

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

BULLETIN 2054

August 1, 1972

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

BULLETIN 2054

August 1, 1972

1. APPELLATE DECISIONS - EFFENBERGER v. BELLEVILLE.

Edmund A. Effenberger, t/a)
Princeton Bar and Grill,)
Appellant,)
v.)
Board of Commissioners of the)
Town of Belleville and Villa)
Italia Corporation, t/a Villa)
Italia,)
Respondents.)

On Appeal

CONCLUSIONS and ORDER

Keenan and Finch, Esqs., by Leslie W. Finch, Esq., Attorneys for
Appellant
John R. Scott, Esq., Attorney for Respondent Board of Commissioners
Robert W. Schwankert, Esq., Attorney for Respondent Villa Italia
Corporation

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant challenges the action of respondent Board of Commissioners of the Town of Belleville (hereinafter Board) which granted respondent Villa Italia's application for a place-to-place transfer of its licensed premises from 501 Washington Avenue to 369 Washington Avenue, Belleville. The contention of appellant revolves about an ordinance of the Town adopted in 1963 which prohibits transfers of liquor licenses to premises within twelve hundred fifty feet of other licensed premises. The Board concluded that the same ordinance excepts the distance limitations in the presence of facts indicating to the Board that applicant suffers extreme hardship justifying such transfer.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded counsel to produce testimony and cross-examine witnesses.

At the outset of the hearing counsel stipulated that the distance from the existing location to the proposed location of respondent's licensed premises is approximately 1,500 feet; the distance from the proposed location to the licensed premises of appellant is approximately 284 feet. It was further stipulated that the above mentioned 1963 ordinance of the Town is controlling.

Copies of the minutes of the meeting of the Board held February 22, 1972, and the resolution then adopted, were admitted into evidence by stipulation of counsel.

Appellant testified that he is the owner of the Princeton Bar located at 89 Joralemon Street which is 284 feet from 369 Washington Avenue (the location of respondent Villa Italia's proposed location). He recited a list of thirteen licensees on Washington Avenue and indicated that only three of them have parking facilities. On cross examination he admitted that only two were restaurants, one of which was respondent Villa Italia.

Anthony R. Bencivenni (president of Villa Italia) testified that the present location contains a restaurant accommodating over fifty patrons and a bar which has about a dozen stools. There are no parking facilities available whatsoever and on-street parking is becoming more hazardous and unavailable. The new location to which transfer is sought is part of a new motel complex which at present has no restaurant or bar facilities. Present guests of the motel are often referred to the licensed premises from which appellant seeks transfer. Parking at the new site would not be a problem as there is presently ample parking space.

The section of the ordinance (Section 3) which is applicable to the present grant of application for transfer is as follows:

"In the event any licenseholder shall present to the Municipal Board of Alcoholic Beverage Control of the Town of Belleville, New Jersey, a situation setting forth that the provisions of this supplement will create extreme hardship, then, and in such event, the said Municipal Board of Alcoholic Beverage Control of the Town of Belleville, N. J., may, in its sole discretion, make such ruling as it may deem proper despite the provisions of this supplement."

Relating the above section of the ordinance to the action taken thereunder, the resolution adopted carries the following, inter alia:

"... and the Board having concluded that the relief sought could be granted because of extreme hardship on the said licensee and without detriment to the existing area or other licensees...."

The resolution which set forth the conclusions of the Board indicates that the Board made a careful analysis of the area and determined that a "hardship" exists. That hardship, caused principally by lack of parking facilities, was found to be a hardship to the public resulting in their being inconvenienced.

In evaluating the action of the Board, the view of the Supreme Court as expressed in Ward v. Scott, 16 N.J. 16 (1954) is particularly applicable:

"... Local officials who are thoroughly familiar with their community's characteristics and interests and are the proper representatives of its people, are undoubtedly the best equipped to pass initially on such applications for variance. And their determinations should not be approached with a general feeling of suspicion, for as Justice Holmes has properly admonished: 'Universal distrust creates universal incompetence.' Graham v. United States, 231 U.S. 474, 480, 34 S. Ct. 148, 151, 58 L. Ed. 319, 324 (1913)...."

The Director is governed by the principle that the action of a local issuing authority will not be disturbed if properly based. In Lyons Farms Tavern v. Mun. Bd. Alc. Bev., Newark, 55 N.J. 292, 303 (1970), the court stated:

"... Once the municipal board has decided to grant or withhold approval of a premises-enlargement application of the type involved here, its exercise of discretion ought to be accepted on review in the absence of a clear abuse or unreasonable or arbitrary exercise of its discretion. Although the Director conducts a de novo hearing in the event of an appeal, the rule has long been established that he will not and should not substitute his judgment for that of the local board or reverse the ruling if reasonable support for it can be found in the record."

From the uncontroverted testimony there exists a dozen licensed premises along Washington Avenue in the town. Movement of any one of them would cause extreme difficulty because of the limiting ordinance. Only two of the dozen are restaurants. The president of the respondent-applicant testified that his restaurant is visited by guests of the motel. He is not within convenient walking distance and parking difficulties are growing insurmountable.

The crucial issue to be reviewed here is the applicability of the term "extreme hardship" to the instant situation. Extreme hardship by its very nature is relative and must be related to the context of the applicable ordinance in pari materia. The "distance" section of the ordinance, to which the paragraph relating to hardship is attached, provides a similar restriction comparable to like ordinances in many communities. A license may not be moved within 1,250 feet of another licensee except that a licensee is permitted to obtain a new location within 600 feet of his former place. By subtraction the remaining distance of 650 feet is an area prohibited for locus of transfer. The first fifty feet of this radius is, under an additional paragraph of the applicable section of the ordinance, set aside as a permissive area for a transfer "... in the event of any licensee's premises being taken for any municipal, county, state or federal project...." Other than this, no specific footage departures from those delineated restrictions are permitted.

Patently, the taking of a licensee's premises by a governmental agency would cause such licensee extreme hardship, and it has been so held. Cf. Jesswell, Inc. v. Newark, Bulletin 1847, Item 5. Such taking is not defined in the ordinance as "extreme hardship."

However, loss of licensed premises by condemnation is not the only situation which may be described as being caused by extreme hardship. Destruction of the premises by fire has been so held. Grisuolo v. Edgewater, Bulletin 1647, Item 2. Preservation of the residential character of a neighborhood has been similarly viewed. Salegnav, Inc. v. East Paterson, Bulletin 1951, Item 4.

As there are obviously other situations than condemnation that give rise to "extreme hardship" and such would be obvious to the framers of the ordinance, the dispositive paragraph (3) would have been adopted solely to include other "extreme hardship" situations than condemnation, already provided for.

To find otherwise would negate the function of the prior provisions of the ordinance. Put another way, the extreme hardship provision cannot be invoked to serve as a correction of an inconvenience to a licensee. It is thus apparent that the extension of an additional fifty feet of permissive area relating to condemnation situations, and these legally held to be "extreme hardship", was all the benefit the "extreme hardship" section was meant to embrace.

"... Administrative efforts to accommodate individual licensees must be accomplished within the framework of the existing legislation, construed in terms of the overriding public policy. So viewed, appellant's application and reasons therefor were properly held by the Director to be outside the scope of the relief clause ... of the ordinance...."

Smith v. Bosco, 66 N.J. Super. 165, 170 (App.Div. 1961).

Despite the inadequacy of parking facilities both on and off street, available to respondent Villa Italia, its business has increased and the extreme hardship described is merely inconvenience to its patrons and particularly to those patrons coming from the motel to which transfer was desired. Public inconvenience was not found to be a proper basis upon which to ground an appeal. Fanwood v. Rocco, 33 N.J. 404 (1960).

"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.... Nor can such commission ... set aside, disregard or suspend the terms of the ordinance, except in some manner prescribed by law...."

Dal Roth v. Div. of Alcoholic Beverage Control, 28 N.J. Super. 246, 254 (App.Div. 1953); Riccardo v. Paterson, Bulletin 2024, Item 1.

Here the Board improperly concluded that its discretionary power included a right to embrace the factual situation before it within the framework of the "hardship" provision of its ordinance. However laudable its intentions may have been to encourage newer and enlarged restaurant facilities in the community with alcoholic beverages available to its patrons, it could not do so in the manner here employed.

Appellant's further contention that by the approval of the instant transfer the Board has effectively given to the motel by indirection a license to which by virtue of the number of resident rooms being under 100 it was ineligible to receive (N.J.S.A. 33:1-20) is wholly without merit. That act has no reference to an existing license. Cf. Gardner v. Atlantic City, Bulletin 1717, Item 2.

For the reasons herein advanced, I find that appellant has sustained its burden of establishing that the action of the Board was erroneous and should be reversed. Rule 6 of State Regulation No. 15. It is therefore recommended that the action of the Board in granting the place-to-place transfer herein be reversed.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's report were filed by the attorney for respondent Villa Italia Corporation. Answering arguments to such exceptions were filed by the attorney for appellant. However, no exceptions were filed on behalf of respondent Board.

Having carefully considered the entire record herein, including transcript of the testimony, the exhibits, the Hearer's report, the exceptions thereto, and the answers to said exceptions, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 25th day of May 1972,

ORDERED that the action of respondent Board of Commissioners of the Town of Belleville be and the same is hereby reversed.

Robert E. Bower
Director

- 2. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - TWO SEPARATE VIOLATIONS - LICENSE SUSPENDED FOR 45 DAYS, LESS 9 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)	
)	
Vogel & Tanzer Liquors (A Corp.))	
t/a Little Nate's)	CONCLUSIONS
369-371 Elizabeth Avenue)	and
Newark, N.J.,)	ORDER
Holder of Plenary Retail Consumption License C-540, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)	
-----))	
Schutzman, Glickman & Valentine, Esqs., by Saul C. Schützman, Esq., Attorneys for Licensee)	
Peter E. Rhatican, Appearing for Division)	

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 30, 1972, it sold alcoholic beverages for off-premises consumption during prohibited "hours" in violation of Rule 1 of State Regulation No. 38. Licensee further pleaded non vult to a similar charge alleging an identical offense which occurred on April 19, 1972.

Absent prior record the license would normally be suspended for fifteen days on the first charge (Re Barrell Tavern, Inc., Bulletin 2043, Item 12); and fifteen days on the second charge, to which would be added an additional fifteen days by reason of the second offense being a similar offense occurring within the past five years, making a total of forty-five days, with remission of nine days for the plea entered, leaving a net suspension of thirty-six days.

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 \$2480. in lieu of suspension.

Accordingly, it is, on this 24th day of May 1972,

ORDERED that the payment of a fine in the amount of \$2480. by the licensee is hereby accepted in lieu of the suspension of license for thirty-six (36) days.

Robert E. Bower
Director

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

In the Matter of Disciplinary Proceedings against)	
)	
Circle Liquor Store, Inc.)	
1 Mac Arthur Circle)	CONCLUSIONS
Somers Point, N. J.,)	and
)	ORDER
Holder of Plenary Retail Distribution License D-1, issued by the Common Council of the City of Somers Point.)	
-----)		
De Brier and Wallen, Esqs., by Daniel De Brier, Esq., Attorneys for Licensee		
Walter H. Cleaver, Esq., Appearing for Division		

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 28, 1971, it 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 Welcome Cafe, Inc., Bulletin 2038, 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 \$5000. in lieu of suspension.

Accordingly, it is, on this 24th day of May 1972,

ORDERED that the payment of a \$5000. fine by the licensee is hereby accepted in lieu of the suspension of license for ten (10) days.

Robert E. Bower
Director

- 4. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED BY MUNICIPAL ISSUING AUTHORITY FOR 25 DAYS ON PLEA - SUSPENSION DEFERRED TO PERMIT APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION - APPLICATION GRANTED.

In the Matter of Disciplinary Proceedings against
 Belford Scott Millering and Dorothy D. Ortman
 t/a Cappy's Wine and Liquors
 331 South Avenue East
 Westfield, N.J.,

CONCLUSIONS
 and
 ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Mayor and Council of the Town of Westfield.

 Kein, Pollatschek & Iacopino, Esqs., by Julius R. Pollatschek, Esq.,
 Attorneys for Licensees
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensees pleaded non vult before the municipal issuing authority to a charge alleging that on February 18, 1972, they sold alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20. The license was suspended for twenty-five "business" days, with the effective date thereof deferred pending the determination of the licensee's application to the Director to pay a fine in lieu of suspension.

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 \$1700. in lieu of suspension.

Accordingly, it is, on this 24th day of May 1972, .

ORDERED that the payment of a \$1700. fine by the licensee is hereby accepted in lieu of a suspension of license for twenty-five "business" days.

Robert E. Bower
 Director

5. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary)
Proceedings against)

Frank Toscano)
4 Pine Street)
Somerville, N. J.,)

Holder of Unlimited Solicitor's)
permit No. 1254, issued by the)
Director of the Division of)
Alcoholic Beverage Control.)

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

BY THE DIRECTOR:

On May 16, 1972, I entered Conclusions and Order herein suspending the subject permit for twenty-five days, commencing May 25, 1972, upon permittee's plea of non vult to charges that on July 2, 9, 16, 18 and August 13, 1971 he, the holder of an unlimited solicitor's permit for employment with a plenary wholesale licensee, (1) sold alcoholic beverages to a licensee then on the "non-delivery" list in violation of Rule 4(b) of State Regulation No. 39, and (2) delivered alcoholic beverages to such licensee without accurate delivery slips, in violation of Rule 12 of State Regulation No. 14. Re Toscano, Bulletin 2052, Item 10.

The permittee has now requested that the commencement of the suspension be deferred until July 31, 1972. Good cause appearing, I shall grant the request.

Accordingly, it is, on this 23rd day of May 1972,

ORDERED that the order dated May 16, 1972 be and the same is hereby amended as follows:

ORDERED that any renewal of unlimited solicitor's permit No. 1254 that may be granted to Frank Toscano shall be and the same is hereby suspended for a period of twenty-five (25) days, commencing 9:00 a.m. Monday, July 31, 1972 and terminating at 9:00 a.m. Friday, August 25, 1972.

Robert E. Bower
Director

6. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary)
 Proceedings against)
 German American Society of)
 Trenton, Inc.)
 215 Uncle Pete's Road)
 Hamilton Township (Mercer Co.))
 PO Box 2421, Trenton, N. J.,)
 Holder of Club License CB-2, issued)
 by the Township Committee of the)
 Township of Hamilton.)
 -----)

AMENDED ORDER

Dimon, Haines & Bunting, Esqs., by William R. Wood, Esq.,
 Attorneys for Licensee
 Peter E. Rhatican, Appearing for Division

BY THE DIRECTOR:

On May 16, 1972 I entered Conclusions and Order sus-
 pending the subject license for ten days commencing May 30,
 1972, upon licensee's plea of non vult to a charge alleging
 sales of alcoholic beverages to persons other than bona fide
 members or guests, in violation of Rule 8 of State Regulation
 No. 7. Re German American Society etc., Bulletin 2052, Item 8.

Licensee has now requested that the suspension be
 deferred to commence on Monday, June 5, 1972, in order to permit
 the licensee to honor certain commitments for affairs scheduled
 during aforementioned period. Good cause appearing, I shall
 grant the request.

Accordingly, it is, on this 23rd day of May 1972,

ORDERED that the order dated May 16, 1972 be and the
 same is hereby amended as follows:

ORDERED that Club License CB-2, issued by the Township
 Committee of the Township of Hamilton to German American Society
 of Trenton, Inc., for premises 215 Uncle Pete's Road, Hamilton
 Township, be and the same is hereby suspended for ten (10) days,
 commencing at 2 a.m. Monday, June 5, 1972, and terminating at
 2 a.m. Thursday, June 15, 1972.

Robert E. Bower,
 Director.

7. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against)

Sheldon Seavey)
150 1/2 Parkside Avenue)
Trenton, N. J.,)

AMENDED ORDER

Holder of Unlimited Solicitor's Permit No. 899, issued by the Director of the Division of Alcoholic Beverage Control.)

Permittee, Pro se
Edward F. Ambrose, Appearing for Division

BY THE DIRECTOR:

On May 16, 1972, I entered Conclusions and Order herein suspending the subject unlimited solicitor's permit for twenty-five days, commencing May 29, 1972 upon permittee's plea of non vult to three charges as set forth in the aforementioned order. Re Seavey, Bulletin 2052, Item 7.

Permittee has now requested deferment of the commencement of the said suspension because of certain medical problems which have arisen in his family. Good cause appearing, I shall grant the request.

Accordingly, it is, on this 23rd day of May 1972,

ORDERED that the order dated May 16, 1972 be and the same is hereby amended as follows:

ORDERED that any renewal of unlimited solicitor's permit No. 899, that may be granted to Sheldon Seavey shall be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 9:00 a.m. Monday, July 31, 1972 and terminating at 9:00 a.m. Friday, August 25, 1972.

Robert E. Bower
Director

8. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary)
 Proceedings against)
 Jive Shack Bar (A Corp.))
 274- 15th Avenue)
 Newark, N. J.,)

AMENDED ORDER

Holder of Plenary Retail Consumption
 License C-439, issued by the Municipal)
 Board of Alcoholic Beverage Control of
 the City of Newark.)

 Jacob M. Goldberg, Esq., Attorney for Licensee
 Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

On May 22, 1972 Conclusions and Order were entered herein suspending the subject license for the balance of its term, viz., until midnight June 30, 1972, and further suspending any renewal license that may be granted until July 11, 1972, after licensee pleaded non vult to a charge alleging that licensee sold alcoholic beverages for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38. Re Jive Shack Bar (A Corp.), Bulletin , Item .

It appears that by supplemental order dated May 2, 1972, a prior suspension was reimposed after affirmance of the Director's order upon appeal filed by the licensee to the Appellate Division of the Superior Court. Re Jive Shack Bar (A Corp.), Bulletin , Item . The period of suspension provided for in the said supplemental order commenced on May 16, 1972 for the balance of the term, viz., until midnight June 30, 1972 and, further, that any renewal license that may be granted was thereby suspended until July 20, 1972.

Since my order dated May 22, 1972 inadvertently provided for a period of suspension to run concurrently in part with the prior order of suspension, I shall amend said order to provide for a consecutive suspension to commence after the termination of the suspension presently in effect.

Accordingly, it is, on this 24th day of May 1972,

ORDERED that the order entered on May 22, 1972 be and the same is hereby amended as follows:

ORDERED that any renewal of Plenary Retail Consumption License C-439, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Jive Shack Bar (A Corp.), for premises 274- 15th Avenue, Newark, be and the same is hereby suspended for thirty-six (36) days, commencing at 2 a.m. Thursday, July 20, 1972, and terminating at 2 a.m. Friday, August 25, 1972.

Robert E. Bower,
 Director.

9. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 10 DAYS LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

John J. & Anna I. Bizub t/a Johnny's Tavern 458-460 Nye Avenue Irvington, N. J.,)

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-67, issued by the Municipal Council of the Town of Irvington.)

Licensees, Pro se Peter E. Rhatigan, Appearing for Division

BY THE DIRECTOR:

Licensees plead guilty to a charge alleging that on March 29, 1972 they sold alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license would normally be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Plancey, Bulletin 2042, Item 9.

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 \$200 in lieu of suspension.

Accordingly, it is, on this 24th day of May 1972,

ORDERED that the payment of a \$200 fine by the licensees is hereby accepted in lieu of the suspension of license for five (5) days.

Robert E. Bower, Director.

10. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION - FRONT - UNDISCLOSED STOCKHOLDER - VIOLATIONS OF N.J.S.A. 33:1-25, 52 - UNLAWFUL SITUATION CORRECTED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

Casa Mana Bar & Liquors, Inc.)
t/a Eddie's Lounge)
665 Cedar Lane)
Teaneck, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Township Council of the Township of Teaneck.)

Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys for Licensee
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to three charges alleging that in its application for a plenary retail consumption license filed May 26, 1971 it failed to disclose a change of corporate stockholders or otherwise indicate that others there unnamed (i.e., Edward Grice and Edward Heaton) exercised the beneficial control of the licensed premises and derived the benefits conducted thereunder, in violation of N.J.S.A. 33:1-25; to a fourth charge alleging that it aided the said persons to exercise the rights of a licensee under such license, in violation of N.J.S.A. 33:1-52.

Absent prior record, and upon proof of correction of the unlawful situation having been received, the license would normally be suspended for twenty days on the four charges herein (Re Ciccone, Bulletin 2021, Item 4), with remission of five days for the plea entered, leaving a net suspension of fifteen days.

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 25th day of May 1972,

ORDERED that the payment of a \$600 fine by the licensee is hereby accepted in lieu of the suspension of license for fifteen (15) days.

Robert E. Bower,
Director.

11. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary)
 Proceedings against)
 Vincent A. Pomorski)
 t/a Frontier Wines & Liquors)
 487 Hudson Street)
 Hackensack, N. J.,) SUPPLEMENTAL ORDER

Holder of Plenary Retail Distribution)
 License D-10, issued by the City
 Council of the City of Hackensack.)

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

BY THE DIRECTOR:

On September 30, 1971 Conclusions and Order were entered herein suspending subject license for ten days effective October 18, 1971, upon licensee's plea of non vult to a charge alleging sale to a minor, age 18, in violation of Rule 1 of State Regulation No. 20. Re Pomorski (Bul.2010-14).

It appears that inadvertently the said suspension was not effectuated and, therefore, the license was never actually suspended. I shall enter a supplemental order re-imposing the said suspension.

Accordingly, it is, on this 26th day of May 1972,

ORDERED that Plenary Retail Distribution License D-10, issued by the City Council of the City of Hackensack to Vincent A. Pomorski, t/a Frontier Wines & Liquors, for premises 487 Hudson Street, Hackensack, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, June 6, 1972, and terminating at 2 a.m. Friday, June 16, 1972.

Robert E. Bower,
 Director.

12. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 Frank J. Coppola
 t/a Frank's Colonial House
 104 West Seventh Street
 Plainfield, N.J.
 Holder of Plenary Retail Consumption License C-14 issued by the Common Council of the City of Plainfield.

 Licensee, Pro Se.
 Peter E. Rhatican, Appearing for Division.

CONCLUSIONS
 and
 ORDER

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 5, 1972 he sold alcoholic beverages to five minors, ages 19, 19, 19, 20 and 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, 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 William Bogatin Corp., Bulletin 1850, Item 12.)

Accordingly, it is on this 31st day of May, 1972

ORDERED that Plenary Retail Consumption License C-14 issued by the Common Council of the City of Plainfield to Frank J. Coppola, t/a Frank's Colonial House for premises 104 West Seventh Street, Plainfield be and the same is hereby suspended for fifteen (15) days *commencing 1:00 A.M. on Tuesday, June 13, 1972 and terminating 1:00 A.M. on Wednesday, June 28, 1972.

Robert E. Bower,
 Director

*Amended Order dated June 12, 1972 deferred dates of suspension of license for 15 days commencing 1:00 a.m. Wednesday, July 5, 1972 and terminating at 1:00 a.m. Thursday, July 20, 1972.

13. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary)
 Proceedings against)
)
 Alhe, Inc.)
 t/a Erin Bar)
 300-302-304 No. Broadway)
 Gloucester City, N. J.,)

O R D E R

Holder of Plenary Retail Consumption)
 License C-31, issued by the Mayor)
 and Common Council of the City of)
 Gloucester City.)

Wilinski, Coruzzi & Suski, Esqs., by Robert Wilinski, Esq., on Petition
 Novack and Trobman, Esqs., by David Novack, Esq., Attorneys
 for Licensee
 Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

On May 9, 1972, Conclusions and Order were entered herein suspending the license for the balance of its term, with leave to the licensee or any bona fide transferee of the license to file a verified petition establishing correction of the unlawful situation (undisclosed interest of stockholders resulting from change of corporate stockholders; exercise of the rights of a licensee under said license by said persons, and the failure to keep true books of account) for lifting of the suspension on or after June 8, 1972, after the license has been suspended for thirty days. Re Ahle, Inc., Bulletin 2051, Item 3.

It appearing from a verified petition of Guy W. Leone (bona fide purchaser of the corporate stock of subject licensee), submitted by the licensee, that the unlawful situation has been corrected, I shall grant the petition requesting termination of the suspension.

Accordingly, it is, on this 30th day of May 1972,

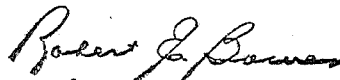
ORDERED that the suspension heretofore imposed herein be and the same is hereby terminated effective 2 a.m. Thursday, June 8, 1972.

ROBERT E. BOWER
 DIRECTOR

14. STATE LICENSES - NEW APPLICATION FILED.

Schenley Affiliated Brands Corp.
 38-40 Sixth Street
 Harrison, New Jersey

Application filed July 27, 1972 for an additional warehouse and salesroom license for premises, 20 Sand Park Road, Cedar Grove, New Jersey, in connection with Plenary Wholesale License W-41.


 Robert E. Bower
 Director