

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

BULLETIN 2001

September 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 2001

September 29, 1971

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY
(PROSTITUTION) - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary)
Proceedings against)

W. J. Burnett, Inc.)
197 Paterson Street)
Paterson, N. J.)

Holder of Plenary Retail Consumption)
License C-204, issued by the Board)
of Alcoholic Beverage Control for)
the City of Paterson.)

CONCLUSIONS
and
ORDER

William J. Rosenberg, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On January 15 and 22, 1971, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., solicitation for prostitution and the making of overtures and arrangements for acts of illicit sexual intercourse and/or acts of illicit perverted sexual relations; in violation of Rule 5 of State Regulation No. 20."

Pursuant to a specific assignment to investigate alleged prostitution at the subject premises, ABC agent S, accompanied by ABC agent C, entered the licensed premises on January 15, 1971 at approximately 10:00 p.m. Both agents seated themselves at the bar. Tending bar were "Curt" (Curtis Hubbard) and "Mike" (Michael Apone).

Shortly thereafter, a female who introduced herself as "Judy" (later identified as Barbara N-) sat to the right of agent S and inquired whether he would buy her a drink. Upon receiving an affirmative answer, Judy ordered a beverage from Hubbard, for which agent S paid. While conversing, Judy asked agent S whether he "... wanted to go to the hotel; it was fifteen dollars for her and six for the room." Upon being asked by agent S "What for?" Judy asserted that she would engage in sexual intercourse, normal and perverted. Agent S responded that he would accompany her. Judy proceeded to the ladies room. Agent S then spoke to Hubbard:

"I told the bartender [Hubbard] what occurred. I says, 'She wants to go to the hotel. It is fifteen dollars to get laid and six dollars for the room. Is she O.K.? Is she clean?'"

He [Hubbard] says, 'Don't worry about it. She is clean. Enjoy yourself.'"

Upon rejoining the ABC agents at the bar, Judy suggested that the agents leave first and walk towards the motel, approximately a block and a half to the right of the tavern. Judy inquired concerning

where agent C was going. Agent S replied, "He is going out for a slice of pizza."

Agent S waited in front of the motel approximately fifteen minutes and upon being rejoined by agent C, both agents re-entered the tavern. Judy was not in the tavern. Hubbard asked, "How did you make out?". Agent S replied "She never showed up." Hubbard did not respond. The agents departed at midnight.

On January 22, 1971 ABC agents, S, C and M arrived in the vicinity of the licensed premises at approximately 10:00 p.m. Agents S and C entered and sat at the bar. Agent S had in his possession two \$10 bills and one \$5 bill, the serial numbers of which were prerecorded. Hubbard and Apone were tending bar. At approximately 10:50 p.m. Judy entered the barroom. While Judy was seated between the two ABC agents, agent S and Judy discussed the occurrence of January 15, 1971. Judy asserted that she went to the hotel and that he [agent S] went to the wrong place. Continuing, Judy said, "What about tonight?". She then offered to engage in the same type intercourse that she had previously offered to engage, for payment of the sum of fifteen dollars to her and six dollars for the room. Agent S beckoned Hubbard to where both agents and Judy were seated. The following testimony was then elicited:

"I called him over. I said 'Remember this broad from last week? I had a date to go to the motel and get laid, and she never showed up. She wants to go now. It is still fifteen dollars for a piece of ass and six dollars for the room. Is she O.K?'

"He said, 'Don't worry. Enjoy yourself. You will be all right.' He said, 'Make sure she goes with you this time.'"

Leaving agent C at the bar, agent S and Judy departed from the tavern. Judy directed agent S to a hotel in the area of the licensed premises. Upon entering the hotel, agent S paid the fee to a clerk and was assigned a room. After entering the room agent S gave Judy fifteen dollars, using the ten dollar and five dollar marked currency. Judy put the money in her coat pocket, disrobed completely and requested agent S to undress.

The agent stalled for time and at approximately 11:10 p.m. he heard a knock on the door. Judy opened the door, completely disrobed. At the door he observed two local policemen and ABC agents C and M. After agent S informed the police officers of the occurrence, they asked her for the money. Judy retrieved the money from her coat pocket. Agents C and M checked the serial numbers of the currency and, thereafter, Judy and the officers returned to the licensed premises where the agents identified themselves to Hubbard. The policemen were in uniform.

Upon confrontation, Hubbard admitted to agent S that Agent S had been in the tavern previously; that he had arranged to engage in sexual intercourse with Judy and that Judy had requested payment of the sum of fifteen dollars to be paid to her and the sum of six dollars for the room.

Agent C's testimony was corroborative of the testimony offered by agent S respecting the said incidents.

Concerning the occurrence of January 22, 1971, agent M testified that he waited outside the licensed premises at approximately 10:00 p.m. while agents S and C entered therein. Approximately an hour later he observed agent S exit therefrom followed by Judy. Upon observing agent S and Judy enter the hotel he called the local Police Department. Thereafter he was joined by two local police officers and by agent C. After consulting with a clerk, the group proceeded to the hotel room assigned to agent S and Judy. Judy responded to a knock on the door in a state of complete undress. He also observed agent S in the same room. Judy produced the marked money from her coat pocket, which was used in subject investigation. Agent M returned with the other law enforcement officers to the tavern and was present at the confrontation when Hubbard admitted, upon questioning by agent S, that the agent was solicited by the female.

The marked money was received in evidence.

In defense of the charge, Curtis Hubbard testified that he commenced his employment as a bartender for the licensee in the early part of January 1971. He recalled serving agents S and C on Friday, January 15, 1971. Agent S asked him "What is what? Can you get fixed up? What is happening?" Hubbard replied that he worked there on Fridays and Saturdays only; he didn't know anything relative to any of the patrons. Referring to Barbara (Judy) agent S inquired "How was the girl at the juke box?" Hubbard responded that he didn't know.

Thereafter Barbara sat to the left of agent S. Agent S purchased a drink for Barbara which she started to consume. During an interval that Barbara absented herself from the bar, agent S inquired of Hubbard "What is with her?". Hubbard replied that he didn't know. He denied that there was any reference to money. He observed agents S, C and the female depart from the premises "... in a row". Approximately ten or fifteen minutes later the agents returned for one more drink. Hubbard was asked what had happened to Barbara. He replied that he didn't know.

The agents returned to the barroom the following Friday at 10:00 p.m. Several minutes thereafter Barbara entered the tavern and eventually sat between the agents. Agent S ordered a drink for her and during the time that she was in the ladies room, agent S said, "You know, she stood me up last week. Do you think it will happen again?". Hubbard responded, "I don't know. I don't know anything about it. I don't know what you are talking about." Thereafter, he observed that they had departed from the barroom. Approximately one-half hour later the two agents S and C returned and they and another male identified themselves as ABC agents. He denied that the agents mentioned that they had arranged to go to a hotel with Barbara for the purpose of engaging in intercourse.

William J. Burnett, president of the corporate licensee, testified that, since engaging in the tavern business in the City of Paterson in January 1966, he has had an unblemished record. He instructed his employees to remove "junkies", prostitutes and minors from the tavern. He was not on duty on the dates mentioned in the charge.

It is apparent that the dispositive issue to be resolved herein is primarily factual.

Preliminarily, I observe that 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 carefully evaluated the testimony herein, both on behalf of the Division and on behalf of the licensee, and have had the opportunity to observe the demeanor of the witnesses as they appeared before me. A study of the entire record gives rise to the inescapable conclusion that this charge has been amply established by the credible and forthright testimony of the agents.

Rule 5 of State Regulation No. 20 provides as follows:

"No licensee shall allow, permit or suffer in or upon the licensed premises any lewdness, immoral activity, or foul, filthy or obscene language or conduct, or any brawl, act of violence, disturbance or unnecessary noise; nor shall any licensee allow, permit or suffer the licensed place of business to be conducted in such manner as to become a nuisance."

The agents' version of what occurred on the dates in question is a factual and believable account. On the contrary, I was unimpressed with the credibility of the licensee's bartender. It should be borne in mind that the agents investigated activities on these premises pursuant to a specific assignment and there is no reason to infer, nor was it even suggested, that they had any improper motivation in testifying as they did.

The defense to the charge is entirely unconvincing in view of the details presented by the agents. More particularly with reference to the occurrence on January 22, the evidence is clear, convincing and uncontroverted that Judy, after meeting and conversing with the agents in the licensed premises, proceeded therefrom to a hotel room and was prepared to engage in sexual intercourse therein. There is also no denial that "marked" money of the agents was found in her possession.

It is a well established and fundamental principle that a licensee is responsible for the activities of his employees 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 his personal knowledge or participation. In fact, it has been held that a licensee is not relieved even if the employee violates his 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).

I therefore conclude, on the basis of the overwhelming testimony, that the licensee's employee did allow, permit and

suffer a female to make arrangements on the licensed premises for acts of illicit sexual intercourse in contravention of the cited rule. I recommend that the licensee be found guilty as charged.

Licensee has no previous record of suspension of license. I further recommend that the license be suspended for ninety days. Re Rocky's Club, Inc., Bulletin 1971, Item 2.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to 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 29th day of July 1971,

ORDERED that Plenary Retail Consumption License No. C-204, issued by the Board of Alcoholic Beverage Control for the City of Paterson to W. J. Burnett, Inc., for premises 197 Paterson Street, Paterson, be and the same is hereby suspended for ninety (90) days, commencing 3:00 a.m. Thursday, August 12, 1971, and terminating 3:00 a.m. Wednesday, November 10, 1971.

RICHARD C. McDONOUGH
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ORDER STAYING SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

Rose's Corner, Inc. (A Corporation))
t/a Rose's Corner Bar)
1449 S. Clinton Avenue)
Trenton, N. J.,)

O R D E R

Holder of Plenary Retail Consumption)
License C-204, issued by the City)
Council of the City of Trenton.)

Licensee, Pro se
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Application has been made in the above matter for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Good cause appearing, it is, on this 5th day of August 1971,

ORDERED that the suspension heretofore imposed upon plenary retail consumption license C-204, issued by the City Council of the City of Trenton to Rose's Corner, Inc. (A Corporation), t/a Rose's Corner Bar, for premises 1449 S. Clinton Avenue, Trenton, for twenty days effective 2 a.m. Friday, August 6, 1971, be and the same is hereby stayed until entry of a further order herein.

Richard C. McDonough
Director

3. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA --APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)	
Proceedings against)	
Marlene Orbach)	CONCLUSIONS
t/a Orchid Room)	AND ORDER
11 Park Avenue)	
Paterson, N. J. 07501)	
Holder of Plenary Retail Consumption)	
License C-10 (for the 1970-71 and)	
1971-72 license periods), issued)	
by the Board of Alcoholic Beverage)	
Control of the City of Paterson.)	

Charles J. Alfano, 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 24, 1971 she sold alcoholic beverages to a minor, age 18, in violation of Rule 1 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 Eana, Incorporated, Bulletin 1986, Item 5. 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 \$650.00 in lieu of suspension.

Accordingly, it is, on this 29th day of July 1971,

ORDERED that the payment of a \$650.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough
Director

4. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary
Proceedings against

Beatrice M. Crudele
t/a Ye Olde College Inn
3109 South Main Road
Vineland, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-18 (for the 1970-71 and 1971-72
license periods), issued by the City Council
of the City of Vineland.

Licensee, Pro Se.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
Junr 4, 1971 she sold alcoholic beverages to a minor, age 19,
in violation of Rule 1 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 J & N, Inc., Bulletin
1982, Item 3. 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 \$500.00 in lieu of suspension.

Accordingly, it is, on this 30th day of July 1971,

ORDERED that the payment of a \$500.00 fine by the
licensee is hereby accepted in lieu of a suspension of license
for ten days.

Richard C. McDonough
Director

5. DISCIPLINARY PROCEEDINGS - FAILURE TO KEEP LIST OF EMPLOYEES ON LICENSED PREMISES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary
Proceedings against

Pier Corp.
t/a The Beachcomber
DuPont Ave. and the Boardwalk
Seaside Heights, N. J.

ORDER

Holder of Plenary Retail Consumption
License C-12 (for the 1970-71 and
1971-72 license periods), issued by
the Mayor and Borough Council of the Borough
of Seaside Heights.

Licensee, Anthony Berardi, President, Pro Se.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

On June 24, 1971, Conclusions and Order were entered in the matter suspending the license for five days effective July 12, 1971 upon the licensee's plea of non vult to a charge that it conducted its licensed premises without proper list as required by Rule 16(c) of State Regulation No. 20 (Re Pier Corp., Bulletin 1994, Item 5).

On July 9, 1971, the aforesaid suspension was stayed to consider an application made by the licensee 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 \$235.00 in lieu of the suspension.

Accordingly, it is, on this 2nd day of August 1971,

ORDERED that the order entered in the matter on June 24, 1971 suspending the license for five days is hereby rescinded and the payment of a \$235.00 fine by the licensee is hereby accepted in lieu of suspension.

Richard C. McDonough
Director

6. DISQUALIFICATION REMOVAL PROCEEDINGS - FAILURE TO SUBMIT TO
INDUCTION - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application)	
to Remove Disqualification be-	
cause of a Conviction, Pursuant)	CONCLUSIONS
to R.S. 33:1-31.2)	and
	ORDER

Case No. 2589
- - - - -
Marvin Kosoff, Esq., Appearing for Petitioner.

BY THE DIRECTOR:

Petitioner's criminal record discloses that in 1951 he was convicted of the crime of Failure to submit to induction in the U. S. District Court and was sentenced to one year in the Federal Prison.

Since the crime of which petitioner was convicted involves the element of moral turpitude (U.S. Code Ann., Title 50 Appendix Sec. 462) he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing held herein, petitioner (39 years old) testified that he is married ; that for the past five years he has lived in neighboring municipalities.

Petitioner further testified that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that, ever since his conviction in 1951 , he has not been convicted of any crime.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against petitioner.

Petitioner produced three character witnesses (a President of Textile Corp., a film consultant and a production manager) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

Considering all the aforesaid facts and circumstances, I am satisfied that petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 5th day of August, 1971,

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed, in accordance with the provisions of R.S. 33:1-31.2.

Richard C. McDonough
Director

7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED
FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)	
Proceedings against)	
Atlas Liquors Inc.)	
t/a Atlas Liquors)	CONCLUSIONS
675 Route #1)	and
Woodbridge, N. J.,)	ORDER
Holder of Plenary Retail Consumption)	
License C-39, issued by the Municipal)	
Council of the Township of Woodbridge.))	

Alexander A. Abramson, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 14, 1971 it sold alcoholic beverages to a minor, age fifteen, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for thirty days (Re Castellucia, Bulletin 1949, Item 4), with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

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

ORDERED that Plenary Retail Consumption License C-39, issued by the Municipal Council of the Township of Woodbridge to Atlas Liquors Inc., t/a Atlas Liquors, for premises 675 Route #1, Woodbridge, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, August 9, 1971, and terminating at 2 a.m. Friday, September 3, 1971.

Richard C. McDonough,
Director.

8. DISCIPLINARY PROCEEDINGS - GAMBLING (LOTTERY TICKETS) -
 POSSESSION OF PROPHYLACTICS - PRIOR DISSIMILAR RECORD -
 LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
 Proceedings against

)
)
 Galicia Bar, Inc.
 t/a Galicia Bar & Restaurant
 67-69 Ferry Street
 Newark, N. J.,

CONCLUSIONS
 and
 ORDER

)
 Holder of Plenary Retail Consumption
 License C-548, issued by the Municipal
 Board of Alcoholic Beverage Control of
 the City of Newark.
)
 -----)

John J. Dios, Esq., Attorney for Licensee
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to two charges alleging that on December 21, 1970 it (1) possessed lottery tickets in certain lotteries, viz., Spanish Lottery Tickets Loteria National", Loteria De Puerto Rico" and "Irish Hospital Sweepstakes", in violation of Rule 6 of State Regulation No. 20, and (2) possessed contraceptive devices on licensed premises, in violation of Rule 9 of State Regulation No. 20.

Licensee has a prior record of suspension for five days effective April 19, 1965 for possessing bottles not truly labeled (Re Galicia Bar, Inc., Bulletin 1617, Item 9) and for two hundred ten days effective June 10, 1970 for permitting immoral activity on premises (Re Galicia Bar, Inc., Bulletin 1920, Item 2).

The prior suspension for dissimilar violation more than five years ago disregarded, the license will be suspended on the first charge for fifteen days (Re International Brotherhood etc., Bulletin 1841, Item 8) and for ten days on the second charge (Re Hausner, Bulletin 1956, Item 1), to which will be added five days by reason of the prior suspension occurring within five years for dissimilar violation, making a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

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

ORDERED that Plenary Retail Consumption License C-548, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Galicia Bar, Inc., t/a Galicia Bar & Restaurant, for premises 67-69 Ferry Street, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Friday, August 6, 1971, and terminating at 2 a.m. Tuesday, August 31, 1971.

Richard C. McDonough,
 Director.

9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF LOCAL ORDINANCE -
HOURS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA -
APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary)	
Proceedings against)	
BLACK BART'S, INC.)	
West Side Route 206)	
Montgomery Township)	CONCLUSIONS
PO Skillman, N. J.)	AND ORDER
Holder of Plenary Retail Consumption)	
License C-2 (for the 1970-71 and)	
1971-72 license periods), issued by)	
the Township Committee of the)	
Township of Montgomery.)	

Skillman and Koerner, Esqs., by A. Dix Skillman, Esq., Attorneys
for Licensee.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to two charges alleging (1) that on Sunday, January 10, 1971, between 1:30 a.m. and 2:00 a.m. it sold drinks of alcoholic beverages, and (2) failed to have the licensed premises closed, in violation of the applicable local ordinances.

Absent prior record the license would normally be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Salvatore Pintozzi, Bulletin 1959, Item 3. 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 \$1,410.00 in lieu of suspension.

Accordingly, it is, on this 5th day of August 1971,

ORDERED that the payment of a \$1,410.00 fine by the licensee is hereby accepted in lieu of a suspension of license for fifteen days.

Richard C. McDonough
Director

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

In the Matter of Disciplinary
Proceedings against

Peter Barnes & Daisy Mazyack
t/a B & M Tavern
71 Jackson Avenue
Jersey City, New Jersey

)
)
) CONCLUSIONS
) AND ORDER
)

Holder of Plenary Retail Consumption
License C-447 (for the 1970-71 and
1971-72 license periods), issued by the
Municipal Board of Alcoholic Beverage Control
of the City of Jersey City.

Licensee, Pro Se.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on Friday, March 26, 1971 they sold alcoholic beverages, viz., a one pint bottle of gin for off-premises consumption, 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 Harbor Casino, Inc., Bulletin 1970, Item 6. 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 \$400.00 in lieu of suspension.

Accordingly, it is, on this 5th day of August 1971,

ORDERED that the payment of a \$400.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough
Director

11. DISCIPLINARY PROCEEDINGS - RETAILER PURCHASING ALCOHOLIC BEVERAGES FROM OTHER THAN NEW JERSEY MANUFACTURER OR WHOLESALER - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Hall-Will, Inc.
t/a Cadillac Club
32-34 William Street
Newark, N. J.,
Holder of Plenary Retail Consumption License C-536 (for 1970-71 and 1971-72 license periods), issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS
and
ORDER

Nathan Kurtz, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 5, 1971 it purchased or obtained alcoholic beverages from other than a wholesaler or manufacturer without special permit, in violation of Rule 15 of State Regulation No. 20.

Licensee has a previous record of suspension for fifteen days effective April 23, 1970 for employing an unqualified person (Re Hall-Will, Inc., Bulletin 1909, Item 10).

Investigation of this matter disclosed that corporate licensee, by its manager, first stated to investigators that he could produce invoices for the cases of alcoholic beverages in question and thereafter, upon admitting that he could not do so, stated that the cases in question were the property of a former bartender. That bartender, being later questioned, denied he owned or purchased any liquor and affirmed that his work-hours began after salesmen from wholesalers would visit.

Deeming the violation aggravated by reason of licensee corporation's declination to disclose the true source of the alcoholic beverages in question, the license will be suspended for thirty days, to which will be added five days by reason of dissimilar violation occurring within the past five years, or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days. Re Sauter's Steak Pub, Inc., Bulletin 1974, Item 4.

Accordingly, it is, on this 6th day of August 1971,

ORDERED that plenary retail consumption license C-536, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Hall-Will, Inc., t/a Cadillac Club, for premises 32-34 William Street, Newark, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Monday, August 23, 1971, and terminating at 2 a.m. Wednesday, September 22, 1971.

Richard C. McDonough,
Director.

12. MORAL TURPITUDE - CONVICTION OF CRIME OF POSSESSION OF A LOADED GUN HELD NOT TO INVOLVE MORAL TURPITUDE UNDER THE CIRCUMSTANCES.

Re: Eligibility No. 796

Applicant seeks determination as to whether or not he is disqualified from being associated with the alcoholic beverage industry in this State by reason of his conviction of crime. A person convicted of crime involving moral turpitude is so disqualified R.S. 33:1-25.26.

Applicant's criminal record discloses that on November 20, 1967, he was convicted in the Essex County Court of a charge of illegal possession of a loaded gun, a misdemeanor and was sentenced to 18 months (suspended) and two years probation.

The crime of carrying a weapon may or may not involve the element of moral turpitude Cf. Re Case No. 1698, Bulletin 1474, Item 4. When the crime stands alone unattended by other crimes or intention to commit other crimes it does not ordinarily involve moral turpitude. Re Elig. No. 614, Bulletin 870, Item 2.

At the hearing held herein, applicant (40 years old) testified that a gun was located in the front of his home when the police questioned him. He stated that there was no fight or argument when he was arrested, and denied that the gun belonged to him.

Florence P. Moore testified that she is a neighbor of the applicant and was present when he was arrested; that there was no fight or argument, or any crime committed at the time the police were at the applicant's home.

The Essex County Probation Department reports that the applicant was discharged from probation on May 12, 1969;; that prior to this conviction he had no criminal record. Our investigation discloses that subsequent to this conviction he has not been criminally involved.

Based on the aforesaid report and sworn testimony of the applicant and witness, it is my opinion that the crime of which applicant was convicted on November 20, 1967 does not involve aggravating circumstances or the commission or intent to commit other crimes in connection with the unlawful possession of a firearm. This crime therefore, under the facts and circumstances herein does not involve the element of moral turpitude. Hence, it is recommended the applicant be advised that in the opinion of the Director he is not disqualified by virtue of said conviction from being associated with the alcoholic beverage industry in this State.

Harry D. Gross
Attorney

Approved:

Richard C. McDonough
Director

Dated: August 6, 1971

13. STATE LICENSES - NEW APPLICATIONS FILED.

Fedway Associates, Inc.

Building 44 and Building 56

Port Kearny

Kearny, New Jersey

Application filed September 28, 1971
for place-to-place transfer of Plenary
Wholesale License W-29 from 315 Clendenny
Avenue, Jersey City, New Jersey

Federal Wine & Liquor Company

Building 56, Port Kearny

Kearny, New Jersey

Application filed September 28, 1971
for place-to-place transfer of Plenary
Wholesale License W-47 from 315 Clendenny
Avenue, Jersey City, New Jersey

Gateway Distributors, Inc.

Building 56, Port Kearny

Kearny, New Jersey

Application filed September 28, 1971
for place-to-place transfer of Plenary
Wholesale License W-64 from 75 Bennett Street,
Jersey City, New Jersey.


Richard C. McDonough
Director