

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

BULLETIN 2229

June 9, 1976

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1. DISCIPLINARY PROCEEDINGS - FRONT - IMPROPER BOOKS - LICENSE SUSPENDED FOR
BALANCE OF TERM WITH LEAVE TO CORRECT AFTER 105 DAYS.

In the Matter of Disciplinary)
Proceedings against)

J.P.S., Inc.)
t/a Show Lounge)
200 South Broadway)
Gloucester City, N.J.,)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consump-)
tion License C-10 (for the 1974-75)
license period, and License C-19)
for the 1975-76 license period))
issued by the Common Council of the)
City of Gloucester City.)

Novack and Trobman, Esqs., by Malcolm Trobman, Esq., Attorneys)
for the Licensee)
David S. Piltzer, Esq., Appearing for Division)

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleads 'hot guilty' to charges alleging that, in its application for its plenary retail consumption license it failed to show and disclose that: (1) Emilio DiMatteo is the real and beneficial owner of all of the shares of stock listed in the name of Mary DiMatteo; (2) Emilio Di Matteo has an interest in the license applied for and the business conducted under said license; (3) Emilio DiMatteo retained the profits and income derived from the licensed business; (4) Peoples National Bank of New Jersey, John Schillig, and Phillip B. Tannenbaum, Trustee, have security interests in the business conducted under the license; (5) Mary DiMatteo previously had a direct interest in the license held by Alhe, Inc., which license was suspended; such evasion and suppression of the aforesaid material facts being in violation of N.J.S.A. 33:1-25; (6) from May 14, 1973, to date, the licensee knowingly aided and abetted Emilio DiMatteo in the exercise, contrary to N.J.S.A. 33:1-26, of the rights and privileges of the license, in violation of N.J.S.A. 33:1-52; (7) from April 13, 1973, to date, the licensee failed to keep proper books of account for the licensed business, in violation of Rule 36 of State Regulation No. 20; and, (8) from October 31, 1973, to the present, the licensee hindered the Division investigation into the business conducted under the license, in violation of Rule 35 of State Regulation No. 20.

investigation concerning the licensee and the alleged party in interest. The licensee subsequently stipulated that the testimony of ABC Inspector H would be corroborative of C's testimony.

Inspector C testified that the investigation commenced on October 31, 1973, with an initial visit, by Inspectors C and H, at the licensed premises. Emilio DiMatteo introduced himself as the manager, in charge of the operation of the licensed premises. DiMatteo stated that his sister, Mary DiMatteo, was the sole owner and operator of a luncheonette and would be unable to appear at the licensed premises for an interview.

Mary DiMatteo was interviewed, and a statement was taken at the luncheonette, on November 2, 1973. Inspector C testified that Mary DiMatteo relied on Emilio DiMatteo for the bulk of the answers, that Mary DiMatteo apparently had no independent information concerning either the details of her acquisition of the shares of stock of J.P.S., Inc. or the financial affairs of J.P.S., Inc. She could not recall the manner in which the purchase money for her interest in the license was paid, the amount of the mortgages, or who held the mortgages. Mary DiMatteo was, at this time, given a list of documents and records which she was requested to produce on November 9, 1973, at the licensed premises.

On November 9, 1973, neither Mary DiMatteo nor Emilio DiMatteo appeared at the licensed premises; therefore, Inspectors C and H proceeded to the luncheonette and served Mary DiMatteo with a subpoena, returnable on November 15, 1973, at the Division offices, to produce the aforementioned documents.

On November 14, 1973, a telephone call was received from Emilio DiMatteo, stating that Mary DiMatteo would be unable to appear on the November 15 return date, but gave no reason for her inability to appear. The attorney for the licensee was contacted and a new appointment was scheduled for December 4, 1973.

On December 4, 1973, some of the documents were produced. Mr. Novack, an attorney for the licensee, stated that the remainder of the documents were held by either the licensee's accountant or the licensee's broker, Tannenbaum and Milask.

At this point in the testimony of Inspector C, three business checks from the South Jersey Vending Company were introduced into evidence; the checks were in the amounts of \$1,000., \$100. and \$900., all payable to Emilio DiMatteo and endorsed by Emilio DiMatteo. Inspector C testified as follows:

"Q You mentioned his [Emilio DiMatteo] receiving substantial sums of money from the South Jersey Amusement Company, is that the name of it?

A Yes, I believe that's the name.

Q And those disbursements from the Amusement Company to him were part of the loans given by the amusement company to J.P.S., Inc.?

A Yes.

Q And is there any indication on the records, or anywhere else that you could find, that he repaid those moneys to J.P.S., Inc.?

A No."

The signature card executed by J.P.S., Inc., at the Third National Bank of New Jersey, indicating Emilio DiMatteo as the sole person authorized to sign checks for the corporation, was introduced into evidence. Mary DiMatteo later testified:

"Q I show you D-16 in evidence, the bank authorization card. Did you sign that or did Emilio sign your name for you?

A I think he signed it, I think.

Q So, he signed the authorization to give himself sole authority to issue checks for the corporation?

A I told him to."

Camden County Court records of unsatisfied liens against Emilio DiMatteo, individually, and an unsatisfied Federal Tax lien, under Internal Revenue laws, against Emilio DiMatteo, were also introduced into evidence. Emilio DiMatteo later testified:

"Q In your statement of February 22, 1971, which is Exhibit D-23 in evidence, weren't you asked by Agent H 'Do you have any idea the amount of money involved in these liens or judgments?' 'Answer: No, I don't. I think around \$20,000.' Did you tell the agent around \$20,000.?"

A I don't remember.

Q Since 1971, have you paid off any judgments?

A No."

On December 12, 1973, Inspectors C and H met Emilio DiMatteo at the licensed premises and arranged a meeting for January 11, 1974 with him and the accountant for the licensee; on January 11, 1974, Emilio DiMatteo failed to appear and the accountant was not prepared, presenting only those records previously produced. A new appointment was arranged for January 23, 1974.

On January 23, 1974, Emilio DiMatteo appeared at the licensed premises, without the previously subpoenaed documents, and stated that the accountant would be unable to appear due to illness. A February 13, 1974 appointment then was arranged.

On February 13, 1974, a second subpoena was served upon Mary DiMatteo to produce the requested documents, which subpoena also included a request that Emilio DiMatteo appear, at the Division offices, with Mary DiMatteo, on May 3, 1974.

On May 2, 1974, the Division received a letter from the attorney for the licensee, stating that the DiMatteos would be unable to appear on May 3, 1974. A new appointment was scheduled for May 8, 1974, at the ABC field office in Bellmawr. On May 7, 1974, this appointment was confirmed by telephone with the attorney for the licensee, the attorney stating that both Mary DiMatteo and Emilio DiMatteo would be present.

On May 8, 1974, the attorney and Emilio DiMatteo appeared. Mary DiMatteo failed to appear. Inspector C then testified:

"Q And what happened?

A At 9:45 a.m., Mr. Novack [attorney for licensee] arrived with Emilio D, and Mr. DiMatteo stated that Mary would not appear, because she couldn't leave the luncheonette business.

Q Did he say anything else?

A Yes, he said that he had all the answers, and he didn't think it necessary for her to be present, and he said that he had given all the background information in a statement to Inspector H in the past, and nothing has changed."

Inspectors C and H declined to take Emilio DiMatteo's statement without the principal stockholder being present and available to give a statement. Inspector C then testified that Emilio DiMatteo was asked to turn over the subpoenaed documents, which documents were apparently in a package which Emilio DiMatteo was carrying:

"Q What package are you referring to?

A There was a case of some sort which was supposed to have contained business records, that was requested, and we requested the reports for examination. Mr. Novack advised Mr. DiMatteo that it would be a waste of time, because they had already been informed that they did not comply with the subpoena.

Q And did Mr. DiMatteo permit you to examine those records?

A No, they departed."

Inspector C further testified that no records reflecting receipts and disbursements for the licensed business, for the period subsequent to December 31, 1973, were ever produced; nor were the remodeling expenses verified, nor was a complete record of cancelled checks and the personal income tax return for Mary DiMatteo for the years 1972 and 1973 produced. All of these records were subpoenaed, because without these records the investigation could not be completed.

ABC Inspector/Accountant L testified that an audit of the records of account for J.P.S., Inc., for the period up to December 31, 1973, revealed income of \$80,100. and expenditures of \$123,904.71 or an excess of expenditures in the amount of \$43,804.71. Inspector/Accountant L further testified that the audit revealed neither funds nor payables on the books which would account for the \$43,804.71 deficit.

Mary DiMatteo, the principal stockholder in J.P.S., Inc. in her testimony, could not recall from whom she purchased the shares of stock in J.P.S., Inc., or to whom the shares of stock were sold, or when sold:

"Q When were your shares of stock sold to Smith?

A January or April.

Q Did you attend a settlement?

A Not yet....

Q Well, did you sign your shares of stock over to Smith?

A I don't know if I did or not; they handled it in Tannenbaum's office, telling me what to sign.

Q Emilio has the authority to sign your shares of stock?

A Yes, I gave him the authority for all that."

Emilio DiMatteo later testified that he had signed Mary DiMatteo's name to the documents connected with the purchase by Mary DiMatteo of the shares of Stock in J.P.S., Inc.

Mary DiMatteo further testified that during the approximately two-year period that she was the principal stockholder in J.P.S., Inc., during which time the license was being operated by her brother, neither she nor Emilio D drew any income from the licensed business. This statement was later corroborated by the testimony of Emilio DiMatteo, appertaining thereto, Inspector C testified, as follows:

"Q And you testified that he [Emilio DiMatteo] told you that he took money from the receipts of the licensed business, as he needed, was that your phrase?

A Yes.

Q Without accounting for that, right?

A Yes.

Q There was nothing in the records to show that?

A Right."

Preliminarily, I observe that, in evaluating the testimony and its legal impact, we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App. Div. 1960); Howard Tavern, Inc. v. Division of Alcoholic Beverage Control, (App. Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1.

In appraising the factual picture presented in this proceeding, the credibility of witnesses must be weighed.

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); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961).

I.

The licensee has submitted a written statement in lieu of oral summation. It is the contention of the licensee that the case presented by the State is based entirely upon inferences, assumptions, implications and bare assertions, without any basic, solid, tangible proof.

I find this contention to be untenable. From the totality of the evidence presented, the conclusion is inescapable that Emilio DiMatteo held an undisclosed interest in the business of the license, in that he was the true and beneficial owner of the shares of stock of the corporate licensee held in the name of his sister, Mary DiMatteo.

The motivation for such an arrangement certainly exists; namely, the existence of outstanding liens against the assets of Emilio DiMatteo, individually, and testimony indicating that the Internal Revenue Service had previously levied upon the personal bank account of Emilio DiMatteo, in partial satisfaction of such a lien.

The total lack of knowledge exhibited by Mary DiMatteo, with reference to the purchase of the shares of stock, the sale of the shares of stock, and the financial affairs of the licensed business during that interim period, effectively buttresses this conclusion, particularly when seen in the context of the total control exhibited by Emilio DiMatteo over these same activities. The evidence established that Emilio DiMatteo personally received monies intended for the corporate licensee. The contention that Emilio DiMatteo was merely a conduit for these funds is not supported by the record.

Furthermore, reasonable inferences may be drawn from statements given to Inspectors by a person holding an interest in licensed premises, that such interest is, in truth, being held for another.

"The very nature and characteristics of a 'front' is concealment and subterfuge. Very rarely is such proof buttressed with confessions and/or affirmative admissions. Thus the testimonial presentation must be largely circumstantial and documentary."
Sharp's Lodge, Inc. v. Lakewood, Bulletin 1842, Item 1.

I, therefore, find that the interest of Mary DiMatteo, as stockholder in the corporate licensee, was held by her as a "front" for her brother, Emilio DiMatteo, and thus, I conclude that the Division has established the truth of Charges One, Two, Three and Six, supra, by a preponderance of the credible evidence, and recommend that the licensee be found guilty of the charges.

II.

Referring to Charge Seven, Rule 36 of State Regulation No. 20 in its pertinent part reads as follows:

"All licensees shall have and keep a true book or books of account wherein there shall be entered a record of all monies received and a record of the source of all monies received other than in the ordinary course of business and wherein there shall also be entered a record of all monies expended from such receipts and the name of the person receiving such monies and the purpose for which such expenditures were made....".

The testimony and evidence herein documented expenditures which were \$43,804.71 in excess of income for the period audited, with neither funds nor payable accounts on the corporate books to account for the deficit. Therefore, the books did not truly reflect the totality of the business operation and were not "true books of account" of the licensed business.

I conclude that the Division has established the truth of Charge Seven, supra, by a preponderance of the credible evidence, and recommend that the licensee be found guilty of the said charge.

III.

There was substantial evidence presented to support the conclusion that the licensee, through its principal stockholder, hindered the investigation and, most certainly, did not do everything in its power to facilitate the investigation, in violation of Rule 35 of State Regulation No. 20, which provides, in pertinent part:

"No licensee shall, directly or indirectly, fail, on demand, to produce, exhibit or surrender to the Director..., his deputies, inspectors or investigators..., any and all matters and things which the Director... is authorized to investigate, inspect or examine; nor shall any licensee, directly or indirectly, fail to facilitate or hinder or delay, or

cause the hindrance or delay, of any investigation or inspection of the licensed business or of the licensed premises...."

The failure to appear for scheduled interviews, the failure to produce subpoenaed documents and records, and the refusal, on one occasion, to turn over documents which had been subpoenaed and actually produced by the licensee, are all further evidence of this attitude.

I conclude that the Division has established the truth of Charge Eight, supra, by a preponderance of the credible evidence, and recommend that the licensee be found guilty of the said charge.

IV.

In the written statement submitted in lieu of oral summation, the licensee avers that the two false answers on the license application are merely innocent mistakes or clerical errors. This argument is not persuasive. Rather, these false answers are further evidence of the lack of responsibility for or control over the license exhibited by the principal stockholder in this corporate licensee and, as such, are violative of N.J.S.A. 33:1-25, which reads, in pertinent part:

"...Fraud, misrepresentation, false statements, misleading statements, evasions or suppressions of material facts in the securing of a license are grounds for suspension or revocation of the license."

I conclude that the Division has established the truth of Charges Four and Five, supra, by a preponderance of the credible evidence, and recommend that the licensee be found guilty of the said charges.

The licensee has no prior adjudicated record. It is recommended that the license be suspended for forty-five days on Charges One, Two, Three and Six, for twenty days on Charge Seven, for twenty days on Charge Eight, and for twenty days on Charges Four and Five, making a total suspension of license of one hundred and five days.

Supplemental Hearer's Report

Licensee pleads "not guilty" to charges alleging that, in its application for its plenary retail consumption license it failed to show and disclose that: (1) Emilio DiMatteo is the real and beneficial owner of all of the shares of stock listed in the name of Mary DiMatteo; (2) Emilio DiMatteo has an interest in the license applied for and the business conducted under said

license; (3) Emilio DiMatteo retained the profits and income derived from the licensed business; (4) Peoples National Bank of New Jersey, John Schillig, and Phillip B. Tannenbaum, Trustee, have security interests in the business conducted under the license; (5) Mary DiMatteo previously had a direct interest in the license held by Alhe, Inc., which license was suspended; such evasion and suppression of the aforesaid material facts being in violation of N.J.S.A. 33:1-25; (6) from May 14, 1973, to date, the licensee knowingly aided and abetted Emilio DiMatteo in the exercise, contrary to N.J.S.A. 33:1-26, of the rights and privileges of the license, in violation of N.J.S.A. 33:1-52; (7) from April 13, 1973, to date, the licensee failed to keep proper books of account for the licensed business, in violation of Rule 36 of State Regulation No. 20; and, (8) from October 31, 1973, to the present, the licensee hindered the Division investigation into the business conducted under the license, in violation of Rule 35 of State Regulation No. 20.

The Hearer's report in this matter, dated October 21, 1975, concluded that the Division had established the truth of all eight charges, and recommended that the licensee be found guilty of the charges. It was further recommended that the license be suspended for a total of one hundred and five days.

The Hearer's report indicated that the licensee had no prior adjudicated record. This is not strictly correct. As indicated in Charge Five, supra, Mary DiMatteo, the principal stockholder in J.P.S. Inc., previously held the direct and principal interest in the license of Alhe, Inc., which license was suspended for thirty days, effective May 22, 1972, upon entry of a plea of non vult to charges alleging that Emilio DiMatteo held an undisclosed interest in the license, and that the licensee failed to keep proper records of account.

However, by reason of the fact that all of the shares of stock, in J.P.S., Inc., were transferred, on November 29, 1974, to James Douglas Smith, pursuant to an apparently bona fide "arms length" transaction, the prior adjudicated record of Mary DiMatteo has not been considered in the determination of the recommended penalty in this matter.

In similar manner, the alleged violative situations apparently have been corrected, through the transfer of the stock to James Douglas Smith, and the recommended suspension is, therefore, for one hundred and five days as heretofore recommended in the Hearer's report dated October 21, 1975 and not for the balance of the term of the license or any renewal thereof.

Conclusions and Order

Written Exceptions to the Hearer's report and Supplemental Hearer's report were filed by the licensee, and

written answers to the said Exceptions were filed on behalf of the Division, pursuant to Rule 6 of State Regulation No. 16.

In addition thereto, oral argument was had before me.

In the Exceptions and in the oral argument, licensee argued (a) that the Hearer's recommended factual findings should not be accepted because they were not factually supported by the evidence presented herein; and (b) that the recommended penalty of one hundred-five days license suspension should be reduced "to an absolute minimum".

I have carefully examined the Exceptions and oral argument and find that the evidence in the record clearly supports the Hearer's recommended findings. Furthermore, I find that some of the allegations set forth in the Exceptions are factually incorrect. I am persuaded that the charges have been established by a fair preponderance of the credible evidence. Indeed, by substantial evidence.

Therefore, having carefully considered the entire record herein, including the transcript of testimony, the exhibits, the Hearer's report and Supplemental Hearer's report, the Exceptions thereto filed on behalf of the licensee, and the Answer to the said Exceptions filed on behalf of the Division, I concur in the findings and recommendations of the Hearer, except as to penalty, and adopt them as my conclusions herein.

I shall now consider the matter of penalty; the Hearer based his recommendation of one hundred-five days suspension upon his erroneous statement, in part, that the licensee has no prior record. The fact is that the licensee does have an adjudicated prior record by reason of the Division's Conclusions and Order of May 9, 1972, suspending the license of Alhe, Inc., on front charges wherein Mary DiMatteo held the shares of stock of the corporate licensee as a front for her brother, Emilio DiMatteo. Indeed, the failure of the licensee to set forth this suspension in its license application is the basis for one of the charges for which the Hearer has recommended a guilty finding herein. It is, thus, dismaying that the attorney for licensee, in the Exceptions, repeats the obviously erroneous and misleading statement that "The Hearer points out that the license 'has no prior adjudicated record' ", whereupon he seeks to base his argument for reconsideration thereon.

In response to this argument, the attorney for the Division argues that, in fact, the recommended penalty should be increased, in accordance with Division precedent, by adding an additional forty-five days because of the prior suspension, making a total of one hundred-fifty days. I have, however, decided, in sympathetic consideration of the facts and circumstances

herein, not to increase the recommended penalty, but to impose a penalty of suspension of license for one hundred-five days.

However, in view of the fact that the licensee in its Exceptions has stated that all of its shares of stock have recently been transferred from Douglas Smith to Joseph Twardy, I shall suspend the license for the balance of its term and any renewal term thereof, with leave for the licensee or a bona fide transferee of the license to petition for a lifting of the suspension after one hundred-five days, from the commencement date of the suspension, by establishing that Joseph Twardy or any other bona fide transferee is not holding the said shares of stock on behalf of any one else.

Accordingly, it is, on this 1st day of April 1976,

ORDERED that Plenary Retail Consumption License C-19, issued by the Common Council of the City of Gloucester City to J.P.S., Inc., t/a Show Lounge for premises 200 South Broadway, Gloucester City, be and the same is hereby suspended for the balance of its term, viz., midnight June 30, 1976, effective 2:00 a.m. on Monday, April 12, 1976, and for the term of any renewal of said license which may be granted, with leave to the licensee or any bona fide transferee of the license, or of any renewal of the said license which may be granted, to apply to the Director, by verified petition, for the lifting of the suspension whenever the unlawful situation has been corrected, and that the present transferee is in fact bona fide, and not holding the said shares of stock for any one else; but, in no event shall the lifting of said suspension be sooner than one-hundred-five days from the commencement of the suspension herein.

Leonard D. Ronco
Director

2. APPELLATE DECISIONS - F. Wm. LAVIGNE v. ANDOVER.

F. Wm. LaVigne,)	
)	
Appellant,)	On Appeal
)	
v.)	CONCLUSIONS
)	AND
Mayor and Council of the)	ORDER
Borough of Andover,)	
)	
Respondent.)	
)	
F. William LaVigne, Esq.,)	Appellant, Pro se
Dolan and Dolan, Esqs.,)	by John T. Madden, Esq., Attorney for
Respondent)	

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant and his family own property in the Borough of Andover upon which a shopping center is proposed, and, in connection therewith, an application for a plenary retail distribution license was made to the Mayor and Council of the Borough of Andover (hereinafter Council) for such new license. The application was denied and this appeal followed.

The Council, on December 8, 1975, denied the application principally because there was no ordinance permitting such a distribution license; and an existing ordinance permitting the one plenary retail consumption license existing, specifically precludes the issuance of a retail distribution license. Additionally, the Council determined that it did not want such license within its boundaries.

An appeal de novo was heard in this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and to cross-examine witnesses. In lieu of the presentation of testimony, appellant gave an oral summary of the reasons advanced in support of the appeal. Counsel for respondent moved for a dismissal of the appeal, and grounded the same upon the applicable law and statute.

In his petition of appeal and oral argument at the hearing appellant argues that public convenience and necessity demand a licensed distribution outlet. He notes that there is one licensee in the community, the Andover Hotel, from which

the public may secure alcoholic beverages for off-premises consumption; however, in order to obtain them, it is required that patrons enter the tavern in the hotel. Appellant believes that many prospective patrons visit package stores in other communities rather than visit the hotel tavern.

Additionally, although there are less than one thousand persons residing in the village, Andover embraces two square miles, bisected by a major highway. Plans are afoot for a senior-citizen development which will increase the need for package goods.

The Council denies the contentions of appellant. In its motion for a dismissal of the appeal, respondent cites the long-established law of this State wherein the determination of what licensed premises are to be permitted to exist in any one municipality falls within the purview of the governing body of that municipality. Fanwood v. Rocco, 33 N.J. 404 at p. 412 (1960). The Director's function does not extend to the right to insist that a municipality add to the number of its licenses.

The motion of counsel for the municipality should be granted, and I so recommend. Prevailing law vests upon the local issuing authority the right to determine the number of licenses, if any, to exist in that municipality. See Bumball v. Burnett, 115 N.J.L. 254 (1935) and Fanwood v. Rocco, 59 N.J. Super. 318, (aff. 33 N.J. 404 (1960)) in which the court held (on 318):

"For example, we conceive that the Director has no right to compel a municipality to issue a license, even if the municipality has none at all, or to issue a new one when the municipality has several but in good faith wants no more."

N.J.S.A. 33:1-12 vests in the local issuing authority the right of determination what licenses, if any, that authority wishes to issue, if any (within existing population limits).

Appellant's argument is without foundation. Thus, the appellant has failed to establish that the action of the Council was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

Accordingly, it is recommended that the action of the Council be affirmed, and the appeal herein be dismissed.

Conclusions and Order

Written Exceptions to the Hearer's report were filed by the appellant and written Answer to the said Exceptions was

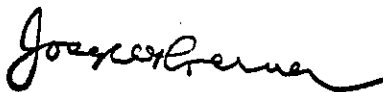
was filed by the respondent, pursuant to Rule 14 of State Regulation No. 15.

I have evaluated and assayed the said Exceptions and find that they have either been fully considered and correctly resolved in the Hearer's report, or are devoid of merit.

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

Accordingly, it is, on this 26th day of April, 1976

ORDERED that the action of the respondent Mayor and Council of the Borough of Andover be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.



Joseph H. Lerner
Acting Director