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

BULLETIN 1989

July 29, 1971

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

BULLETIN 1989

July 29, 1971

1. APPELLATE DECISIONS - EL TORERO, INC. v. NEWARK.

EL TORERO, INC., )  
Appellant, ) ON APPEAL  
v. ) CONCLUSIONS  
MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE ) AND ORDER  
CONTROL OF THE CITY OF NEWARK, )  
Respondent.

-----  
Samuel Raffaello, Esq., Attorney for Appellant.  
William H. Walls, Esq., by Althea A. Lester, Esq., Attorney for  
Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the unanimous action of the Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) wherein by resolution dated December 16, 1970 appellant's plenary retail consumption license was revoked, effective December 21, 1970 on a finding of guilt of the following charges:

- "1. That you did (sic) on April 1, 1970 and April 24, 1970 and on divers other days in the month of April 1970, allowed, permitted and/or suffered in and upon your licensed premises, known drug addicts, and you further allowed, permitted and/or suffered your licensed premises to be accessible for the conducting of illegal activity or enterprises; and you further allowed, permitted and/or suffered your licensed premises to be used in furtherance or aid of, or accessible for such illegal activity or enterprise, which may result in a conviction in a criminal prosecution, in that you, by and through your employees, agents and/or servants did allow persons to make overtures and arrangements for the purchase and sale of narcotics; and that you, through your employees, agents and/or servants allowed, permitted and/or suffered persons in and upon your licensed premises who indulged in or appeared to indulge in the use of narcotics to frequent and congregate in and upon your said licensed premises; and you allowed permitted and/or suffered your licensed premises to be used in furtherance or aid of, or accessible for such illegal activity or enterprise, that is, the sale and purchase of narcotics, which activity or enterprise may result in a conviction in a criminal prosecution; and you allowed, permitted and/or suffered your licensed premises to be conducted in such a manner offensive to common

decency and public morals; in violation of Rule 4 of State Regulation No. 20.

- "2. That you did (sic) on April 1, 1970 and April 24, 1970 and on divers other days in the month of April 1970 allowed, permitted and/or suffered by and through your employees, agents and/or servants, persons to make overtures and arrangements for the sale and purchase of narcotics; and that you further allowed, permitted and/or suffered persons who indulged in and/or appeared to indulge in the use, sale and purchase of narcotics to frequent and congregate in and upon your said licensed premises; and you allowed, permitted and/or suffered and otherwise conducted your licensed place of business in such manner as to become a nuisance and to be completely offensive to public morals and common decency; in violation of Rule 5 of State Regulation No. 20."

Upon filing of the within appeal, an order dated December 18, 1970 was entered by the Director staying the Board's order of revocation until further order herein.

Appellant contends that the finding of the Board was erroneous because it was against the weight of the evidence, was "unreasonable and unlawful", was based on "unclear" and "weak" testimony, and the penalty imposed was excessive.

The Board's answer defends that sufficient evidence was present to establish that appellant suffered narcotics activity to take place on the licensed premises.

A hearing before the Board on October 21, and continued hearings until December 16, 1970, resulted in the transcript of testimony which was offered pursuant to Rule 8 of State Regulation No. 15; and was supplemented in a further hearing at the Division by testimony of witnesses produced by both parties. The matter was heard de novo pursuant to Rule 6 of State Regulation No. 15 with full opportunity for counsel to present testimony under oath and to cross-examine witnesses.

The transcript of the October 21 hearing below reflects the testimony of Richard Fekete (an agent of the FBI) and of ABC agent M. The latter testified that one Juan Rodriguez was employed in the licensed premises, proof of which was rendered unnecessary by stipulation admitting such employment.

FBI agent Richard Fekete testified that he had made arrangements with Juan Rodriguez to purchase marijuana. There was a subsequent purchase and Rodriguez and others were arrested, tried and convicted of selling narcotics; they are now in prison. Appellant admits, in accordance with testimony of Rodriguez before the Board, that Rodriguez did sell narcotics. The actual issue here involved is whether the conduct of Juan Rodriguez, as employee-manager of the licensee, was sufficient to have given notice, impliedly or otherwise, of such illegal conduct on the licensed premises. In other words, did the licensee "suffer" or "permit" such illegal activity to take place on the licensed premises?

The following facts are apparently undisputed: FBI agent Fekete, and another agent who testified subsequently, expanded their negotiations to purchase marijuana from Rodriguez by numerous telephone calls to the licensed premises. In consequence, while these premises were under surveillance Fekete saw Rodriguez exit from it carrying a brown paper bag, put the bag on the front seat of his car and drive away. He was met within moments at Penn Station in Newark where the brown paper bag was handed to a narcotic agent posing as a purchaser. The brown paper bag contained marijuana. There was extensive testimony describing the investigation, arrests and termination of this large narcotic operation.

At the hearing on appeal, special narcotic agents Vincent S. Guadagnino and Kenneth R. Kennedy both corroborated the testimony of the FBI agent Fekete. Negotiations were made with Rodriguez by telephone to the licensed premises from whence he emerged with the brown paper bag which contained marijuana.

No agent at any time during the investigation actually entered the licensed premises.

Rodriguez lived upstairs over the licensed premises and rented one of the garages in the rear. It was from his garage that two large bundles containing marijuana were extracted and placed in the trunk of his car. Ralph Soriano, vice president of the corporate licensee, testified that Rodriguez had been hired because of his knowledge of Spanish and acquaintance with the patrons. Soriano denied knowledge of the activities of Rodriguez or what Rodriguez had in the garage.

In order to meet the burden required by Rule 6 of State Regulation No. 15 appellant must show manifest error, that the action of the respondent was clearly against the logic and effect of the presented facts. Hudson-Bergen County Retail Liquor Ass'n v. Hoboken, 135 N.J.L. 502 (1947). We are dealing with a purely disciplinary measure and an alleged infraction of the law. Such proceedings are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (1948). Proof is required by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956). Furthermore, the general rule is that the finding in these cases 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. The charge must be established by affirmatively satisfactory evidence. See Re Silidker, Bulletin 405, Item 5.

To determine if the act of Rodriguez in having the marijuana within the licensed premises was such as to constitute allowing, permitting or suffering the act by the licensee, we refer to Conner v. Fogg, 75 N.J.L. 245 (1907), in which the court said:

"To permit is defined as meaning to authorize or to give leave, but the term 'permit' has been often used synonymously with 'suffer', so that it may be said that one who suffers the doing of a thing which he might have prevented permits it."

["Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority." Essex Holding Corp. v. Hock, 136 N.J.L. 28 (1947)].

Suffering or permitting premises to become disorderly means something more than a mere happening on one occasion and presupposes in most cases a fair measure at least of continuity and permanence. Brody v. Rohan, 1 N.Y.A.D. 2nd 661 (1962).

By prearrangement Rodriguez received telephone calls from the FBI or Narcotic Agents at the licensed premises. There were several calls placed on several different days. All these telephone calls surrounded narcotic traffic and the result of these calls was the seizure of huge quantities of marijuana and the breaking up of an active narcotic ring with Rodriguez as the leader. The telephone calls alone constituted illegal activity so long as they were connected with the illegal operation.

In addition to the calls Rodriguez brought from the licensed premises the brown paper bag containing marijuana which he sold to one of the agents. A fair inference can be drawn from the testimony that the brown paper bag containing the narcotic and carried by Rodriguez was the same bag which he handed to the narcotics agent at Penn Station, since there was an unbroken chain of travel from the tavern to the point of the said transaction and transfer. Thus it can be logically inferred that the licensee's employee possessed this narcotic in the licensed premises for the purpose of selling the same. Such activity is clearly denounced by the applicable regulation. While the garage in the rear of the licensed premises where Rodriguez kept the hundreds of pounds of marijuana cannot be described as part of the licensed premises, the storage of such large amounts of marijuana almost on top of the licensed premises by its manager strains credibility as applied to the testimony of the vice president of the corporation. His alleged complete lack of knowledge of what was going on around him is doubted. "When a privilege to enter is given, whether general, conditional or restricted, the licensee has the duty of taking such measures as the circumstances of the particular case require to prevent prohibited conduct on the licensed premises arising out of the grant of the privilege." Greenbrier, Inc. v. Hock, 14 N.J. Super. 39, at p. 43 (App.Div. 1951).

Mr. Soriano, vice president of the corporate licensee, testified that Rodriguez was manager. A "manager" is defined as "one who directs or conducts anything, as a business". Webster, New American Dictionary. Rodriguez, as a manager, was in a position of direction of the business. The licensee cannot now escape responsibility for the acts of its manager. "It is not necessary in situations like the present one to establish actual or constructive notice on the part of the licensee, or circumstances imputing notice to it on principles of respondeat superior of violation of the regulation by an agent or employee. For reasons of public policy it has long been the law of this State that the licensee is responsible for such infraction regardless of notice; in fact even if the offending conduct has been engaged in contrary to the licensee's instructions." F & A Distrib. Co. v. Div. of Alcoh. Bev. Contr. 36 N.J. 34, at p. 37 (1961).

"The question in every case is whether a reasonable man, acting reasonably, could have reached the administrative agency decision under review, from the evidence found in the entire record, including the inferences to be drawn therefrom ...." Cooley's, etc. v. Legalized Games, etc., 78 N.J. Super. 128 (App.Div. 1963). The court has many times cited the rule under

which the evidence is to be tested from which it can ascertain that it is or is not against the weight of the evidence. Thus, to justify the setting aside of a verdict as against the weight of the evidence, it must be so clear as to give rise to an inference that the verdict was the result of mistake, passion or prejudice.

The action of the Board may not be reversed by the Director unless he finds the action of the Board was clearly against the logic and effect of the presented facts. Hudson-Bergen etc., v. Hoboken, supra; Nordco, Inc. v. State, 43 N.J. Super, 277 (App.Div. 1957). Furthermore, my careful, independent examination of the entire record leads to the conclusion that the relevant evidence adequately supports the conclusions reached by the Board. "The choice of accepting or rejecting the testimony of witnesses rests, therefore, with the administrative agency...." Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501, 506 (App.Div. 1956).

In its resolution the Board has stated, "At the same time we wish this Order of Revocation to serve as a warning to all other licensees that this Board will not condone, for one instant, any activity of this like or nature, and if in the future licensees come before this Board under charges of this same kind, and which are proven conclusively, the Board will immediately revoke the license." To this the Director subscribes wholeheartedly. The established penalty for activity in narcotics in the licensed premises is revocation. See Re Elite, Inc., Bulletin 1951, Item 1.

In view of the aforementioned finding, it is concluded that the Board has sustained the burden of establishing the charges herein by a fair preponderance of the believable evidence. It is recommended, therefore, that an order be entered affirming the action of the Board, dismissing the appeal and fixing the effective date of revocation imposed by the Board and stayed pending the entry of a further order herein.

#### Conclusions and Order

Exceptions to the Hearer's report, with written argument in support thereof, were filed by appellant pursuant to Rule 14 of State Regulation No. 15. Appellant denies the Hearer's statement that an FBI agent had arranged for the purchase of marijuana; my examination of the transcripts of the testimony reveals this agent, with others, did arrange for such purchase as indicated. Appellant argues principally that the evidence failed to disclose either sale or negotiations for a sale within the licensed premises; however, the mere presence of narcotics within the licensed premises in the custody of its manager is sufficient upon which to ground the proposition that the licensee did allow, permit and suffer premises to be used in furtherance of the illegal activity of the sale of narcotics. I have carefully considered the entire record herein and find the Hearer's recommendations are fully warranted by the facts.

It is appellant's contention that, because contact with licensee's manager was made by telephone to the premises and the sale and delivery of the narcotic took place outside of the licensed premises, the licensee itself is immune from conviction. Such contention is spurious; the mere existence of the narcotic in the hands of the manager of the corporate licensee within the licensed premises is sufficient to inculcate the licensee. A licensee is responsible for the acts of its agents on the licensed

premises. Rule 33 of State Regulation No. 20. In re Schneider, 12 N.J. 449 (App.Div. 1951).

Moreover, the suspension imposed in a local disciplinary proceeding rests in the first instance within the sound discretion of the municipal issuing authority. The power of the Director to reduce the suspension on appeal is confined to cases where the suspension is manifestly unreasonable. Sventy & Wilson v. Point Pleasant Beach, Bulletin 1930, Item 1.

Appellant cites a recent disciplinary proceeding in this Division (Gi-Mi-Do Enterprises, t/a the Cove, Bulletin 1979, Item 1) as authority for its contention that the penalty should be a suspension rather than outright revocation. The cited case is easily distinguishable from this matter as the facts were quite different. There the licensee's principal stockholders invited the participation of the police and themselves paid for private detective assistance in effort to eliminate suspected narcotic traffic; this cooperative effort with the authorities mitigated against revocation. In the case sub judice not only was the principal stockholder of the licensee oblivious of the machinations of Rodriguez (the manager) but, on being apprised of the charges, continued him in employment well after his indictment. Cf. Ishmal v. Division of Alcoholic Beverage Control, N.J. Supreme Court, decided May 24, 1971 (Docket A-100, Sept. Term 1970).

Accordingly, it is, on this 4th day of June 1971,

ORDERED that the action of respondent Board of Alcoholic Beverage Control of the City of Newark be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the order dated December 18, 1970, staying the Board's order of revocation pending the determination of this appeal, be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-563, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to El Torero, Inc., for premises 43 Fleming Avenue, Newark, be and the same is hereby revoked commencing at 2:00 a.m. Monday, June 21, 1971.

Richard C. McDonough  
Director

2. APPELLATE DECISIONS - ALLD CORPORATION v. BERKELEY HEIGHTS - ORDER DISMISSING APPEAL.

ALLD CORPORATION,	)	
t/a The Black Eagle Inn,	)	
	)	
Appellant,	)	ON APPEAL
	)	ORDER
v.	)	
	)	
TOWNSHIP COMMITTEE OF THE	)	
TOWNSHIP OF BERKELEY HEIGHTS,	)	
	)	
Respondent.	)	

-----  
Edward J. Insley, Esq., Attorney for Appellant.  
Wilfred P. Diana, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant appeals from denial by respondent of its application for a plenary retail consumption license for premises 428-434 Springfield Avenue, Berkeley Heights.

Prior to the date of hearing and on June 7, 1971, a stipulation of dismissal of the appeal, with consent of both parties, was received at this Division.

Accordingly, it is, on this 8th day of June 1971,

ORDERED that the appeal herein be and the same is hereby dismissed.

Richard C. McDonough  
Director

3. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN CLUB - CLAIM OF OWNER FOR RETURN OF PROPERTY REJECTED, ABSENT GOOD FAITH - CASH, SEIZED PROPERTY AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure	:	
on June 26, 1970 of a quantity	:	Case No. 12,344
of alcoholic beverages, fixtures,	:	
furnishings, equipment and \$5.00	:	On Hearing
in cash at 127 Broadway, in the	:	
City of Long Branch, County of	:	CONCLUSIONS and ORDER
Monmouth and State of New Jersey.	:	

.....  
Spanish Community of Long Branch by Ismael Rodriguez, president.  
Harry D. Gross, Esq., appearing for the Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to the provisions of Title 33, Chapter 1 of the Statutes of New Jersey, and further, pursuant to a stipulation dated November 9, 1970, signed by Ismael Rodriguez, to determine whether 455 containers of alcoholic beverages, miscellaneous personal property and \$5.00 in cash, as set forth in an inventory attached hereto, made part hereof and marked Schedule "A", seized on June 26, 1970 at the unlicensed premises of the Spanish Community of Long Branch, 127 Broadway, Long Branch,

New Jersey, constitutes unlawful property and should be forfeited; and further, to determine whether the sum of \$200.00, representing the appraised retail value of fixtures, furnishings and miscellaneous personal property set forth in the aforesaid Schedule "A", deposited by Ismael Rodriguez, president of and on behalf of the Spanish Community of Long Branch, under protest and which personal property was retained at the aforesaid unlicensed premises should be forfeited or returned to it.

The seizure was made by ABC agents in cooperation with Detective Cafer and Patrolman Matthews of the Long Branch Police Department.

When the matter came on for hearing pursuant to R.S. 33:1-66 Ismael Rodriguez appeared on behalf of the Spanish Community of Long Branch and sought return of the monies deposited under the aforesaid stipulation.

Reports of ABC agents and other documents in the file, which file was admitted into evidence with the consent of the claimant, were supplemented by the testimony of Felix Barbosa and disclosed the following facts: On June 26, 1970 Agents D and H entered the premises known as the Spanish Community of Long Branch located on the second floor of the premises at 127 Broadway, Long Branch, New Jersey at approximately 8:30 P.M. They observed approximately 25 males and females in the premises. The premises contained a bar, three refrigerators, tables, chairs, and a juke box.

Agent D had in his possession a "marked" five-dollar bill. The agents took seats at the bar and ordered two cans of Miller Beer from a bartender, identified as Felix Barbosa. Barbosa removed two cans of beer from the refrigerator, took the five-dollar bill, placed it in a small cash box and returned \$4.20 to Agent D along with two cans of beer. Agent H then departed the premises, summoned Agent B, N and three local police officers who had been waiting at a point of contact. The agents entered, identified themselves, searched the premises and found the "marked" five-dollar bill in the cash box. The seizure was then completed and Felix Barbosa was charged with the sale of an alcoholic beverage, in violation of R.S. 33:1-50(a).

The Division file also included the Director's certificate that no license or special permit of any kind had ever been issued to Felix Barbosa at 127 Broadway, Long Branch or to any person at or for the said premises; an inventory of the seized items; an affidavit of mailing of notice of hearing; an affidavit of publication of notice of hearing; the certified report of chemical analysis by the Division chemist that one twelve ounce can of Miller High Life Beer seized in the instant matter contained an alcoholic beverage fit for beverage purposes, with an alcoholic content of 4.57%.

At the hearing Felix Barbosa appeared and, through an interpreter, testified that on June 26, 1970 at 127 Broadway, Long Branch he sold two cans of Miller High Life Beer to Agent D and he had no knowledge whether or not the premises were licensed.

Ismael Rodriguez, president of the Spanish Community of Long Branch and appearing in its behalf, claimant, testified that he posted \$200.00 bond on behalf of the club; that the club owns the items for which the money was posted; and that he was not aware that beer was being sold; that on June 26, 1970 a party was in progress for some visiting soccer players. He continued that the property is still at the premises at 127 Broadway, Long Branch and that he had frequented the premises weekly until the date of the seizure for social parties and functions. He concluded that he had purchased drinks at the premises when there was a party for members.

The seized alcoholic beverages are illicit because they were intended for sale without a license in violation of R.S. 33:1-1(i). Such illicit alcoholic beverages, the personal property and cash, as set forth in Schedule "A" herein constitute unlawful property and are subject to forfeiture. R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 12,294, Bulletin 1948, Item 4.

The testimony of Barbosa that he, in fact, sold two cans of beer to Agent D coupled with the Director's certificate that no license was in effect for the premises clearly establishes an illegal sale. The claim of Rodriguez must fail since he manifested a thorough familiarity with the premises, and admitted that he personally made purchases.

The Director has discretionary authority to return property subject to forfeiture to a person who establishes to the Director's satisfaction that he acted in good faith and did not know or have any reason to know that his property would be used in unlawful liquor activity. Assuming that Rodriguez has established claimant's ownership, it is clear that claimant, through its agents and employees was aware or certainly should have been aware of the illegal activity and therefore cannot be regarded as having acted in good faith. Seizure Case No. 10,444, Bulletin 1391, Item 5. The testimony of Barbosa similarly leads to no other conclusion.

It is, therefore, recommended that the claim of claimant be denied and that an Order be entered forfeiting the \$200.00 cash deposited by Rodriguez, on behalf of claimant, under the aforementioned stipulation.

It is further recommended that the alcoholic beverages and \$5.00 in cash be forfeited.

#### Conclusions and Order

No exceptions to the Hearer's Report were taken within the time limited by Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, including the transcript of testimony, the exhibits and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is on this 4th day of June, 1971

DETERMINED and ORDERED that the claim of the Spanish Community of Long Branch be and the same is hereby denied, and the sum of \$200.00 deposited on behalf of the claimant pursuant to the aforementioned stipulation be and is hereby forfeited; in accordance with the provisions of R.S. 33:1-66 to be accounted for in accordance with law; and it is further

DETERMINED and ORDERED that the balance of the seized property, including \$5.00 in cash and the alcoholic beverages as set forth in Schedule "A", attached hereto, constitutes unlawful property and the same is hereby forfeited, in accordance with the provisions of R.S. 33:1-66, and shall be retained for the use of hospitals and State, county and municipal institutions or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Richard C. McDonough,  
Director

SCHEDULE "A"

- 455 - containers of alcoholic beverages
- 72 - containers of assorted soda
- 1 - juke box; 1 - pool table;
- 1 - cigarette machine
- Miscellaneous personal property
- \$5.00 in cash

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION #38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against )  
 )  
 Anthony Jr. & Julia Joyce )  
 t/a Joyce's Tavern )  
 459 Ferry Street )  
 Newark, N. J., )  
 Holders of Plenary Retail Consumption )  
 License C-663, issued by the Municipal )  
 Board of Alcoholic Beverage Control of )  
 the City of Newark. )  
 ----- )

CONCLUSIONS  
and  
ORDER

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

BY THE DIRECTOR:

Licensees plead guilty to a charge alleging that on February 5, 1971 they sold six 12-ounce cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Morning Glory, Inc., Bulletin 1969, Item 6. However, the licensees have made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensees to pay a fine of \$430 in lieu of suspension.

Accordingly, it is, on this 8th day of June 1971,

ORDERED that the payment of a \$430 fine by the licensees is hereby accepted in lieu of a suspension of license for ten (10) days.

Richard C. McDonough  
Director

5. DISCIPLINARY PROCEEDINGS - GAMBLING (POOL GAME FOR MONEY) - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against  
  
Pete's Night Club, A Corp.  
t/a Pete's Night Club  
176 Paterson Street  
Paterson, N. J.,

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-242, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Schiffman, Browne and Galluccio, Esqs., by Harvey R. Browne, Esq.,  
Attorneys for Licensee  
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge that it permitted gambling on its licensed premises, viz., the playing of a pool game for stakes of money, in violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Katmann and Corwin, Bulletin 1934, Item 12. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$400 in lieu of suspension.

Accordingly, it is, on this 9th day of June 1971,

ORDERED that the payment of a \$400 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough  
Director

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF LOCAL ORDINANCE - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against )

William A Ford )  
t/a Ford's Cafe )  
941 Pearl Street )  
Camden, N. J., )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-142, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )

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

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on Sunday, March 7, 1971 he (1) sold a pint bottle of whiskey for off-premises consumption, in violation of a local ordinance, (2) failed to keep the licensed premises closed during hours prohibited by local ordinance, and (3) the above sale of whiskey was violative of Rule 1 of State Regulation No. 38.

Absent prior record, the license would normally be suspended on the first, second and third charges for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Soriano, Bulletin 1555, Item 7. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$600 in lieu of suspension.

Accordingly, it is, on this 9th day of June 1971,

ORDERED that the payment of a \$600 fine by the licensee is hereby accepted in lieu of such suspension.

Richard C. McDonough,  
Director.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 Four Friends, Inc.  
 Olden Avenue  
 Somerdale, N. J.,  
 Holder of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Somerdale.  
 -----

CONCLUSIONS and ORDER

Edward F. Menneti, Esq., Attorney for Licensee  
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 12, 1971 it sold alcoholic beverages to two minors, both nineteen years of age, in violation of Rule 1 of State Regulation No. 20.

Licensee has a prior record of suspension of license by the municipal issuing authority for fifteen days effective February 3, 1969, for sale of alcoholic beverages to minors.

The license will be suspended for fifteen days (Re Jodi Inn, Inc., Bulletin 1959, Item 7), to which will be added ten days by reason of the record of the previous suspension for similar violation occurring within the past five years (Re Lajar Corporation, Bulletin 1950, Item 10), totaling twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 10th day of June 1971,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Somerdale to Four Friends, Inc., for premises on Olden Avenue, Somerdale, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1971, commencing at 3 a.m. Thursday, June 24, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3 a.m. Wednesday, July 14, 1971.

Richard C. McDonough,  
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 Chicken Barn, Inc.  
 30 Lincoln Place  
 Garfield, N. J.,  
 Holder of Plenary Retail Consumption License C-11, issued by the Mayor and Council of the City of Garfield.  
 - - - - - )

CONCLUSIONS and ORDER

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

BY THE DIRECTOR:

11/17/65

Licensee pleads non vult to a charge alleging that on March 12, 1971, it sold alcoholic beverages to a minor, age 16, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of two suspensions of license by municipal issuing authorities for similar violations -- one for fifteen days effective January 1, 1966, and the other for twenty days effective June 20, 1960.

The license will be suspended for twenty-five days (Re Kowal, Bulletin 1977, Item 3), to which will be added five days by reason of the record of the suspension for similar violation occurring January 1, 1966, more than five but less than ten years ago (Re Costello, Bulletin 1971, Item 5); the suspension occurring more than ten years ago disregarded, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 14th day of June 1971,

ORDERED that Plenary Retail Consumption License C-11, issued by the Mayor and Council of the City of Garfield to Chicken Barn, Inc., for premises 30 Lincoln Place, Garfield, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1971, commencing at 3:00 a.m. Monday, June 28, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3:00 a.m. Friday, July 23, 1971.

Richard C. McDonough  
Director

9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

M & M Tavern (A Corp.) )  
t/a Mary's Tear Drop )  
83 Highland Avenue )  
Clifton, N.J., )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-55, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton. )  
- - - - - )

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

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that it sold alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Faccone, Bulletin 1975, Item 8.

Accordingly, it is, on this 11th day of June 1971,

ORDERED that Plenary Retail Consumption License C-55, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton to M & M Tavern (A Corp.), t/a Mary's Tear Drop, for premises 82 Highland Avenue, Clifton, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. Monday, June 14, 1971, and terminating at 3:00 a.m. Saturday, June 19, 1971.

Richard C. McDonough  
Director

## 10. STATE LICENSES - NEW APPLICATIONS FILED.

Bohl Beverage Company, Inc.  
t/a Modern Beer & Soda Distributors  
146 Route 17

Hasbrouck Heights, New Jersey

Application filed July 22, 1971 for  
renewal of State Beverage Distributor's  
License SBD-74 for the above premises.  
Applicant previously held license at  
2321 Route 22, Union, New Jersey.

Dobbs Vintners  
20 Bleeker Street  
Millburn, New Jersey

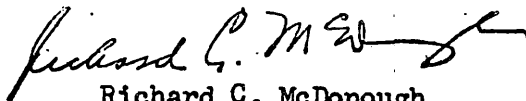
Application filed July 20, 1971 for  
additional warehouse license for premises  
400 Delilah Road, Egg Harbor Township,  
New Jersey, in connection with Wine Wholesale  
License WW-33.

Jerry Goldman  
245 Raymond Boulevard  
Newark, New Jersey

Application filed July 27, 1971 for  
person-to-person and place-to-place  
transfer of State Beverage Distributor's  
License SBD-40 from Leslie E. Wilson,  
t/a J. Bencsetz, Distributing Co., 708  
Central Avenue, Alpha, New Jersey.

Van Munching & Co., Inc.  
51 West 51st Street  
New York, New York

Application filed July 28, 1971 for  
place-to-place transfer of Limited  
Wholesale License WL-36 to include  
a warehouse in New Jersey, at 199A  
(North side) Panama Street, Port  
Newark, New Jersey.



Richard C. McDonough  
Director