fined.

On cross examination the witness admitted there was a heavy concentration of prostitution on Broadway in that municipality, but that a licensee would not normally know a girl was a prostitute merely by looking at her.

John Phoenix (another member of the Camden Police Department) testified that he accompanied Sergeant Pugh and the ABC agents in their investigation of the subject premises, saw the marked money, watched Agent P enter the premises, saw Agent W do likewise. When Agent P and Sharon left the premises, she was advised of the charge and the money retrieved from her pocket.

Detective William F. Busch testified that he had noticed several known prostitutes frequenting appellant's premises. He placed the premises under surveillance and saw known prostitutes entering and leaving with male companions. On cross examination he affirmed that he had seen prostitutes in the licensed premises whom he observed in the act of solicitation.

Sharon --- testified that she was apprehended on December 18, 1971; entered a plea of guilty to the charge of solicitation and was fined \$100 and costs. On cross examination she stated she was a frequent visitor to appellant's premises; usually came in and departed alone, and drank only non-alcoholic beverages. She denied soliciting and entered a plea of guilt only because she was "scared." She denied having any conversation with Agent P but could give no reason why she departed with him. She answered "Yes" to the question "Did Inspector P-- put money in your pocket?"

The bartender (Edward Morgan) testified that he recalled both Sharon and Agent P in the premises on the evening in question. He knew Sharon as a patron who came in by herself, who bought her own drinks, and never solicited. He could not recall if Sharon came in with an escort that evening. He recalled the agent only because he was asked for change. He had no conversation with the agent and denied the inquiry respecting the danger of getting rolled, posed by the agent. He denied that any conversation took place between him and the agent.

A barmaid (Gladys Ross) testified that she was on duty and that Sharon was in the premises, but she (Sharon) was no prostitute. She served Agent P who asked her name and if she was married. She saw the agent place money in the girl's pocket. To her knowledge there never have been known prostitutes in the bar.

Dorothy Ellis (another barmaid) testified only to the instructions given her by the owner of the majority stock of appellant corporation. Those instructions required a call to the police in the event of trouble and to prevent loiterers and improper behavior in the premises. She too denied having seen prostitutes in the premises under the present management.

E. James Toliver (principal officer and stockholder of the corporate appellant) testified that, while he is the "owner", he is also a truck driver and attends the premises before and after his usual working day. He has all his available capital invested in the premises and, as such capital

represents his entire accumulation for retirement, he scrupulously observes all of the regulations pertaining to the operation of a licensed premises. He had in the past solicited police assistance in ridding the place of undesirables and once went to the vice squad of the police to initiate an investigation of prostitution in or near to his place of business. He knew who Sharon was but did not know her to be a prostitute. His bartender Morgan was discharged after the initial charge when Sharon revisited the tavern and was not immediately ejected. His indebtednesses and license fees will become due despite the suspension and that suspension imposed by respondent is of sufficient gravity to be tantamount to revocation.

Toliver described his visit to the vice squad (presumably before April 6, 1970 when its location was moved) and there spoke to a Detective Busbee and sought his aid. He did not know if further police action resulted from his conversation.

Sergeant Pugh and Officer Phoenix both denied any knowledge of Toliver's alleged conversation with Detective Busbee but each admitted such conversation was a possibility.

It must be accepted as uncontroverted that an act of solicitation for prostitution took place within the licensed premises. Despite the vapid denial by Sharon, it is fact that she departed the premises with Agent P., was accosted by detectives, and was found to have the marked money in her pocket, was promptly arrested and charged, entered a guilty plea and paid a fine. So the issue is narrowed to the basic question: did the licensee through its agent know, or should it have known, that an act of solicitation had taken place and acquiesced in such act by which a determination was properly made that the licensee "allowed, permitted or suffered" the causative violation.

The applicable principles against which the instant matter may be best tested have been summed by Justice Heher in Riker v. John Hancock Mutual Life Ins. Co., 129 N.J.L. 508, 511 (1943):

"The inquiry is whether there is any evidence which, if accepted and given its fullest probative force, reasonably tends to sustain the pleaded cause of action. Is it such that fair and reasonable men would be justified in concluding that the onus probandi had been sustained? Sivak v. New Brunswick, 122 N.J.L. 197. It need not have the quality of certainty. Indirect or circumstantial evidence meets the legal standard if it preponderates in favor of the tendered hypothesis. That must be a rational inference, i.e., such as is based upon a preponderance of the probabilities according to the common experience of mankind. It must be a presumption grounded in reason and logic. It is not easy to lay down with precision the line of demarcation between a just and reasonable inference and mere conjecture or surmise. The accepted standard of persuasion governing the triers of the facts is that the determination be probably founded in truth"

The testimony of the bartender and the barmaids had a hollow ring when contrasted with the evidence elicited from the agents of this Division. The account of the agents was forthright and was bolstered by the empirical evidence of the marked money and the admission by the charged woman of her guilt. It is found as a fact that Sharon --- was a

frequent visitor to the establishment, entering and emerging alone. She was known to everyone connected with the licensed premises in the evenings. Testimony of one of the detectives revealed that appellant's place had been under surveillance and known prostitutes had been seen within it. Hence I find it unbelievable that the bartender and barmaids did not know Sharon to be a prostitute, and I further disbelieve the bartender, Morgan's denial that Agent P spoke to him in the manner described, and his quoted answer.

It has long been held that solicitation for immoral purposes and the making of arrangements for sexual intercourse cannot and will not be tolerated on licensed premises. The public is entitled to protection from these sordid and dangerous evils. Re 17 Club, Inc., Bulletin 949, Item 2, aff'd. In re 17 Club, Inc., 26 N.J. Super. 43 (App.Div. 1953); Re Lemongelli, Bulletin 1960, Item 2.

Having carefully considered the entire record herein, I find that the credible evidence adequately supports the conclusions reached by the Board that the licensee through its employee permitted, allowed or suffered the charged violation of permitting solicitation for prostitution to occur within the licensed premises.

Appellant contends that the penalty imposed was so harsh and oppressive as to constitute an act of unreasonableness or an abuse of its discretion. The measure or extent of a penalty to be imposed in disciplinary proceedings rests within the sound discretion of the issuing authority and will not be disturbed on appeal unless the evidence clearly shows an abuse of discretion. Schwartz v. Paterson, Bulletin 1577, Item 2; Bacus v. Guttenberg, Bulletin 1332, Item 4.

The Legislature has invested the issuing authority with power to suspend or revoke licenses after hearing for certain enumerated violations including violations of the law or of State or local regulations. N.J.S.A. 33:1-31. The fact that a penalty may be severe does not of itself justify reduction on appeal. Ebony Corporation et al. v. Trenton, Bulletin 958, Item 1. The power of the Director to reduce or modify a penalty imposed by a local issuing authority will be sparingly exercised and then only with the greatest caution. Engelhorn v. Belmar, Bulletin 1083, Item 1; Pete Jacobs, Inc. v. Winslow, Bulletin 1568, Item 1. Hence the power of the Director to reduce the suspension on appeal is confined to cases where the suspension is manifestly unreasonable. Sventy & Wilson v. Point Pleasant Beach, Bulletin 1930, Item 1; Pom Bon v. Cliffside Park, Bulletin 1897, Item 1.

Reasonableness or unreasonableness of a penalty can only be determined by comparison of the penalty imposed with precedential penalties imposed for like offenses. Penalties imposed by this Division in similar matters have ranged from outright revocation of license in instances where licensees participated in the commercial activity of prostitution or were repeated violators (Re 300 Club Inc., Bulletin 1806, Item 1; Re Pete's Night Club, Bulletin 2029, Item 1) to a penalty of one hundred eighty days in instances where the licensee or its agents acted as a go-between in arranging for the prostitute's services, to ninety days for offenses under which the licensee allows the solicitation (Re W.J. Burnett, Inc., Bulletin 2001, Item 1; Re Club Mayfair Lounge, Inc., Bulletin 1985, Item 1; Re Ferdinand, Bulletin 1886, Item 2; Re Fap, Inc., Bulletin 1822, Item 4; Re Ri Bo, Inc., Bulletin 1965, Item 3). Factual circumstances in each of the preceding cases were markedly similar to the case sub judice.

There is a reasonable probability that the testimony of Toliver recounting a visit to Detective Busbee of the vice squad and eliciting his aid is truthful. This effort to cleanse his establishment of potential wrongdoers, though miniscule, should be considered in admeasuring the penalty to be imposed.

Absent prior record, or absent any testimony or evidence indicating other than a cooperative attitude on the part of Toliver toward law enforcement, it would appear that portion of penalty imposed in excess of that usually imposed for similar offenses is unreasonable, and I so find.

Accordingly, it is recommended that the appeal be dismissed and an order be entered affirming the findings of respondent Board, with modification of penalty to result in suspension of license for ninety days in place of the suspension of one hundred thirty days as imposed by the Board. Cf. Re Carmazino, Bulletin 204, Item 2.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

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

Accordingly, it is, on this 11th day of May 1972,

ORDERED that the action of respondent be and the same is hereby affirmed, expressly subject to modification of the suspension of the said license from one hundred thirty days to a suspension of ninety days; and in consequence thereof, it is further

ORDERED that Plenary Retail Consumption License C-172, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Holly Enterprises Inc., t/a Holly Lounge, for premises 818 Broadway, Camden, be and the same is hereby suspended for the balance of its term, viz., midnight, June 30, 1972, commencing at 2:00 a.m. on Thursday, May 25, 1972; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. on Wednesday, August 23, 1972.

Robert E. Bower
Director

3. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION - FRONT - FAILURE TO KEEP BOOKS - PRIOR DISSIMILAR OFFENSE - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Alhe, Inc. t/a Erin Bar 300-302-304 No. Broadway 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.

CONCLUSIONS and ORDER

Novack and Trobman, Esqs., by David Novack, Esq., Attorneys for Licensee Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to three charges alleging that in its application for a plenary retail consumption license dated June 2, 1971 and filed on June 15, 1971 it failed to disclose a change of corporate stockholders or otherwise indicated that others there unnamed, i.e., Emilio DiMatteo and Nancy DiMatteo, exercised the beneficial control of the licensed premises and derived the benefits conducted thereunder, in violation of N.J.S.A. 33:1-25; to a fourth charge alleging that it aided the said persons to exercise the rights of a licensee under such license, in violation of N.J.S.A. 33:1-52, and to a fifth charge alleging that from September 29, 1969 to date it failed to keep true books of account, in violation of Rule 36 of State Regulation No. 20.

Licensee has a prior record of suspension for thirty days by the Director effective October 23, 1967 for sale to intoxicated person (Re Alhe, Inc., Bulletin 1764, Item 3).

The license would normally be suspended for twenty days on the first four charges (Re Ciccone, Bulletin 2021, Item 4) and for ten days on the fifth charge (Re New Ritz Lounge, Inc., Bulletin 2032, Item 4), to which would be added five days by reason of the dissimilar offense occurring within the past five years, making a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

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

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

ORDERED that Plenary Retail Consumption License C-31, issued by the Mayor and Common Council of the City of Gloucester City to Alhe, Inc., t/a Erin Bar, for premises 300-302-304 No. Broadway, Gloucester City, be and the same is hereby suspended for the balance of its term, i.e., midnight June 30, 1972, commencing 2 a.m. Monday, May 22, 1972, with leave to the licensee or any bona fide transferee of the license to apply to the Director by verified petition for the lifting of the suspension whenever the unlawful situation has been corrected, but in no event sooner than thirty (30) days from the commencement of the suspension herein.

ROBERT E. BOWER DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED BY MUNICIPALITY - APPLICATION FOR THE IMPOSITION OF FINE IN LIEU OF SUSPENSION - APPLICATION WITHDRAWN.

In the Matter of Disciplinary Proceedings against)

Gentlemen IV, Inc.)
t/a Sgt. Peppers)
91-93 Whitehead Avenue)
South River, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-12, issued by the Mayor and Borough Council of the Borough of South River.)
-----)

Burton & Quackenboss, Esqs., by William P. Hood, Esq., Attorneys
for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge preferred against it by the Mayor and Council of the Borough of South River alleging that on December 31, 1971 it permitted the presence of two minors, both age 20, to be within the licensed premises unaccompanied by their parents, in violation of local ordinance, in consequence of which its license was suspended for ten days.

The aforesaid suspension was deferred by the municipal issuing authority to provide licensee with an opportunity to apply to the Director for the imposition of a fine in lieu of suspension, in accordance with Chapter 9 of the Laws of 1971.

Following application by the licensee to the Director for the imposition of such fine, the licensee withdrew its application and determined to accept the suspension as originally imposed.

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

ORDERED that Plenary Retail Consumption License C-12, issued by the Mayor and Borough Council of the Borough of South River to Gentlemen IV, Inc., t/a Sgt. Peppers, for premises 91-93 Whitehead Avenue, South River, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, May 15, 1972, and terminating at 2 a.m. Thursday, May 25, 1972.

Robert E. Bower,
Director.

5. DISCIPLINARY PROCEEDINGS - SALE VIOLATIVE OF LOCAL HOURS ORDINANCE AND IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR THE IMPOSITION OF A FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against :

Fahrner's Town Tavern, Inc. :
t/a Same :
117-119 Market Street :
Salem, New Jersey :

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-1 issued by the Common Council of the City of Salem. :

.....
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 10:45 A.M. it sold alcoholic beverages in violation of local hours ordinance, and for off-premises consumption in violation of Rule 1 of State Regulation No. 38.

Absent prior adjudicated record, 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 Wooden Wheel Inn Co., Inc., Bulletin 2033, Item 6) (Re McGraw, Bulletin 2038, Item 5)

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 \$690.00 in lieu of suspension.

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

ORDERED that the payment of a \$690.00 fine by the licensee is hereby accepted in lieu of the suspension of license for ten days.

Robert E. Bower,
Director

6. DISCIPLINARY PROCEEDINGS - POSSESSION OF ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR
THE IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary :
Proceedings against :

Dubonnet Cocktail Lounge, Inc. :
56 Park Place :
Newark, N.J. :

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption :
License C-10 issued by the Municipal :
Board of Alcoholic Beverage Control :
of the City of Newark. :

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
October 1, 1971 it possessed two 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 would normally be suspended
for fifteen days, with remission of five days for the plea
entered, leaving a net suspension of ten days. Re Club La Ru,
A Corp., Bulletin 2008, Item 6. However, the licensee has
made application for the imposition of a fine in lieu of sus-
pension 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 \$960.00 in lieu of suspension.

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

ORDERED that the payment of a \$960.00 fine by the licensee is
hereby accepted in lieu of a suspension of license for ten days.

Robert E. Bower,
Director

7. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary Proceedings against :

Marc-Paul Co. Inc. :
t/a Beacon Tavern :
79-81 Central Avenue :
Jersey City, N.J. :

ORDER

Holder of Plenary Retail Consumption License C-220, issued by the Board of Alcoholic Beverage Control of the City of Jersey City. :
..... :

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

BY THE DIRECTOR:

Application has been made to the Director in the above matter for the imposition of a fine in lieu of suspension of ten days by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City on March 28, 1972. The application was made in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$600.00 in lieu of suspension.

Accordingly, it is on this 11th day of May, 1972

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

Robert E. Bower,
Director

8. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED BY MUNICIPALITY FOR 20 DAYS - APPLICATION FOR THE IMPOSITION OF A FINE IN LIEU OF SUSPENSION DENIED.

In the Matter of Disciplinary Proceedings against Orange Colony Liquors, Inc. 322 Central Avenue Orange, New Jersey, Holder of Plenary Retail Distribution License D-20, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange.

CONCLUSIONS and ORDER

Gerald Poss, Esq., Attorney for Licensee Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleaded guilty before the municipal issuing authority to a charge that on March 9, 1972 it sold alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20, in consequence of which the license was suspended for twenty days, less five days remission for the plea, leaving a net suspension of fifteen days effective May 15, 1972.

Thereupon licensee applied to the Director for the imposition of a fine in lieu of the suspension in accordance with Chapter 9 of the Laws of 1971.

The licensee has a prior record of suspension of license for five days by the municipal issuing authority for sale to minors effective April 10, 1972. In view of the prior suspension for similar offense having occurred within a few months of the present offense, I cannot favorably consider the application and, therefore, the application is denied.

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

ORDERED that Plenary Retail Distribution License D-20, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange to Orange Colony Liquors, Inc., for premises 322 Central Avenue, Orange, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Thursday, May 25, 1972, and terminating at 2 a.m. Friday, June 9, 1972.

Robert E. Bower, Director.

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

Peter D. & Alphonso S. Baselici t/a Matty's Bar & Grill 320-322 Bond Street Asbury Park, N.J.,)

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-61, issued by the City Council of the City of Asbury Park.)

Patterson & Cooper, Esqs., by Samuel V. Patterson, Esq., Attorneys for Licensees
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on November 19, 1971, they possessed five 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 adjudicated record, the license would normally be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Property Marketing Corp. and Aladco, Inc., Bulletin 2020, Item 6.

However, the licensees have 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 licensees to pay a fine of \$800. in lieu of suspension.

Accordingly, it is, on this 22nd day of May 1972,

ORDERED that the payment of a \$800. fine by the licensees is hereby accepted in lieu of the suspension of license for twenty (20) days.

Robert E. Bower
Robert E. Bower
Director