

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

BULLETIN 1940

November 12, 1970

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STATE OF NEW JERSEY
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November 12, 1970

1. APPELLATE DECISIONS - SAMUEL BERELMAN, INC. v. CAMDEN.

SAMUEL BERELMAN, INC.
t/a PAYTON'S PLACE

Appellant,

V.

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY
OF CAMDEN,

Respondent.

ON APPEAL
CONCLUSIONS
AND ORDER

Novack & Trobman, Esqs., by Malcolm Trobman, Esq., Attorneys
for Appellant.

Isaiah Steinberg, Esq., by Samuel T. French, Jr., Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This appeal challenges the action of the respondent Municipal Board of Alcoholic Beverage Control of the City of Camden (hereinafter Board), which by resolution dated November 19, 1969, "rescinded" its conditional grant of appellant's application for renewal of its plenary retail consumption license for premises 629 Ferry Avenue, Camden. The stated reason for the said rescission was that appellant had "failed to show that there is any valid corporation" (proof of corporate structure being the condition upon which license was renewed).

Appellant asserts that the action of the Board was erroneous because the Charter of the corporate appellant was reinstated on November 18, 1969, after it paid the delinquent franchise taxes in the sum of \$68.87.

The answer of the Board admits that the rescission was made because of the failure of the appellant to submit evidence of a valid corporate structure, and defends that it took this action after the appellant was unable to produce proof thereof, after several extensions of time within which to produce the same were granted to the appellant.

The hearing on appeal was de novo pursuant to Rule 6 of State Regulation No. 15; with full opportunity for counsel to present testimony under oath and cross-examine witnesses.

I make the following findings of fact.

Joan L. Payton, the present holder of ninety-five shares out of a total of one hundred shares of corporate stock of the corporate appellant, sold and transferred her stock to Floyd

Caston on July 16, 1968, for \$25,000, payment of which was to be made weekly in accordance with said agreement. Caston defaulted in his payments but nevertheless filed the application for renewal on behalf of the appellant.

On July 23, 1969 the Board granted the renewal upon the condition that the appellant produce proof of corporate structure. It appeared that the corporation had defaulted in payment of annual corporate franchise taxes.

Since Caston was not interested in continuing the licensed business, his attorney advised the Board by letter dated August 2, 1969 that he "...may withdraw his application for renewal of the license....". However, no formal application for withdrawal took place and as of November 19, 1969, Caston was properly listed on the renewal application as the stockholder of the corporate appellant.

The record further shows that on November 18, 1969, a certificate was issued by the Secretary of State authorizing the appellant to continue its business and resume the exercise of its corporate functions. Apparently this certificate crossed in the mail, and was not received by the appellant on November 19, 1969, when respondent took the complained of action. Upon considering the totality of the record and circumstances herein, I conclude that the action of the Board should be reversed for the following reasons:

1. The condition imposed upon the grant of appellant's application for renewal was an invalid condition and not the type of condition contemplated by the Alcoholic Beverage Law. An issuing authority by resolution, first approved by the Director, may impose any condition or conditions to the issuance of any license deemed necessary and proper to accomplish the objects of this chapter of the Alcoholic Beverage Law. R.S. 33:1-32. Lubliner v. Paterson, 33 N.J. 428, 447 (1960). The said "condition" was not first approved by the Director, nor would it have been approved, if submitted. Since the application was properly filed with the Board setting forth the officers, directors and stockholders, it is presumed to be valid and regular in form. The failure of the appellant to pay franchise taxes is not a valid reason for denying the application for renewal.

2. Since the condition was invalid, the grant of the renewal application on July 23, 1969 was a final determination. Thus, the rule is well established that when an issuing authority reaches a final determination on an application for a license or renewal thereof, it has no jurisdiction to reconsider its action at a subsequent meeting, in the absence of mistake of law or fact and fraud perpetrated upon it. Barone's Lounge, Inc., v. Paterson, Bulletin 1901, Item 2; Cascio v. Roselle Park, Bulletin 1579, Item 1; White v. Atlantic City, 62 N.J.L. 644.

3. In any event the proof before me established that as of November 19, 1969, when the Board took its action rescinding its prior grant of the application for renewal, the corporation had valid corporate existence.

4. It would be palpably unfair to Mrs. Payton to deprive her of this license because of the indifference of Caston, who was in default in his obligation to her. She testified that she had made every effort to obtain the stock from him and finally had to institute an action in the Superior Court of New Jersey (Chancery

Division). An Order for summary judgment was entered in the said court on May 21, 1970, directing Caston to turn over and deliver to Mrs. Payton the stock certificates, together with all books and records relating to the business of the appellant.

Fairness would dictate that the resistance of Caston should not operate to deprive Mrs. Payton of her lawful right and interest in the said license. As with all administrative tribunals, the spirit of the Alcoholic Beverage Law and its administration must be read into the regulation. The law must be applied rationally and with "fair recognition of the fact that justice to the litigant is always the polestar". Cf. Barbire v. Wry, 75 N.J. Super. 327; Martindell v. Martindell, 21 N.J. 341, at 349 (1956).

Since Mrs. Payton was really the equitable owner of the stock, her interest should be protected against any unfair action by Caston.

Counsel for the Board argues that the Board was not aware of the true owners of the stock and was, therefore, unable to make the required statutory investigation to determine the fitness of the stock owners and officers. However, realistically, it should be noted that application for the 1970-71 renewal was made by Mrs. Payton and the other stockholders holding the balance of five shares.

Thus, the Board has now had an ample opportunity to determine the statutory fitness of the present stockholders and officers to hold this license.

It is of some significance that the license has not been in actual operation since July 1969. Mrs. Payton has testified that it is her intention to sell her interest in the license to a qualified transferee. As stated before, fairness would require that her interest not be destroyed because of the action of the Board based upon the reason set forth in its resolution of November 29, 1969.

Accordingly, it is recommended that the action of the respondent Board be reversed.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15 written exceptions to the Hearer's report, with supportive argument, were filed by the attorney for the respondent.

An Answer to the Exceptions was filed by the attorney for the appellant. I have analyzed the Exceptions and find that they have either been satisfactorily answered in the Hearer's report or are lacking in merit.

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

Accordingly, it is on this 21st day of September, 1970

ORDERED that the action of the respondent Municipal Board of Alcoholic Beverage Control of the City of Camden be and the

same is hereby reversed; and it is further

ORDERED that the respondent Board grant appellant's application for 1969-70 renewal nunc pro tunc in accordance with the application filed therefor.

RICHARD C. McDONOUGH
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR
SIMILAR RECORD - LICENSE SUSPENDED FOR 120 DAYS.

In the Matter of Disciplinary)
Proceedings against)

HUB CORP., INC.)
807 - 7th Street)
Union City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-149, issued by the Board of)
Commissioners of the City of Union)
City.)

Miller, Hochman, Meyerson & Miller, Esqs., by Gerald D. Miller,
Esq., Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

"1. On September 23, 24 and October 2, 1969,
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 September 23, 24 and October 2, 1969,
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's case was presented through the testimony
of two ABC agents who were specifically assigned to investigate
alleged gambling activities at the subject premises.

These agents who have had a considerable background of
experience in the investigation of gambling activities, including
numbers bets and bookmaking, gave the following account:

The subject premises had been kept under surveillance
prior to the dates alleged in the said charges because of alleged
gambling activities therein. On their visit to the premises on
September 23, 1969, ABC agents S and G entered the premises at
about 1:25 p.m. and seated themselves at the bar. They ordered

and were served a drink of alcoholic beverages by the bartender on duty, later identified as Nick Caviano. Agent S asked Nick whether Salty, a bookmaker who frequented several of the taverns in the area, had come in yet. In the course of the conversation, they said they wanted to place a bet and Nick replied:

"I can take care of it for you. What do you want?
The guy's next door. He will be right in."

Agent G stated that he wanted to play the number 789 for 50 and 50. Agent S indicated that he wanted to play the number 711 for 50 and 25 and a 25-cent box. Nick picked up a coaster, ripped off a piece and noted these numbers on the paper; whereupon the agents each handed him a one dollar bill, which Nick pocketed. Agent G asked Nick, "Is your bookie okay?"; he replied, "Yes, yes." They then left the premises.

These numbers bets were described by Agent S as:

"...numbers bet which is taken from the mutual handle at a given track, the last three numbers. And the fifty cents would be covering the position that it would come out in. The last three numbers, that would be called the first race. And then the second 50 cents would be called the second race covering in a different position."

Returning to the premises on the following day, September 24, 1969 at about 1:20 p.m., they found Nick engaged in his duties as a bartender, and there were two patrons in the premises. When the agents informed him that they wanted to place a bet again, Nick hesitated and stated:

"How do I know who you are?" ... "You might be ABC men. I never saw you guys before."

The agents gave him a fictitious story about people they know in the neighborhood, after which Nick picked up a coaster, tore off a piece and stated "What do you want?". The agents again placed numbers bets with him. Nick remarked "You changed your number from yesterday" and agent S said "Yes, I did."

Shortly thereafter, a male entered the premises and was referred to as "Pete" by Nick. Nick immediately handed the bets over to Pete, who was later identified as Theodore Aragonna. Pete took the money and the bet slips and placed them in his pocket. The agents departed the premises at about 1:30 p.m.

Returning to the premises on October 2, 1969 the agents, on this occasion, by pre-arrangement were working in close cooperation with the then-Hudson County Prosecutor, James Tumulty, his first assistant, John Carlin and two detectives from the prosecutor's staff. Representatives of the prosecutor's office remained on the outside of the premises, in possession of a list prepared by the agents, containing serial numbers of two marked one dollar bills, which were in the possession of agent S.

The agents entered the premises at 12:35 p.m. and seated themselves at the bar near the front door. Nick was engaged in his regular duties as bartender on this occasion, and the agents informed him that they desired to place bets and were in a "hurry". At that point, Pete (Theodore Aragonna) entered the premises;

Nick pointed to him and stated to the agents "Give him what you want." As Pete approached the agents, Nick said to Pete, "Take care of these guys. They're in a hurry." Pete then took out a pad and pencil, and recorded the bets placed by the agents. Agent G played number 879 for a "dollar straight"; agent S played 357 for a "dollar straight"; agent S handed Pete the two marked dollar bills which Pete placed in his pants pocket.

The agents promptly left the premises, and at about 12:45 p.m. Sergeant Worrell and other members of the prosecutor's staff entered the premises, identified themselves and placed Pete under arrest. The marked money was found in Pete's possession. At about 1:30 p.m. the agents returned to the premises and identified themselves to Nick. Pete (Theodore Aragonna) was described as a person about thirty-five years of age, five-feet, eight inches tall and weighing one hundred seventy-five pounds, with a dark complexion and dark hair. The agents indicated that Pete was driving a bakery truck on this date.

The agents proceeded to other assignments, and returned to the subject premises at 1:30 p.m. for the purpose of confrontation. Joseph Graziosi, an officer and principal stockholder of the corporate licensee, was present in the tavern at this time. The agent informed him of the fact that they had placed bets with Nick, and that on this date and on a prior date Nick handed the bets to Pete. Nick denied engaging in any betting activity. The agents conceded that on none of these occasions was Graziosi present in the premises when the betting activity actually took place.

Testifying on behalf of the licensee, Joseph Boushay, the owner of Reliable Refrigeration & Air Conditioning Service, stated that on October 2, 1969, he came to service the air conditioning on the said premises. He arrived there at 1:00 p.m. and was about to return to his truck to obtain certain equipment when members of the prosecutor's staff entered. He was ordered back into the premises and was searched; he vigorously denied to the officers that he had anything to do with the alleged gambling activity. He asserted that the agents returned to the tavern at about 2:00 p.m. He heard the prosecutor's detectives question Aragonna, who denied that he was "Pete", referred to by the agents.

On cross examination he admitted that he was not in the tavern on October 2 between 12:35 p.m. and 12:45 p.m. when the alleged betting activity took place.

Although he was acquainted with Aragonna he did not know him as "Pete" but simply as Teddy. He also admitted that the police officers had the two marked dollar bills in their possession, and that there were no other patrons in the bar at that time.

Harry Calandrillo testified that he entered this bar at 7:00 a.m. on October 2, 1969 and did not see any bets or any transactions between the agents and the bartender. In fact he simply didn't know anything that happened at that time.

Frank Scerbo testified that he was in the vicinity of the tavern at about 1:30 in the afternoon when he was apprehended by Assistant Prosecutor Carlin, and ordered to enter the tavern. He was searched but no slips were found on him. He was also questioned about Aragonna and stated that, although he knew him for some time, he did not identify him as "Pete".

Finally, he stated that he knows that he has seen Aragonna in the vicinity on a number of occasions; in fact, he last saw him on "Maybe three, four weeks ago".

Joseph Graziosi, the president of the corporate licensee stated that he entered the premises about 2:00 p.m. on October 2, and was questioned by the agents and the prosecutor's men.

The bartender was also questioned in his presence and denied taking any bets or engaging in any betting activity. It is conceded that this witness was not present on October 2, or the prior dates, when the agents allegedly placed these bets.

On cross examination, he admitted being informed by the detectives that the two marked one dollar bills were found in Aragonna's possession.

We are dealing here with purely disciplinary measures and their alleged infractions. Such proceedings are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); In re Schneider, 12 N.J. Super. 449 (App.Div. 1951). Thus the Division is required to establish its case by a preponderance of the credible evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373. In other words, the finding must be based upon a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A N.J.S. Evidence, sec. 1042.

Since this case presents a sharp factual conflict in the testimony, it was necessary to evaluate the testimony after observing the demeanor of the witnesses and giving weight to such testimony as was found credible. It is axiomatic that evidence to be believed must not only proceed from the mouths of credible witnesses, but must be credible in itself, and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

From my evaluation and assessment of the testimony, I am persuaded that the version given by the Division's witnesses was credible and accurately depicted what transpired on the dates in question. In fact, there has been no testimonial refutation by the licensee of what transpired on September 23 and September 24, 1969.

It should be noted, of course, that according to testimony, Nick the bartender, is presently deceased. However, the testimony places Aragonna on the premises, and as a participant on September 24, 1969.

Furthermore, with respect to the incident on October 2, 1969, Aragonna was not produced by the licensee. At the conclusion of the licensee's presentation, its attorney requested continuance of this matter in order to produce Aragonna. However, he did not represent that Aragonna was not available or that he was subpoenaed to appear, and did not respond thereto.

Since Graziosi, the corporate officer, testified that he saw Aragonna as recently as the day before the hearing herein, it was clear that Aragonna was available and could have been subpoenaed to testify. Accordingly, the request for a continuance was denied.

The record also shows that the two marked one-dollar bills were found at the time of the search of Aragonna by the prosecutor's detectives and there were no other patrons in the premises. The logical inference is that they were in the possession of Aragonna.

The testimony of Boushay lacks substance because he was not actually present at the time of the alleged betting activity.

Finally, while Graziosi was not present on any of the occasions when the alleged violations took place, the rule is well established that the licensee is responsible for the actions of its agents, servants and employees.

Rule 33 of State Regulation No. 20 states in part:

"... The fact that the licensee did not participate in the violation or that his agent, servant or employee acted contrary to instructions given to him by the licensee or that the violation did not occur in the licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings."

Greenbrier, Inc. v. Hock, 14 N.J. Super. 39 (App.Div. 1951); F. & A. Distributing Co. v. Div. of Alcoholic Beverage Control, 36 N.J. 34 (1961); cf. Mazza v. Cavicchia, 28 N.J. Super. 288, aff'd 15 N.J. 498 (1954).

I therefore conclude, upon my assessment and evaluation of the entire record herein, that these charges have been established by a fair preponderance of the credible evidence. It is therefore recommended that the licensee be found guilty of the said charges.

The licensee has a previous record of suspension by this Division for fifty-five days effective April 24, 1968, for a similar violation, i.e., permitting gambling (numbers) on the licensed premises. Re Hub Corp., Inc., Bulletin 1794, Item 4.

The prior record of suspension for a similar violation within the past five years considered, it is further recommended that the license be suspended for one hundred twenty days. Re Trawinski, Bulletin 1825, Item 1.

Conclusions and Order

Written exceptions to the Hearer's report with supportive argument were filed by the licensee, pursuant to Rule 6 of State Regulation No. 16.

I find that the matters contained in the exceptions have either been considered in detail by the Hearer in his report or are without merit.

Having carefully considered the entire record herein, including the transcript of the testimony, the Hearer's report and the exceptions filed with reference thereto, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 22d day of September, 1970,

ORDERED that Plenary Retail Consumption License C-149, issued by the Board of Commissioners of the City of Union City to Hub Corp., Inc. for premises 807 - 7th Street, Union City, be and the same is hereby suspended for one hundred twenty (120) days, commencing at 3:00 a.m. Tuesday, October 6, 1970, and terminating at 3:00 a.m. Wednesday, February 3, 1971.

RICHARD C. McDONOUGH
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

NORTH WILDWOOD RED GARTER, INC.

t/a Red Garter

Southwest Corner Spruce and
New Jersey Avenue

North Wildwood

PO Wildwood, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-17, issued by the Mayor and Common Council of the City of North Wildwood.

Licensee, by James Kane, President, Pro se
Francis P. Meehan, Jr., Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 8, 1970, it sold mixed drinks of alcoholic beverages to two minors, ages 17 and 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Kriss and Ward, Bulletin 1538, Item 3.

Accordingly, it is, on this 15th day of September 1970

ORDERED that Plenary Retail Consumption License C-17, issued by the Mayor and Common Council of the City of North Wildwood to North Wildwood Red Garter, Inc., t/a Red Garter, for premises Southwest Corner Spruce and New Jersey Avenue, North Wildwood, be and the same is hereby suspended for fifteen (15) days, commencing at 3 a.m. Monday, September 28, 1970, and terminating at 2 a.m. Tuesday, October 13, 1970.

RICHARD C. McDONOUGH
DIRECTOR

4.

ACTIVITY REPORT FOR SEPTEMBER 1970

ARRESTS:			
Total number of persons arrested -			20
Licensees and employees -	4		
Bootleggers -	16		
SEIZURES:			
Motor vehicles - cars -			1
Alcohol - gallons -			2.64
Distilled alcoholic beverages - gallons -			17.403
Wine - gallons -			1.875
Brewed malt alcoholic beverages - gallons -			25.98
RETAIL LICENSEES:			
Premises inspected -			611
Premises where alcoholic beverages were gauged -			538
Bottles gauged -			8,979
Premises where violations were found -			171
Violations found -			256
No Form E-141-A on premises -	54	Other mercantile business -	7
Unqualified employees -	70	Improper beer taps -	1
Form E-141-A incomplete -	31	Prohibited signs & practice -	1
Application copy not available -	29	Other violations -	55
No disposal permit -	8		
STATE LICENSEES:			
Premises inspected -			4
License applications investigated -			1
COMPLAINTS:			
Complaints assigned for investigation -			390
Investigations completed -			410
Investigations pending -			311
LABORATORY:			
Analyses made -			84
Refills from licensed premises - bottles -			49
Bottles from unlicensed premises -			14
IDENTIFICATION:			
Criminal fingerprint identifications made -			4
Persons fingerprinted for non-criminal purposes -			426
Identification contacts made with other enforcement agencies -			300
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities -			5
Violations involved -			6
Sale during prohibited hours -	4		
Sale to minors -	2		
Cases Instituted at Division -			29*
Violations involved -			34
Sale to minors -	7	Fraud and front -	1
Sale during prohibited hours -	6	Employing police officer on prem. -	1
Possessing liquor not truly labeled -	6	Fail. to close prem. dur. proh. hrs. -	1
Permitting immoral act. on prem. -	5	Sale outside scope of license -	1
Permitting lottery act. on prem. -	3	Purchase from improper source -	1
Hindering investigation -	2		
Cases brought by municipalities on own initiative and reported to Division -			9
Violations involved -			12
Sale to minors -	4	Perm. minor in prem. unaccomp. by	
Conducting business as a nuisance -	2	parent (local reg.) -	1
Permitting misc. gambl. on premises -	2	Sale during prohibited hours -	1
Permitting brawl on premises -	1	Perm. illegal act. (narcotics) -	1
HEARINGS HELD AT DIVISION:			
Total number of hearings held -			53
Appeals -	7	Eligibility -	10
Disciplinary proceedings -	36		
STATE LICENSES AND PERMITS:			
Total number issued -			1,654
Licensees -	1	Wine permits -	42
Solicitors' permits -	41	Miscellaneous permits -	237
Employment permits -	389	Transit insignia -	50
Disposal permits -	73	Transit certificates -	319
Social affair permits -	502		
OFFICE OF AMUSEMENT GAMES CONTROL:			
Licenses issued -	1	Premises inspected -	123
State Fair licenses issued -	15	Premises where violations were found -	9
Enforcement files established -	9	Number of violations found -	15

RICHARD C. McDONOUGH
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: October 9, 1970

*Includes 1 cancellation proceeding - license improvidently issued since it was the latest renewal for a new license originally issued in 1966.

5. DISCIPLINARY PROCEEDINGS - ORDER TO TERMINATE SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

G. G. H. CORP.)
t/a The Spot)
535-37 Liberty Street)
Camden, N. J.)

ORDER

Holder of Plenary Retail Consumption)
License C-169 issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Camden)

Novack & Trobman, Esqs., by David Novack, Esq., Attorneys for
Licensee
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

On July 8, 1970, Conclusions and Order were entered herein suspending the license for the balance of its term commencing on July 22, 1970, 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 on or after August 11, 1970. Re G. G. H. Corp., Bulletin 1928, Item 7.

It appearing from verified petition submitted by the licensee that the unlawful situation has been corrected, I shall grant the petition requesting termination of the suspension, effective immediately.

Accordingly, it is, on this 22d day of September, 1970,

ORDERED that the suspension heretofore imposed herein be and the same is hereby terminated, effective immediately.

RICHARD C. McDONOUGH
DIRECTOR

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

In the Matter of Disciplinary)
Proceedings against)

TOM'S CAFE & TAVERN, INC.)
t/a Lantern Bar)
79-81 Main Street)
Hackensack, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-38, issued by the City)
Council of the City of Hackensack.)

Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys for
Licensee.

Edward F. Ambrose, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on June 30, July 1, 3, 14 and 21, 1970 it permitted the acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for three days effective November 4, 1951 for permitting a brawl and obscene language on the licensed premises, by the Director for ten days effective January 22, 1952 for sales to minors (Re Tom's Cafe & Tavern, Inc., Bulletin 925, Item 4), and by the municipal issuing authority for ten days effective March 16, 1965 for sales to minors.

This previous record of suspensions for dissimilar violations all occurring more than five years ago disregarded, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Lorello and Schulkes, Bulletin 1919, Item 9.

Accordingly, it is, on this 24th day of September 1970,

ORDERED that Plenary Retail Consumption License C-38, issued by the City Council of the City of Hackensack to Tom's Cafe & Tavern, Inc., t/a Lantern Bar, for premises 79-81 Main Street, Hackensack, be and the same is hereby suspended for fifty-five (55) days, commencing 2 a.m. Tuesday, September 29, 1970, and terminating at 2 a.m. Monday, November 23, 1970.

RICHARD C. McDONOUGH
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - PERMITTING LEWD AND IMMORAL
ACTIVITY - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA -
NO EFFECTIVE DATES FOR SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

DANNY'S RED BALL, INC.)
t/a Gene's)
414-434 Highway 25)
Elizabeth, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-120, issued by the City Council)
of the City of Elizabeth for the 1969-70)
licensing period and extended by the Director)
of the Division of Alcoholic Beverage Control)
for the 1970-71 licensing period pending de-)
termination of an appeal from denial by said)
City Council of application for renewal of)
said license for the 1970-71 licensing period.)

Fierro, Fierro & Mariniello, Esqs., by Joseph R. Mariniello,
Esq., Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
July 15, 17-18 and 22-23, 1970 it permitted lewdness and immoral
activity (indecent conduct by apparent male and female homo-
sexual patrons) on the licensed premises, in violation of Rule
5 of State Regulation No. 20.

Division records disclose that the license of this cor-
poration was revoked effective August 6, 1970 by the City Council
of the City of Elizabeth on a similar charge herein; that an
appeal from the City Council's order of revocation was there-
after filed with the Director; and the Director, by order entered
August 7, 1970, denied a stay of the said order of revocation
pending final determination by the Director on said appeal. Said
appeal is presently before the Director for decision.

The record of revocation effective August 6, 1970 dis-
regarded because imposed subsequent to the occurrences of the
violation herein (Re Cletzky, Bulletin 1659, Item 6), the license
would normally be suspended for forty-five days, with remission
of five days for the plea entered, leaving a net suspension of
forty days. Re White Arrow Tavern Corp., Bulletin 1924, Item 4.
However, since the license has been revoked and the Director has
not issued an order staying the effect of the revocation pending
his final determination on the appeal, no effective dates for
such suspension can now be fixed. Cf. Re New Peppermit Lounge,
Inc., Bulletin 1679, Item 3.

Accordingly, it is, on this 28th day of September 1970,

ORDERED that Plenary Retail Consumption License C-120,
issued by the City Council of the City of Elizabeth for the
1969-70 licensing period and extended by the Director of the
Division of Alcoholic Beverage Control for the 1970-71 licensing

period pending determination of an appeal from denial by said City Council of application for renewal of said license for the 1970-71 licensing period, to Danny's Red Ball, Inc., t/a Gene's, for premises 414-434 Highway 25, Elizabeth, be and the same is hereby suspended for forty (40) days, the effective dates of such suspension to be fixed as follows: If the Director reverses the City Council on its resolutions of revocation and denial of renewal of said license, then the dates of suspension will be fixed at the time of any such reversal. If the action of the City Council in revoking the said license is affirmed, the effective dates of said suspension will be fixed if and when the licensee again obtains a license after the expiration of the two-year statutory ineligibility (R.S. 33:1-31) which results from a revocation of a license.

RICHARD C. McDONOUGH
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - INDECENT ENTERTAINMENT - LICENSE
SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

GROVE INN, INC.)
t/a Grove Inn)
207 Walker Street)
Cliffside Park, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-15, issued by the Mayor)
and Council of the Borough of)
Cliffside Park.)

Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys
for Licensee
Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 10, 1970 it permitted lewdness and immoral activity (indecent entertainment) on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of the investigation disclose that a female entertainer performed go-go routines, embellishing her performance by including bumps, grinds and suggestive posturings and gesturings, together with bodily movements simulating sexual intercourse.

Absent prior record, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Rodriguez, Bulletin 1739, Item 3.

Accordingly, it is, on this 23rd day of September 1970,

ORDERED that Plenary Retail Consumption License C-15, issued by the Mayor and Council of the Borough of Cliffside Park to Grove Inn, Inc., t/a Grove Inn, for premises 207 Walker Street, Cliffside Park, be and the same is hereby suspended for twenty-five (25) days, commencing at 3 a.m. Thursday, October 8, 1970, and terminating at 3 a.m. Monday, November 2, 1970.

RICHARD C. McDONOUGH
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

THREE S CORPORATION
t/a Jerry Lynch's Hotel
104 4th Avenue
Belmar, N. J.

CONCLUSIONS
AND ORDER

Holder of Seasonal Retail Consumption
License CS-6 for the summer season
from May 1 until November 14, 1970,
issued by the Board of Commissioners
of the Borough of Belmar

Stout, O'Hagan, DeVito & Hertz, Esqs., by D. Joseph DeVito,
Esq., Attorneys for Licensee
Francis P. Meehan, Jr., Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 21, 1970 it sold drinks of beer and brandy to a minor, age 17, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective June 1, 1965 for sales to minors.

The prior record of suspension of license for similar violation occurring more than five but less than ten years ago considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re J. & M. Bar & Liquors, Inc., Bulletin 1884, Item 5.

Accordingly, it is, on this 28th day of September 1970,

ORDERED that Seasonal Retail Consumption License CS-6, for the summer season from May 1 until November 14, 1970, issued by the Board of Commissioners of the Borough of Belmar to Three S Corporation, t/a Jerry Lynch's Hotel, for premises 104 4th Avenue, Belmar, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Monday, October 5, 1970, and terminating at 2 a.m. Sunday, October 25, 1970.

RICHARD C. McDONOUGH
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF
STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

JOY-KEN CORP.
2117 Summit Ave.
Union City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-23, issued by the Board of
Commissioners of the City of Union
City

Licensee, by Kenneth D. Sheppard, President, Pro se.
Walter H. Cleaver, Esq., Appearing for Division.

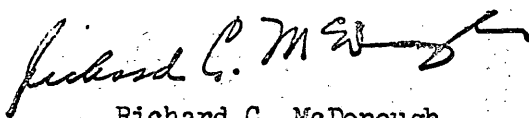
BY THE DIRECTOR:

Licensee pleads non vult to Charges (1) and (2) alleging,
in effect, that on Friday, July 31, 1970, it sold a six-pack of
beer for off-premises consumption during prohibited hours, in
violation of Rule 1 of State Regulation No. 38.

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 Glazer & King, Bulletin
1906, Item 10.

Accordingly, it is, on this 1st day of October 1970,

ORDERED that Plenary Retail Consumption License C-23,
issued by the Board of Commissioners of the City of Union City
to Joy-Ken Corp., for premises 2117 Summit Ave., Union City,
be and the same is hereby suspended for ten (10) days, commencing
at 3:00 a.m. Monday, October 19, 1970, and terminating at 3:00
a.m. Thursday, October 29, 1970.



Richard C. McDonough
Director