

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

BULLETIN 2124

November 27, 1973

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - GRANDVIEW CAFE, INC. v. JERSEY CITY.

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

November 27, 1973

BULLETIN 2124

1. APPELLATE DECISIONS - GRANDVIEW CAFE, INC. v. JERSEY CITY.

Grandview Cafe, Inc., t/a)	
Grand View Cafe,)	
Appellant,)	
v.)	On Appeal
)	
Municipal Board of Alcoholic)	CONCLUSIONS
Beverage Control of the City)	and
of Jersey City,)	ORDER
)	
Respondent.)	
- - - - -)		
Albert J. Hordes, Esq., Attorney for Appellant		
Raymond A. Chasan, Esq., by Bernard Abrams, Esq., Attorney for Respondent		

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control of the City of Jersey City (hereinafter Board) which on May 7, 1973 suspended appellant's plenary retail consumption license for premises 195 Ogden Avenue, Jersey City for one hundred-sixty days, following a finding of guilty to eight of the nine charges preferred against appellant in disciplinary proceedings.

Upon appeal filed, the said order of suspension was stayed by order of the Director dated May 21, 1973 pending the determination of this appeal. In its petition of appeal appellant alleges that the determination by the Board was made after an ex parte hearing at which the attorney was unable to appear because he was actually engaged in a contested matter in the Superior Court of New Jersey in Newark, and that appellant's president was ill and unable to be present at the said hearing.

Appellant further alleges that the said charges have no basis in fact or in law, and that the determination was not supported by the evidence.

In its answer the Board denies the substantive allegations of the petition and sets forth as separate defenses:

(a) that it first received notice of the inability of the attorney or the appellant's representative to appear, on the morning set for the hearing; that witnesses were present to testify and the hearing could not be adjourned without "great inconvenience" to them; and

(b) that the testimony produced at the hearing was "overwhelming and conclusive in showing commission of violations by the Appellant."

The hearing in this Division was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to produce evidence and cross-examine witnesses.

The testimony of the clerk of the Board sets forth that two prior adjournments of the hearing on these charges were granted by the Board at the request of the attorney for the appellant, and that the date of hearing was made peremptory. It seems quite apparent that inadequate notice was given to the Board of the prior commitment of the attorney for the appellant. It would seem reasonable that the attorney knew of his prior court commitment, and should have contacted the Board prior to the morning of the hearing in order to request an adjournment because of the circumstances. However, since a full hearing was held in this Division and the appellant has been afforded an opportunity to present its witnesses, adduce evidence and cross-examine witnesses for the Board, no manifest prejudice can validly be ascertained by the appellant. Cf. Cino v. Driscoll, 130 N.J.L. 535; cited with approval in Nordco v. State, 43 N.J. Super. 277 (App. Div. 1957).

I shall examine and evaluate each of the specific charges set forth in the Notice of Charges, the relevant minutes of the Board's meeting and the resolution adopted by the Board all of which were admitted into evidence.

I

The first charge alleges that on Sunday, January 14, 1973 at about 1:00 a.m. it allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, viz., Rheingold Beer, to three minors under the age of eighteen years of age, in violation of Rule 1 of State Regulation No. 20.

In support of this charge, local Auxiliary Police Officer Charles Mitchell gave the following account: On the date charged herein, he and another police officer were assaulted by two unnamed males, who then fled. A search was made of various taverns in an attempt to locate them and in the course of said search, the officers entered appellant's licensed premises at about 1:00 a.m.

He observed a number of males whom he recognized from his prior personal contact with them as being minors. Specifically, he observed one Thomas --- who was sitting at the bar drinking a glass of beer. He had a bottle of Rheingold beer in front of him. Because the officer was primarily concerned with finding the two males who had assaulted him, he made no arrest at that time but merely reported the incident to his supervisor. He noted that there was another juvenile whom he recognized from a prior experience, seated next to Thomas, and also consuming alcoholic beverages.

The minor, Thomas, testified that he was born on July 28, 1955 and was seventeen years of age at the time of the alleged occurrence. However, he denied being present in these premises on the date charged herein, although he admitted that he had visited this tavern on other occasions. He asserted that he never stays up until 1:00 a.m. because he is always at home in bed at that time. However, on cross examination, he admitted that he did not remember that specific date. He also acknowledged that he had been arrested by Officer Mitchell on a prior occasion on an assault charge, which was processed in the Juvenile Court.

The bartender on duty that night, Gary Hart, denied serving alcoholic beverages to Thomas. However, he did not remember the incident of the officer visiting the said premises, nor could he remember the specific date.

I have carefully analyzed the testimony herein and find that the account given by the police officer was forthright and factual and truly depicted the incident that occurred on the date in question.

On the other hand I do not believe the testimony of either the minor or the bartender, both of whose recollections appear to be vague and indefinite. I, therefore, conclude that this charge was established by a fair preponderance of the credible evidence and that the determination of guilt and suspension of twenty days imposed by the Board should be affirmed.

II

This charge alleges that on Thursday, January 18, 1973 at about 2:25 a.m. the appellant sold and delivered alcoholic beverages, viz., a glass of beer to Joanne N---, age seventeen, and Kathleen M---, age seventeen, in violation of Rule 1 of State Regulation No. 20. The Board imposed a suspension of twenty days on this charge after a finding of guilt thereof.

In substantiation thereof, Detective Mark P. McDermott, testified as follows: On the date charged herein, at about 10:25 p.m. in the company of four other police officers, he entered the tavern for the purpose of checking the ages of minors who were alleged to be patronizing the said premises. This investigation was initiated as a result of complaints made to the local police department by mothers of minors in this City who alleged that these premises are used as a hangout for their minor daughters and that the appellant freely and openly served them.

In the course of checking the ages of the patrons, the police officers ascertained that Joanne and Kathleen, whom they had known from prior experiences were actually seventeen years of age. They also found both minors seated at the bar, drinking beer. The girls were thereupon taken to police headquarters.

His testimony was corroborated by Detective Daniel B. Lavecchia.

Joanne testified that she was born on February 14, 1956 and, thus, was seventeen years of age on the date charged herein. She frankly admitted that she had been served and consumed a glass of beer and showed a false identification at the time of the service. Since she was pregnant at the time the bartender did not challenge her as to her age. In any event, he did not require her to sign any written representation with respect to her age at the time of service of the alcoholic beverages.

Kathleen did not appear at the hearing on appeal in this Division; thus, no testimony was taken with respect to her.

That the minors purchased alcoholic beverages in appellant's premises is not in dispute. The sole and dispositive question is whether or not the sale was made in accordance with and reliance upon the provisions of N.J.S.A. 33:1-77 and, if so, was the procedure used by the appellant consonant with both that statute and the regulation pertaining to it.

Rule 1 of State Regulation No. 20 requires that the representation relied upon must be in writing, and must be made in the licensee's presence prior to and at the time of the said service. Since no such written representation was made prior to the sale and service of the alcoholic beverages admittedly consumed by the minor, Joanne, there was no complete defense to this charge. Balzer's Delicatessen, Inc., Bulletin 2110, Item 1. Accordingly, the action of the Board with respect to this charge and the suspension thereon of twenty days should be affirmed.

III

On the same date, namely, Thursday, January 18, 1973 at about 10:25 p.m. the appellant is charged with hindering and delaying an investigation of the licensed premises, and through its agents and employees, failing to facilitate such investigation then being made by the police department, in violation of R.S. 33:1-35.

The testimony of the officers (Detectives McDermott and Lavecchia) may be briefly summarized as follows: They had occasion to investigate these premises on the day before this occurrence, namely January 17, 1973, and at that time they encountered considerable difficulty with the bartender who instigated active hostility on the part of the patrons against the police officers. When they returned on the date charged herein, the attitude of the bartender was equally arrogant and abusive. As Detective Lavecchia stated:

"The bartender. He gave us no cooperation whatsoever. In fact, he told us he didn't want to know nothing about cops. They had no right in there, that he knew all about the law. I tried to explain to him and he kept mouthing off until he almost had a near riot there. He says do not make an arrest now."

And further:

"He would go on talking to each one and all and he would be saying something to them; he would be using language and telling the people these cops have no right being in here and they haven't got a warrant."

The officer tried to explain to him that they were in there in the performance of their duties and that it was his responsibility to cooperate with them and "try not to have the place torn apart. He was trying to put the fraction of the patrons in there against the police officers."

On this date he was talking with some of the patrons "We took him aside, tried to quiet him, but he couldn't keep quiet." The bartender became boisterous. Again, he started with the patrons and incited them against the officers.

Gary Hart, the bartender on duty on this occasion, denied that he failed to cooperate with them and stated:

"I guess they weren't satisfied with the way I cooperated, but I cooperated to the best of my knowledge. Like I didn't know what to do."

From my evaluation of the testimony of the police officers, I am persuaded that the bartender, by his actions in generating hostility by the patronage and refusing to cooperate with the police officers in the lawful pursuit of their duties, did, in fact, hinder and delay and caused the hindrance and delay of this investigation. See Vogellus v. Div. of Alc. Bev. Cont., (App. Div. 1963) Not officially reported, recorded in Bulletin 1537, Item 1; N.J.S.A. 33:1-35. Therefore, this charge has been established by a fair preponderance of the credible evidence. Therefore, it is recommended that the action of the Board with respect to this charge, which resulted in suspension of twenty days be affirmed.

IV

This charge alleges that on Saturday, February 10, 1973 at about 7:30 p.m. appellant allowed, suffered and permitted its premises to be conducted as a nuisance (act of violence and brawl) whereby one Richard Crandall, while a patron in the premises was assaulted and received substantial injuries. As a result, he was taken in a private vehicle to the Medical Center Hospital and detained for treatment.

The Board imposed a suspension of twenty-five days in support of this charge.

Detective Lavecchia testified that Crandall came to the 6th Precinct on the date charged therein and informed him that he had been assaulted by two men in the licensed premises. He sent Crandall to the hospital.

The officer explained that he did not proceed to the tavern after his conversation with Crandall because he knew that there had been a fight at the tavern sometime earlier that evening, and was directed by the precinct captain to stay away from the tavern because "at that time we had quite a lot of trouble with that tavern. Every time we responded there a large crowd would come around...." However, he made a report to the Board based upon his conversation with Crandall.

Since Crandall was not produced at this de novo hearing and no explanation was given for his failure to testify, the sole evidence in support hereof is that of hearsay evidence of Lavecchia. Hearsay evidence is never a substitute for valid, legal evidence. There was no evidence to support a finding that the licensee, his agents, servants or employees, knew or should have known of this altercation, or that it allowed, permitted or suffered the same to occur. I, therefore, recommend that the Board's action in finding the appellant guilty of this charge be reversed, and this charge be dismissed.

V

The Board alleges that on March 17, 1973 at about 2:15 a.m. appellant allowed, suffered and permitted its premises to be conducted in such manner as to become a nuisance (act of violence and brawl) as a result of which one patron was assaulted by being struck about the head with fists and another patron was assaulted with a knife, in violation of Rule 5 of State Regulation No. 20.

Joseph Salerno, James Primiterra and Chester Spiewak, who were patrons at the tavern on the date charged herein, testified with respect to the alleged brawl and their testimony may be briefly summarized as follows: At about 1:30 a.m. on the date charged herein these three males entered the tavern which was at that time very crowded. They stood at the bar and ordered a round of drinks which was served to them, and they put thirteen dollars in bills for payment. After they consumed these beverages they then ordered another round of drinks at 1:55 a.m., which was served to them by Thomas DeFrancis, a bartender.

At this time, the bartender, Michael Ackers who had served them the first round went to turn off some of the lights in the tavern and announced that this was the last round before closing. The other bartender, Thomas DeFrancis, then went behind the bar and took the remaining money from what had been taken for payment of the drinks and placed it against the back wall.

The patrons thereupon protested that the money on the bar was theirs and demanded that he return it to them. DeFrancis "got very aggravated; he got smart and he wouldn't let us get the money." Salerno sought to reach for the money and at that time DeFrancis started to push Salerno and with a black object, which he identified as a blackjack, he struck Salerno on the back of his head.

As soon as the fight started approximately fifteen or twenty of the patrons joined in and started to kick Salerno and Primiterra. Both of these men were thrown out of the tavern, and the patrons continued to strike and beat them. While outside, a person identified as Peter Rinkiewicz held a knife to his throat and inflicted wounds upon Primiterra. When the police arrived, the crowd dispersed. Both Salerno and Primiterra suffered severe bodily injuries and were taken to the hospital for treatment. Criminal complaints were made the following day against the bartender, DeFrancis, Rinkiewicz, one Kevin McBrimm and William McBrimm. These were the only persons whom they could definitely identify.

Mrs. Carol Cornett, the president of the corporate appellant, was present and, according to Spiewak was behind the bar at the time and during the attack on these patrons.

Michael W. Ackers, the bartender on duty on this occasion, gave the following account: DeFrancis who is normally employed as a bartender, ended his tour of duty on that night at 5:00 p.m. He returned to these premises at 1:30 a.m. and sat with his girl friend in the rear of the tavern. So far as he knew, DeFrancis did not tend bar at that time and did not serve any drinks.

When this witness went to turn off the lights, he saw DeFrancis pick up the leaf of the bar in order to go behind the bar and that Primiterra put down the leaf and "before I knew it, "Tooti" (DeFrancis nickname) took the leaf, threw it back and hit the gentleman, Mr. Primiterra." Then the fight started and the patrons joined in and eventually both Primiterra and Salerno were thrown outside the tavern. He then locked the door of the tavern and remained with Mrs. Cornett in the tavern.

Carol Cornett testified that Acker was the only one on duty at that time and that DeFrancis "had no business" to go behind the bar since he was not on duty. Furthermore, he did not serve any drinks. She described the incident as follows:

"After the second drink was served, Mr. Spiewak had gone to the bathroom. The bartender had called last call. I had walked down to the register to start checking it out and then I heard a noise and I saw Tooti's hand up in the air and I walked up from the register out to the bar and I started yelling at Tooti for being behind the bar and with his hand up in the air and he had no business being there because he wasn't working. And before you know it, everything just got out of hand and I tried to get to the telephone. I walked to the tip jar in back of the bar to get money to call the police and I was stopped."

She got very excited and was "yelling and screaming".

Finally she repeated that "He (DeFrancis) had no business being there (behind the bar). He wasn't working and that's why he should never have picked on Mr. Spiewak and the two boys because they wouldn't have never been any problem to get out."

- "Q You say he was picking on them?
 A Well, apparently I thought he was when I saw his hand up in the air.
 Q Up in the air?
 A Yes.
 Q And he was behind the bar at that time?
 A He was behind the bar and he had no business being there."

I have carefully considered the testimony with respect to this charge and conclude that the proofs support the finding of guilt by the Board. I am persuaded that DeFrancis, the bartender, was actually engaged in that capacity at the time of the alleged brawl and disbelieve the testimony of Mrs. Cornett and Ackers, that he was merely a patron at the time of this incident. I believe that this was merely an attempt on their part to disassociate the appellant from the cause of this brawl. I further find that DeFrancis actually precipitated the entire incident and actively participated therein.

It would have been more reasonable for the appellant to have produced DeFrancis as a witness if he could have exculpated the appellant. There was no satisfactory reason for his failure to appear.

The principle of law applicable hereto is that where a party has a witness or witnesses available, and where they possess peculiar knowledge concerning the facts essential to a party's case, the failure to call said witness or witnesses gives rise to an inference that, if called, the testimony elicited therefrom would be unfavorable to said party, i.e., he could not truthfully contradict the testimony of the Board's witnesses. Re Lesniewski, Bulletin 1581, Item 5; Hickman v. Pace, 82 N.J. Super. 483 (1964); Re Soto Pruna, Bulletin 1713, Item 1.

A brawl is defined as "a loud, angry and disorderly quarrel; a rough, noisy and often prolonged hand to hand fight" (Webster's Third New International Dictionary); a "clamorous or tumultuous quarrel in a public place" (Black's Law Dictionary 11 C.J.S. 767). It is thus, clear that a brawl took place, with the participation of appellant's employees.

The conclusion from the totality of the evidence and the circumstances herein that the appellant through its employees failed to prevent the prohibited conduct on its premises, Cf. Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947); Greenbrier v. Hock, 14 N.J. Super. 39 (1951) and that the appellant conducted its premises as a nuisance, i.e., it allowed, permitted and suffered a brawl on the licensed premises. Since this charge has been established by substantial evidence, I recommend affirmance of the Board's action wherein it imposed the suspension of license on this charge for twenty-five days.

VI

Another charge alleged that on the same date, Saturday, March 17, 1973 at about 2:15 a.m. the appellant permitted and suffered persons other than actual employees or agents in and upon the licensed premises, in violation of the local ordinance. Chapter 4, Section 4-13 of the said ordinance sets forth in effect that no licensee shall suffer or permit any person whatsoever except the licensee and his actual employees and agents in and upon the licensed premises between 2:00 a.m. and 6:00 a.m.

In substantiation of this charge, Police Officer Joseph Cassidy testified that after responding to a report that a brawl was taking place at the said licensed premises, he arrived at the scene and questioned the victims. While his partner apprehended three of the individuals that were involved in the assault, he sought to gain entrance to the tavern at 2:30 a.m. He peered into the window at the right of the front door and "saw approximately four or five individuals at the bar with the bartender at the time, Thomas DeFrancis."

"I was unable to gain entrance and my partner was having a difficult time up at the other end with the assailants and complainants and after a short time of not gaining entrance, I decided to bring the whole dispute into the precinct which is normal procedure under the circumstances."

He further explained that he observed at the bar four or five individuals, one female and three males and the bartender, Thomas DeFrancis, whom he knew from previous occasions.

"There was several drinks in front of them and I could make out some dollar bills, not one dollar bills, I couldn't make that out, but some paper money on the bar."

Ackers testified that, after the brawl subsided and everyone left the tavern he locked the door and the only ones in the tavern were Mrs. Cornett and himself. He was then asked by me the following:

"The Hearer: How long after you closed the door did you remain?"

The Witness: Maybe ten or fifteen minutes. No more than that. Maybe ten minutes.

The Hearer: Because there was testimony that at 2:15 there were people in the premises?

The Witness: It's possible. I might have stood in there because I know the owner has to get her money."

The proper inference to be drawn from this statement was that patrons remained in the premises because apparently they had not paid for their drinks and were permitted to remain until they had consumed their drinks and paid therefor. The language of the ordinance is clear and explicit. It means all members of the public must be excluded from the premises, and if such person is found on the premises, a violation exists. P.J. Mullins Bar, Inc. v. Paterson, Bulletin 1968, Item 1; The Big Top Cafe v. Newark, Bulletin 2109, Item 1.

I find that the testimony of the police officer stands in a better light than that of the witness for the appellant, and conclude that this charge has been established by a fair preponderance of the credible evidence. I, therefore, recommend that the action of the Board on this charge which included a suspension of the license for twenty days be affirmed.

VII

Appellant was further charged that on March 22, 1973 at about 2:25 a.m. it failed to remove all shades, screens and other obstructions so as not to permit a clear view of the licensed premises (the bar within), in violation of the applicable local ordinance. The ordinance W-153, Section 4-13b, sets forth:

"(b) During hours of sale of alcoholic beverages hereinabove, all shades, screens and other obstructions whatsoever are prohibited and shall be removed so as to permit a clear view of the bar and the inside of the licensed premises."

Police Officer Harold Clayton gave the following account: At 2:25 a.m. on the morning of Thursday, March 22, 1973 while on routine police patrol checking business establishments in the precinct he noted that the curtains were drawn and he did not have a clear view of the premises. "Not being able to see in, I heard voices. I knocked on the door, identified myself. I received no answer." He stated that he was unable to see anything within the tavern. He explained that actually the window had frosted glass and he was not able to see clearly inside but apparently saw two shadowy figures.

There was no testimony on behalf of the appellant to contradict this statement of the police officer that the curtains were in fact drawn. Mrs. Cornett testified that the curtains were drawn because she was counting her receipts.

Acker, the bartender, stated that in order to have an unobstructed view of the inside of the premises, one would have to step on a ladder or be a very tall person to look into it. He explained that only the window on the door was frosted but the window was clear. He did not specifically deny, however, that the curtains were drawn and that a clear view of the inside of the premises could be had from the outside.

Thus, the proofs support a finding that there was a violation of the said ordinance, and I recommend that a finding of guilt by the Board which included a suspension of license on this charge for fifteen days be affirmed.

VIII

The final charge alleges that on Thursday, March 22, 1973, the appellant, through its agents, servants and employees failed to facilitate, hindered and delayed and caused the hindrance and delay of an investigation and inspection of the licensed premises by the Jersey City Police Department, in violation of R.S. 33:1-25.

In support thereof, Police Officer Clayton testified that when he arrived at the premises he used his flashlight and flashed the light into the tavern and by doing so "I could make out two figures standing at the bar." This was at approximately 2:25 or 2:30 a.m. When he received no response to his knock he walked around to the Franklin Street side, knocked on that door again, identified himself and receiving no response, he returned to his radio car and asked for a uniform patrol. He was not in uniform at that time.

He further testified that Sergeant Martin, who was in full uniform, responded and he, too, knocked on both doors, identified himself and received no response. This witness explained that in knocking on the door he first used his hand and then used his blackjack. Although he saw two figures standing at the bar they would not respond either to his knock by hand or blackjack.

He asserted that he kept knocking with his blackjack quite a few times but found no response. Upon receiving no response, he returned to the precinct and telephoned the tavern twice and found that the line was busy.

Mrs. Cornett testified in defense of this charge and gave the following account: She admitted being in the tavern in order to check out the money and was accompanied by DeFrancis, the bartender then on duty. The reason she didn't open the door was that she had had a problem with a patron who was usually drunk and she had difficulty getting him to leave the premises.

"When he finally would get out, he would sit on the door step and knock and knock and he would want to come back in. On this one night he was drunk and I told him--he wanted me to open the door. He asked me for a book of matches and I wouldn't open the door and after a few times of this, I just paid no attention. I just stayed inside. I started cleaning, washing the floor, whatever I had to do and I was not going to leave until, I was sure he was gone."

She added that if she had thought they were police officers she would have opened the door. She admitted that she kept the curtains closed because she was checking her money and was afraid of being robbed.

She explained that she was also having marital difficulties and was fearful that her husband might have been at the door. She asserted that the reason the telephone line was busy when the police officer apparently tried to reach her was because her young daughter called her after 2:30 a.m. to tell her she was awake.

Finally she denied that she ever intended to hinder or delay an investigation by the police.

After carefully considering the proofs herein, I believe that the appellant's witnesses had given a plausible explanation as to why the door was not opened, to permit the inspection by the police department. I believe that the appellant should be given the benefit of the doubt with reference to this charge and recommend that the action of the Board on this charge in finding the appellant guilty and suspending the license thereon for fifteen days be reversed.

It should be noted that the suspensions on the charges herein included an additional five days suspension for each prior similar violation. The resolution sets forth the previous records of suspensions of license as follows:

- (1) for ten days, effective May 13, 1969 for off-premises consumption during prohibited hours, Rule 1 of State Regulation No. 38;
- (2) for forty-five days, effective April 12, 1971 on three charges: sale for off-premises consumption; permitting foul, filthy and obscene language (by patrons) on premises; and failure to disclose a prior license suspension on application (Violations of Rule 1, Regulation No. 38, Rule 5, Regulation No. 20 and R.S. 33:1-25);
- (3) for twenty-five days, effective January 10, 1972, for sale to minor, Rule 1, Regulation No. 20.

To recapitulate: It is recommended that an order be entered affirming the action of the Board as to the above enumerated Charges 1, 2, 3, 5, 6 and 7, and reversing the action of the Board with respect to the enumerated Charges 4 and 8. It is further recommended that the said order modify the penalty of suspension from one hundred-sixty days to a suspension of license for one hundred-twenty days.

Conclusions and Order

No exceptions to the Hearer's Report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of testimony, exhibits, the memorandum of the attorney for appellant in summation, and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is on this 24th day of October, 1973


ORDERED that the action of the respondent in finding appellant guilty of Charges 1, 2, 3, 5, 6 and 7, as enumerated and considered in the Hearer's report herein, be and the same is hereby affirmed, and the appeal herein relative thereto be and the same is hereby dismissed; and it is further

ORDERED that the action of the respondent with respect to Charges 4 and 8, as enumerated and considered hereinabove, be and the same is hereby reversed, and the aforesaid charges be and the same are hereby dismissed; and it is further

ORDERED that respondent's order imposing a suspension of appellant's license for one hundred sixty days be and the same is hereby modified to a suspension of license for one hundred twenty days; and it is further

ORDERED that my Order dated May 21, 1973 staying the respondent's action pending the determination of this appeal be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-463 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Grandview Cafe, Inc., t/a Grandview Cafe for premises 195 Ogden Avenue, Jersey City be and the same is hereby suspended for one hundred twenty days commencing at 2:00 a.m. on Wednesday, November 7, 1973 and terminating at 2:00 a.m. Thursday, March 7, 1974.


Robert E. Bower,
Director