

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

BULLETIN 2043

April 26, 1972

TABLE OF CONTENTS

ITEM

1. COURT DECISIONS - JIVE SHACK BAR v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.
2. APPELLATE DECISIONS - DODD'S COCKTAIL LOUNGE INC. v. ORANGE.
3. APPELLATE DECISIONS - SOUTH JERSEY PACKAGE STORES ASSOCIATION v. EDGEWATER PARK AND SIL INC.
4. DISCIPLINARY PROCEEDINGS (Trenton) - IMMORAL ACTIVITY (PROSTITUTION) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.
5. DISCIPLINARY PROCEEDINGS (North Bergen) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. ACTIVITY REPORT FOR MARCH 1972.
7. DISCIPLINARY PROCEEDINGS (Trenton) - IMMORAL ACTIVITY (PROSTITUTION) - (INDECENT ENTERTAINMENT) - PERMITTING FEMALES TO ACCEPT DRINKS - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 190 DAYS, LESS 38 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Cliffside Park) - SALE IN VIOLATION OF LOCAL ORDINANCE - FAILURE TO CLOSE PREMISES DURING PROHIBITED HOURS - PRIOR RECORD OF SIMILAR AND DISSIMILAR VIOLATIONS - LICENSEE WARNED - LICENSE SUSPENDED FOR 60 DAYS, LESS 12 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Atlantic City) - SALE TO MINORS ON TWO SUCCESSIVE OCCASIONS - LICENSE SUSPENDED FOR 40 DAYS, LESS 8 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Asbury Park) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Emerson) - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.- APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

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

BULLETIN 2043

April 26, 1972

1. COURT DECISIONS - JIVE SHACK BAR v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-2184-70

JIVE SHACK BAR (A Corp.),

Appellant,

v.

DIVISION OF ALCOHOLIC
BEVERAGE CONTROL, DEPARTMENT
OF LAW AND PUBLIC SAFETY,

Respondent.

Argued March 28, 1972 -- Decided APR 4 '72

Before Judges Goldmann, Halpern and Lora.

On appeal from determination and judgment
of the Director, Division of Alcoholic
Beverage Control.

Mr. Jacob M. Goldberg argued the cause for
appellant.

Mr. David S. Piltzer, Deputy Attorney General,
argued the cause for respondent (Mr. George F.
Kugler, Jr., Attorney General of New Jersey,
attorney).

PER CURIAM.

(Appeal from decision in Re Jive Shack Bar, Bulletin
1993, Item 2. Director affirmed. Opinion not
approved for publication by Court Committee on
Opinions.)

2. APPELLATE DECISIONS - DODD'S COCKTAIL LOUNGE INC. v. ORANGE.

Dodd's Cocktail Lounge, Inc.,)	
Appellant,)	
v.)	On Appeal
Municipal Board of Alcoholic)	
Beverage Control of the City)	CONCLUSIONS
of Orange.)	and
- - - - -)	ORDER
Thomas C. Brown, Esq., Attorney for Appellant	
Martin G. Picillo, 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 Municipal Board of Alcoholic Beverage Control of the City of Orange, whereby on August 5, 1971, it suspended appellant's plenary retail consumption license for seven days, effective September 13, 1971, after finding appellant guilty of allowing, permitting and suffering a brawl, disturbance or act of violence in or upon the licensed premises on April 10, 1971, in violation of Rule 5 of State Regulation No. 20.

Appellant alleges that the act of respondent was erroneous because appellant took all reasonable steps to prevent the occurrence of such act.

The answer of respondent denies appellant's allegations and avers that its finding that appellant did not take every possible step to prevent the incident in question justified its action.

Upon the filing of this appeal, an order was entered staying respondent's order of suspension pending further order of the Director. N.J.S.A. 33:1-31.

The matter was submitted on the transcript of testimony of the hearing before the local issuing authority supplemented by testimony on behalf of appellant at the Division hearing, pursuant to Rules 6 and 8 of State Regulation No. 15.

After a complete review of the transcript of testimony heard before the local issuing authority, I find the following:

The licensed premises consists of a main floor and lower level, in which alcoholic beverages are served. On the evening of April 10, 1971, the patronage consisted of approximately seventy-five persons on the lower level and approximately three hundred twenty-five patrons on the main floor. The staff of employees included five "doormen" stationed at the front door of the main floor. By a series of light signals these doormen may be summoned by bartenders to assist in bringing needed supplies to the bartenders and waitresses. They further assist from time to time in collecting empty bottles and glasses, and are generally charged with maintaining order. From the position at the front door they may be summoned to any point on either floor of the premises within a matter of seconds. The stairway leading to the lower floor is immediately adjacent to their station on the main floor.

At approximately 11:30 p.m. on the evening of April 10, 1971, John Granz and his companion, Dennis Robjohns, entered the premises, remained briefly on the main floor and then descended to the basement area where they encountered an acquaintance Michael Shields, in the company of Steven Stetson. Granz, a recently-returned Viet Nam veteran, with his three companions sat together at two small tables which they joined together to form a larger table.

They engaged in general conversation which led eventually to the general topic of the Vietnamese conflict. Seated at an adjoining table were three young men, at least one of whom was also a Viet Name veteran. These three, overhearing the conversation among Granz and his companions joined in, and shortly the two small tables became three and the four-way conversation became a seven-way conversation.

After the conversation had ensued for approximately fifteen minutes, Jengeleski, one of the three who had joined the original four, suddenly threw the contents of his beer mug at Granz. Granz rose and Jengeleski then struck Granz in the face with the beer mug, inflicting a wound which required ten stitches. Granz thereupon struck Jengeleski and, before any of the companions could interfere, two of the doormen separated the combatants and hastily ushered Granz up the stairs and out the front door.

The local police were summoned, and they recorded the necessary information and escorted Granz to a local hospital for emergency treatment.

At this de novo appeal hearing the appellant presented the testimony of Michael Smith, manager of appellant's premises who confirmed that on the night in question, five doormen were on duty and that he first had knowledge of the incident when he encountered two of the doormen escorting Granz up the stairs and out the door.

I find that the altercation was the result of an instantaneous occurrence. Indeed, the participants described the incident as a sudden flare-up, occurring so quickly that they were unable to intercede. The record is replete with references to the spontaneity of the incident.

Respondent argues that the licensee was obligated to maintain at least one of its "doormen" downstairs since the size of the group present on the lower level should have indicated the distinct possibility that such an incident as described here could have indeed taken place. Respondent further argues that the presence of Shields and Stetson on the premises for some time prior to the arrival of Granz and Robjohns constituted the inception of this incident at that earlier time and, therefore, presented the licensee with ample opportunity to prevent the act of violence as described.

With respect to the first argument it is sufficient to say that under the circumstances which I have found existed at the time it is reasonable to conclude that the presence of one of the "doormen" on the lower level could not have insured that the incident herein would not have occurred. The numerous patrons present and the speed with which the incident occurred might well have precluded anyone from effectively preventing the incident.

With respect to the second argument, having found that Granz and Robjohns did not arrive on the premises until after 11:00 p.m., it is inconceivable that the licensee could have taken steps at an earlier time to prevent the incident.

In order for the appellant to prevail in the instant matter it must appear from the record that the evidence did not preponderate in support of the determination of respondent. Feldman v. Irvington, Bulletin 1969, Item 2.

Rule 5 of State Regulation provides:

"No licensee shall ... allow, permit or suffer in or upon the licensed premises ... any brawl, act of violence, disturbance"

The term "permit" has been used often synonymously with "suffer" so that it may be said that one who suffers/the doing of a thing which he might have prevented permits it. (Emphasis added) Connor v. Fogg, 75 N.J.L. 245 (1907) at p. 247.

While there is tremendous responsibility imposed upon the licensee to use his eyes and ears in the exercise of full control of the premises (Snug Tavern, Inc. v. Orange, Bulletin 1425, Item 1) the circumstances must be sufficient to show that the situation was brought to the licensee's attention or that he might have reasonably become aware of its existence. Hardy v. Newark, Bulletin 1578, Item 2.

Sudden flare-ups cannot be reasonably anticipated by licensees and where the evidence preponderates in support thereof the licensee will not be held responsible. Snug Tavern Inc. v. Orange, supra.

Having so found, I conclude that there is lacking the quantum of proof necessary to sustain a finding of guilt. I, therefore, am constrained to recommend that the finding of guilt by the respondent was erroneous and that an order be entered reversing the action of respondent and dismissing the said charge.

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 transcript of the hearing held before respondent, the transcript of additional testimony presented by appellant at the Division, 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 4th day of April 1972,

ORDERED that the action of respondent be and the same is hereby reversed, and the said charge be and the same is hereby dismissed.

Robert E. Bower,
Director.

3. APPELLATE DECISIONS - SOUTH JERSEY PACKAGE STORES ASSOCIATION v. EDGEWATER PARK AND SIL INC.

South Jersey Package Stores Association,)
)
 Appellant,)
 v.) On Appeal
 Township Committee of the) CONCLUSIONS and ORDER
 Township of Edgewater Park,)
 and Sil Inc.,)
 Respondents.)
 -----)

Richman, Berry, Ferren & Tyler, Esqs., by Henry J. Tyler, Esq.,
 Attorneys for Appellant
 Sanford Soren, Esq. (now deceased, replaced by Maurice Denbo,
 Esq.), Attorney for Respondent Township Committee
 Respondent Sil Inc., by Vincent A. Gianquinto, Secy., Pro se

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Township Committee of the Township of Edgewater Park (hereinafter Committee) by which it granted a plenary retail consumption license to be used by respondent Sil Inc. in connection with a proposed restaurant-motel. Appellant charges such action to be invalid, basing its contention upon the circumstances under which the license was granted.

The factual situation giving rise to the Committee's action is uncontroverted and not in contention. Those facts in brief are as follows: In or shortly before 1969 respondent Sil Inc. approached the municipality with a proposal to build a restaurant-motel provided a liquor license would be granted in conjunction with it. While the plan seemed acceptable, it appeared that the full number of licenses had already been issued as permitted by law under the 1960 census tabulations. However, the Committee believed that the population of the Township had so substantially increased since 1960 that, if that belief could be officially proven, Sil's Inc. application for a new license might be favorably considered. The United States Bureau of the Census was requested to prepare a "special census" for the Township and did so. On July 22, 1969 it forwarded a certification to the Township indicating its then population. That number was sufficiently large as to permit an additional liquor license.

The sole issue presented in this appeal is: May a local issuing authority rely on its acceptance of a "special census" as a basis for the issuance of liquor licenses in its municipality.

Upon adoption of the Alcoholic Beverage Law in 1933 there was no limit to the number of licenses each municipality might issue. Cognizant of the evils inherent in too many licenses having been issued in many cities, the Legislature in 1947 adopted a limiting law prohibiting new licenses in municipalities where the existing number of licenses exceeded the proportion of one license for each 2,000 persons (P.L. 1947, c. 94; R.S. 33:1-12.14). The 1960 census listed the municipality's population at 2,866 and the records of this Division indicate there were two liquor licenses existing prior to 1969. The "special census" of July 22, 1969 certified the population to be 6,956.

The municipality did place reliance upon such special census in adopting its resolution #33-69 granting to respondent Sil Inc. its conditional license on July 9, 1969. It is noted, however, that at the time of the adoption of the resolution the "special census" result was not then in its hand. The resolution itself was not conditioned upon its passage being subject to receipt of valid population statistics revealing the population to have exceeded 6,000 (the necessary total upon which a new license could be predicated) but, rather, was adopted "pending the certification of the Special Federal Census population figure." Hence the resolution granting the license contrary to the statutory limitation was fatally defective. No remedial acceptance of the "special census" figures is referred to in any of the resolutions renewing the license.

While the above conclusion is postulated upon the assumption that the "special census" figures would be a valid basis for enlargement of the number of licenses, that assumption itself lacks statutory validity. The blythe acceptance of census statistics has long been the subject of judicial scrutiny. More than eighty years ago Justice Magie opined (In re Sewer Assessment for Passaic, 54 N.J.L. 156, 161 (Sup. Ct. 1891):

"At what period will 'population,' as used in the original Classification act, be fixed and determined? The contention is that, when the bureau or officers charged with the duty of enumerating state the result, the population of the district is established and proven. But this is equally inadmissible. Such statements may be varied and altered, and manifestly the enumeration intended is not complete until it is officially promulgated...."

Shortly thereafter the court held (Martin v. Ivins, 59 N.J.L. 364, 366 (Sup. Ct. 1896)):

"... when population is made the basis of classification for the purpose of regulating the affairs of counties, the last official census is accepted as determining the amount of the population of the county to which the regulation is sought to be applied; but such census takes effect not from the date of its filing in the office of the secretary of state, but from the time of its promulgation by that officer"

Similarly, (Buck v. Douglass, 74 N.J.L. 300, 302 (Sup. Ct. 1907)):

"By statute it is provided that the census taken under the authority of the state shall be considered as promulgated and take effect on the date when the secretary of state transmits to the legislature a general account of the enumeration, specifying the results thereof, as required by law...."

Counsel for appellant has laid great stress upon the repetitive reference to the word "decennial" within Articles 4 and 11 of the New Jersey Constitution. Those generally relate to apportioning of membership of the Legislature. However, Article 1 (N.J.S.A. 1:1-2) defines "census" as "Federal Census" as does N.J.S.A. 33:1-12.14 relating to liquor license quota. Neither use the term "decennial." By implication, therefore, a "special census" done by the Federal Bureau of the Census could reasonably be employed. However, as above

noted, any federal census, including such "special census" remains impotent until promulgated through the office of the Secretary of State. For such purpose that officer maintains a section of his office devoted in part to that task. Inquiry by this Division to the office of the Secretary of State revealed no information pertinent to the "special census" conducted on behalf of the respondent Committee in 1969. Hence the use of such "special census" was abortive.

Counsel for the Committee urges that the act of the Committee in approving the license rested within its sound discretion and should not be disturbed absent abuse, citing Biscamp v. Teaneck, 5 N.J. Super. 172 (App.Div. 1949). Obviously Biscamp did not intend to confer greater power to the municipal issuing authorities than contained in the legislative mandate. He further urges that the "special census" is the best evidence of the true population of the municipality and such best evidence is all that is necessary upon which to determine liquor license quotas, citing a 1950 Pennsylvania case (Re Application For Catering Liquor License by Noonday Club, 38 Del. Co. 92). As such decision appears contra to the prevailing law of this State, its effect should be properly weighed by our judiciary rather than be considered as controlling by this administrative agency.

For the reasons set forth herein, I find that appellant has sustained the burden of establishing that the action of the Committee was erroneous and should be reversed. Rule 6 of State Regulation No. 15. Accordingly, it is recommended that the action of the Committee be reversed.

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 transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations. Thus I agree with the Hearer that the action of the Committee in granting a plenary retail consumption license to Sil Inc. based upon its acceptance of and reliance upon a "special census" as a basis for the said issuance was erroneous.

Accordingly, it is, on this 4th day of April 1972,

ORDERED that the action of respondent Township Committee of the Township of Edgewater Park in granting a plenary retail consumption license to respondent Sil Inc. be and the same is hereby reversed.

Robert E. Bower,
Director.

4. DISCIPLINARY PROCEEDINGS - IMMORAL ACTIVITY (PROSTITUTION) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

Robert J. Burkhardt, Receiver in Bankruptcy for Trenton Motor Inn Corporation)
240 West State Street)
Trenton, N. J.,)

Holder of Plenary Retail Consumption License C-242, issued to Trenton Motor Inn Corporation effective July 1, 1970, for 1970-71 license period by the City Council of the City of Trenton and extended to Robert J. Burkhardt, Receiver in Bankruptcy, by said City Council effective February 4, 1971, for balance of its term, and on October 21, 1971, further extended to Joseph Markowitz, Trustee in Bankruptcy for Trenton Motor Inn Corporation; transferred December 2, 1971 (for 1971-1972 license period) to)

Downtown Trenton Corporation)
t/a Holiday Inn of Trenton,)

for the same premises.)
-----)

Warren, Goldberg & Berman, Esqs., by Ronald Berman, Esq., Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that one of its "bell-hop" employees on August 27, 1970 offered to provide and did provide two females for two of the licensee's male hotel guests for the purpose of unlawful sexual intercourse on the licensed premises, such immoral activity being in violation of Rule 5 of State Regulation No. 20.

Licensee has no prior adjudicated record. Under the particular circumstances of this case, involving activity by an employee of the licensee "on his own", there being no evidence of any connection between the "bell-hop's" acts and the management of the hotel either as to knowledge or participation therewith, in that said acts of procurement occurred in an elevator and hotel guest-room on the licensed premises, I deem that the instant violation warrants a suspension of the license for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Cf. Re Finkel, Bulletin 338, Item 7.

Licensees are hereby notified that they are responsible for preventing all prohibited activity from taking place on their licensed premises. They must actively supervise the conduct of all of their employees and agents, and they will be held accountable in disciplinary proceedings for any infractions committed by such persons, including those of the kind involved in this case. Rule 33 of State Regulation No. 20. Moreover, all licensees are hereby warned that violations of the type involved herein will in the future result in more stringent penalties.

CONCLUSIONS

and

ORDER

Licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971. Normally, I would not act favorably upon such application because of the type of violation involved in this case. However, I am influenced by the impact a suspension would have upon the public convenience since the licensee conducts a large hotel as its licensed premises, and by the fact that the corporate licensee which was charged with the violation no longer holds the license by reason of its bankruptcy. Under the totality of these circumstances, I have determined to accept an offer in compromise by the licensee to pay a fine of \$5,112 in lieu of the suspension.

Accordingly, it is, on this 3rd of April 1972,

ORDERED that the payment of a \$5,112 fine by the licensee is hereby accepted in lieu of a suspension of license for twenty-five (25) days.

Robert E. Bower
Director

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Hanley's Recreation Center, Inc.
7700-7710 Tonnelle Avenue
North Bergen, N. J.,
Holder of Plenary Retail Consumption License C-64, issued bt the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen.

CONCLUSIONS
and
ORDER

Licensee, by Kathryn Hanley, President, Pro se
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to two charges alleging that (1) on January 19, 1972 it permitted the sale of alcoholic beverages during prohibited hours for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) it caused hindrance and delay of an investigation of the licensed premises then in progress, in violation of Rule 35 of State Regulation No. 20.

Absent record of prior suspension, the license will be suspended on the first charge for fifteen days (Re Kogut, Bulletin 2031, Item 4) and on the second charge for ten days (Re Doyle, Bulletin 2013, Item 6), making a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 3rd day of April 1972,

ORDERED that Plenary Retail Consumption License C-64, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen to Hanley's Recreation Center, Inc., for premises 7700-7710 Tonnelle Avenue, North Bergen, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. Wednesday, April 19, 1972, and terminating at 3 a.m. Tuesday, May 9, 1972.

Robert E. Bower
Director

6. ACTIVITY REPORT FOR MARCH 1972

ARRESTS:		
Total number of persons arrested - - - - -		56
Licensees and employees - - - - -	25	
Bootleggers - - - - -	3	
Minors - - - - -	27	
ABC impersonator - - - - -	1	
SEIZURES:		
Motor vehicles - cars - - - - -		1
Distilled alcoholic beverages - gallons - - - - -		.77
Wine - gallons - - - - -		11.60
Brewed malt alcoholic beverages - gallons - - - - -		21.91
COMPLAINTS AND INVESTIGATIONS:		
Inspections & visits made on assigned investigations - - - - -		2,900
Complaints assigned for investigation - - - - -		409
Investigations completed - - - - -		415
Investigations pending - - - - -		373
Premises where alcoholic beverages were gauged - - - - -		699
Bottles gauged - - - - -		11,557
Premises where violations were found - - - - -		231
Number of violations found - - - - -		350
License applications investigated - - - - -		6
Contacts made with other law enforcement agencies - - - - -		275
LABORATORY:		
Analyses made - - - - -		64
Refills from licensed premises - bottles - - - - -		29
Bottles from unlicensed premises - - - - -		2
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		80
Persons fingerprinted for non-criminal purposes - - - - -		277
Identification contacts made with other enforcement agencies - - - - -		283
DISCIPLINARY PROCEEDINGS:		
Cases instituted at Division - - - - -		53
Violations involved - - - - -		59
Sale to minors - - - - -	17	Liquor not truly labeled - - - - - 3
Sale during prohibited hours - - - - -	8	Sale to non-member by club - - - - - 2
Permitting lottery acty. on prem. - - - - -	5	Permitting misc. gambling - - - - - 3
Permitting immoral acty. on prem. - - - - -	5	Perm. hostess activity on prem. - - - - - 1
Purchase from improper source - - - - -	5	Fraud and front - - - - - 1
Hindering investigation - - - - -	4	Failure to keep true books of acct. - - - - - 1
Sale to retailer while on Non-Delivery - - - - -	4	
Cases brought by municipalities on own initiative and reported to Division - - - - -		20
Violations involved - - - - -		23
Sale to minors - - - - -	11	No Form E-141-A on premises - - - - - 1
Perm. narcotic acty. on prem. - - - - -	3	No copy of lic. appl. on prem. - - - - - 1
Sale during prohibited hours - - - - -	2	Perm. minors unaccomp. by adults - - - - - 1
Permitting known criminal on prem. - - - - -	1	on prem. (local reg.) - - - - - 1
Permitting brawl on premises - - - - -	1	Altering prem. w/o approval of Iss.Auth. 1
Unqualified employee - - - - -	1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		44
Appeals - - - - -	7	Seizures - - - - - 5
Disciplinary proceedings - - - - -	32	
STATE LICENSES AND PERMITS:		
Total number issued - - - - -		956
Licenses - - - - -	5	Wine permits - - - - - 11
Solicitors' permits - - - - -	20	Miscellaneous permits - - - - - 216
Employment permits - - - - -	99	Transit insignia - - - - - 89
Disposal permits - - - - -	54	Transit certificates - - - - - 19
Social affair permits - - - - -	435	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - -	199	
Enforcement files established - - - - -	10	

ROBERT E. BOWER
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: April 11, 1972

7. DISCIPLINARY PROCEEDINGS - IMMORAL ACTIVITY (PROSTITUTION) - (INDECENT ENTERTAINMENT) - PERMITTING FEMALES TO ACCEPT DRINKS - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 190 DAYS, LESS 38 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Gliba's Bar, Inc.)
801 S. Clinton Avenue)
Trenton, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-43, issued by the City Council of the City of Trenton.)

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

BY THE DIRECTOR:

Licensee pleads non vult to three charges: (1) that on January 16, 1972, it permitted immoral activity to take place in the licensed premises, i.e., solicitation for prostitution, in violation of Rule 5 of State Regulation No. 20; (2) on January 15 and January 16, 1972, it permitted immoral activity to take place in the licensed premises, i.e., indecent entertainment, in violation of Rule 5 of State Regulation No. 20; and (3) on January 22 and January 23, 1972, it permitted female employees to accept beverages from patrons, in violation of Rule 22 of State Regulation No. 20.

Investigation reports reveal that a "go-go" dancer solicited patrons for prostitution purposes after performing a lewd and disgusting show participated in by patrons and agents of licensee and solicited drinks from patrons, all of which was with the knowledge and acquiescence of the licensee's agents.

The licensee has a prior record of suspension of license for five days by the local issuing authority, effective August 16, 1971 for violation of a local ordinance prohibiting loitering of minors within the licensed premises.

The license will be suspended for ninety days on the first charge (Re W.J. Burnett, Inc., Bulletin 2001, Item 1); for seventy-five days on the second charge (Re R. H. & H. Inc., Bulletin 2025, Item 6); and for twenty days on the third charge (Re Ol Ed's Inc., Bulletin 2028, Item 3), to which will be added five days by reason of the dissimilar violation occurring within the past five years, making a total of one hundred and ninety days, with remission of thirty-eight days for the plea entered, leaving a net suspension of one hundred and fifty-two days.

Accordingly, it is, on this 5th day of April 1972,

ORDERED that Plenary Retail Consumption License C-43, issued by the City Council of the City of Trenton to Gliba's Bar, Inc., for premises 801 S. Clinton Avenue, Trenton, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1972, commencing at 2:00 a.m. Wednesday, April 19, 1972; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Monday, September 18, 1972.

Robert E. Bower
Director

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF LOCAL ORDINANCE - FAILURE TO CLOSE PREMISES DURING PROHIBITED HOURS - PRIOR RECORD OF SIMILAR AND DISSIMILAR VIOLATIONS - LICENSEE WARNED - LICENSE SUSPENDED FOR 60 DAYS, LESS 12 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Play Pen Inc. t/a Play Pen 789 Palisade Avenue Cliffside Park, N.J.

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-11 issued by the Mayor and Council of the Borough of Cliffside Park.

Licensee, Pro Se. Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensee pleads non vult to two charges that on December 13, 1970 it (1) sold alcoholic beverages during hours prohibited by local ordinance, and (2) it failed to close entire licensed premises in violation of local hours ordinance requiring licensed premises to be closed during designated hours.

Licensee has a prior record of suspension for one hundred and twenty days by the Director effective March 2, 1970 resulting from charges of "hours" violations, immoral activity on licensed premises, hindering investigation and failing to disclose full ownership in license application. (Re Play Pen Inc., Bulletin 1927, Item 5). Prior thereto, the license was suspended for thirty days by the Director effective October 30, 1968, (Re Play Pen Inc., Bulletin 1778, Item 5; Bulletin 1805, Item 1; Bulletin 1829, Item 8), and for sixty days by the Director effective January 20, 1969 (Re Play Pen Inc., Bulletin 1841, Item 6), both suspensions resulting from charges of permitting lewdness and immoral activity (indecent entertainment on the licensed premises).

In addition to the suspension effective March 2, 1970, the licensee was then warned that future similar or substantial violations might result in outright revocation.

While the violations herein cited do not warrant outright revocation, any violations following the warning given to the licensee are deemed aggravated for penalty purposes.

The license will be suspended on the charge herein for twenty days (Re Black Bart's Inc., Bulletin 2001, Item 9) to which will be added ten days by reason of the similar offence occurring within the past five years, an additional thirty days by reason of the aggravated circumstances herein noted, (Re Fap, Inc., Bulletin 1961, Item 3) making a total of sixty days, with remission of twelve days for the plea entered, leaving a net suspension of forty-eight days.

Accordingly, it is on this 5th day of April, 1972

ORDERED that Plenary Retail Consumption License C-11 issued by the Mayor and Council of the Borough of Cliffside Park to Play Pen Inc. for premises 789 Palisade Avenue, Cliffside Park be and the same is hereby suspended for forty-eight (48) days commencing 3:00 a.m. on Tuesday, April 18, 1972 and terminating 3:00 a.m. on Monday, June 5, 1972.

Robert E. Bower Director

- 9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS ON TWO SUCCESSIVE OCCASIONS - LICENSE SUSPENDED FOR 40 DAYS, LESS 8 FOR PLEA ENTERED.

In the Matter of Disciplinary Proceedings against)

Morris B. Goldberg)
 t/a Dobrow's)
 1932 Atlantic Avenue)
 Atlantic City, N. J.,)

CONCLUSIONS

and

ORDER /

Holder of Plenary Retail Distribution License D-10, issued by the Board of Commissioners of the City of Atlantic City.)

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Licensee, Pro se
 Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to two charges: (1) that on December 23, 1971 he served alcoholic beverages to two minors, both age 17, in violation of Rule 1 of State Regulation No. 20, and (2) that on December 28, 1971 he sold alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for twenty days (Re Naegele, Bulletin 1939, Item 12) and on the second charge for ten days (Re Bound Brook Hiway, Inc., Bulletin 2032, Item 7), to which will be added ten days by reason of the second charge being deemed a similar violation within five years, making a total of forty days, with remission of eight days for the plea entered, leaving a net suspension of thirty-two days.

Accordingly, it is, on this 5th day of April 1972,

ORDERED that Plenary Retail Distribution License D-10, issued by the Board of Commissioners of the City of Atlantic City to Morris B. Goldberg, t/a Dobrow's, for premises 1932 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for thirty-two (32) days, commencing at 7 a.m. Thursday, April 20, 1972, and terminating at 7 a.m. Monday, May 22, 1972.

Robert E. Bower,
 Director.

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR
25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Anthony DeGano)
t/a Blue Light Cafe)
162 Main Street)
Asbury Park, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-34, issued by the City)
Council of the City of Asbury Park.)

Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads guilty to a charge that he possessed
alcoholic beverages in three bottles, the labels of which did
not truly describe their contents, in violation of Rule 27 of
State Regulation No. 20.

Licensee has a prior record of suspension by the local
issuing authority for fifteen days, effective February 25,
1971 for "nuisance" violation.

The license will be suspended for twenty days to which
will be added five days by reason of dissimilar offense occurring
within the past five years, making a total of twenty-five days,
with remission of five days for the plea entered, leaving a net
suspension of twenty days. Re Peshek, Bulletin 2029, Item 10.

Accordingly, it is, on this 5th day of April 1972,

ORDERED that Plenary Retail Consumption License C-34,
issued by the City Council of the City of Asbury Park to Anthony
DeGano, t/a Blue Light Cafe, for premises 162 Main Street,
Asbury Park, be and the same is hereby suspended for twenty (20)
days, commencing 3:00 a.m. on Wednesday, April 19, 1972, and
terminating 3:00 a.m. on Tuesday, May 9, 1972.

Robert E. Bower
Director

11. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Jack Roberts, Inc.)
89 Kinderkamack Road)
Emerson, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Emerson.)

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Andora, Baron, Palmisano & Monaco, Esqs., by Lucien Baron, Esq.,
Attorneys for Licensee
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge that on December 29, 1971, it sold alcoholic beverages to two minors, both age 20, in violation of Rule 1 of State Regulation No. 20.

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 Ocean Drive Hotel, Inc., Bulletin 1887, Item 9.

Accordingly, it is, on this 5th day of April 1972,

ORDERED that Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Emerson, to Jack Roberts, Inc., for premises 89 Kinderkamack Road, Emerson, be and the same is hereby suspended for five (5) days, commencing 3:00 a.m. on Monday, April 17, 1972, and terminating 3:00 a.m. on Saturday, April 22, 1972.

Robert E. Bower
Director

12. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against Barrell Tavern, Inc. 148 Old Bergen Rd. Jersey City, N.J. Holder of Plenary Retail Consumption License C-445 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. Licensee, Pro Se. Dennis M. Brew, Appearing for Division.

CONCLUSIONS and ORDER

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 27, 1971 about 12:20 a.m. it allowed, permitted and suffered the sale of an alcoholic beverage for consumption off licensed premises in violation of Rule 1 of State Regulation No. 38.

Absent prior record the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Alston, Bulletin 2000, Item 9. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$400.00 in lieu of suspension.

Accordingly, it is, on this 7th day of April, 1972,

ORDERED that the payment of a \$400.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Robert E. Bower, Director