

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

BULLETIN 1636

September 22, 1965

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1. APPELLATE DECISIONS - SOUTH JERSEY RETAIL LIQUOR STORES
ASSOCIATION v. VINELAND and ENGLER.

South Jersey Retail Liquor Stores Association,)
Appellant,) On Appeal
v.)
City Council of the City of Vineland, and Richard B. Engler, t/a Delsea Lounge,) CONCLUSIONS and ORDER
Respondents.)

Richman, Berry & Ferren, Esqs., by Grover C. Richman, Jr., Esq.,
Attorneys for Appellant

Martin L. Pagliughi, Esq., Attorney for Respondent City Council
Mac A. Kaplus, Esq., Attorney for Respondent Richard B. Engler
Philip L. Lipman, Esq., Attorney for Objectors

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the unanimous action of respondent City Council (hereinafter Council) in granting a transfer of a plenary retail consumption license from Michael Giordano, t/a Delsea Manor, to Richard B. Engler, t/a Delsea Lounge, and from premises on South Delsea Drive and Sherman Avenue to premises on South Delsea Drive, south of Sherman Avenue, Vineland.

Appellant contends in its petition of appeal that the action of the Council was erroneous and should be reversed for the following reasons:

- "a. The transfer of said license is socially undesirable.
- b. The transfer of this license is a violation of the Alcoholic Beverage Control Laws of the State of New Jersey and the regulations promulgated by the Director of the Division of Alcoholic Beverage Control.
- c. The transfer of said license to Richard B. Engler trading as Delsea Lounge from Michael Giordano was arbitrary and unreasonable.
- d. The respondent Council of the City of Vineland was guilty of abuse of discretion and a mistake of law and fact in transferring the license.

- e. There is no public need or necessity for the transfer of said license to the premises in question as this area is amply served by the present existing outlets.
- f. Said transfer violates certain local ordinances."

Respondent Council's answer denies the allegations set forth in the petition aforementioned.

Three members of the clergy, associated with churches located in Vineland, testified in objection to the transfer because of children and teenagers frequenting a bowling alley which is to be part of the licensed premises. They contended that such an establishment should not be permitted to hold a liquor license.

Respondent Richard B. Engler (hereinafter Engler), to whom the transfer of license was granted, and Joe Lombritto, youth bowling director for the New Jersey Bowling Proprietors Association, testified in favor of the transfer. Engler testified, among other things, that the liquor license would mean an added income "which we needed desperately down at this particular bowling center."

The foremost question to be resolved is whether the footage ordinance in effect concerning licensed premises has been violated by the grant of the license to Engler. The pertinent section of Ordinance No. 436, adopted by the Mayor and Council on April 9, 1963, reads as follows:

"Section 3. No plenary retail consumption or plenary retail distribution license, except renewals and person-to-person transfers shall be granted for premises within 3000 feet of other premises of which a license of either type is then outstanding. The distance hereinabove set forth shall be measured in the normal way that a pedestrian would properly walk from the nearest entrance of licensed premises to the nearest entrance of the premises sought to be licensed."

It appears from the testimony of Arne Bernard (civil engineer and land surveyor) that the distance between respondent Engler's premises and another licensed premises on Delsea Drive known as Alexander's Bar is 2,421 feet. He further testified that the former licensed premises, known as Delsea Manor, is 938 feet from Alexander's Bar.

The Council contends that, since the distance from Engler's premises to Alexander's Bar is greater than from Delsea Manor to Alexander's Bar, the ordinance in question has no application.

It is apparent herein that there is no exception present in the ordinance concerning a place-to-place transfer of a liquor license to a new premises within 3,000 feet of another licensed premises. As was stated in Petrangeli v. Barrett, 33 N.J. Super. 378, 384:

"It has long been established that a local governing body has no jurisdiction to grant or transfer a license in violation of the terms of a local ordinance. Bachman v. Inhabitants of Town of Phillipsburg, 68 N.J.L. 552 (Sup.Ct. 1902). The rule is aptly stated in Tube Bar, Inc., v. Commuters Bar, Inc., supra (18 N.J. Super. at page 354):

"When a commission, board, body or person is authorized by ordinance, passed under a delegation of legislative authority, to grant or deny a license or permit, the grant or denial thereof must be in conformity with the terms of the ordinance authorizing such grant or denial. 9 McQuillin, Municipal Corporations (3d ed. 1950), § 26.73; Bohan v. Weehawken Tp., 65 N.J.L. 490, 493 (Sup.Ct. 1900). Nor can such commission, board, body or person set aside, disregard or suspend the terms of the ordinance, except in some manner prescribed by law. Public Service Ry. Co. v. Hackensack Imp. Comm., 6 N.J. Misc. 15 (Sup.Ct. 1927); 62 C.J.S., Municipal Corporations § 439."

"As in the case of statutes, the guide in construing and ordinance is to learn and give effect to the legislative intention. Wright v. Vogt, 7 N.J. 1, 5 (1951). Ordinances are to receive a reasonable construction, and primarily the intention expressed in an ordinance is to be gleaned from the language employed. Where the language is unambiguous and clearly expresses the intent of the legislative body, there is no room for judicial construction. The rule is well settled and axiomatic. Preziosi v. Buonaccorsi, 16 N.J. Super. 15, 21 (App.Div. 1951)."

Inasmuch as the language of the ordinance now being considered is clear and unambiguous, the rule of construction need not be impressed. Petrangeli v. Barrett, supra.

In view of the finding herein that the action of the Council constituted a violation of the footage ordinance in question, it is unnecessary to consider the other grounds of appeal set forth in the petition filed herein.

It is therefore recommended that the action of the Council in approving the transfer from Michael Giordano to respondent Engler be reversed.

Conclusions and Order

No written exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered all of the evidence presented in this case, the summation of the attorneys for the respective parties at the instant appeal hearing, and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence, I shall enter an order as recommended.

Accordingly, it is, on this 3rd day of August 1965,

ORDERED that the action of the respondent in granting the transfer of the license herein be and the same is hereby reversed.

JOSEPH P. LORDI
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - HOSTESS ACTIVITY - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against J. H. DePalma, Inc. t/a Speedway Inn Old White Horse Pike Waterford, N. J. Holder of Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Waterford

CONCLUSIONS AND ORDER

Licensee, by James DePalma, President, Pro se. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

"1. On Saturday, April 3, 1965, between 2:00 A.M. and 2:50 A.M., you operated your licensed business and kept the licensed place of business lighted-up and open for business; in violation of Section 5 of an Ordinance adopted by the Township Committee of the Township of Waterford on June 23, 1938, as amended December 22, 1948.

"2. On Saturday, April 3, 1965, between 2:00 A.M. and 2:50 A.M., you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulation No. 20.

"3. On Saturday, April 3, 1965, and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of a person who was not a bona fide resident of the State of New Jersey, contrary to and in violation of Rule 4 of State Regulation No. 13."

The applicable portion of the ordinance reads:

"No licensees hereunder shall operate or keep lighted up or open for business any place so licensed between the hours of 2 A.M. and 7 A.M."

Two Division agents participated in the investigation leading to the charges preferred herein.

Agent J testified that pursuant to a specific assignment, he, accompanied by Agent C, entered the licensed premises on Saturday, April 3, 1965, at approximately 12:45, 12:50 a.m., and departed

therefrom at 1:50 a.m. The agents stationed themselves in a car about twenty yards away, within view of the outside of the premises. The outside light remained on and unchanged until after the legal closing hour of 2:00 a.m. He saw no one leave the premises.

At 2:20 a.m. he observed a male patron walk up the steps and knock at the door. He and Agent C immediately walked up to the doorway. The licensee's president and principal stockholder, James DePalma, partially opened the door and, after some conversation wherein DePalma declared "We are closed. It is after two o'clock", the patron was allowed to enter. The agents immediately entered the licensed premises and went to the bar. The witness noted about forty male patrons and two female barmaids (identified as Diane Griffith and Carol) in the barroom. The lighting remained the same as it had been at 1:50 a.m. The juke box kept playing.

At 2:25 a.m. he and Agent C were asked by Miss Griffith (hereinafter Diane) if they wanted anything and, upon request, she brought them two bottles of beer which they paid for and consumed. At about 2:40 a.m. they asked Carol for two bottles of beer and were thereupon served the said beer. At 2:50 a.m. Carol announced a last call and the agents again requested and were served two bottles of beer. Between 2:20 a.m. and 2:50 a.m., Agent J observed other patrons purchasing and consuming drinks served by the barmaids.

Agent J additionally testified that at about 2:30 a.m. Diane asked Agent C if he would buy her a drink. Upon receiving an affirmative answer, she immediately got a glass, poured whiskey and soda into the glass, took a dollar bill from Agent C and returned forty cents change. Thereafter, she was observed to pour the drink in the sink under the bar. Between 2:20 and 2:50 a.m. the agent observed at least four incidents wherein patrons (at their expense) purchased drinks for Diane, after which she would pour the drinks into the sink.

At about 2:40 a.m. at Diane's request, the agent purchased a whiskey and soda for her. He paid her sixty cents for the drink.

Carol also solicited the agents for whiskey and soda and they each purchased a drink for her. She, too, poured the drinks in the drain.

An unidentified female, who was first observed talking with DePalma, came to the place where the agents were seated at the bar and asked both agents to buy her a drink. The agents bought and paid for two drinks (served by Carol); she consumed one and walked away with the other drink.

He further testified that during the time the various patrons were served by the barmaids to 2:50 a.m., DePalma was seated at the bar. At that time the agents identified themselves to DePalma, whereupon DePalma ordered the barroom cleared.

James DePalma, who appeared in behalf of the licensee, was made to understand that he had the right to ask questions of Agent J. The limited cross examination was corroborative of the witness' story on direct examination.

It was stipulated that the testimony of Agent C would be the same as the testimony given by Agent J on direct examination. Agent C was not subjected to cross examination. Again, DePalma was advised that he had a right to cross-examine the witness.

Testifying in behalf of the licensee, James DePalma denied all of the charges.

It is a 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); Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956). This principle was restated in the case of Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App. Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1, where the court said:

"The truth of charges in a proceeding before an administrative agency need be established only by a preponderance of the believable evidence, not beyond a reasonable doubt. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962)."

The general rule in these cases is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042

I have carefully evaluated and considered all of the material testimony presented in this proceeding. I am persuaded that the version given by Agent J of what happened on the date in question as to charges 1 and 2 is a credible, factual and true version. It is obvious that the agents had no improper motive in testifying as they did, nor did they have any personal animus against the licensee. On the other hand, I am totally unimpressed by the version given by James DePalma in behalf of the licensee. It is a fundamental principle that a licensee is responsible for the misconduct of his employees and is fully accountable for their activities on the licensed premises. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); In re Schneider, 12 N.J. Super. 449 (App. Div. 1951); Rule 33 of State Regulation No. 20.

I conclude and find that the Division has established the truth of charges 1 and 2 by a fair preponderance of the credible evidence, and I recommend that the licensee be found guilty of said charges 1 and 2.

With respect to charge 3, I am of the opinion that there is lacking the necessary preponderance of credible evidence to find guilt. Hence, I recommend that the licensee be found not guilty of charge 3.

Licensee has a prior record of suspension of license by the municipal issuing authority for five days effective May 18, 1964, for sale of alcoholic beverages to minors.

It is therefore recommended that an order be entered suspending the licensee's license for fifteen days on the first charge (Re Lukas, Bulletin 1607, Item 7) and for twenty days on the second charge (Re Club Rio, Bulletin 1594, Item 3), to which should be added five days for the record of suspension of license for dissimilar violation occurring within the past five years (Re Lemongelli, Bulletin 1580, Item 4), making a total suspension of forty days.

Conclusions and Order

No exceptions to the Hearer's Report were filed within the time limited by Rule 6 of State Regulation No. 16.

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

Accordingly, it is, on this 30th day of July 1965,

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Waterford to J. H. DePalma, Inc., t/a Speedway Inn, for premises on Old White Horse Pike, Waterford, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m. Wednesday, August 4, 1965, and terminating at 2 a.m. Monday, September 13, 1965.

JOSEPH P. LORDI
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Costantino's Bar, Inc.
67 Terhune Avenue
Jersey City, N. J.,
Holder of Plenary Retail Consumption License C-114, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS
and
ORDER

Charles L. Marabondo, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 19, 1965, it sold six cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for ten days effective December 9, 1963, for similar violation, and for twenty-five days effective January 4, 1965, for local hours violation. Re Costantino's Bar, Inc., Bulletin 1544, Item 4; Bulletin 1598, Item 11.

The prior record of two similar violations within the past five years considered, the license will be suspended for forty-five days, with remission of five days for the plea entered, leaving a net suspension of forty days. Re Mattern, Bulletin 1620, Item 5.

Accordingly, it is, on this 5th day of August 1965,

ORDERED that Plenary Retail Consumption License C-114, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Costantino's Bar, Inc., for premises 67 Terhune Avenue, Jersey City, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m. Thursday, August 12, 1965, and terminating at 2 a.m. Tuesday, September 21, 1965.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Brass Rail Liquors, Inc.)
t/a Brass Rail Liquors, Inc.)
20 Market Street)
Camden, N. J.)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-186, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

Licensee, by Stanley Sparkler, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 2, 1965, it sold a pint bottle of whiskey for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for ten days effective July 20, 1959, and for fifteen days effective March 11, 1965, both for "hours" violations. Re Brass Rail Liquors, Inc., Bulletin 1291, Item 12; Bulletin 1610, Item 7.

The prior record of suspensions of license for similar violation within the past five years and more than five and less than ten years ago considered, the license will be suspended for thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days. Re Mienowski and Kislowski, Bulletin 1620, Item 3.

Accordingly, it is, on this 3d day of August, 1965,

ORDERED that Plenary Retail Consumption License C-186, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Brass Rail Liquors, Inc., t/a Brass Rail Liquors, Inc., for premises 20 Market Street, Camden, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. Tuesday, August 10, 1965, and terminating at 2:00 a.m. Thursday, September 9, 1965.

JOSEPH P. LORDI
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Jane Ackerman t/a The Friendly Tavern 6 Waite Street Paterson, N. J. Holder of Plenary Retail Consumption License C-119, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

CONCLUSIONS AND ORDER

Irving I. Rubin, Esq., Attorney for Licensee Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that at about 11:40 a.m. on Sunday, June 27, 1965, she (1) sold alcoholic beverages during hours prohibited by local ordinance, (2) failed to keep the licensed premises closed during prohibited hours, in violation of local ordinance, and (3) sold six 12-ounce cans of beer for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the municipal issuing authority for fifteen days effective September 8, 1958, for sale to a minor.

The prior record of dissimilar violation occurring more than five years ago disregarded, 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 Senatore, Bulletin 1400, Item 6.

Accordingly, it is, on this 2nd day of August 1965,

ORDERED that Plenary Retail Consumption License C-119, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Jane Ackerman, t/a The Friendly Tavern, for premises 6 Waite Street, Paterson, be and the same is hereby suspended for twenty-five (25) days, commencing at 3 a.m. Monday, August 9, 1965, and terminating at 3 a.m. Friday, September 3, 1965.

JOSEPH P. LORDI DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Jersey Bar, Inc. 521 Jersey Avenue Jersey City, N. J. Holder of Plenary Retail Consumption License C-453, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS AND ORDER

Licensee, by Harry Schumer, Vice President, Pro se. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 7, 1965, it sold a pint bottle of whiskey for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for ten days effective July 6, 1964, for a similar violation. Re Jersey Bar, Inc., Bulletin 1574, Item 11.

The prior record of similar violation within the past five years considered, 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 Macciocca, Bulletin 1578, Item 7.

Accordingly, it is, on this 2nd day of August 1965,

ORDERED that Plenary Retail Consumption License C-453, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Jersey Bar, Inc., for premises 521 Jersey Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, August 9, 1965, and terminating at 2 a.m. Friday, September 3, 1965.

JOSEPH P. LORDI DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO INTOXICATED PERSON - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Di Do, Inc.)
t/a Di Do Inn)
49-51 Philadelphia Avenue)
Egg Harbor City, N. J.)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-15, issued by the Common Council of the City of Egg Harbor City)

Licensee, by Cathleen Randanella, Secretary-Treasurer, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 11, 1965, it sold a quart bottle of beer for on-premises consumption to an intoxicated person, in violation of Rule 1 of State Regulation No. 20.

Licensee has a chargeable previous record of suspension of license by the Director for five days effective January 8, 1962, for possessing liquor not truly labeled. Re Di-Do, Inc., Bulletin 1432, Item 11.

The license will be suspended for twenty days (Re Lafayette Bar, Inc., Bulletin 1603, Item 7), to which will be added five days by reason of the record of suspension of license for dissimilar violation occurring within the past five years (Re Saffos, Bulletin 1616, Item 5), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 5th day of August, 1965,

ORDERED that Plenary Retail Consumption License C-15, issued by the Common Council of the City of Egg Harbor City to Di Do, Inc., t/a Di Do Inn, for premises 49-51 Philadelphia Avenue, Egg Harbor City, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. Thursday, August 12, 1965, and terminating at 3:00 a.m. Wednesday, September 1, 1965.

JOSEPH P. LORDI
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Stephen & Henry Gazi)
t/a Walnut Cafe)
160 Walnut Street)
Piscataway Township)
PO Dunellen, N. J.)

CONCLUSIONS
AND
ORDER

Holders of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Piscataway)

Francis C. Foley, Jr., Esq., Attorney for Licensees.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on Sunday, April 25, 1965, they sold a 4/5 quart bottle of whisky for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Licensees state in a communication dated July 15, 1965, that they have voluntarily closed their premises on Sundays since the date of the alleged violation. However, this subsequent action does not warrant any but the usual penalty imposed in these cases.

Licensees have a previous record of suspension of license by the municipal issuing authority for five days effective August 27, 1962, for a similar violation.

The prior record for similar violation within the past five years considered, 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 Macciocca, Bulletin 1578, Item 7.

Accordingly, it is, on this 2d day of August, 1965,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Piscataway to Stephen and Henry Gazi, t/a Walnut Cafe, for premises 160 Walnut Street, Piscataway Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, August 9, 1965, and terminating at 2 a.m. Friday, September 3, 1965.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 Green Door Bar, Inc.
 419 Grove Street
 Jersey City, N. J.
 Holder of Plenary Retail Consumption License C-240, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS

AND

ORDER

 Licensee, by Theresa N. Shanahan, President, Pro se
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 19, 1965, it sold six 12-ounce cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for ten days effective July 22, 1957, for a similar violation. Re Green Door Bar, Inc., Bulletin 1185, Item 9.

The prior record of suspension for similar violation occurring more than five but less than ten years ago considered, 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 Brass Rail Liquors, Inc., Bulletin 1610, Item 7.

Accordingly, it is, on this 2nd day of August 1965,

ORDERED that Plenary Retail Consumption License C-240, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Green Door Bar, Inc., for premises 419 Grove Street, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, August 9, 1965, and terminating at 2 a.m. Tuesday, August 24, 1965.

JOSEPH P. LORDI
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 Litwin's Fair Liquor Stores, Inc.
 606 Washington Street
 Hoboken, N. J.
 Holder of Plenary Retail Distribution License D-21, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken

CONCLUSIONS AND ORDER

Samuel Moskowitz, Esq., Attorney for Licensee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 13, 1965, it sold three 4/5 quart bottles of whiskey at less than filed price, in violation of Rule 5 of State Regulation No. 30.

Licensee has a previous record of suspension of license by the Director for ten days effective June 5, 1961, for sale below filed price. Re Litwin's Fair Liquor Stores, Inc., Bulletin 1398, Item 6.

The record of prior similar violation within the past five years considered, 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 Sabbia, Bulletin 1572, Item 8.

Accordingly, it is, on this 3d day of August, 1965,

ORDERED that Plenary Retail Distribution License D-21, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Litwin's Fair Liquor Stores, Inc. for premises 606 Washington Street, Hoboken, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. Monday, August 9, 1965, and terminating at 9:00 a.m. Tuesday, August 24, 1965.

JOSEPH P. LORDI
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - AGGRAVATING CIRCUMSTANCE - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against

Alice P. Russo
t/a Star-Lite Bar
48 N. Main Street
Paterson, N. J.

)
)
) CONCLUSIONS
) AND
) ORDER

Holder of Plenary Retail Consumption License C-52, issued by the Board of Alcoholic Beverage Control for the City of Paterson

Licensee, Pro se.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on July 1, 1965, she sold a pint bottle of gin for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for fifteen days effective June 14, 1965, for similar violation coupled with local hours violation. Re Russo, Bulletin 1627, Item 4.

It is noteworthy that the instant violation occurred only two days after the licensed business had been resumed following the suspension.

The minimum penalty for a second similar offense of sale in violation of State Regulation No. 38 within a period of five years is suspension of license for thirty days. Re Quinn, Bulletin 1624, Item 3. However, the prior record considered and especially the aggravating circumstance of the occurrence of the instant violation in close proximity to the suspension for similar violation, as well as the confessional plea entered, the license will be suspended for forty-five days. Cf. Re Kit-Kat Club, Inc., Bulletin 1620, Item 4.

Accordingly, it is on this 9th day of August, 1965,

ORDERED that Plenary Retail Consumption License C-52, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Alice P. Russo, t/a Star-Lite Bar, for premises 48 N. Main Street, Paterson, be and the same is hereby suspended for forty-five (45) days, commencing at 3:00 a.m. Monday, August 16, 1965, and terminating at 3:00 a.m. Thursday, September 30, 1965.

JOSEPH P. LORDI
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 Zinnia, Incorporated)
 t/a Maple Inn)
 9-11 W. Main Street)
 Maple Shade, N. J.)
 Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Maple Shade.)

CONCLUSIONS AND ORDER

 Cahill, Wilinski & Mohrfeld, Esqs., by John H. Mohrfeld, III, Esq., Attorneys for Licensee
 Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

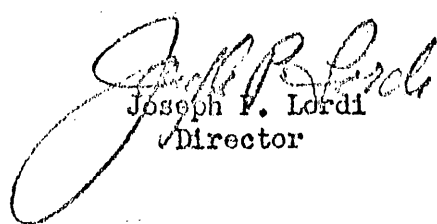
Licensee pleads non vult to a charge alleging that on June 4, 1965, it possessed alcoholic beverages in six bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for five days effective March 21, 1960 for possessing alcoholic beverages not truly labeled (Re Zinnia, Inc., Bulletin 1334, Item 8), and by the municipal issuing authority for five days effective August 13, 1962, and again for fifteen days effective November 21, 1962, both for sale to a minor.

The license will be suspended for twenty-five days, the minimum penalty in cases involving six bottles, to which will be added five days for the record of suspension for similar violation occurring more than five but less than ten years ago, and ten days for the record of suspension for two dissimilar violations occurring within the past five years, or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days. Cf. Re Pregnor, Bulletin 1607, Item 9; Re Sports Bar & Grill, Inc., Bulletin 1540, Item 4.

Accordingly, it is, on this 29th day of July 1965,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Maple Shade to Zinnia, Incorporated, t/a Maple Inn, for premises 9-11 W. Main Street, Maple Shade, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Thursday, August 5, 1965, and terminating at 2 a.m. Thursday, September 9, 1965.


 Joseph P. Lordi
 Director