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

BULLETIN 2195 August 26, 1975

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STATE OF NEW JERSEY
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1. APPELLATE DECISIONS - SILVERMAN and PAGE, INC. v. PATERSON.

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| Silverman and Page, Inc., Appellant, v. Board of Alcoholic Beverage Control for the City of Paterson, Respondent. | On Appeal CONCLUSIONS AND ORDER |

Walter J. Tencza, Esq., Attorney for Appellant
Joseph A. LaCava, Esq., by Ralph L. DeLuccia, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This Hearer's Report is filed pursuant to the directive contained in an opinion filed by the Appellate Division on October 23, 1974, in the case of Silverman and Page, Inc. v. Paterson, Docket No. A-1100-73 (opinion not approved for publication), wherein the Appellate Division reversed the order of the Director of the Division of Alcoholic Beverage Control, which affirmed the action of the respondent Board of Alcoholic Beverage Control for the City of Paterson (Board) in dismissing appellant's appeal taken from the action of the Board in denying appellant's application for renewal of its plenary retail consumption license for the 1973-74 licensing period (See Bulletin 2131, Item 6), and remanded the cause to the Director for supplemental proceedings, findings and conclusions.

On April 27, 1973 the corporate appellant applied to the Board for a person-to-person transfer to it of a plenary retail consumption license for premises 253-12th Avenue, Paterson. The application was signed by Philip Silverman, president and owner of 51 percent of its corporate stock and attested to by Ellsworth Page, secretary and owner of 49 percent of the corporate stock. This application which contained a representation that no person therein mentioned has ever been convicted of any crime, was approved by the Board on May 9, 1973. (See R-1 in evidence on October 5, 1973).

A police questionnaire signed by Silverman and Page, witnessed by Detective Sergeant Anthony De Franco of the local police force and dated May 9, 1973 listed Page's birth date next to his signature as "9/15/26", whereas the correct date of birth was September 26, 1915. Thus, the date of birth and the year of birth were transposed. (See R-1 in evidence on February 20, 1975).

A State Police Bureau of Identification record sheet (fingerprint return) dated May 8, 1973 (R-4 in evidence on October 5, 1973) disclosed, among other things, that Ellsworth A. Page was "Arrested or received" on March 29, 1961 on a "Bad check" charge in violation of "2A:111-15", the contributor of the fingerprints being the Police Department of Harrington Park, New Jersey. The record sheet further appears to indicate, with respect to the disposition of the charge, that, on April 20, 1961, a fine of $111 was imposed; that payment of the fine was suspended; and that costs of $5 were imposed.

Appellant made timely application to the Board for the renewal of its license for the 1973-74 licensing period. This was denied for the reasons expressed in its resolution, which may be condensed, as follows: (1) that the application for transfer was fraudulent in that Page, an officer of appellant corporation, failed to reveal that he had been convicted of a crime on April 20, 1961; and (2) that Page made a false statement as to his age in the police questionnaire.

Upon appeal, the Division affirmed the Board's action in denying the renewal of appellant's license.

At the hearing on the appeal, De Franco, who was assigned to make investigations in connection with application for renewal testified that Page "related he had problems with checks, but when they had gone to court they were straightened out in court".

In its opinion, the Appellate Division noted that, when Page was asked about the nature of the proceeding in the Harrington Park Municipal Court in 1961, he testified as follows:

> "I gave a fellow by the name of Creswick three checks. I told him to put two of the checks through and to hold the other, and he put all three through, and the third came back, and we had a difference in opinion and an argument, and he turned the check over to the --
>
> * * *
>
> * * *I explained to the Judge at the time just what happened, that I gave him three checks for

> a hundred dollars a piece to be put in. Two went through and one came back, and Creswick and I had a difference of opinion. In fact, he was supposed to hold the last check another two weeks because I had financial problems at the time, and he had put it through and made a complaint against me.
>
> * * *
>
> * * *I think it was withdrawn, and I was charged as a disorderly person.
>
> * * *
>
> I was charged with a disorderly person. Therefore, he said it wasn't an indictable offense. Because Creswick testified--he admitted he was supposed to hold the check for me."

Additionally, the Appellate Division, in its opinion, noted the following:

> "Also admitted into evidence at the hearing was a letter to appellant's attorney from the Clerk of the Municipal Court of the Borough of Harrington Park stating that 'the findings of the case of Elsworth (sic) Page are as follows: Plea, not guilty; April 12, 1961; found guilty May 10, 1961; fine imposed, $100 and suspended; cost of court, $5."

The Hearer noted that the letter did not disclose the nature of the offense.

The Appellate Division ruled that the Hearer erred in basing his affirmance of the Board's action on the record of conviction as disclosed in the State Police Bureau Identification record sheet. Based upon that record, the Hearer found that Page was convicted of a violation of N.J.S.A. 2A:111-15, a misdemeanor, a crime involving the element of moral turpitude and was, therefore, disqualified from holding a license covered by the Alcoholic Beverage Law. The Appellate Division held that the said record sheet was not legally competent to establish a specific criminal record.

The cause was remanded for the purpose of resolving the issue and determining whether Page was found guilty (1) of a crime under N.J.S.A. 2A:111-15 upon waiver of indictment and trial by jury, or (2) a disorderly persons offense as he claims.

A certified photocopy of the Municipal Court record of the Borough of Harrington Park relative to this matter was admitted in evidence as a joint exhibit at the supplemental hearing on remand. The record includes two papers, one a

complaint on a $100 bad check charge, without specifying the statute alleged to be violated, the top portion of which states that the complaint was filed under "2A:111-15 and 16", as indictable misdemeanor sections.

Herbert G. Draesel, magistrate of the Municipal Court at the time that the bad check charge against Page was disposed of in 1961, after examining the Municipal Court testified that he "verily" believed that he disposed of the charge against Page by adjudging him guilty of a disorderly offense and not guilty of an indictable offense pursuant to the statute empowering a municipal magistrate to dispose of certain indictable offenses by downgrading them to disorderly persons offenses. His opinion was buttressed by the fact that he had levied a fine of $100 against Page and then suspended payment thereof. My examination of the certified copy of the municipal Court docket envelope shows that above Magistrate Draesel's signature and under the printed legend "Disposition of Municipal Court" appears the following writing: "Guilty $100 fine, Suspended $5.00 Cost.", but without any specification of offense or statute.

It may be pertinent to observe that the Division is in receipt of a photocopy of a letter from the attorney for the Board addressed to him by the First Assistant Prosecutor of Bergen County, dated January 8, 1975, mailed to the attorney for the Board, in response to his inquiry relative to Page which reads as follows:

"Dear Mr. De Luccia:

In response to your letter of December 30, 1974, please be advised that this office has no record of any matter involving Ellsworth R. Page which may have occurred in 1961.

Very truly yours,

s/Roger W. Breslin, Jr.
ROGER W. BRESLIN, JR.
First Assistant Prosecutor"

Detective Sergeant De Franco testified that both Silverman and Page signed their names on a police questionnaire form in front of him and affixed their respective dates of birth.

Page affixed his date of birth as "9/15/26", whereas his true date of birth was September 26, 1915. The police record bureau stamped the police questionnaire "No Record". It bore the further notation: "Date May 7, 197_" last numeral illegible. See R-1 in evidence on February 20, 1975,

which is the date of the supplemental hearing on the remand.

Relative to the transposition of the numerals of Page's year of birth with the date of birth, De Franco testified as follows:

> "THE HEARER: You have no opinion, Sergeant, as to whether or not that was an intentional error or unintentional error?
>
> THE WITNESS: No, sir."

The witness conceded that Page spoke to him relative to a bad check charge lodged against him in Harrington Park. This was the same incident referred to in the State Police record sheet.

William W. Harris, secretary of the Board, testified that the dates of birth of stockholders of the corporate appellant (including Pages') appear on the police questionnaire only; there is no requirement that they appear on applications for transfer or applications for renewal of licenses and therefore the dates of birth did not appear thereon.

Ellsworth A. Page testified that the transposition of the figures relative to the date and year of his birth on the police questionnaire was an unintentional error; he had no idea that the police would require a proper birth date in order to ascertain the existence of a record; he does not know how the police check a record; he had related the fact that he had a bad check charge lodged against him to his partner Silverman, to his attorney and to De Franco. He informed De Franco that he had not been convicted; that the charge was dismissed and that he paid $5.00 costs of court; he did not recall that he was fined $100, payment of which had been suspended.

In its opinion (not approved for publication) the Appellate Division enjoined the Director:

> "To resolve the issue and properly determine whether Page was found guilty of (1) a crime under N.J.S.A. 2A:111-15 upon waiver of indictment and trial by jury (N.J.S.A. 2A:8-22), or (2) a disorderly persons offense as he claims, the Director should require the production before him of a certified copy of the Municipal Court record in the matter, 3 Wharton's Criminal Evidence, § 524,538,653 (13th ed. Torcia, 1973), which should be subjected to careful scrutiny."

In considering the totality of the evidence and including the lack of any indication in the Municipal Court

record that Page waived indictment and jury trial and the uncertainty of such records to establish exactly what offense Page was convicted of, and in particular, the testimony of the magistrate who presided at the hearing of the bad check charge levelled against Page, I find and determine that Page was adjudged guilty of a disorderly persons offense, rather than an indictable misdemeanor. A disorderly persons offense is not a "crime" within the meaning of the true application question. It, therefore, follows that appellant did not misrepresent a material fact in stating in its application that no person therein mentioned had been convicted of a crime.

This Hearer, in his original report affirming the action of the Board, made no reference relative to the allegation expressed by the Board in its resolution denying the renewal of appellant's license on the additional ground that Page had falsified his age in the police questionnaire, for the reason that, having found appellant disqualified from holding a liquor license due to his finding that Page had been convicted of a crime, he deemed that finding fully dispositive of the question of the reasonableness of the Board's action in denying the renewal of appellant's license.

Although I deem that the primary question in the case sub judice, that is, the issue as to whether Page was found guilty of a disqualifying crime has been resolved in appellant's favor, and that his age is of secondary importance, I have, nonetheless, carefully examined the entire record in order to arrive at a fair determination of all issues raised herein.

An allegation has been made by the Board that Page made a false statement concerning his age in the Board's required police questionnaire.

Upon considering De Franco's testimony to the effect that Page had disclosed to him that he did have problems with a bad check and that as a result thereof a charge was lodged against him in Harrington Park; that De Franco could express no opinion as to whether the transposition of the numerals in the birth date was an intentional or unintentional act and further considering Page's testimony that the said transposition was an unintentional error, I find and determine that the age misstatement was unintentional and inadvertent, with no intent to mislead the Board. It, therefore, may not reasonably form the basis of a denial of appellant's license.

Thus, I conclude that the appellant has met its burden of establishing that the action of the Board was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

Therefore, it is recommended that the action of the Board be reversed, and that the Board be directed to grant

the renewal of the license to appellant for the 1973-74 licensing period, in accordance with the application filed therefor.

## Conclusions and Order

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

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

Accordingly, it is, on this 19th day of June 1975,

ORDERED that the action of the respondent Board be and the same is hereby reversed; and it is further

ORDERED that the respondent Board of Alcoholic Beverage Control for the City of Paterson is hereby directed to renew the subject license for the 1973-74 license period nunc pro tunc, in accordance with the application filed therefor.

Leonard D. Ronco
Director

2. APPELLATE DECISIONS - THE BACET CORPORATION v. CLIFFSIDE PARK.

| | | |
|---|---|---|
| The Bacet Corporation, t/a The Raven Inn Restaurant, | : | |
| Appellant, | : | On Appeal |
| v. | : | CONCLUSIONS AND ORDER |
| Mayor and Council of the Borough of Cliffside Park, | : | |
| Respondent. | : | |

James J. Deer, Esq., by Gary D. Barton, Esq., Attorney for Appellant
Liebowitz, Krafte & Liebowitz, Esqs., by Joseph A. Clark, Esq., Attorneys for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the respondent Mayor and Council of the Borough of Cliffside Park (Council) which, by resolution dated November 19, 1974, suspended appellant's plenary retail consumption license, for ninety days, effective November 22, 1974, for premises 224 Walker Street, Cliffside Park, after finding appellant guilty of charges which read, as follows:

> "That on October 26, 1974 that you did permit a nuisance to be tolerated on your premises, by permitting a brawl to take place on license premises by failing to notify the police to subdue, quell or otherwise restore order to your premises for the welfare of such members of the public who were then and there present at the time of the brawl and to remove such persons participating in such brawl and for otherwise failing to maintain proper supervision of the premises and for the sale of alcoholic beverages to persons who were either, actually or apparently intoxicated, and that you otherwise maintained and conducted a disorderly place; and that further you did permit a employee, one William Murray to work upon the premises without having been fingerprinted by the Police Department and who engaged in a violation of revised ordinance of Cliffside Park 13-2 (F) (K) and (L); and furthermore that above licensee 'The Raven' did violate local ordinance 13-1 and 13-2."

Appellant, in its petition of appeal, alleges that the action of the Council was erroneous in that "the evidence and testimony was inconclusive, and the sentence is inconsistent with the necessary disciplinary action."

In its answer, the Council denies the substantive allegation of the petition.

Upon the filing of this appeal, an order was entered by the Director on November 21, 1974, staying the Council's order of suspension until the determination of this appeal, and the entry of a further order herein.

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

Rose Pieroni testified on behalf of the Council that, accompanied by two acquaintances, she visited the licensed premises on October 26, 1974 and sat at a table near the bar. William Murray, Jr. was waiting on tables, serving drinks. Michael Flores was employed as manager.

The witness explained what transpired:

"I was harrassed, I was pushed around and I was beat up.

* * *

"Well, I was getting pushed around by a William Murray, Jr. and then he pulled my hair, threw a drink at my face. I kept telling the manager [Flores] that he was harrassing me."

* * *

"I was shoved, you know, he gave me a couple of good shoves. I almost fell on my backside."

After she alerted Flores as to what Murray was doing to her, Murray flipped a lit cigarette at her while she was seated. On another occasion, while she was watching patrons dancing, Murray threw gum in her hair.

At approximately 2:40 a.m. Murray came to the table where Pieroni was seated and "screamed" at her to leave. In response to that demand, the witness testified:

"I said I'm leaving and before you know it, I'm getting to put my jacket and he threw a drink in my face, a full drink, it was. I was very shocked about it, dripping all over me. After that, he grabbed a hold of me, pulled me by the hair and grabbed me to

the floor and in the meantime, everybody's trying to break it up and he had me down. He started punching me."

Pieroni's clothes were torn; she had bruises all over her body. Police did not come to the scene; she reported it to the police the following day.

Pieroni asserted that she consumed three or four drinks and "maybe" five. She was not intoxicated; she was not refused any drinks.

Joseph Broking, a local police officer, testified that he was dispatched to appellant's tavern in order to serve a summons upon Murray on October 26, 1974. He was informed by Flores that Murray was no longer employed therein. Appellant's employment list exhibited to Broking by Flores indicated that Murray had been listed as an employee thereon. Broking's examination of the police records of the Borough of Cliffside Park revealed that Murray had failed to submit to fingerprinting with the police department, as required by the cited ordinance.

Relative to the disturbance earlier that day, the police officer testified that Flores informed him that "...a fight had broken out, it was one of the patrons in the bar and there was nothing to it and everybody had gone home and it was all over before it started, he stated, and that's the reason he didn't call the police."

Michael Flores, who was employed as the manager of appellant's establishment on the date mentioned in the charge, testified that he observed Rose Pieroni enter the premises accompanied the two or three other females prior to midnight of the said date. She became loud and used "curse" words and was "bothering people". He therefore requested her to move to another area because she was "bothering people".

Shortly after midnight on October 26, Pieroni informed him that Murray was "bothering her" and that he "spit gum at her". He requested that Pieroni not be served any liquor.

He did not witness the brawl which was described by Pieroni in her testimony. He saw a crowd gather at one time, however, but by the time he got there, all of them had left the premises.

On cross examination, Flores conceded that, as of October 26, Murray was employed at the licensed premises, and that he had not been fingerprinted by the local police department.

Pieroni had been causing a disturbance from shortly prior to midnight and for a period of approximately two hours thereafter. He admonished her several times; and on one

occasion he requested her to leave. Although she refused, he did not summon the police. He had her under surveillance occasionally.

William Murray, Jr. testified that he started working on the appellant's premises at approximately 9:00 p.m. on October 25 and worked to closing time on the morning of October 26. He had been acquainted with Pieroni for approximately two years prior to October 26 and he had seen her in the establishment two or three times prior to October 26.

On the subject date, he did not serve drinks to Pieroni, or her party. They obtained them at the bar. During the course of the night, Flores directed him not to serve Pieroni. He had no occasion to go to Pieroni's table except to empty ashtrays and clear the table of glasses.

Murray denied spitting gum on Pieroni's hair. He chews gum and spits it on the floor.

The witness explained that, on one occasion he grabbed Pieroni's hair in order to stop her from striking him. He kept her at arm's length in order to protect himself. He denied engaging in a fight with Pieroni or with anyone else that night.

On cross examination, the witness conceded that he was employed as a waiter by appellant and that he had not been fingerprinted by the local police department.

He did not see Pieroni on the floor that night. At approximately 2:45 a.m. he saw patrons "...milling about and a lot of shouting going on". Upon being questioned as to whether he saw the management doing anything to break up the disturbance, Murray replied:

> "The disturbance happened -- I just say the whole instance took a minute, minute and a half and it was over before it began."

Richard Morbidelli, employed by appellant as a parking lot attendant, testified that he observed Pieroni exiting from the premises on October 26 in an intoxicated condition, and she had to be assisted by her companions. Immediately prior to closing, he stepped inside the premises for the purpose of making certain that the patrons departed the premises. The build-up of patrons at the door was not unusual.

The charges may fairly be summarized as falling within two main categories: (1) the alleged brawl, and (2) the alleged failure of an employee to submit to fingerprints.

I - Brawl

Preliminarily, I observe that we are dealing with a

purely disciplinary action; such action is civil in nature and not criminal. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). Thus, the proof must be supported by a preponderance of the credible evidence only. Butler Oak Tavern v. Alcoholic Beverage Control, 20 N.J. 373 (1956).

It is firmly settled that the Director's function on appeal is not to reverse the determination of the municipal issuing authority unless he finds as a fact that there was a clear abuse of discretion or unwarranted finding of fact or mistake of law by respondent. Schulman v. Newark, Bulletin 1620, Item 1; Monteiro v. Newark, Bulletin 2073, Item 2, and cases cited therein.

The burden of establishing that the Council acted erroneously and in an abuse of its discretion rests with appellant. Rule 6 of State Regulation No. 15. The ultimate test in these matters is one of reasonableness on the part of the Council. Or, to put it another way: Could the members of the Council, as reasonable men, acting reasonably, have come to their determination based upon the evidence presented? The Director should not reverse unless he finds as a fact that there was a clear abuse of discretion or unwarranted finding of fact or mistake of law by the Council. Cf. Hudson Bergen County Retail Liquor Stores Ass'n. v. Hoboken, 135 N.J.L.502 (E. & A. 1947); Nordco, Inc. v. State, 43 N.J. Super. 277, 282 (App. Div. 1957); Lyons Farms Tavern v. Municipal Board of Alcoholic Beverage Newark, 55 N.J. 292, 303 (1970).

The critical inquiry is whether the licensee or its employees, acting under the obligation of the tremendous responsibility which is reposed in the holder of a liquor license, has exercised that degree of care consistent with such obligation in keeping the premises free from disturbances, noise and acts of violence.

It is apparent that the critical issue presented for determination is factual.

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 have had an opportunity to observe the demeanor of the witnesses as they testified and, in view of the conflict in the testimony, I have made a careful analysis and evaluation of their testimony.

I am imperatively persuaded that the version recited by Pieroni relative to the incidents which took place over a period of more than two hours and which culminated in an assault upon her immediately prior to her exiting the premises was credible and factual. Further, I find that there was no improper motivation in her testimony, nor any personal animus against the licensee.

On the other hand, I was totally unimpressed by the testimony of the witnesses for the appellant.

I have also noted that the acts of hostility and aggression engaged in by Murray against Pieroni were of such long duration that the appellant's manager was or should have been aware of. The final act, so vividly described by Pieroni, could not possibly have gone unnoticed by the manager, and he should have summoned the police. I further find that Pieroni had alerted the manager of Murray's hostile acts; that the manager conceded that Pieroni informed him that Murray was acting antagonistically towards her in that he was "bothering" her and had "spit gum" at her; and finally that the acts described which culminated in a brawl were committed by an employee of the corporate appellant. In this connection I note that it is a well-established principle that a licensee is responsible for the misconduct of its employees, and is fully responsible for their activities during their employ on licensed premises. In re Olympic, Inc., 49 N.J. Super. 299 (App. Div. 1958). In re Schneider, 12 N.J. Super. 449 (App. Div. 1951), Rule 33 of State Regulation No. 20.

Furthermore, the responsibility of the licensee does not depend upon its personal knowledge or participation. In fact, it has been held that a licensee is not relieved even if the employee violates its explicit instructions. Greenbrier, Inc. v. Hock, 14 N.J. Super. 39 (App. Div. 1951); F. & A. Distrib. Co. v. Division of Alcoholic Beverage Control, 36 N.J. 34 (1961).

My examination of the facts and the applicable law generates no doubt that the aforesaid part of the charge which generally deals with a brawl has been established by a fair preponderance of the believable evidence. I conclude therefore, that appellant has failed to sustain the burden of establishing that the Council's action, relative to this part of the charge, was erroneous and against the weight of the

evidence, as required by Rule 6 of State Regulation No. 15.

II - Fingerprints of Employee

Insofar as that part of the charge wherein it is alleged that an employee (William Murray) was permitted to work in the licensed premises without having been fingerprinted by the police department is concerned, it was conceded by both Murray and Flores (appellant's manager) that Murray was not fingerprinted pursuant to lawful requirement.

Accordingly, I conclude that appellant has failed to sustain the burden of establishing that the Council's action relative to this part of the charge, was erroneous and against the weight of the evidence, as required by Rule 6 of State Regulation No. 15.

III - Penalty

It has generally been held by this Division that a suspension or revocation imposed in a local disciplinary proceeding rests in the first instance within the sound discretion of the municipal issuing authority, and the power of the Director to reduce or modify it will be sparingly exercised and only with the greatest caution. Harrison Wine & Liquor Co. v. Harrison, Bulletin 1296, Item 2. The Director has, however, modified such penalty where it was manifestly unreasonable or unduly excessive Rigoletti v. Wayne, Bulletin 1430, Item 2; Paiva v. Harrison, Bulletin 2134, Item 2; and cases cited therein. Cf. Mitchell v. Cavicchia, 29 Super. 11 (App. Div. 1953); In re Larsen, 17 N.J. Super. 564 (App. Div. 1952).

I am persuaded that the ends of justice will best be served by the reduction of the penalty of suspension of license from ninety days to a suspension of sixty days. It is accordingly recommended that an order be entered affirming the Council's action and modifying the penalty from a ninety day suspension of the license to a suspension of sixty days.

Conclusions and Order

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

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

Accordingly, it is, on this 20th day of June 1975,

ORDERED that the action of the respondent Mayor and Council of the Borough of Cliffside Park in finding appellant guilty of the charge herein be and the same is hereby affirmed, expressly

subject, however, to the modification of the penalty of suspension of license from ninety days to sixty days; and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my order dated November 21, 1974, staying the respondent's action, pending the determination of this appeal, be and the same is hereby vacated; and it is further

ORDERED that any renewal of Plenary Retail Consumption License C-5, that may be granted by the Mayor and Council of the Borough of Cliffside Park to Bacet Corporation, t/a Raven Inn Restaurant, for premises 224 Walker Street, Cliffside Park, be and the same is hereby suspended for sixty (60) days, commencing at 3:00 a.m. on Monday, July 7, 1975, and terminating at 3:00 a.m. on Friday, September 5, 1975.

Leonard D. Ronco
Director