

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

BULLETIN 1992

August 10, 1971

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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 1992

August 10, 1971

1. APPELLATE DECISIONS - 570 MAIN INC. v. PASSAIC.

570 Main, Inc., t/a Paradise Lounge,)	
)	
Appellant,)	On Appeal
)	
v.)	CONCLUSIONS
)	and
Municipal Board of Alcoholic Beverage Control of the City of Passaic,)	ORDER
)	
Respondent.)	
- - - - -)	
Feder and Rinzler, Esqs., by Joseph A. Feder, Esq., Attorneys for Appellant)	
August C. Michaelis, Esq., by William P. Schey, 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 (hereinafter Board) which on June 24, 1970, denied appellant's application for renewal of its plenary retail consumption license C-152 for the 1970-71 licensing period for premises 570 Main Avenue, Passaic.

Appellant alleges that the action of the Board was erroneous in that (1) no reasons for denial were submitted to appellant; (2) appellant received no notice of hearing; and (3) there was no legal grounds for denial.

The Board, in its answer asserts that "...the respondent considered all the facts and circumstances pertaining to the refusal to renew the license, and that the grounds not to renew were reasonable and proper and in the best interests of the public welfare."

Upon filing of the appeal herein, the Director entered an order on June 29, 1970, extending the term of appellant's license pending determination of the appeal.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to present testimony and examine witnesses.

In behalf of the corporate appellant, Floyd Foster, a stockholder therein and who actively supervised the conduct of the business operated by it, testified that, with respect to an incident reported on May 22, 1970 involving an Eldridge Dixon, he (Dixon) and another male patron left the tavern and engaged in an altercation in a municipal parking lot. Thereafter Dixon returned to the premises and, upon observing that Dixon required medical attention, Foster called the police and a hospital.

Foster denied that anyone was held up, mugged or had money taken from him on April 10, 1969 in the licensed premises.

On August 8, 1970, a female whom he evicted from the premises threw a firebomb through the window thereof.

The only other incident involving police action during the year ending June 24, 1970, was when a go-go girl was taken downtown.

Asserting that police reports were not available, the attorney for the Board presented no evidence in its behalf.

However, by its conduct, the licensee has shown that it is not worthy of having its license renewed. Subsequent to the date of the hearing to consider the merits of the subject appeal, the licensee acquired an unenviable record of suspension of license, as follows: (1) licensee had its license suspended by the municipal issuing authority for one hundred twenty days, effective July 11, 1970, for permitting lewdness and immoral activity (indecent dance) on the licensed premises on January 10, 1970. Upon appeal to this Division, the action was affirmed on April 21, 1971. 570 Main, Inc. v. Passaic, Bulletin 1978, Item 2. By amended order dated April 26, 1971, the said suspension was reimposed, effective May 6, 1971; and (2) licensee had its license suspended by the Director for forty days, effective September 3, 1971, after pleading non vult to a charge alleging that on January 16 and February 8, 1970, it permitted lewdness and immoral activity (indecent entertainment). 570 Main, Inc., v. Passaic, Bulletin 1985, Item 7. It is noted that in this latter case, licensee's prior record of suspension was disregarded for penalty purposes since the determination on the prior appeal was reached subsequent to the dates charged in the second later case.

Thus, it is apparent that within a brief period of time licensee has shown callous disregard for the rules and regulations governing the conduct of licensees and licensed premises.

In its consideration of this matter the Board was guided by the applicable principle enunciated in Tumulty v. Dunellen and Davis (App. Div. 1963), not officially reported, reprinted in Bulletin 1519, Item 1, as follows:

"...The problem before the [Council] was what penalty to impose for what his investigators had discovered the licensees had done in the past. The problem before Dunellen, upon the application for the renewal of the license, was whether it was in the public interest that this establishment be licensed in the future. Subject to law and to the Director's right of review, a municipality has the power to set its own reasonable standards for the conduct of its licensees. We hold that Dunellen had the right to say that since these licensees permitted the things recited in the Director's 'Conclusions and Order' of June 13, 1962, they were not worthy to continue to hold their license and that it was not in the public interest that the license should be renewed...."

In the area of licensing, as distinguished from disciplinary proceedings, the determinative consideration is the public interest in the creation or continuance of the license operation,

not the fault or merit of the licensee. In the matter of licensing, the responsibility of a local issuing authority is "high", its discretion "wide" and its guide "the public interest". Lubliner v. Paterson, 33 N.J. 428, 446 (1960). A renewal license is in the same category as an original license. Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946).

There is no persuasive evidence to indicate any improper motivation on the part of the Board in its action, and there appears to be substantial evidence to support its determination herein. Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501 (App. Div. 1956). The Director's function on appeal 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 view. Tumulty v. Dunellen, Bulletin 1487, Item 4. Indeed, as the court stated in Lyons Farms Tavern, Inc. v. Newark et al., 55 N.J. 292 (1970), reprinted in Bulletin 1905, Item 1:

"... Our penetrating review of all the evidence was engaged in by retreating to the fundamental issue in these cases: Did the decision of the local board represent a reasonable exercise of discretion on the basis of evidence presented? If it did that ends the matter of review both by the Director and by the courts...."

See Hudson-Bergen County Retail Liquor Stores Association et al. v. Hoboken, et al. 135 N.J.L. 502, 511 (E. & A. 1947).

After carefully considering all of the factors herein, I recommend that the Board's action be affirmed and that the appeal herein be dismissed.

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, including the transcripts of the testimony, the exhibits and the Hearer's report, I concur in the findings of the Hearer and adopt his recommendations.

Accordingly, it is, on this 17th day of June 1971,

ORDERED that the action of respondent be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the order dated June 29, 1970, extending the term of appellant's 1969-70 license pending determination of the appeal be and the same is hereby vacated, effective immediately.

Richard C. McDonough
Director

2. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 60 DAYS, LESS 12 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 Six Nineteen Corp.)
 619 Langdon Street)
 Orange, N.J.,)
)
 Holder of Plenary Retail Consumption License C-9, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange.)
)

CONCLUSIONS and ORDER

 Licensee, by Fred Wolf, President, Pro se.
 Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 19, 1971, it possessed alcoholic beverages in nineteen bottles bearing labels 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 sixty days, with remission of twelve days for the plea entered, leaving a net suspension of forty-eight days. Cf. Re Melchiorre, Inc., Bulletin 1478, Item 3.

Accordingly, it is, on this 21st day of June 1971,

ORDERED that any renewal license that may be granted by the Municipal Board of Alcoholic Beverage Control of the City of Orange, to Six Nineteen Corp., for premises 619 Langdon Street, Orange, presently the holder of Plenary Retail Consumption License C-9, shall be and the same is hereby suspended for forty-eight (48) days, commencing at 2:00 a.m. Thursday, July 1, 1971, and terminating at 2:00 a.m. Wednesday, August 25, 1971.

Richard C. McDonough
 Director

3. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary Proceedings against)

Roy Dave Enterprises (Corp.))
t/a Fort Pitt Cafe)
170 South New York Avenue)
Atlantic City, N. J.,)

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-73, issued by the Board of Commissioners of the City of Atlantic City.)

-----)
Edwin H. Helfant, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On January 18, 1971 I entered an order herein suspending the subject license for five days and deferring the effective date thereof because it appeared that the licensed business was not then being conducted on a substantial basis. Re Roy Dave Enterprises (Corp.), Bulletin 1958, Item 7.

The attorney for the licensee has advised me that the licensee is now operating at these premises on a substantial basis and has requested an immediate suspension. This was confirmed by reports of investigation by this Division. Consequently the suspension may now be imposed.

Accordingly, it is, on this 18th day of June 1971,

ORDERED that Plenary Retail Consumption License C-73, issued by the Board of Commissioners of the City of Atlantic City to Roy Dave Enterprises (Corp.), t/a Fort Pitt Cafe, for premises 170 South New York Avenue, Atlantic City, be and the same is hereby suspended for five (5) days, commencing at 7 a.m. Monday, June 21, 1971, and terminating at 7 a.m. Saturday, June 26, 1971.

Richard C. McDonough,
Director.

4. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION FOR LICENSE - NOLLE PROSSED.

In the Matter of Disciplinary Proceedings against
 John F. McCrone & Martha McCrone
 t/a "McCrone's Tap House"
 Route 206, Hainesville
 Sandyston Township
 PO R.D. 1, Branchville, N. J.,
 Holders of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Sandyston.

CONCLUSIONS and ORDER

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

BY THE DIRECTOR:

Licensees were charged with falsely stating in their application for plenary retail consumption license that they were residents of New Jersey when in fact they were residents of Pennsylvania.

Preliminary, as part of continuing investigation it was determined by this Division that the licensees owned a summer home in Pennsylvania to which they were sojourning while conditions were being altered at their residence in New Jersey; those conditions have now been repaired and they reside at their home adjacent to the licensed premises.

It appears that the stay of the licensees out of the State in their summer home, being temporary in nature, did not create a domicile out of New Jersey in violation of the statute N.J.S. 33:1-25.

Accordingly, it is, on this 21st day of June 1971,

ORDERED that the charge herein against the above licensees be and the same is hereby nolle prossed.

Richard C. McDonough,
Director

5. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS ACTIVITY) - LICENSE SUSPENDED FOR 60 DAYS, LESS 12 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 Freeway Inn, Inc.
 t/a Freeway Inn, Inc.
 295 Canal Road
 South Bound Brook, N. J.,
 Holder of Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of South Bound Brook.

CONCLUSIONS and ORDER

Norris, McLaughlin & Trucker, Esqs., by Richard A. Norris, Esq.,
 Attorneys for Licensee
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee entered a plea of non vult to a charge alleging that on February 18, 23, 24, 25 and March 2, 1971 it permitted gambling on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days (Re Venezia's Tavern, Inc., Bulletin 1946, Item 2), with remission of twelve days for the plea entered, leaving a net suspension of forty-eight days.

Accordingly, it is, on this 21st day of June 1971,

ORDERED that any renewal license that may be granted by the Borough Council of the Borough of South Bound Brook to Freeway Inn, Inc., t/a Freeway Inn, Inc., for premises 295 Canal Road, South Bound Brook, presently the holder of Plenary Retail Consumption License C-3, be and the same is hereby suspended for forty-eight (48) days, commencing at 2 a.m. Tuesday, July 6, 1971, and terminating at 2 a.m. Monday, August 23, 1971.

Richard C. McDonough,
 Director.

6. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)
 Downtown Social Club, Inc.)
 140 First Street)
 Elizabeth, N. J.,)
 Holder of Club License CB-22,)
 issued by the City Council of the)
 City of Elizabeth.)
 -----)

CONCLUSIONS
and
ORDER

John A. Patrick, Jr., Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 24, 1971 it sold drinks of alcoholic beverages to non-members, in violation of Rule 8 of State Regulation No. 7.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Progressive Democratic Club, Bulletin 1911, Item 7.

Accordingly, it is, on this 21st day of June 1971,

ORDERED that any renewal club license that may be granted by the City Council of the City of Elizabeth to Downtown Social Club, Inc., for premises 140 First Street, Elizabeth, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, July 6, 1971, and terminating at 2 a.m. Friday, July 16, 1971.

Richard C. McDonough,
Director.

7. CANCELLATION PROCEEDINGS - LICENSE IMPROVIDENTLY ISSUED - LICENSE CANCELLED.

In the Matter of Cancellation Proceedings against

J.R.N. Corporation
t/a Harbor Hills
Doby Road
Randolph Township
PO Mt. Freedom, N.J.,

CONCLUSIONS
and
ORDER

Holder of Seasonal Retail Consumption License CS-1, issued by the Township Council of the Township of Randolph.

Robert A. Baime, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

ABC agent D was making a routine investigation of a relatively minor nature at the licensed premises, which were designated in the listing records as a hotel, when he found himself in the midst of a summer camp for juveniles, further investigation of which gave rise to the preferment of the following charge:

"Said license was improvidently issued in violation of R.S. 33:1-12.14 (P.L. 1960 ch. 72, supplementing R.S. 33:1-1 et seq.) in that it was the latest renewal for a new license originally issued to you on June 1, 1967, at which time the combined total number of plenary and seasonal retail consumption licenses existing in Randolph Township was greater than one for each two thousand of its population as shown by the last then preceding Federal census, and that the issuance of your license was not authorized by any exception to said cited statute."

At the hearing herein, ABC agent D testified that the licensee had a seasonal retail consumption license issued to it by the Township Council of the Township of Randolph (Council) upon an application that the licensee operated a hotel. His inspection disclosed that the premises consisted of a rural tract of some seventeen acres on which were nestled nine buildings clustered about two swimming pools, ball courts, playgrounds, horseback riding rings and general play areas. One of the buildings attached to a farmhouse contained an office, infirmary and an equipment room. Another larger building had a general dining room on the first floor and on the second floor a game room, library and little theater. There was a building containing arts and crafts activity, another containing a nature museum, and another available for indoor camp activities. Four of the buildings contained sleeping rooms and were appropriately called bunkhouses.

The agent interviewed the two principal stockholders of the licensee, Norman Greenberg, its president, and Julius Weiner,

now deceased, its then secretary. Greenberg was then directing the affairs of the camp and was thus unable to fully participate in the inquiry, leaving the responses to Weiner. A statement was taken of Weiner which disclosed that the only use of the license was to supply alcoholic beverages in a picnic area to the parents of some of children who attend the camp. The agent visited each of the buildings, and found that there were only two rooms which could accommodate guests.

Helen M. Bauer, Township Clerk and who is also Clerk of the Council, testified that the license had been issued pursuant to a resolution of the Council authorizing issuance of a seasonal retail consumption license under the "hotel" exception. The premises were once a hotel and had been operated as such, with an appropriate license. That license, which was first issued on June 21, 1962 to the former hotel owner, had been abandoned.

Norman Greenberg testified that he is a Newark teacher and, in addition, runs a day-camp called Harbor Hills (the name under which the licensee is trading) and, upon its acquisition, desired to reactivate the license previously held by the former owners. He consulted with a member of the Division and alleged that he was advised that he could apply for a new license under the hotel exception rule. In addition to the day-camp, he runs a picnic business and, additionally, rents out a portion of his property as a farm. It is in connection with the picnic business that the license is desired. On direct inquiry the witness responded to the following questions:

"Q Let me pose a hypothetical question to you. Were you to be inundated by requests for reservations tomorrow [March 4, 1971] would you be able to accommodate people in fifty rooms?

A To the maximum capacity, yes. Not tomorrow. I think we would be ready around July 1 because of the heat problem."

The witness admitted he did not keep a hotel register, failing to do so because of "ignorance". He responded further:

"Q If you were asked what business you were in or were you in the hotel business, what would your answer be?

A Probably not.

Q How do you mean? As your primary business or what?

A I think our primary business would be the area where we have the most knowledge. That would be children. And, of course, the secondary area would be in the area of the hotel, just as well as we became secondary in the picnic area because Mr. Weiner and I had no restaurant knowledge until we got involved in this."

He affirmed that, at the time of the visit by the ABC agent, he could not participate as fully in the investigation as he was then in charge of four hundred children requiring his total attention. Finally, the following was elicited:

"Q In the operation of these licensed premises have you ever operated as a hotel and advertising for guests?

A In the general sense of the word, I think we have to define once again did we ever operate as a hotel. I think I answered when Mr. Baime examined me as to the comparison as to what kind of hotel we were going to operate to go into a complete Saltz' or Statler kind of hotel the answer would be 'No'."

and

"Q Have you ever had a set-up with a room already made up so that a guest could just come in and rent a room?

A Instantaneously, the answer would be, 'No'. However, there were rooms available, as [ABC agent D] indicated. I can't fathom this, although I am not going to dispute [agent D's] testimony, but there always were three sleeping rooms available in the 'farm house'."

The dispositive issue herein is whether the licensed premises constitute and are operated as a hotel within the meaning of R.S. 33:1-12.20 under which the license was issued. The pertinent portion of the applicable statute, adopted in 1947, reads as follows:

"Nothing in this act shall prevent the issuance, in a municipality, of a new license to a person who operates a hotel containing fifty sleeping rooms or who may hereafter construct and establish a new hotel containing at least fifty sleeping rooms."
Ch. 94, p.502, P.L. 1947.

A "hotel" has been defined as "a house licensed to provide lodging and usually meals, entertainment and various personal services for the public"; and "a building of many rooms chiefly for overnight accommodation of transients".... Webster's Third New International Dictionary, 1961.

Based on this or parallel definition, the Legislature created an opportunity for a specific exception to the statutory license limitation (R.S. 33:1-12.14) where a fifty or more rooms hotel was the subject of the application. "The reason for this [enactment of R.S. 33:1-12.20] appears to be quite obvious. The hotel and motel industry caters to transients, as well as to people in the community; and it appeared to be the feeling of the Legislature that the accommodation of such transients would generally serve the best interests of the community." Hackensack Motel Corporation v. Little Ferry, Bulletin 1648, Item 1.

The clear language in R.S. 33:1-12.20 places hotels having fifty or more sleeping rooms (now amended by Chapter 358 of the Laws of 1968 to require a minimum of one hundred guest sleeping rooms) in a separate and distinct category from any other plenary retail consumption licensees. The Legislature, in excepting this particular category from the stringent limitation numerically placed on the issuance of licenses, gave favorable consideration to the traveling public. But that benefit would extend only to a bona fide hotel. For example: "...although an applicant may meet the statutory requirements of a bona fide hotel, this, of itself, is not sufficient to entitle it to a liquor license as a matter of right." Rauoly, Inc., v. Lakewood, Bulletin 1653, Item 2.

Similarly in the matter of Brush v. Hock, 137 N.J.L. 257, (Sup. Ct. 1948) Judge Eastwood said:

"Objection is made that the Commissioner (now Director) was not consistent in that, while revoking petitioners' licenses, he nevertheless permitted the license issued to one Jean Circolo, trading as Seaside Hotel, to remain in effect, and that thereby the petitioners were denied equal privileges. The Commissioners found that the Borough Council were in favor of issuing licenses for hotels and that they were satisfied that Circolo operated a bona fide hotel, and that the nearest licensed hotel was located approximately one-half mile distant. A review of the evidence below reveals that the petitioners here did not conduct bona fide hotels, and, therefore, the Circolo determination is not applicable."

It can not be disputed that "The traditional function of an inn or a hotel is to provide not merely lodging, but food, drink and whatever amenities are needed for the comfort of the travellers using the inn or hotel." Springdale Park, Inc., v. Andover, Bulletin 1738, Item 2.

The only and inescapable conclusion that can be reached from the evidence presented is that the hotel exception set forth in R.S. 33:1-12.20 could not have been properly applied to the licensee. The premises are operated as a childrens camp with a side business of a picnic grove. It was for the latter that the license was secured. Thus, no hotel was operated by the licensee when the license was originally issued on June 1, 1967, and its issuance was in violation of the applicable statute referred to in the charge herein.

A cursory inspection of the premises by the issuing authority prior to the issuance of the new license on June 1, 1967 would have revealed the same situation discovered by the agent of the Division had such investigation been made. "The primary responsibility to enforce the law pertaining to retail licenses rests upon the municipality." Benedetti v. Bd. of Com'rs of Trenton, 35 N.J. Super. 30 (App. Div. 1955); Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App. Div. 1955). That revelation would have precluded the issuance of the license. Attention is here called to a parallel situation recently determined by this Division where cancellation of an improvidently issued license was ordered. See Re Cruikshank, Bulletin 1962, Item 4.

After considering the entire record herein, I conclude that the said charge herein was established by a preponderance of the credible evidence. It is, accordingly, recommended that the said license be cancelled effective immediately.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the 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 22nd day of June 1971,

ORDERED that Seasonal Retail Consumption License CS-1, issued by the Township Council of the Township of Randolph to J.R.N. Corporation, t/a Harbor Hills, for premises on Doby Road, Randolph Township, be and the same is hereby cancelled, effective immediately.

Richard C. McDonough,
Director.

DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against

Belford Scott Millering
and Dorothy D. Ortmann
t/a Cappy's Wine and Liquors
331 South Avenue, East
Westfield, N. J.,

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Mayor and Council of the Town of Westfield.

Kein, Pollatschek & Iacopino, Esqs., by Julius R. Pollatschek, Esq.,
Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleaded non vult before the municipal issuing authority to a charge that on January 16, 1971, they sold alcoholic beverage to a minor, age 19, in violation of Rule 1 of State Regulation No. 20. The license was suspended for ten days with the effective date thereof deferred pending the determination of the licensee's petition to pay a monetary fine in lieu of suspension.

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 \$610 in lieu of suspension.

Accordingly, it is, on this 22nd day of June 1971,

ORDERED that the payment of \$610 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough
Director

DISCIPLINARY PROCEEDINGS - FAILURE TO KEEP PROPER LIST OF EMPLOYEES AVAILABLE FOR INSPECTION - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against Cozie Little t/a Little's Lounge 621 North 5th Street Newark, N.J.

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-62, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

No Appearance for Licensee. Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

A plea of not guilty to the following charge preferred against the said licensee was entered by the Division because of the failure or refusal of the licensee to respond to notices sent to her with respect thereto:

"On October 26, 1970, you conducted your licensed business without keeping on the licensed premises a list containing the names and addresses and other required information with respect to all persons then currently employed on your licensed premises, contrary to and in violation of Rule 16(c) of State Regulation No. 20".

This matter was set down for hearing on April 30, 1971 and several communications were sent and telephone calls were made to the licensee advising her of the said hearing date. The licensee failed to appear at the said hearing, and the matter was heard ex parte.

ABC agent C gave the following account: In the course of a routine inspection of the licensed premises on October 26, 1970, he found that the licensee did not have an executed El41A form, on which licensees are required to list all employees employed on the premises and detail information pertaining to such employment. The agent left another form to be completed by the licensee and obtained an acknowledgment by the bartender on duty that no such list was then available for inspection by the agent.

The agent checked with the Division prior to the preferment of the said charge, and on the date of the within hearing herein, he again verified that no such executed form had been received by this Division.

It appears that on November 13 and December 4, 1970 telegrams were sent by the attorney for the Division to the licensee

requesting that the said form be submitted. However, the licensee has failed to comply with said request. I, therefore, conclude that the charge herein has been established by a fair preponderance of the credible evidence, and recommend that the licensee be found guilty of said charge.

Licensee has a prior record of suspension of license by the local issuing authority for fifteen days effective February 18, 1963 for permitting a brawl on licensed premises. The prior record of suspension for dissimilar violation occurring more than five years from the date of the said charge disregarded, it is, further, recommended that the license be suspended for ten days. Re Club 232, Inc., Bulletin 1928, Item 5.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the 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 22nd day of June 1971,

ORDERED that any renewal license which may be issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Cozie Little, t/a Little's Lounge, for premises 621 North 5th Street, Newark, presently the holder of plenary retail consumption license C-62, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, July 6, 1971, and terminating at 2 a.m. Friday, July 16, 1971.

Richard C. McDonough,
Director.

10. DISCIPLINARY PROCEEDINGS - AMENDED ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)
)
 Chicken Barn, Inc.)
 30 Lincoln Place)
 Garfield, N. J.,)

AMENDED ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Mayor and Council of the City of Garfield.)
 -----)

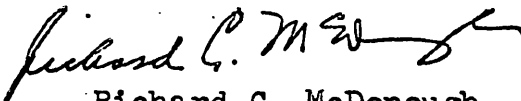
Licensee, Pro se.
 Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On June 14, 1971, I entered Conclusions and Order herein suspending the license for thirty days, with remission of five days for the plea of non vult entered herein, leaving a net suspension of twenty-five days, which said suspension was to commence at 3:00 a.m. June 28, 1971. The licensee has requested that the said Order be amended to provide that the said suspension be deferred to commence on July 12, 1971, instead of June 28, 1971. Good cause appearing, I shall grant the request.

Accordingly, it is, on this 22nd day of June 1971,

ORDERED that any renewal that may be granted for the 1971-72 licensing period of Plenary Retail Consumption License C-11, issued by the Mayor and Council of the City of Garfield to Chicken Barn, Inc., for premises 30 Lincoln Place, Garfield, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. Monday, July 12, 1971, and terminating at 3:00 a.m. Friday, August 6, 1971.


 Richard C. McDonough
 Director