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

BULLETIN 2211 January 6, 1976

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ITEM

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

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1. COURT DECISIONS - CAVALIERE v. BRICK TOWNSHIP - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-1670-74

JOHN J. CAVALIERE
t/a POINT WEST,

Appellant,

v.

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF BRICK,

Respondent.

Argued October 6, 1975 - Decided October 22, 1975.

Before Judges Fritz, Seidman and Milmed.

On appeal from Division of Alcoholic Beverage Control.

Mr. Thomas L. Bace argued the cause for appellant (Messrs. Hiering, Grasso, Gelzer & Kelaher, attorneys).

Mr. John Paul Doyle argued the cause for respondent (Messrs. Doyle and Oles, attorneys).

Mr. William F. Hyland, Attorney General of New Jersey, filed a statement in lieu of a brief on behalf of the Division of Alcoholic Beverage Control (Mr. David S. Piltzer, Deputy Attorney General, of counsel).

PER CURIAM

(Appeal from the Director's decision in Re Cavaliere v. Brick Township, Bulletin 2176, Item 1. Director affirmed. Opinion not approved for publication by the Court Committee on Opinions).

2. APPELLATE DECISIONS - WILLIAMS v. PATERSON.

Appeals No. 3958 and 3980 Elsie P. Williams, t/a Williams Lounge, Appellant, v. Board of Alcoholic Beverage Control for the City of Paterson, Respondent.	On Appeal CONCLUSIONS AND ORDER

Womack & Cornish, Esqs., by Stephen H. Womack, Esq., Attorneys for Appellant
Joseph A. La Cava, Esq., by Ralph L. De Luccia, Jr., Esq., Attorneys 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 respondent, Board of Alcoholic Beverage Control for the City of Paterson (hereinafter Board) which, on May 29, 1975, revoked appellant's Plenary Retail Consumption License C-244, for premises 97 North Main Street, Paterson, in consequence of a finding that, on divers dates during the 1974-75 licensing period, the appellant permitted brawls, acts of violence and other disturbances, in and about her licensed premises; in violation of Rule 5 of State Regulation No. 20.

Appellant contends that the Board's action was based upon improper and insufficient evidence; hence, its action should be reversed. The Board denied these contentions and averred that its action was proper and within its sound discretion.

A hearing was held in this Division pursuant to Rule 6 of State Regulation No. 15 with full opportunity afforded the parties to introduce evidence and to cross-examine witnesses. Additionally, a transcript of the proceedings held before the Board was introduced into evidence pursuant to Rule 8 of State Regulation No. 15 and, by stipulation, was considered in lieu of additional evidence to be presented at such hearing.

By a companion action, appellant appealed from a resolution adopted by the Board on July 9, 1975, by which it denied appellant's application for renewal of her license for

the ensuing license year 1975-76. The denial was based upon the prior revocation of license from which this appeal was taken, coupled with the prior record of appellant, which record formed a part of the Board's consideration. In short, if the revocation of license by the Board is affirmed by the Director, the appeal from the Board's denial of renewal becomes moot. If however, the Director reverses the action of the Board respecting the revocation, the issue presented by the appeal from the denial of appellant's license is still determinable.

The transcript of the testimony taken before the Board reveals that a number of police officers of the City of Paterson testified with respect to several incidents that occurred during the licensing year.

Police Officer Joseph T. Kaminski testified concerning a fight which occurred between two women on August 5, 1974 outside appellant's premises. There was no testimony which connected the participants of the fracas with the subject premises other than its location being directly outside thereof.

Police Officers Joseph R. Romeo and Harold Pegg testified concerning an altercation which occurred on November 30, 1974 within appellant's premises. Three female juveniles entered the premises, one of whom was obviously intoxicated, and ordered drinks. The barmaid questioned the age of one of them, which so infuriated them that, although service was made of alcoholic beverages, one threatened the barmaid with a knife.

The appellant's husband, Cleveland Williams, who is a police officer in the City of Paterson, dearmed the female with the knife and although he intended to call for police aid, he failed to do so. Then the juveniles returned to the premises in a renewal of the attack. It was then that Williams drew his service revolver, quelled the disturbance, and obtained the arrest of the juveniles.

Police Officer James Jimenez testified that, on February 8, 1975 a patron in the premises was shot and, before the extent of his injuries or his condition could be ascertained by police who were summoned, he or his body was removed from appellant's premises. Although the premises was full of patrons, no one, including the barmaid, could relate who had done either the shooting or the removing of the victim.

On April 28, 1975, Officer Jimenez learned that a female, Tanya Thomas, was the victim of a "cutting" incident within appellant's premises. Again the details of the incident were particularly bare.

Police Officers John Hall and Harold Pegg, both testified in some detail concerning a "lye-throwing" incident which occurred on the evening of May 8, 1975 following a fight which began in appellant's premises. Patrons Charles Sledge, John Mitchell and George Bronson testified generally with respect to that incident. While their versions varied, it was unquestionably clear that a number of juveniles were in the interior of appellant's premises when another dispute occurred which resulted in a brawl on the outside of the premises. A number of patrons, who were either participated in or were onlookers of the fracas, were the victims of a "lye-throwing" attack by a fifteen year old female.

Appellant introduced the testimony of its barmaid, Elizabeth McDowell who provided descriptions of the incidents that occurred on November 30, February 8 and May 8th, 1975. To the first instance, she candidly admitted service of alcoholic beverages to the female involved in the fracas after determining that this female was intoxicated. Respecting the February 8th, incident, her reaction following the shooting of one of her patrons was almost incredible:

> "...immediately after the shot, I finished making my change and gave it to the person, gave them their money. I made the change and gave the change back. By the time I finished doing that, they had him gone."

Although she identified the victim, she could offer no information respecting the assailant or the identity of the persons who removed the victim from her premises.

In respect to the May 8th incident, she admitted the presence in the establishment of at least three juveniles before the fateful "lye-throwing" occurrence.

The testimony of the day barmaid, Etta Johnson and the husband of the licensee Cleveland Williams, shed no light on the several incidents charged. The testimony of both was vague and indecisive.

Division records reveal that appellant's license was suspended for thirty days, effective March 12, 1973, following a finding of guilt to a charge alleging that, on November 12 and 14, 1972 and January 1 and January 13, 1973, appellant, by permitting brawls and acts of violence, conducted the license premises in such manner as to constitute a nuisance; in violation of Rule 5 of State Regulation No. 20.

Initially, it should be noted that the decision whether or not a license should be issued rests within the sound discretion of the local issuing authority in the first instance. Blanck v. Magnolia, 38 N.J. 484 (1962); Fiory v. Ridgewood, Bulletin 1932, Item 1.

The crucial issue on this appeal is whether the record substantiated and justified the Board's action in revoking the appellant's license or in refusing to renew the said license. The burden of proof in all these cases which involve discretionary matters, where revocation or renewal of a license is the subject, calls upon the appellant to show manifest error or abuse of discretion by the issuing authority. Nordco Inc. v. State, 43 N.J. Super. 277 (App. Div. 1957); Zicherman v. Driscoll, 133 N.J.L. 586 (1946).

From my examination of the transcript of the proceedings before the Board, together with an examination of the record of appellant's prior proceedings respecting its license, it is apparent that the Board took into consideration the total record of appellant's operation, including the repeated situations in which the licensed premises was the focal point for some or other act of violence.

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 retail. Zicherman v. Driscoll, supra.

It is a basic principle that the action of the local issuing authority must be reasonable in equating the rights of the licensee with the paramount rights of the public. Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App. Div. 1955).

> "It has been the long established policy of this Division to equate a refusal to renew an annual license with revocation proceedings and to necessitate timely action by the local issuing authority. Common fairness to the licensee has been the basis for this policy. If undesirable conditions develop....the local authorities always have the power to institute discriplinary proceedings even before the renewed license period has expired."

Stratford Inn, Inc. v. Avon-by-the-Sea, Bulletin 1775, Item 2.

Whether a license should be renewed rests within the sound discretion of the local issuing authority and, upon review, its determination should not be disturbed unless the evidence indicates a clear abuse of that discretion. 279 Club v. Newark, 73 N.J. Super. 15 (App. Div. 1962); Nordco, supra.

To sustain the Board's denial, all that need be established is that the Board was reasonably persuaded that the renewal of the license would be contrary to the public interest in the creation or continuance of the licensed operation. Sharp's Lounge Inc. v. Lakewood, Bulletin 1842, Item 1; Blanck v. Magnolia, supra.

The Director's function on appeal is not to substitute his personal judgment for that of the local issuing authority, but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his own personal view. Fanwood v. Rocco, 59 N.J. Super. 306 (App. Div. 1960).

In evaluating the totality of the evidence presented herein and the argument of counsel, I find that the action of the Board was neither unreasonable nor arbitrary but, on the contrary, resulted from a conscientious review of appellant's record.

Hence, I find that the evidence adequately supports the finding by the Board that the license be revoked. The corollary issue respecting the denial of renewal of license, therefore, becomes moot. The determination of the Board resulted from the totality of the evidence before it, including the record of appellant's premises as being the situs of repeated acts of violence. Obviously, in the interest of public safety, the Board considered this record and determined that such licensed premises did not exist for the good of the public at large, and, to the contrary was inimical to the public good.

It is, therefore, concluded that appellant has not met the burden imposed upon it under Rule 6 of State Regulation No. 15, requiring that she prove that the action of the Board was erroneous and should be reversed. Hence, I recommend that the action of the Board in revoking appellant's license be affirmed, and the appeal, with request thereto, be dismissed.

It is, further, recommended in view of my recommended finding hereinabove, that the appeal with respect to the denial of renewal of appellant's license be dismissed.

Conclusions and Order

No Exceptions to the Hearer's Report were filed pursuant to Rule 4 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of testimony, the exhibits and the Hearer's Report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 9th day of October 1975,

ORDERED that the action of the respondent Board in revoking appellant's plenary retail consumption license for premises 97 North Main Street, Paterson be and the same is hereby affirmed, and the appeal filed with respect thereto be and the same is hereby dismissed; and it is further

ORDERED that the action of the respondent Board in denying appellant's application for renewal of its plenary retail consumption license, previously identified as C-244 for the current licensing period be and the same is hereby affirmed, and the appeal filed with respect thereto be and the same is hereby dismissed.

LEONARD D. RONCO
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - FRONT - FAILURE TO KEEP TRUE BOOKS OF ACCOUNT - LICENSE SUSPENDED FOR BALANCE OF TERM NOT LESS THAN 70 DAYS.

In the Matter of Disciplinary Proceedings against

482 Jackson Avenue Corporation
t/a 482 Jackson Avenue
493 Jackson Avenue
Jersey City, N.J.,

Holder of Plenary Retail Consumption License C-277, issued by the Municipal Board of Alcoholic Beverave Control of the City of Jersey City.

CONCLUSIONS AND ORDER

Krivit, Miller & Galdieri, Esqs., by Spencer N. Miller, Esq., Attorneys for Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleads "not guilty" to a charge alleging that (1) in its application for its plenary retail consumption license it failed to reveal that one Samuel Ridley and Walter Jeffries had an undisclosed interest in the licensed premises, from which they derived benefits accorded to the licensee; in violation of N.J.S.A. 33:1-25; (2) it permitted the said Ridley and Jeffries to exercise the rights of the licensee; in violation of N.J.S.A. 33:1-52; (3) it failed to reveal the said Samuel Ridley was criminally disqualified from holding such license, the supression of such fact was violative of N.J.S.A. 33:1-25, 26; and (4) from July 13, 1971 to the date of the charges (June 20, 1974) it failed to keep and maintain proper and true books of account of the licensed business; in violation of Rule 26 of State Regulation No. 20.

At the outset of the hearing herein, certain facts concerning the development of the licensee's corporate structure and the individual interests of its stockholders was submitted in writing as a joint stipulation. Testimony was

elicited by the Division of ABC Agent T who reviewed the results of his investigation concerning the licensee and the alleged parties in interest. The Division file containing statements which had been voluntarily given by the stockholders of the licensee corporation was introduced into evidence by the licensee. The licensee further called upon the testimony of one of its stockholders, Sharon P. Jeffries, to corroborate such statements previously given to the Agent during the investigation.

From all of the foregoing, it appears that the facts giving rise to the charge are as follows:

The subject license was once located at 482 Jackson Avenue, and was owned by one Hollender who employed a Walter Jeffries as a bartender. Jeffries learned from Hollender that the premises were for sale and advised his wife Sharon that the license was available for purchase. Sharon communicated this information to a girl friend, Rose Cromer , who, in turn interested a female friend of hers, Earl Ridley in the prospect of purchasing the licensed business. The husbands of both Rose and Earl had been frequent patrons of the establishment, so that the business potential of this facility was known to all of them.

The three women were employed, one as a nurse, one as a secretary and the third as a clerk. Sharon explained that although her husband worked there as a bartender, he was not interested in becoming an owner; and the other husbands had other activities. Two of the women advanced $4,000 toward the $16,000 purchase price, the third gave $8,000. Their individual shares came from funds that they had saved together with loans of their parents or husbands. Another $16,000 was paid for the realty and the same proportion was advanced by each for the realty purchase.

Title to the licensed premises and the building in which it was contained was taken by the three women through a corporation, 482 Jackson Avenue Corp., in which Earl Ridley held 50% of its capital stock, Rose Cromer 25% and Sharon Jeffries 25%.

Upon the commencement of business by these new owners, Walter Jeffries continued as a bartender and manager. The other husbands assisted and Sharon Jeffries attended to the bookkeeping and ordering of the stock. She had been brought up in the tavern business, as her parents had had a tavern, and her sister still does.

The two husbands each received an identification card issued by the Jersey City Police Department, but, upon subsequent investigation by this Division, it appeared that both Sam Ridley and Leroy Cromer were disqualified, by reason of prior criminal convictions, from being connected with any licensed premises. (Cromer's disqualification has been removed and he is presently employed in these premises).

In support of the charges, the Division contends that the issuance of a check by the corporation to Samuel Ridley in the amount of $5,000 was proof of his undisclosed interest in the licensed premises. This amount, shown on the corporate books as a withdrawal was a distribution of the profits of the licensed business. The licensee however countered by pointing to the endorsement on the rear of the check which identified it as 'repayment of loan' to Samuel Ridley.

Additionally there were checks of $1,500 to Sam Ridley; others of $750 and $601 to Walter Jeffries. The ledger records of the corporation parallels these checks with notations that these sums were "partnership withdrawals" to "Ridley, Jeffries and Cromer" (no first names appeared). There were similar checks to "Rose" Cromer. The Division contends that these were evidence of the personal participation of Sam Ridley and Walter Jeffries. The licensee responded to these contentions with explanation that these partnership withdrawals were made to the husbands named merely to obviate an additional check, which good bookkeeping practice would require, to the wives, with endorsement over to the husbands for the repayment of their obligations.

A further item offered by the Division revolves about the purchase of an air conditioner by Sam Ridley on behalf of the corporation which, the Division contends supports the conclusion that Sam Ridley considered himself to be a part of the corporation. The licensee answered that Sam Ridley bought the air conditioner because he, Ridley, had an account with the store which sold it. In support of that statement, words on the sales agreement indicated an existing store account.

The charges further contain an allegation that failure to disclose an interest in the licensee corporation by a companion corporation, i.e. 493 Jackson Avenue Corp., was violative of the subject Regulation. This allegation is patently empty. At the removal of the licensed premises diagonally across the street where its new building had to be acquired and renovated, another corporation was formed, with the same stockholders holding the same proportionate interest, for the sole purpose of keeping the financing and bookkeeping separate from the books of the licensee corporation. Such method is common accounting practice.

Nowhere in the charge against the licensee alleging undisclosed interest is the 25% interest of Rose Cromer challenged.

The charge that Sharon Jeffries is the holder of an undisclosed interest of her husband, Walter Jeffries appears to be without support. Her testimony of the source of the funds which she used and the loan made to her by her husband, which was repaid, remains uncontroverted by substantive evidence. Only a suspicion exists that, for some undisclosed reason, she

determined to become an owner of the premises where her husband was employed; hence acted as a 'front' for him. Such suspicion is groundless. Under all of the circumstances presented, there appears no reason why Sharon would not be interested in acquiring the interest in the premises where her husband was employed if, for no other reason than to protect his employment. That wifely dedication cannot be ascribed as a 'front' when the husband was perfectly eligible to hold an interest in the licensed premises in his own name.

The charge which relates to Samuel Ridley requires closer inquiry. The statement given to the Agent by Ridley's wife, Earl, discloses that she owns the building in which she lives, and collects rent from tenents therein. She also owns, in her own name, property at 794 Ocean Avenue, Jersey City, from which she presumably collects rents. Her income as a nurse at the Medical Center is between $8,000 and $9,000 annually. From all of these sources, she maintained she had $11,000 in cash at home. She disclosed no place of employment of her husband, nor did she allege any active participation in the management of the licensee corporation other than simply signing checks. Her husband, Samuel, is disqualified from participating in the management of any licensed premises, either as owner or employee, by virtue of a prior criminal conviction.

Records of the bank accounts of Earl and Samuel Ridley, introduced into evidence as joint exhibits, reveal that about the time of the purchase of the licensed business and property, a joint account in one savings association had a balance of over $8,000, and an account in a New York bank contained $11,500 as balance. A third account in a trust company disclosed a then balance of $12,800. There were no withdrawals from these accounts of any significant amount during the period of purchase. Earl Ridley offered no books of account respecting her assets and properties, and relied merely on her own assertion that she had $11,000 in cash "at home".

I.

The guiding rule in these matters is that in evaluating testimony, testimony to be believed must not only proceed from the mouths of credible witnesses, but must be credible in itself, and must be such as common experience and observation of mankind can approve as probable under the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546; Gallo v. Gallo, 66 N.J. Super 1. In short, testimony must relate circumstances which, in themselves, are credible.

Samuel Ridley was a patron of the licensed premises when it was formerly owned, and he was, then, without apparent employment. He is disqualified from being employed as a bartender, the only occupation with which he has been identified. His wife, Earl Ridley, exhibited little or no interest in the licensed establishment other than the occasional writing of checks. She relied upon the managerial abilities of her friend and fellow stockholder, Sharon Jeffries. In lieu of testifying at the hearing herein, she relied upon her statement taken by the ABC Agent, and in which her only explanation for the source of some $11,000 used to purchase the majority of the

stock of the licensee corporation was that she had such sum in her home. The three savings accounts on which her name appeared were not the source of such monies.

Inferences may be drawn by the statements given to Agents by a person holding an interest in licensed premises that such interest is, in truth, being held for another. "Very rarely is such proof buttressed by confessions and/or affirmative admissions. Thus, the testimonial presentation must be largely circumstantial and documentary". Sharp's Lounge, Inc. v. Lakewood, Bulletin 1842, Item 1; Re Village Tap Room, Inc. Bulletin 1551, Item 1.

It is preposterous to accept the thesis that Earl Ridley became majority stockholder of the licensed corporation at the instigation of a girl friend. It is further equally unbelievable that a cache of $11,000 lay about the house as funds for a potential investment. The existence of regular bank accounts obviously kept for savings purposes belie the casualness of such funds allegedly kept at the home.

I, therefore, find that the interest of Earl Ridley as stockholder in the licensed premises was held by her as a "front" for her husband, and thus find that the Division has established its charge as it relates solely to the allegations concerning Samuel Ridley.

II.

A final charge alleges that the licensee failed to keep true books of account of its licensed business in violation of Rule 36 of State Regulation No. 20. In proof thereof, by testimony of Agent T, the corporation records revealed gross receipts approximating $21,000 less than the amounts of the deposits to the licensee's accounts in its bank. Admittedly ledger assets and deposits reflective of them should balance, with accepted minor variations due to the particular circumstances of the business, or its adjustments for bookkeeping errors. An overage of deposits is rarely likely in any event; certainly an overage of nearly 20% of gross cannot be explained as accounting infraction.

Sharon Jeffries admitted that the books of the licensee were not in perfect order; the accountant had been discharged following the revelation that the books did not properly indicate the total of both income and deposits. She attributed the overage as failure to include income from vending machines and telephone commissions received which were not included in the books, but were deposited along with the general receipts, as accounting for a part of the overage, but candidly admitted that such exclusions of amounts on the books and inclusions of amounts deposited could not have accounted for the sizeable difference.

In short, regardless of the explanation or lack of it, the books did not truly reflect the totality of the business being operated and hence were not "true books of account" of the licensed business.

I, therefore, find that the said charge has been amply proven, and recommend that the licensee be found guilty thereof.

Licensee has a prior record of payment of fine in lieu of suspension for ten days, on June 18, 1973, in consequence of an "hours" violation; Re 482 Jackson Avenue Corp., Bulletin 2106, Item 3.

It is, accordingly, recommended that the license be suspended on the first three charges involving a criminally disqualified person for forty-five days, to which should be added five days by reason of the prior dissimilar record of suspension occurring within the past five years, making a total of fifty days. It is, further, recommended that the license be suspended for ten days on the fourth charge herein relating to the failure of the licensee to keep proper books of account, making a total suspension of license of seventy days.

However, since the unlawful situation has not been corrected to date, I recommend that the license be suspended for the balance of its term with leave granted to the licensee or any bona fide transferee of the license to apply to the Director, by verified petition, for the lifting of the suspension whenever the unlawful situation has been corrected but such lifting shall not, in any event, take place sooner than seventy (70) days from the commencement of the suspension herein.

Conclusions and Order

Written Exceptions to the Hearer's report with supportive argument were filed by the licensee, and Written Answers thereto were filed on behalf of the Division, pursuant to Rule 6 of State Regulation No. 16.

The licensee excepts to the Hearer's recommended finding that the charge against Ridley was a continuing one; it contends that, in accordance with the stipulation entered into by agreement of counsel, no such continuing interest exists. I find this allegation unsupported by the evidence. An examination of J-1 in evidence does not contain such restriction. Counsel confuses a lenghty prepared stipulation while he originally proferred, but which was not acceptable to the Division, as the stipulation accepted. In fact, the original proposal was extensively revised before it was acceptable to the Division, and the statement referred to in the licensee's Exceptions was

specifically deleted. Hence, the Hearer was correct in his finding of a continuing infraction.

The basic thrust of licensee's principal Exception is to the effect that the Hearer erred in his recommended finding by the Hearer that the motives of stockholder Jeffries differed from those of stockholder Ridley. He bases this allegation of Hearer error on the similarity of factual background for each of the stockholder wives and the apparent confusion in accepting as credible the one without the other.

At the hearing in this Division, the licensee chose to introduce the testimony of Mrs. Jeffries, whose testimony apparently impressed the Hearer. Her family background in the alcoholic beverage business, and her daily active participation in the licensed business was sufficient to clothe her intent to be a direct participant in the licensed business.

The licensee neither chose to produce Mrs. Ridley nor to offer any clarification to the apparent "front" situation which the Hearer found to exist.

Finally, licensee calls attention to what would appear to be an "arithmetical error", by a miscalculation of penalty totalling seventy days, which total is not reflective of the recommended penalty. An examination of that recommendation reveals that, in fact, a typographical error created the confusion.

The Hearer recommended the imposition of a ten-day penalty in connection with the licensee's failure to keep and maintain proper books of account. The present penalty schedule adopted October 3, 1974 suggests a minimum suspension of license of twenty days for violations of Rule 36 of State Regulation No. 20. Such schedule has usually been followed. Cf. Re Har-Sim Bar, Inc., Bulletin 2191, Item 2; Re Willenz Bar, Inc., Bulletin 2179, Item 4 (in which the penalty for an identical offense was twenty-five days). Hence, in the next to the last paragraph, seventh line, the word "ten" should have been "twenty". The penalty imposed is, thus, not in error.

I have examined and evaluated the licensee's Exceptions and find that they have either been considered and correctly resolved in the Hearer's Report or are lacking in merit.

Thus, having carefully considered the entire record, including the transcript of the testimony, the exhibits, the Hearer's Report, the Exceptions filed with respect thereto, and the Answers to the said Exceptions, I concur in the findings and recommendations of the Hearer, and adopt them as my conclusions herein.

Accordingly, it is, on this 10th day of October 1975,

ORDERED that Plenary Retail Consumption License C-277, issued by the Municipal Board of Alcoholic Beverage Control of

the City of Jersey City for premises 493 Jackson Avenue to 482 Jackson Avenue Corporation, t/a 482 Jackson Avenue, be and the same is hereby suspended for the balance of its term, i.e., 12:00 p.m. June 30, 1976, commencing at 2:00 a.m. on Friday, October 22, 1975, with leave to the licensee or any bona fide transferee of the license to apply, by verified petition to the Director for the lifting of the said suspension whenever the unlawful situation has been corrected, but, in no event, sooner than seventy (70) days from the date of the commencement of the suspension herein.

Leonard D. Ronco
Director

4. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary Proceedings against

Donald G. Bray
t/a Klotz Beverage Emporium
324 Calhoun Street
Trenton, N.J.,

Holder of Plenary Retail Consumption License C-119, issued by the City Council of the City of Trenton.

O R D E R

Blackburn, Carmichael, Blackburn & Moore, Esqs., by Lemel H. Blackburn, Jr., Esq., Attorneys for Licensee

BY THE DIRECTOR:

By resolution dated September 5, 1975, the subject license was suspended by the City Council of the City of Trenton, for a period of twenty days, effective September 15, 1975, upon the licensee's plea of non vult to a charge alleging that he sold alcoholic beverages to two minors, age 17; in violation of the local ordinance.

The suspension was stayed by me on September 15, 1975, pending my consideration of licensee's application for the payment of a fine, in compromise, in lieu of the said suspension. I have determined to deny the said application for the following reasons: (1) the licensee has a prior record of a similar violation for which he paid a fine of $750.00 to the Director, on June 16, 1975 in lieu of a ten day suspension; (2) the local issuing authority has expressed its objection to the approval of such application.

Therefore, I shall reimpose the suspension herein.

Accordingly, it is, on this 23rd day of October 1975,

ORDERED that Plenary Retail Consumption License C-119, issued by the City Council of the City of Trenton, to Donald G. Bray, t/a Klotz Beverage Emporium, for premises 324 Calhoun Street, Trenton, be and the same is hereby suspended for twenty (20) days commencing at 2:00 a.m. on Thursday, November 6, 1975 and terminating at 2:00 a.m. on Wednesday, November 26, 1975.

Leonard D. Ronco
Director

5. STATE LICENSES - NEW APPLICATIONS FILED.

Devon Chemicals, Inc.
157 Broad Street
Red Bank, New Jersey
Application filed December 30, 1975 for place-to-place transfer of licensed salesroom from 157 Broad Street, Red Bank, New Jersey, to Princeton-Hightstown Road, East Windsor Township, New Jersey, under Plenary Wholesale License W-2.

The Genesee Brewing Co., Inc.
445 St. Paul Street
Rochester, New York
Application filed December 31, 1975 for limited wholesale license.

Leonard D. Ronco
Director