

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

March 10, 1969

BULLETIN 1840

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

March 10, 1969

BULLETIN 1840

1. APPELLATE DECISIONS - FLEETWOOD LOUNGE, INC. v. PASSAIC.

Fleetwood Lounge, Inc., t/a)	
The Swinger,)	
)	On Appeal
Appellant,)	
v.)	CONCLUSIONS
)	AND ORDER
Municipal Board of Alcoholic)	
Beverage Control of the City)	
of Passaic,)	
)	
Respondent.)	

Richard E. Gruen, Esq., Attorney for Appellant
Charles E. Miller, Esq., by Milton J. Pashman, 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 respondent (hereinafter Board) whereby on June 24, 1968, by unanimous vote it denied the application of appellant (hereinafter Fleetwood) for renewal of its plenary retail consumption license for premises 888 Main Avenue, Passaic.

A resolution adopted by the Board gave as the reason for its action that "public necessity and convenience dictate" that it be not renewed.

Fleetwood's petition of appeal alleges that the Board's action was erroneous in that (a) no evidence was adduced to support such a conclusion; (b) it was arbitrary, capricious and discriminatory; (c) it was a gross abuse of the Board's discretionary powers, and (d) it unjustifiably deprived appellant of substantial property rights.

The Board's answer filed herein avers that it "considered all the facts and circumstances pertaining to the refusal to renew the license, and that the grounds not to renew was reasonable and proper and in the best interest of public welfare."

Upon filing of the appeal the Director entered an order extending the term of Fleetwood's 1967-68 license pending the determination of the appeal.

The matter herein was heard de novo pursuant to Rule 6 of State Regulation No. 15, and full opportunity was given both parties to the appeal to present testimony and to cross-examine witnesses.

Milton I. Mostel (Chairman of the Board) testified that on June 24, 1968 the members of the Board discussed the advisability of approving the application of Fleetwood for the renewal of its license and during said discussion they concluded that the licensed premises in question "was without doubt one of the really worst trouble spots in the City. We had received some complaints about it and where they had a long list -- they were closed at the time because of a fire, but before that they had a long list of violations going all the way back. We, as a matter of fact, even more than that, we had discussed this particular lounge because we have received letters from people in the area, we had, and telephone calls and telegrams, no less. We discussed this with several of the policemen involved in this, in the police station, and it was the consensus of everybody's opinion that this was one of the worst. The advice was from everybody, 'Keep him closed.'" Chairman Mostel further stated that the Board had received a report from the Police Department prior to the Board's decision not to renew the license. Moreover, according to the Chairman, a letter was received from Sallie Gamble dated May 20, 1968, and at the meeting on June 24, 1968, there were people present who "asked us unequivocally, 'Close it;'" that at the meeting on June 24, 1968, when the matter was considered, he (Mostel) "stated to the entire people, to all the people present, that it was not necessary for them to speak because we had done the investigation on our own and had decided to revoke this license." Furthermore, Chairman Mostel testified "they insisted, however, to speak and to state their case very clearly, which only reiterated what we ourselves had determined before that but with much greater emphasis and with much greater feeling because it involved them personally. And we're very gratified that we had taken this action on our own." When asked by the attorney for Fleetwood whether or not it was a fact that of the nine taverns which the Board denied renewal of the license for the reason that there was no need or necessity for such liquor outlets, about eight of them catered to negro trade, in answer thereto Mostel stated "I'm not particularly concerned whom they serve. I'm concerned with whether they operate a place that does not create problems for the City, that does not create disturbances, the kind of place that we want to have in Passaic. That is admittedly the problem of Passaic, the proliferation of bars. Everybody knows it. And these bars have caused trouble. We can't even afford to have them because the police -- the cost of sending police on disturbances and all that sort of thing. When we get \$500 for a license, after five calls they're a loss to us." When Mostel was asked whether or not the Fleetwood had any record of violations of the alcoholic beverage law from July 1, 1967 to June 30, 1968, Mostel stated "That tavern was closed from August 8th, fortunately. I think they had a fire August 8th, 1967, if I'm not correct on that." Thereafter Mostel changed the date when the fire occurred to "January 1968." In response to a question whether or not there were any formal complaints against the licensee of which he had knowledge, filed in the Municipal Court of the City of Passaic, Mostel answered "No." Also, when Mostel was asked whether or not he considered any police calls that were made during the licensing year 1967-68, he answered, "I considered all of the facts which I think are important to determine whether a place should be permitted to remain open, which has to do with the operation of the place, what we know about the people who operate the place. In other words, the propensity of the people who operated this premises; if they operated another premises, what happened. And,

unfortunately, the record is not good for the people who operated this bar. Wherever they go, police calls go. This is one of those things."

Sallie Gamble testified she lives at 421 Harrison Street, which is a half-block away from the Fleetwood premises. Mrs. Gamble identified the letter dated May 20, 1968, which she had sent to the Board in anticipation of and objecting to the renewal of the Fleetwood license. Her objections were that she was annoyed by noise from automobiles at night; persons using profanity standing in front of the Fleetwood; open lewdness and prostitution taking place at the licensed premises especially during the three weeks that the premises renewed operation. She also stated that it was not conducive to the welfare of the children in the neighborhood being exposed to such conduct by patrons of Fleetwood. Mrs. Gamble said that in her opinion the licensed premises "is operated in such a way that it is an injustice to we people who are homeowners to have to put up with the noise, the cursing and profanity that our children have to listen to. I have nothing against taverns."

Lurline Glover testified that she lives within a block of the Fleetwood; had formerly lived within a half-block of the establishment and, when questioned whether or not she could add to any of the testimony submitted by Mrs. Gamble, she stated "No more than that I have the same fears that she has as far as being a woman going out at an hour, a reasonable hour, with having patrons from The Swinger Club [the Fleetwood] to congregate on their corners, which isn't need to be. And I cannot send my child out at a reasonable hour to a store for such reasons as this because there are many of them that are probably drunk and whatnot. So since we don't have that at home, I don't." She further stated that during the time the place was closed for alterations because of the fire, conditions in the neighborhood were very peaceful.

Marguerite Allen Page testified that she lives on Burgess Place across the street from the Fleetwood, and in the evening the front of the establishment is crowded and there is loud talking, noise and obscene language.

Marie Cabe testified that she has been residing on Harrison Street for many years, her residence being within fifty or sixty feet of the Fleetwood, and that she entered an objection to the renewal of the license because of the noise in the vicinity of the licensed premises created by patrons thereof between the hours of two and four o'clock in the mornings. Mrs. Cabe further stated that, up until the time the place was reopened after the fire, the neighborhood was very quiet.

Daisy Mae White testified that she lives approximately a half-block from the Fleetwood and that there is noise from the cars coming up and down the street and also from the loud music and persons standing on the corner in front of the premises.

Victor Jacalone testified that he is a sergeant connected with the detective bureau of the local Police Department and is assigned to investigate or prepare reports in connection with liquor matters; that on September 22, 1967 there was a report of loud music at 1:46 a.m. at the Fleetwood and police were detailed to the premises and the bartender was directed to lower the volume of the music. Thereafter, on November 4, 1967

at 11:22 p.m., Sergeant Kelly (a special officer employed by the Fleetwood) requested police assistance to help break up a fight which had occurred among three or four men; that, as a result of this call, the police went into the premises and took a person to the hospital where he was treated for lacerations on the left side of the face. He further stated that one of the persons who had been assaulted had lost or had stolen from him a watch and a brown suede jacket. Also, on November 24, 1967 there was a call again about the music being too loud at the Fleetwood and police officers advised the bartender to lower the volume of the music. Thereafter, on December 3, 1967, special officer Kelly at 2:08 a.m. contacted the police because of a disturbance in the tavern but, when the officers arrived, the person who had caused the disturbance had already left. Sergeant Jacalone stated that he had visited the Fleetwood from time to time and "it was generally a crowded place with all the seats or the stools at the bar usually taken and people standing behind the bar. The back room is normally filled, and it was generally a noisy or loud group" and that on occasions he heard profanity being used. Another thing, Sergeant Jacalone testified he observed that "there were crowds or groups of mixed men and women congregating in front of the place in and around the restaurant and bar area." Sergeant Jacalone further stated that in his opinion the Fleetwood is one of the taverns in town which is a trouble spot.

Sam Kahn (who owns property at 896 Main Avenue, Passaic, which building is occupied by a tavern) stated that he has no interest in said licensed premises whatsoever. Mr. Kahn said that "late in the evening they congregate on, on the outside. They congregate across the street; use loud language; use language and four-letter words that I wouldn't like to repeat. They urinate behind cars. They don't care where it is. They --- there's males and females and the -- on Harrison Street besides this tavern. It's very dark; it's trees there. And things go on that shouldn't go on."

Joseph Satkin testified that he is president of the Fleetwood and holds ninety-nine per cent. of its stock; that he obtained his interest in the license on July 15, 1967, and that since then he has never been charged with any violation of the alcoholic beverage law. Mr. Satkin stated that on two occasions the police went to the licensed premises after having received calls that the music of the juke box was loud, and also he (Satkin) made a call himself to the Police Department concerning a disturbance on the outside of the licensed premises. Mr. Satkin also said that he employs two police officers -- one inside and one outside the premises -- to preserve order and, to his knowledge, he is the only one in the City of Passaic who employs officers to keep order and peace. On cross examination Mr. Satkin testified that he is "about twenty hours a day" at the Fleetwood. He also said that in January 1968 it was necessary to close the establishment for repairs as a result of a fire and that he invested a considerable sum of money in order that the place could be again used as a restaurant and licensed premises. When asked whether or not any other establishment which he had an interest in had ever had its license suspended, Mr. Satkin stated that, while president of the Blue Fountain in Passaic, the license had been suspended on two occasions.

Neil Morrison testified that he is president of a new civic group functioning out of Paterson and also Passaic; that,

among other things, he deals with taverns which cater to teenagers; that from his observation the municipality has many bars and a number of these are in the negro and Puerto Rican section of town, some of which in his opinion were trouble spots; that he had an occasion to visit the Fleetwood to ascertain whether or not the licensee sold alcoholic beverages for off-premises consumption after hours and he observed no such violation. Mr. Morrison stated that he does not receive any salary for his efforts on behalf of the civic association but works part-time as a union organizer.

Hattie Walker testified that she is the secretary of the civic association of which Mr. Morrison is president and she investigates various licensed premises in the municipality. Mrs. Walker further stated that she visited the Fleetwood on August 30, 1968, and during her stay there did not see any minors being served.

I have set forth at length the testimony of the various witnesses of the respective parties to this appeal and might at this time reiterate the principle established by this Division from the time of its creation that licensees are accountable for conditions occurring both in and outside the licensed premises which are a result of the action of its patrons. Conte v. Princeton, Bulletin 139, Item 8. Also see cf. Kaplan et als. v. Englewood, Bulletin 1745, Item 1, aff'd id nom. App. Div. 1968, not officially reported, recorded in Bulletin 1790, Item 1, certif. denied 51 N.J. 464.

I am satisfied that during the time prior to the fire in January and the reopening of the premises in June 1968, Mr. Satkin and others who are employed on the licensed premises were, or should have been, fully aware of the conditions in the area outside and also the incidents which occurred inside the licensed premises itself. A licensee and employees of the licensee may not close their eyes and ears to matters of this kind. Moreover, Mr. Satkin has been associated in the alcoholic beverage industry as a retail licensee over a period of years. There has also been testimony that he had an interest in the corporate licensee before the license had been transferred to the Fleetwood.

The question to be resolved in the instant case is whether the evidence presented justifies the action of the Board in refusing to renew the Fleetwood license. Nordco, Inc. v. Newark, Bulletin 1148, Item 2. It is well to point out that in all cases which involve discretionary matters, such as the application for renewal of a liquor license, the burden of proof is upon the appellant to show manifest error or an abuse of discretion by the issuing authority. As was stated in Zicherman v. Driscoll, 133 N.J.L. 586, 587:

"The question of a forfeiture of any property right is not involved. R.S. 33:1-26. A liquor license is a privilege. A renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor by retail, Crowley v. Christensen, 137 U.S. 86, and no person is entitled as a matter of law to a liquor license. Bumball v. Burnett, 115 N.J.L. 254; Paul v. Gloucester, 50 Id. 585; Voight v. Board of Excise, 59 Id. 358; Meehan v. Excise Commissioners, 73 Id. 382; affirmed, 75 Id. 557. No licensee has vested right to

the renewal of a license. Whether an original license should issue or a license be renewed rests in the sound discretion of the issuing authority. Unless there has been a clear abuse of discretion this court should not interfere with the actions of the constituted authorities. *Allen v. City of Paterson*, 98 Id. 661; *Fornarotto v. Public Utility Commissioners*, 105 Id. 28. We find no such abuse. The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. The common interest of the general public should be the guide post in the issuing and renewing of licenses."

See Freddie's Blue Room, Inc. v. Elizabeth, Bulletin 1422, Item 1.

When considering public interest with reference to a renewal of a liquor license, I am aware that a licensee is entitled to receive fair treatment. Thus failure to renew a license should not be the result of arbitrary action on the part of the licensing authority. However, when a licensed premises is operated without consideration for the rights of other persons residing in the area of the premises and the effect of such improper operation has on the lives of other persons, this is sufficient proof that the licensee is unworthy to hold a liquor license. According to the testimony, the Fleetwood attracts considerable crowds of people, especially on weekends. The testimony indicates that many persons stand outside the licensed premises using profanity and creating a nuisance in the vicinity. In addition thereto, there is testimony that at closing time, when leaving the Fleetwood, there is unnecessary noise and commotion that is a constant annoyance to persons living in the area.

Mr. Satkin testified that he employs a special officer inside the premises and also has one stationed outside of the establishment. Apparently these two officers are unable to keep order with respect to the establishment. There were a number of occasions between the time the Fleetwood license was transferred on July 15, 1967 until the fire which occurred in January 1968 when a number of calls to the Police Department were made because of incidents in the premises and loud music emanating therefrom. Mr. Satkin was a major stockholder and officer in a corporation holding a license for another establishment (Blue Fountain, located in Passaic), which license was suspended by the Director for a period of sixty days effective October 18, 1965, and terminating December 17, 1965, as a result of permitting acceptance of number bets on the licensed premises. Bulletin 1647, Item 4. Thereafter the license held by the Blue Fountain, Inc. was again suspended for fifteen days effective November 3, 1966 and terminating November 18, 1966, for possession on the licensed premises of an alcoholic beverage in a bottle which bore a label that did not truly describe its contents. Bulletin 1710, Item 4.

Sergeant Jacalone described the Fleetwood as a trouble spot in the municipality. According to the record, there are a number of other liquor outlets in the area about which no complaints have been made.

The Director's function on appeal is not to substitute his personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for its determination and, if so, to affirm irrespective of his personal view. Tumulty v. Dunellen, Bulletin 1487, Item 4.

Perhaps it is understandable that local issuing authorities at times withhold institution of disciplinary charges in hopes that, where warranted, licensees will make efforts to improve the conditions in the operation of the licensed premises. This would appear the natural thing for a liquor licensee to do in order to protect his investment. Unfortunately in some cases the holder of a license or the officer of a corporate licensee is unsuited to be engaged in the liquor industry. It was to be expected that Satkin (president and major stockholder of the Fleetwood, with a past record of violations of the alcoholic beverage law) would use every means at his command to operate the business in a lawful manner. This he has failed to do.

I am satisfied from the evidence adduced herein that the Board used the discretion vested in it and did not discriminate against Fleetwood. I also find that it was not arbitrary or capricious in arriving at its determination. Furthermore, after careful consideration of all of the evidence presented in this matter, I am satisfied that Fleetwood has failed to sustain the burden of proof as required by Rule 6 of State Regulation No. 15. Thus it is recommended that the Board's action in denying the application for renewal be affirmed, and the appeal herein be dismissed.

Conclusions and Order

Exceptions to the Hearer's report were filed by the attorney for appellant pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of testimony, the exhibits, the oral argument of counsel at the conclusion of the hearing, the Hearer's report, and the exceptions thereto which I find without merit, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 13th day of January 1969,

ORDERED that the action of respondent be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my order entered on June 26, 1968, extending the term of appellant's license pending determination of the appeal, be and the same is hereby vacated effective immediately.

JOSEPH M. KEEGAN
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS AND HORSE RACE BETS AND WAGERING) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

J Morton Polster, Administrator of)
the Estate of Louis Polster)
406 Broadway)
Newark, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-806 issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Newark)

Fox, Schackner, Neagle & Mastrangelo, Esqs., by Harlan E.
Schackner, Esq., Attorneys for Licensee
Louis F. Treole, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on October 25, 26, 28 and 29, 1968, he permitted acceptance of numbers and horse race bets, and on October 25, 1968, wagering, viz., the playing of a card game for money stakes, on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Park Temple Bar, Bulletin 1744, Item 4.

Accordingly, it is, on this 9th day of January 1969,

ORDERED that Plenary Retail Consumption License C-806, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Morton Polster, Administrator of the Estate of Louis Polster, for premises 406 Broadway, Newark, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m. Tuesday, January 14, 1969, and terminating at 2:00 a.m. Monday, March 10, 1969.

JOSEPH M. KEEGAN
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY
(INDECENT ENTERTAINMENT) - UNQUALIFIED EMPLOYEES - LICENSE
SUSPENDED FOR 35 DAYS.

In the Matter of Disciplinary)
Proceedings against)

✓ Agron, Inc.)
Route #130)
Burlington, N. J.)

CONCLUSIONS

Holder of Plenary Retail Consumption)
License C-17 issued by the Common)
Council of the City of Burlington.)

and
ORDER

Edward J. Hulse, Jr., Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

"1. On Wednesday night August 7, 1968, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you allowed, permitted and suffered a female person to perform on your licensed premises for the entertainment of your customers and patrons in a lewd and immoral manner; in violation of Rule 5 of State Regulation No. 20.

"2. On August 7, 1968 and prior thereto, you allowed, permitted and suffered the employment in and upon your licensed premises of persons who were not residents of the State of New Jersey, contrary to and in violation of Rule 4 of State Regulation No. 13."

Pursuant to specific assignment to investigate an allegation of a "lewd and immoral show", two Division agents entered the licensed premises on August 7 at approximately 10:00 p.m. The premises consisted of a large barroom containing a rectangular bar with stools, a runway about three feet high with tables for service on each side thereof, and a bandstand next to the head of the runway. Upon entry, the patronage consisted of forty-seven males and three females.

At approximately 10:20 p.m. a female dressed in "full length-type evening gown, with three-quarter sleeves, past the elbows, and shoes" came upon the runway. To the accompaniment of a four piece band, she strutted up and down the runway, removed her gloves, dangled them and let them drop. Continuing to strut, the female commenced unzipping her gown at the back, let the top drop about her waist, strutted until, with her back turned, she let her dress drop to the floor and stepped out of it. The dancer was then attired in full size flesh-colored bra, full size flesh-colored panties, and shoes. She continued to

strut, moved her hands up and down her body, cupped her breasts and performed bumps. When requested to detail the reaction of the patrons, one of the agents replied, "They were making remarks like 'Don't take all night!' and 'Take it off!' and stuff like that."

Thereafter, to the accompaniment of the band, the dancer slowly removed her bra and her panties. She was then attired with a pasty measuring approximately an inch and a half in diameter on each breast and a "small patch over her vagina, approximately maybe two by four" inches. The patch was held in place by "two strings, one going around the sides and one coming up between the buttocks in back." While so attired, the performer continued to strut and fondle her breasts. At times she pulled a net veil attached to a string (hanging from her back) back and forth between her legs. This was done in very close proximity to male patrons. When asked to describe the reactions of the patrons, the same agent responded, "They got all flustered and what not" and "They got all red and embarrassed and what not. They were hollering like." It was this agent's opinion that the performance was lewd and immoral.

In defense of Charge 1, Ronald G. Campbell, who held the offices of secretary and treasurer of the licensee corporation and who managed the business conducted by it, testified that after the dancer took off her dress and bra, she was wearing another bra and pasties over it, underneath the bra she removed. She was also wearing pants. He did not see the dancer pull the veil between her legs. He did not observe her entire performance.

In rebuttal, the agents reiterated that the dancer wound up her performance wearing only pasties and the patch above described. This observation was confirmed by one of the agents who confronted the dancer in the course of his investigation immediately after the performance.

I am accepting as factual the agents' version of the state of undress of the female entertainer at the termination of her performance. I reject Campbell's testimony to the effect that the dancer was clothed with a flesh-colored bra, pasties and pants at the termination of her dance. Thus, a narrow issue is presented for determination, specifically, did the dancer perform in a lewd and immoral manner in violation of Rule 5 of State Regulation No. 20.

I find as a fact that the female performer engaged in a "strip-tease" dance. Historically, this type of performance has not been countenanced in liquor licensed premises by the Division of Alcoholic Beverage Control. See Re DiAngelo, Bulletin 753, Item 4; Re Sharpe, Bulletin 1112, Item 5; Re Flo-Mae, Inc., Bulletin 1119, Item 2; Re Venetian Bar & Grill, Inc., Bulletin 1687, Item 6; Re Ask, Inc., Bulletin 1709, Item 2.

Although the standards in the field of entertainment may have changed in theaters, the standards have never been lowered in liquor licensed premises. I am mindful of logic used by Judge Jayne in McFadden's Lounge v. Div. of Alcoholic Beverage Control, 33 N.J. Super. 61 (App. Div. 1954), wherein he stated at p. 62:

"Experience has firmly established that taverns where wine, men, women, and song centralize should be conducted with circumspect respectability. Such is a reasonable and justifiable demand of our social and moral welfare intelligently to be recognized by our licensed tavern proprietors in the maintenance and continuation of their individualized privilege and concession."

Accordingly, after examining the various precedents cited, I am persuaded by the clear and convincing proof in this case that Charge 1 has been sustained by a fair preponderance of the credible evidence. I therefore recommend that the licensee be found guilty of the said charge.

Concerning Charge 2, the testimony reflected that since July 24, 1968, the licensee had employed a four piece band, three of whose members were residents of Pennsylvania, none of whom held employment permits, nor was their employment authorized by any blanket employment permit. Hence, I recommend that the licensee be found guilty of the said charge.

Licensee has no previous record of suspension of license. I further recommend that an order be entered suspending the license on the first charge for thirty days (Re Ask, Inc., supra; cf. Re Play Pen Incorporation, Bulletin 1778, Item 5; aff'd Play Pen Incorporation v. Div. of Alcoholic Beverage Control (App. Div. 1968), not officially reported, recorded in Bulletin 1805, Item 1; appeal to the New Jersey Supreme Court dismissed, vide, Bulletin 1829, Item 8) and on the second charge for five days (Re Camden Oasis Motel, Inc., Bulletin 1793, Item 4), or a total of thirty-five days.

Conclusions and Order

Exceptions to the Hearer's report were filed by the attorney for the licensee pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony, the Hearer's report, and the exceptions filed which I find to be without merit, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 8th day of January 1969,

ORDERED that Plenary Retail Consumption License C-17, issued by the Common Council of the City of Burlington to Agron, Inc., for premises Route #130, Burlington, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Wednesday, January 15, 1969, and terminating at 2 a.m. Wednesday, February 19, 1969.

JOSEPH M. KEEGAN
DIRECTOR

4. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #318		
In the Matter of a Petition to Lift)	
the Automatic Suspension of Plenary)	
Retail Consumption License C-138)	
Issued by the City Council of the)	
City of Elizabeth to)	On Petition
Katherine Bobowsky & Walter J. Bobowsky)	O R D E R
t/a Whitey's Tavern)	
539-541 Bayway)	
Elizabeth, N. J.)	

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on November 4, 1968, Walter J. Bobowsky, one of the licensees-petitioners, was fined \$100 in the Elizabeth Municipal Court after pleading guilty to a charge of sale of alcoholic beverages to two minors on November 2, 1968, in violation of R. S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R. S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for ten days effective 2:00 a.m. Monday, January 6, 1969, and terminating at 6:00 a.m. Thursday, January 16, 1969, on a charge alleging sale of alcoholic beverages to the same minors, which sale was the subject of the criminal conviction. Hence, I shall lift the automatic suspension in anticipation of the service of the municipal suspension. Re Tag Liquor & Delicatessen, Inc., Bulletin 1793, Item 10.

Accordingly, it is, on this 9th day of January, 1969,

ORDERED that the statutory automatic suspension of said license C-138 be and the same is hereby stayed in the meantime and is lifted effective 6:00 a.m. Thursday, January 16, 1969.

JOSEPH M. KEEGAN
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - UNQUALIFIED EMPLOYEE - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

✓ Herman Nazario)
86 Garden Street)
Hoboken, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-181 issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken)

Maurice Gottlieb, Esq., Attorney for Licensee
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on November 1, 1968, he employed a minor, age 15 (his son), as a bartender serving and selling alcoholic beverages, in violation of Rule 2 of State Regulation No. 13, and (2) in his current application for license failed fully to disclose his record of prior license suspensions, in violation of R.S. 33:1-25.

Licensee (then in partnership with Juan Gonzalez at the same premises) has a previous record of suspension of license by the Director for fifty-five days effective April 25, 1968, for permitting acceptance of numbers bets and possession of lottery tickets (Re Gonzalez and Nazario, Bulletin 1797, Item 3) and by the municipal issuing authority for twenty days effective June 19, 1968, for sale to minors, permitting female impersonators on the licensed premises, and employing a person without identification card in violation of local regulation, non-disclosure of the first suspension being the subject of the second charge.

The license will be suspended on the first charge for ten days (Re Acevedo and Rivera, Bulletin 1795, Item 5) and on the second charge for ten days (Re Bamboo Bar Corp., Bulletin 1825, Item 8), to which will be added ten days by reason of the record of two suspensions of license for dissimilar violations within the past five years (Re Triple Lake Ranch, Inc., Bulletin 1831, Item 6) or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 13th day of January, 1969,

ORDERED that Plenary Retail Consumption License C-181, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Herman Nazario for premises 86 Garden Street, Hoboken, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, January 20, 1969, and terminating at 2:00 a.m. Friday, February 14, 1969.

JOSEPH M. KEEGAN
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE
SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

First National Stores, Inc.
331 Broad Street
Bloomfield, N. J.,

Holder of Limited Retail Distribution
License DL-13, issued by the Town
Council of the Town of Bloomfield.

CONCLUSIONS
AND
ORDER

Licensee, by Michael F. McCarthy, Public Relations Manager, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on
December 4, 1968 it sold a six-pack of bottles of beer below
filed price, in violation of Rule 5 of State Regulation No. 30.

Absent prior record, the license will be suspended for
ten days, with remission of five days for the plea entered,
leaving a net suspension of five days. Re Lincoln Engine Co. #2,
Bulletin 1799, Item 3.

Accordingly, it is, on this 13th day of January 1969,

ORDERED that Limited Retail Distribution License
DL-13, issued by the Town Council of the Town of Bloomfield to
First National Stores, Inc., for premises 331 Broad Street,
Bloomfield, be and the same is hereby suspended for five (5)
days, commencing at 9 a.m. Monday, January 20, 1969, and terminating
at 9 a.m. Saturday, January 25, 1969.

JOSEPH M. KEEGAN
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD - UNLAWFUL SITUATION CORRECTED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

CANCELLATION PROCEEDINGS - LICENSE IMPROVIDENTLY ISSUED - ORDER TO SHOW CAUSE DISCHARGED ON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary)
and Cancellation Proceedings against)

✓ Zyry's Tavern, Inc.)
65 E. 25th Street)
Bayonne, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-51 issued by the Municipal)
Council of the City of Bayonne)

Louis R. Cerefice, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that in its current application for license, it falsely denied that Sam Zyry, its president and 29 per cent stockholder, had been convicted of crime, whereas he had been convicted on May 16, 1968 of the crime of possessing lottery slips, in violation of R. S. 33:1-25.

In addition, the licensee does not contest an order to show cause why its license should not be cancelled because its issuance was improvident, in violation of R.S. 33:-15, since Zyry's conviction of crime involved moral turpitude.

During the pendency of these proceedings, Zyry divested himself of his stock interest and resigned as an officer of the licensee corporation.

Licensee has a previous record of suspension of license by the Director for fifty-five days effective November 12, 1968, for permitting acceptance of numbers bets on the licensed premises. Re Zyry's Tavern, Inc., Bulletin 1831, Item 5.

The license will be suspended for twenty days (Re J. & J. Paszkiewicz & Son, Inc., Bulletin 1725, Item 1), to which will be added five days by reason of the record of suspension for dissimilar violation within the past five years (Re Hi-De-Ho Corp., Bulletin 1831, Item 7), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

In view of the correction of the unlawful licensing situation, the order to show cause why the license should not be cancelled is discharged. Cf. Re J. & J. Paszkiewicz & Son, Inc., supra.

Accordingly, it is, on this 23d day of January, 1969,

ORDERED that Plenary Retail Consumption License C-51,

issued by the Municipal Council of the City of Bayonne to Zyry's Tavern, Inc., for premises 65 E. 25th Street, Bayonne, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, January 28, 1969, and terminating at 2:00 a.m. Monday, February 17, 1969.

JOSEPH M. KEEGAN
DIRECTOR

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

In the Matter of Disciplinary Proceedings against

✓ Four Friends, Inc.
Olden Avenue
Somerdale, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1 issued by the Borough Council of the Borough of Somerdale

Edward F. Menneti, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 12, 1968, it sold drinks of alcoholic beverages to four minors, two age 19 and two age 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 Neim, Bulletin 1775, Item 2.

Accordingly, it is, on this 27th day of January, 1969,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Somerdale to Four Friends, Inc. for premises on Olden Avenue, Somerdale, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. Monday, February 3, 1969, and terminating at 3:00 a.m. Tuesday, February 18, 1969.


Joseph M. Keegan
Director