

Stewart 14
Ambrose *R*

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

BULLETIN 1979

June 10, 1971

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Edgewater) - POSSESSION OF NARCOTICS - NUISANCE - LICENSE SUSPENDED FOR 180 DAYS.
2. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN PRIVATE DWELLING - CLAIM FOR VENDING EQUIPMENT REJECTED ABSENT GOOD FAITH - ALCOHOLIC BEVERAGES ORDERED FORFEITED.
3. DISCIPLINARY PROCEEDINGS (Atlantic City) - SUPPLEMENTAL ORDER.
4. DISCIPLINARY PROCEEDINGS (Berkeley Township) - AMENDED ORDER.
5. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE TO MINOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Piscataway Township) - NOLLE PROSSED.
7. DISCIPLINARY PROCEEDINGS (Elizabeth) - SUPPLEMENTAL ORDER - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.
8. DISCIPLINARY PROCEEDINGS (North Brunswick Township) - ORDER.
9. DISCIPLINARY PROCEEDINGS (Netcong) - SALE IN VIOLATION OF REGULATION 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

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

BULLETIN 1979

June 10, 1971

1. DISCIPLINARY PROCEEDINGS - POSSESSION OF NARCOTICS - NUISANCE -
LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary)
Proceedings against)

Gi-Mo-Do Enterprises (A. Corp.))
t/a The Cove)
936 River Road)
Edgewater, N.J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-14, issued by the Mayor and)
Council of the Borough of Edgewater.)

Skoloff and Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys for Licensee
Edward F. Ambrose, Esq., by Walter H. Cleaver, Esq., Appearing
for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

The licensee entered a "technical plea" of not guilty to
the following charges:

- "1. On February 25, 26, 28, March 1, 5 and 6, 1969, you allowed, permitted and suffered unlawful activity pertaining to narcotic drugs, as defined by R.S. 24:18-2, in and upon your licensed premises, and on said dates of February 26 and March 1, 1969, you allowed, permitted and suffered the unlawful possession of such narcotic drugs in and upon your licensed premises; in violation of Rule 4 of State Regulation No. 20.
- "2. On February 25, 26, 28, March 1, 5 and 6, 1969, you allowed, permitted and suffered immoral activity in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that on all said dates, you, through an officer, director and stockholder of your corporation, made offers to and arrangements with customers and patrons to obtain and procure for and/or sell narcotic drugs to them, and in furtherance of such offers and arrangements sold a narcotic drug to customers and patrons on your licensed premises on said dates of February 26 and March 1, 1969; in violation of Rule 5 of State Regulation No. 20."

The Division's file was admitted into evidence with the understanding that reference to the file would be confined to matters and dates included within the complaint, viz.: Occurrences on February 25, 26, 28, March 1, March 5 and March 6, 1969.

The file indicated that on February 25, 1969 investigators Z and G, of the Bergen County Prosecutor's Office, entered the licensed premises to make possible contact with one J.B. Moore (one of the principals of corporate licensee) to obtain marijuana. Moore admitted that he trafficked in marijuana.

On February 26, 1969, investigators Z and G again entered the licensed premises and had conversation with Moore regarding the purchase of marijuana. Moore went to the back room behind the bar and returned with a piece of "Hashish" which he handed to investigator Z, in the presence of investigator G, saying: "...if you like it I will get you one-half ounce on Friday for \$50."

On February 28, 1969, investigators Z and G returned to the licensed premises. Moore advised them that he could not get the "hash" but "call me tomorrow, I'll have \$25.00 worth of hash".

On March 1, 1969, investigators G and Z visited the licensed premises and spoke to Moore, who said "the hash is in the empty toilet roll in the men's room". The investigators proceeded to the men's room where they found a small manila envelope in the empty toilet roll, containing what appeared to be several pieces of hashish. They returned to the bar and investigator Z paid Moore \$25.00.

The file contained a laboratory report of the Division of State Police, State Bureau of Identification, dated April 1, 1969, which established that "7 pieces of a hard dark substance" received March 5, 1969 were positive for "Cannabis Sativa (Hashish)".

On March 5 and 6, 1969, investigators Z and G entered the premises and conversed with Moore with reference to the further purchase of marijuana. Moore agreed to supply them, but no further purchase or transfer of any marijuana was concluded on the premises.

It should be noted that the file discloses no evidence that the other officers of the corporate licensee, Warren or Dowling, were on the premises during any of the above enumerated meetings.

Counsel for the licensee moved to dismiss the charges herein for want of prosecution. He urged that, although the violation occurred on February 3, 1969, no complaint was served upon corporate licensee until June 1970. In response to this argument the prosecutor advised the Court:

"...the investigation that resulted in bringing of this disciplinary proceeding against the licensee was made apparently by the Bergen County Prosecutor's Office. And when we became aware, as the Division became aware that such a possible violation may have existed or taken place, I believe that the Division went forward quite diligently in its pursuit to get the investigation and details in our hands so we could decide whether or not to bring a disciplinary proceeding. The prosecutor apparently would not let us have the reports until sometime after March or April of this year, so I'm sure that that accounts for any delay."

It is well settled that the government is not barred by the laches of its officers. Nor does the Alcoholic Beverage Law contain any limitation within which disciplinary proceedings must be brought. Re Kinney Club, Bulletin 502, Item 7; Accord, Re Bernstein, Bulletin 1356, Item 1.

I am satisfied that the Division acted with reasonable dispatch upon its receipt of the reports prepared by the office of the Prosecutor of Bergen County. I therefore find the motion to be without merit and recommend it be dismissed.

John Tarabola testified on behalf of the licensee as follows: he has been a member of the Police Department of the Borough of Edgewater for twenty years, and has served as Chief of Police since October 1969. In January or February of 1969, Moore, Dowling and Warren assumed the present license. Shortly thereafter the Department had received information that a party at the licensed premises was dealing in narcotics.

At this point, it was stipulated that Moore was a principal of the licensee at the time of the violation but was removed prior to the institution of the present charges.

The witness then contacted the Office of the Bergen County Prosecutor and placed the matter in their hands. In March of 1969 he was informed that Moore had been arrested and that no charges were made against Warren or Dowling, the present officers of the corporate licensee.

Thereafter the Edgewater Police maintained surveillance of the licensed premises.

He further testified that Warren and Dowling contacted him sometime thereafter, offering their assistance to the police in an effort to gain further information regarding the narcotics activity in the area. Dowling and Warren agreed to hire and pay an undercover agent, designated by the police, to further this aim. As a result of this offer to cooperate, an agent was placed on the premises as bartender. The agent reported no further violations of any kind but "As a result of him being there, we received valuable information as far as narcotic activity going on in Edgewater....". No further complaints were received by the Police Department regarding the license.

He emphasized that "The licensees came to see me. They wanted to find out what could be done to clear up the situation...."

Albert Wollerman testified that he has been a councilman of the Borough of Edgewater since 1968. When the application for renewal of the license was brought before the Council in 1969, the Council had full knowledge of the alleged violation by the licensee. Notwithstanding this knowledge the Council renewed the license, apparently satisfied that the remaining principals could not have been involved. It was agreed to permit the licensee to operate for an additional licensing period to see how it worked out. No violations occurred during the license year 1969-1970 and the Council has again renewed the license for the 1970-1971 licensing period. Further:

"I know these two fellows, they're fine people, and they have done a tremendous job to clean it up at a cost to themselves. I'm sure it cost them a lot of money to get a lot of people out of there.

"No, I definitely think they should be left to operate the place."

It was stipulated that testimony by Dowling and Warren would be to the effect that they had no knowledge of Moore's activities; when they learned of it they terminated his relationship with the licensed premises; and they would not deny the occurrence hereinabove set forth.

Two testimonial letters were produced at this hearing. One dated August 17, 1970, and signed by Francis P. Meehan, Mayor of the Borough of Edgewater, reads as follows:

"Mr. James Dowling and Mr. John Warren have cooperated in all ways with the Edgewater Police in its continuing investigations of narcotics and have at times requested extra surveillance by the police when they suspected persons outside their building of illegal practices.

"Both men have been life long residents of the Borough and I have known them all their lives. I am certain that neither of these men would have knowingly contributed to any sale or pushing of narcotics of any kind."

Another letter, dated August 16, 1970, sent by Francis P. Kennedy, retired Chief of Police of the Borough of Edgewater, sets forth that it is unsolicited and written in the interest of fairness and justice. He has known both Warren and Dowling since childhood and they and their families have always been law-abiding citizens and a credit to their community.

A review of the transcript and the exhibits presented herein, leads to the conclusion that a sale or sales of narcotics were transacted on the licensed premises, in violation of Rules 4 and 5 of State Regulation No. 20, and justifies the imposition of a severe penalty. The only question remaining therefore is that of the severity of the penalty in the instant case.

The Division has consistently taken a dim view of unlawful narcotic activity on liquor licensed premises. Such activities cannot and will not be tolerated in this State. Re Frances Richards,

Bulletin 1838, Item 1. See Also Ishmal, Bulletin 1829, Item 3; Smithpaul Corp., Bulletin 1777, Item 1; Gnewcenski, Bulletin 1722, Item 1; 279 Club, Inc., Bulletin 1438, Item 1.

All of the above enumerated matters resulted in outright revocations of the license.

On the other hand, since the law proscribing illegal narcotics activity expresses the "legislative goal of suppressing illegal narcotics traffic" State v. Reed, 34 N.J. 554 at p.559 (1961), the question arises as to what shall be the resultant penalty regarding Warren and Dowling, the remaining officers of the corporate licensee.

I am satisfied that the remaining officers, of the corporate licensee, (Warren and Dowling) had no knowledge of the traffic in narcotics. I am further satisfied that they took all necessary steps to cooperate with law enforcement agencies in an attempt to rid the community of one source of narcotic traffic. I am impressed by the letters of the Mayor and former Chief of Police and am especially influenced by the decision of the local issuing authority to renew the license notwithstanding their knowledge of the offense committed by Moore.

Finally, I am convinced that the efforts of Warren and Dowling to do all in their power to cooperate with law enforcement agencies should not be rewarded by revocation; the end result might well be to discourage citizen cooperation in this critical area. In a society wherein law enforcement officials are often hampered at every turn, such an attitude should be nurtured and encouraged.

Under the circumstances herein, and after careful examination of all the facts presented, I recommend that the licensee be found guilty of both charges. I further recommend that the license be suspended for the balance of its term viz., until midnight June 30, 1971.

Conclusions and Order

Exceptions to the Hearer's report and written argument in support thereof were filed by the attorney appearing for the Division pursuant to Rule 6 of State Regulation No. 16.

The prosecuting attorney argues that the proper penalty in this matter should be outright revocation and not a suspension for the balance of the license term. He argues that Moore (as an officer and director and 25% stockholder of the licensee corporation) participated in the alleged violation to the full extent of actually making sales of narcotic drugs on the licensed premises and that, although a technical plea of not guilty was entered to these charges, there was no contest in fact. The defense was, rather, that the other two corporate members had no knowledge of Moore's activities and that, after Moore's criminal arrest for illegal trafficking in narcotics, his name was removed from the license application and, further, after such arrest, the other two corporate officers offered their cooperation to the police concerning future illegal narcotics activity in and about the licensed premises. It is urged that the proceeding is against the licensee corporation, and it is that "person" who is responsible in disciplinary proceedings, whether the violation is committed by any corporate member thereof or any of its agents, servants or employees.

Initially, it should be noted that license revocation is the harshest of all penalties that are available to me in disciplinary proceedings, for it not only causes the demise of the license in question but also, by the entry of such an order,

all officers, directors and holders of more than 10% of the stock of the corporate licensee will be prohibited from engaging in the alcoholic beverage industry for two years. R.S. 33:1-31. Since revocation is such a harsh penalty, it seems to me that each case should be thoroughly reviewed and its particular facts carefully scrutinized to determine if the penalty accomplishes its purpose, that is, to penalize the violator and to deter others from future similar conduct. In this particular case Moore was criminally indicted and convicted for his narcotics activity and may well be prohibited from engaging in the alcoholic beverage industry for at least five years. R.S. 33:1-25; 31.2.

The other two corporate licensees had no knowledge of this activity and thereafter cooperated fully with the local police to uncover additional such activity in this community. Furthermore, the municipal governing body saw fit to renew the license for the 1969-70 and 1970-71 licensing periods with full knowledge of these facts and, further, the Mayor and the former Chief of Police of this municipality forwarded letters of recommendation as to the remaining corporate licensees Warren and Dowling and asked that I consider their fine character and past good record in determining the penalty which I might impose in this matter.

The instant case involves sale of marijuana (hashish) on February 26, 1969 in quantity of 0.13 grams, and sale on March 1, 1969 of 5.41 grams of same narcotic for \$25. On March 13, 1969 the licensed premises were searched, but no narcotics were found. On the same date the four-room apartment of John P. Moore (principal of the licensee, who made the aforementioned sales) was searched and 12.72 grams of marijuana were found there in various places, including a flower pot and a tea pot.

Considering all these circumstances, including the fact that this case does not involve large-scale commercial narcotics activity similar to the revocation cases cited in the Hearer's report and relied upon by the Division attorney, I feel that a suspension of one hundred eighty days is appropriate herein.

Nevertheless, it should be emphasized that this determination should in no way be construed as a relaxation of the Division's policy regarding narcotics offenders. This Division will continue to act swiftly and surely to rid the industry of such offenders when the situation warrants.

Accordingly, it is, on this 26th day of April 1971,

ORDERED that Plenary Retail Consumption License C-14, issued by the Mayor and Council of the Borough of Edgewater to Gi-Mo-Do Enterprises (A Corp.), t/a The Cove, for premises 936 River Road, Edgewater, be and the same is hereby suspended for one hundred eighty (180) days, commencing at 3 a.m. Monday, May 10, 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. Saturday, November 6, 1971.

RICHARD C. McDONOUGH
DIRECTOR

2. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN PRIVATE DWELLING - CLAIM FOR VENDING EQUIPMENT REJECTED ABSENT GOOD FAITH - ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on)	Case No. 12,327
May 2, 1970 of a quantity of)	ON HEARING
alcoholic beverages, a cigarette)	CONCLUSIONS
machine, a juke box, a pool table)	AND ORDER
and two pinball machines in the base-)	
ment of a brick building on Steinfield)	
Avenue, Brotmanville, in Salem County)	
and State of New Jersey.)	

Adam & Pagliuchi, Esqs., by Charles Girard, Esq., appearing for claimant, Walter Smith.
 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 R.S. 33:1-66 and State Regulation No. 28 to determine whether 202 containers of alcoholic beverages, one pool table, one cigarette machine, one juke box and two pinball machines, as set forth in an inventory attached hereto, made part hereof, and marked Schedule "A", seized on May 2, 1970 on premises at Steinfield Avenue, Brotmanville, Township of Pittsgrove, Salem County, N. J. constitute unlawful property and should be forfeited.

The seizure was made by members of the New Jersey State Police and ABC agents.

At the hearing pursuant to R.S. 33:1-66 Walter Smith, claimant, represented by counsel, appeared and sought return of one cigarette machine, one juke box, one pool table and two pinball machines. No claim was made for the seized alcoholic beverages.

There was entered into evidence the Division file, which contained the affidavit of mailing, affidavit of publication, notice of hearing, inventory and the certification by the Director that no license for the sale of alcoholic beverages or special permit of any kind was ever issued to Matt Albert Reaves and Clara May Reaves, or for the said premises.

Reports of members of the New Jersey State Police, ABC agents and other documents in the file disclosed the following: Agents C, G, D, Ga and B met Lieutenant Brennan and Detective Sergeants Heilforth and Lenox, of the New Jersey State Police. The said Sergeant Lenox had obtained a search warrant for the residence of Matt and Clara Reaves, located at the Steinfield Avenue address, with reasonable cause to believe that illegal gambling operations and unlawful selling of alcoholic beverages were being conducted on the said premises.

At approximately 4:00 A.M. on May 2, 1970, the aforesaid agents and State Police entered the side door of the Reaves residence.

Approximately 28 males and females were found on the premises. Six males were on the first floor engaged in gambling

(dice) while the remaining persons were on the basement level. Also at the basement level Mrs. Reaves was observed on duty behind a makeshift counter serving alcoholic beverages to persons who were drinking and dancing. Reaves was observed at the front door of the first floor. In the basement area was found a juke box (Serial No. 136806), and a cigarette machine (Serial No. 108993).

Off the first floor, adjacent to the area in which the gambling was taking place a pool table and two pinball machines were found.

All the above enumerated items were seized along with the alcoholic beverages, as set forth in Schedule "A". It should be noted that according to the report of Trooper C dated May 5, 1970, all of the monies confiscated from the vending machines and equipment, along with the monies involved in the gambling violations, and some of the equipment used in the gambling operation, were retained by the New Jersey State Police.

Additionally, Trooper Nixon testified that in conjunction with this activity he gained admission to the Reaves residence at approximately 2:30 A.M. of May 2, 1970, dressed in civilian attire. He seated himself at a table in the basement at which he was served alcoholic beverages by Mrs. Reaves and that he paid Mrs. Reaves for the drinks. The above-mentioned juke box was five or six feet from the bar in such a position that anyone servicing the juke box would be able to see behind the bar. The Reaves residence had the appearance of a private dwelling from the outside, and Steinfield Avenue appeared to be a residential area.

On cross-examination, Trooper Nixon testified that he had made three prior visits to the premises; all visits were made after midnight; he was never inside the premises during daylight hours; and there was a home-type refrigerator behind the bar.

There was admitted into evidence as part of the Division's file, an analysis of a sample of beer seized. That analysis, certified by the Director, established that it was an alcoholic beverage, fit for beverage purposes, with an alcoholic content by volume of 4.93%.

The claimant, Walter Smith, testified in support of his claim that he had been in the business of placing amusement and vending machines for many years; at the request of Reaves he placed the aforementioned equipment in the Reaves residence on their representation that the residence was to be used as a "teen-age" social club; he had installed some of the equipment seven or eight years ago and the most recent installation was two or three months prior to the hearing; he installed the equipment himself and serviced it himself; he serviced it at infrequent intervals ranging from every four weeks to every two months; the house had the appearance of a private residence, and Steinfield Avenue appeared to be a residential area; the only check of the premises he made as to the activity for which it was used was to talk to neighbors, many of whom were relatives of the Reaves.

On cross-examination, he stated that he had never sought any information regarding the premises from any local, county or state agencies or from this Division.

There was admitted into evidence, on behalf of the claimant, a letter from the Active Amusement Machines Company, Philadelphia, Pennsylvania, confirming that Smith had purchased and was the present owner of equipment generally fitting the description of the claimed equipment.

In view of the uncontradicted testimony of Trooper Nixon and the contents of the file, I am satisfied that sales of alcoholic beverages, were made on the morning of May 2, 1970. Since there was no permit or license authorizing the sale of alcoholic beverages to any person for the premises in question, the alcoholic beverages seized are illicit because they were intended for sale without a license. R.S. 33:1-2. Such alcoholic beverages and the personal property as set forth in Schedule "A" herein, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y); R.S. 33:1-66(a); Seizure Case No. 11,597, Bulletin 1679, Item 7.

I am further satisfied that the claimant is the owner of the equipment in question. I am not satisfied that Mr. Smith has acted in good faith, and has unknowingly violated the provisions of the controlling statute, R.S. 33:1-66(e). I am convinced that Smith knew or certainly should have known of this operation. His testimony indicates that he placed five items of equipment in a private residence on a residential street; that he has been making regular, though infrequent, service calls for more than seven years, and that he personally installed all five of the items. It was established that at least one of the items (juke box) was located within five or six feet of the bar. Smith further testified that the extent of his investigation regarding the operation was to question neighbors, many of whom were relatives of Mr. and Mrs. Reaves.

It is incredible and inconsistent with normal experience to believe Mr. Smith's assertions that he was not aware of the illegal activities in which Mr. and Mrs. Reaves were engaged. I believe Mr. Smith knew or should have known of the illegal activity which formed the basis of the seizure.

The credible evidence in this case establishes that Smith's conduct was one of careless indifference as to the use made of the premises which Smith occasionally visited. Under such circumstances, absent good faith, claim of Smith for the return of one pool table, one juke box, one cigarette vending machine and two pinball machines must be denied. R.S. 33:1-66(e); Rule 3(b) of State Regulation No. 28.

In view of the aforementioned, it is recommended that the application of the claimant, Walter Smith, for the return of the above enumerated items be denied, and an Order be entered forfeiting the same, together with the alcoholic beverages.

Conclusions and Order

No exceptions were taken to the Hearer's Report pursuant to Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and adopt them as my conclusions herein.

Accordingly, it, on this 26th day of April, 1971,

DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto constitutes unlawful property, and the same be and 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"

202 - containers of alcoholic beverages
1 - cigarette machine; 1 - juke box;
1 - pool table; 2 - pinball machines

3. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary Proceedings against
 Rocky's Club, Inc.
 t/a Rocky's Club
 2203 Atlantic Avenue
 Atlantic City, N.J.,
 Holder of Plenary Retail Consumption License C-208, issued by the Board of Commissioners of the City of Atlantic City.

Supplemental Order

-----)
 Gorson, Lazarow & Aron, Esqs., by Joseph Lazarow, Esq., Attorneys for Licensee
 Francis P. Meehan, Jr., Esq., Appearing for Division

BY THE DIRECTOR:

On March 22, 1971, Conclusions and Order were entered herein suspending the subject license for ninety days, commencing at 7:00 a.m., Tuesday, April 6, 1971 for the balance of its term and, in the event a renewal license was granted, said suspension shall continue and terminate at 7:00 a.m., Monday, July 5, 1971, after finding the licensee guilty of permitting lewdness and immoral activity on its licensed premises, viz., the solicitation for prostitution and the making of overtures and arrangements for acts of illicit sexual intercourse, in violation of Rule 5 of State Regulation No. 20. Re Rocky's Club, Inc., Bulletin 1971, Item 2.

Prior to the effectuation of the order of suspension, upon appeal filed, the Appellate Division of the Superior Court, on April 2, 1971, temporarily stayed the operation of the suspension pending the disposition of a motion for a stay of said suspension pending appeal.

On April 20, 1971, the court entered an order denying the motion for further stay pending the determination of the appeal to that Court. Rocky's Club, Inc., Superior Court, Appellate Division, Docket No. A-1402-70. The suspension may now be reimposed.

Accordingly, it is, on this 22nd day of April 1971,

ORDERED that the ninety-days suspension of Plenary Retail Consumption License C-208, issued by the Board of Commissioners of the City of Atlantic City to Rocky's Club, Inc., t/a Rocky's Club, for premises 2203 Atlantic Avenue, Atlantic City, be and the same is hereby reimposed as follows: commencing at 7:00 a.m. Thursday, April 22, 1971 for the balance of its term, viz., until midnight June 30, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Wednesday, July 21, 1971.

RICHARD C. McDONOUGH
 DIRECTOR

NOTE: On May 11, 1971, an Order dismissing the Appeal with prejudice was entered by Appellate Division of the Superior Court, by consent of parties thereto. (Docket #A-1402-70).

4. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against
 Pinewald Villa Corporation
 t/a Club Plaza
 Atlantic City Blvd.
 Beachwood Plaza Shopping Center
 Berkeley Township
 PO Bayville, N. J.,
 Holder of Plenary Retail Consumption License C-12, issued by the Township Committee of Berkeley Township.

AMENDED ORDER

Same Order

Haines, Schuman & Butz, Esqs., by Harold A. Schuman, Esq.,
 Attorneys for Licensee
 Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On March 24, 1971 an order was entered herein suspending the license for eighty days commencing April 9, 1971 and terminating June 28, 1971. The suspension included an additional thirty days by reason of the aggravated circumstance of four prior license suspensions. Re Pinewald Villa Corporation, Bulletin 1973, Item 5.

Licensee's attorneys have petitioned for a reconsideration of the said penalty and for a reduction of the suspension from eighty days to fifty days by eliminating the addition of thirty days.

Upon reconsideration of the said penalty, and for good cause shown, I shall amend the said order to eliminate the said thirty days, and shall impose a suspension of fifty days.

Accordingly, it is, on this 27th day of April 1971,

ORDERED that the said order dated March 24, 1971 is hereby amended as follows:

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of Berkeley Township to Pinewald Villa Corporation, t/a Club Plaza, for premises on Atlantic City Blvd., Beachwood Plaza Shopping Center, Berkeley Township, be and the same is hereby suspended for fifty (50) days, commencing at 2 a.m. Friday, April 9, 1971, and terminating at 2 a.m. Saturday, May 29, 1971.

RICHARD C. McDONOUGH
 DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 Frank Rosenbauer and Helene Rosenbauer
 354 Westside Avenue
 Jersey City, N. J.,
 Holders of Plenary Retail Consumption License C-468, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS and ORDER

 Miller, Hochman, Meyerson & Miller, Esqs., by Gerald D. Miller, Esq., Attorneys for Licensees
 Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on January 19, 1971 they sold a drink of beer to a minor, age 16, in violation of Rule 1 of State Regulation No. 20.

This partnership has a prior record of suspension of license by the Director for forty days effective September 11, 1969 for sale of alcoholic beverages during prohibited hours, in violation of Rule 1 of State Regulation No. 38 (Re Rosenbauer and Rosenbauer, Bulletin 1880, Item 9). In addition, licenses held by partner Frank Rosenbauer, individually, for these same premises were twice suspended by the Director, also for sale of alcoholic beverages during prohibited hours, in violation of Rule 1 of State Regulation No. 38, for ten days effective October 20, 1964 (Re Rosenbauer, Bulletin 1590, Item 10) and for twenty-five days effective January 22, 1968 (Re Rosenbauer, Bulletin 1782, Item 5).

The suspension of license in 1964 for dissimilar violation occurring more than five years ago disregarded, but the two suspensions for dissimilar violations in 1968 and 1969 occurring within the past five years considered, the license will be suspended for twenty-five days (Re Marcella Bar, Inc., Bulletin 1892, Item 4), with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 27th day of April 1971,

ORDERED that Plenary Retail Consumption License C-468, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Frank Rosenbauer and Helene Rosenbauer, for premises 354 Westside Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, May 11, 1971, and terminating at 2 a.m. Monday, May 31, 1971.

RICHARD C. McDONOUGH
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - NOLLE PROSSED.

In the Matter of Disciplinary Proceedings)

Roland Tasi)
180 Grandview Avenue)
Piscataway Township, N.J.,)

O R D E R

Holder of Unlimited Solicitor's Permit)
No. 3406, issued by the Director of)
the Division of Alcoholic Beverage)
Control.)

No appearance by Permittee
Edward F. Ambrose, Appearing for Division

BY THE DIRECTOR:

It appears that charges dated November 25, 1970, were brought against Roland Tasi, the holder of Unlimited Solicitor's Permit, alleged that he participated in acts violative of: (a), Rule 4(a) of State Regulation No. 39; (b), Rule 4(b) of State Regulation No. 39, and (c), Rule 6 of State Regulation No. 39; all of which conduct was in violation of Rule 12 of State Regulation No. 16; and

It further appears that the aforesaid solicitor, Roland Tasi, failed to appear at the hearing scheduled at the Division office on December 21, 1970 at 10:00 a.m.; and

It further appears that the aforesaid solicitor, Roland Tasi, departed this life on December 29, 1970, as attested by Certificate of Death issued by the Board of Health of the Township of Green Brook, Somerset County, New Jersey.

Accordingly, it is, on this 27th day of April 1971,

ORDERED that the charges filed herein be and the same are hereby nolle prossed.

RICHARD C. McDONOUGH
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against
)
)
 Elmora Liquors, Inc.
 t/a Old Colony Wine & Liquor Store)
 611-613 Westfield Avenue)
 Elizabeth, N. J.,)
)
 Holder of Plenary Retail Distribution)
 License D-5, issued by the City Council)
 of the City of Elizabeth.)

SUPPLEMENTAL ORDER

 Margulies and Kochanski, Esqs., by Philip Margulies, Esq.,
 Attorneys for Licensee
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On February 10, 1971 Conclusions and Order were entered in the above matter suspending the license for fifteen days commencing February 24, 1971 after the licensee pleaded non vult to charges of selling whiskey as a combination sale at a single aggregate price and furnishing a gift and a discount in price, in violation of Rules 19 and 20 of State Regulation No. 20, and failing to disclose in its application its record of prior license suspensions, in violation of R.S. 33:1-25. Re Elmora Liquors, Inc., Bulletins 1962, Item 7 and 1963, Item 8.

On February 22, 1971 the aforesaid suspension was stayed to consider an application made by the licensee for the imposition of a fine in lieu of the 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 \$1,050 in lieu of the suspension.

Accordingly, it is, on this 28th day of April 1971,

ORDERED that the order entered herein on February 22, 1971 be and the same is hereby vacated, and the payment of a fine of \$1,050 by the licensee is hereby accepted in lieu of suspension of license.

RICHARD C. McDONOUGH
 DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary Proceedings against
 Silver Crest Motels, Inc.
 t/a Silver Crest Motor Lodge
 1609 Georges Road
 North Brunswick Township
 PO New Brunswick, N.J.,

O R D E R

Holder of Plenary Retail Consumption License C-18, issued by the Township Committee of North Brunswick Township.

Meth & Wood, Esqs., by John K. Cooper, Esq., Attorneys for Licensee Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Written exceptions were filed to the Hearer's report pursuant to Rule 6 of State Regulation No. 16, which were supplemented by oral argument before me pursuant to Rule 14 of State Regulation No. 15.

At oral argument the licensee's attorney maintained that he was denied the right of pre-trial discovery of the Division file in the above matter. He argues that such failure to grant discovery prejudiced the defense and was a denial of due process.

I have determined that it shall hereafter be the policy of this Division to permit full and complete access to the subject Division file to all licensees who appear in disciplinary matters.

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

ORDERED that the licensee be granted leave to examine the entire file in the instant matter; and it is further

ORDERED that the licensee be and is hereby granted leave at its discretion to present further evidence at a supplemental hearing herein with respect to those dates of investigation referred to in the transcript but not fully explored at the time of hearing, upon notice to the Director within 15 days from the date hereof of its request to examine the said file and for further hearing with respect thereto.

RICHARD C. McDONOUGH
 DIRECTOR

- 9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF 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)	
)	
Rea's Tavern, Inc.)	
t/a Rea's Tavern, Inc.)	CONCLUSIONS
100 Stoll Street)	and
Netcong, N.J.,)	ORDER
Holder of Plenary Retail Consumption License C-5, issued by the Mayor and Borough Council of the Borough of Netcong.)	
-----))	
Licensee, by Samuel Rea, Secretary Pro se.)	
Edward F. Ambrose, Esq., Appearing for Division)	

BY THE DIRECTOR:

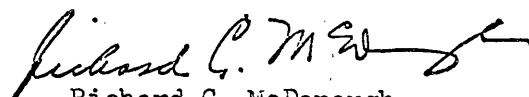
Licensee pleads non vult to a charge alleging that on Sunday, January 24, 1971, it made several separate sales of bottles of beer, wine and whiskey for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

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 138 Boyd St. Inc., Bulletin 1948, Item 9. However, the licensee has made application for the imposition of a fine in lieu of the 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 28th day of April 1971,

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


 Richard C. McDonough
 Director