

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

BULLETIN 1993

August 12, 1971

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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

BULLETIN 1993

August 12, 1971

1. DISCIPLINARY PROCEEDINGS - NARCOTICS ACTIVITY - NUISANCE -
LICENSE SUSPENDED FOR 190 DAYS.

In the Matter of Disciplinary)
Proceedings against)
Edward A. Kyle)
t/a Eddie's Liquors)
Route #22, Green Brook Township)
P.O. Dunellen, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-5, issued by the Township)
Committee of the Township of Green)
Brook.)
-----)

Peter L. Hughes, III, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee has entered a technical plea of not guilty
to the following charges:

- "1. On October 22, 23 and 24, 1970, you allowed, permitted and suffered in and upon your licensed premises unlawful activity pertaining to narcotic drugs, as defined by R.S. 24:18-2; in violation of Rule 4 of State Regulation No. 20.
- "2. On October 22, 23 and 24, 1970, you allowed, permitted and suffered immoral activity in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that, on all such dates you, through persons employed on your licensed premises, made offers to and arrangements with customers and patrons to obtain and procure for and/or sell narcotic drugs to them; in violation of Rule 5 of State Regulation No. 20."

Licensee does not dispute the facts surrounding the charges that are contained in the various reports on file with the Division, nor has he offered objections to their admission into evidence.

The factual data as contained in the reports discloses that the licensed premises were under surveillance by detectives of the Somerset County Prosecutor's Office, assisted by a detective of the Union County Prosecutor's Office, and agents of this Division. In consequence, the detective from Union County

visited the premises on the dates charged and made arrangements to purchase narcotics from the two sons of the licensee. The arrangements made in the licensed premises culminated in the actual purchase made at another location, and resulted in the subsequent arrest of the sons. There is no dispute by the licensee that arrangements for sale of narcotics were made in the premises by his sons, who were his employees in the licensed premises, and the licensee was aware of the gravity of the offense.

At the hearing the Division called no witnesses, as the facts were not in dispute. The licensee, however, introduced testimony of Richard P. Cooper (a detective with the Somerset County Prosecutor's Office specializing in narcotics investigations). He testified that he was the complaining witness on a narcotics charge against Edward Kyle, Jr. and Larry Kyle (sons of the licensee) that resulted in criminal indictment. In response to the question "To your knowledge, did Edward Kyle, the licensee, have any idea such traffic was going on in the tavern", the detective stated "It is my belief he did not." The remainder of his testimony fortified the belief that the licensee was in complete ignorance of his sons' narcotics activity.

Stanley A. Dobrydnio, Jr. (detective of the Union County Prosecutor's Office who is also a specialist in the field of narcotics investigations) also testified on behalf of the licensee. His testimony corroborated the violations, although he was called upon to substantiate licensee's contention that the licensee was unaware of the offenses. He testified that the licensee was actually in the premises when arrangements to purchase narcotics were made with the sons.

The licensee insisted that the actions of his sons, who both tended bar for him and were his employees, were unknown to him and that, immediately upon the arrest of his son Eddie, the licensee discharged him from his employment. He testified that the operation of the tavern during the day was left to one bartender who quit at five o'clock, at which time his son Eddie arrived. Eddie was alone nights during the week, but on week-ends was assisted by his brother Larry. The licensee himself was "in and out."

The Division's file disclosed that on October 22, 1970 Detective Dobrydnio entered the premises and there discussed the purchase of narcotics with several patrons. He then arranged with the bartender (Larry Kyle) to purchase drugs and was advised to return at a later hour. He did so without avail. The following day he complained about Larry's absence the previous evening to the brother Edward, who, being apologetic about Larry's absence, agreed to sell him narcotics.

A pertinent portion of the report reads as follows:

"He [Eddie] stated to me that the cops has been watching this place because of all the 'heads' that hang around here. He stated that the cops think that everybody was 'dealing' in the bar, but in reality, only himself and his brother Larry were the only dealers of any heavy weight in the premises."

Translated, the word "dealing" indicates selling narcotics, identified as "heavy weight." Further negotiations were made in the premises on October 24 which resulted in the purchase of narcotics.

It is beyond dispute that traffic in narcotics took place within the licensed premises by two of the licensee's employees. Even if it can be asserted that the traffic was unknown to the licensee, such lack of knowledge is not a defense to the charges. Even in the absence of actual knowledge, a licensee cannot escape the consequences of the occurrence of incidents, such as are hereinabove related, on his licensed premises. He cannot hide behind his employees. Hodes Corporation v. Newark, Bulletin 1730, Item 1.

Rule 33 of State Regulation No. 20 provides that, in disciplinary proceedings brought pursuant to the Alcoholic Beverage Law, it shall be sufficient, in order to establish the guilt of the licensee, to show that the violation was committed by an agent, servant or employee of the licensee. The fact that the licensee did not participate in the violation or that his agent, servant or employee acted contrary to instructions given to him by the licensee or that the violation did not occur in the licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings. In fact it has been held that, even where an agent engages in proscribed activity against the express instructions of his employer, the licensee may be guilty of such violation. Re Richards, Bulletin 1838, Item 1; cf. Greenbrier, Inc. v. Hock, 14 N.J. Super. 39 (App.Div. 1951), and Benedetti v. Trenton, 35 N.J. Super. 30 (App.Div. 1955).

The licensee is therefore fully responsible for the activity of his employees during their employment on the licensed premises. Kravis v. Hock, 137 N.J.L. 252 (1948); In re Schneider, 12 N.J. Super. 449 (App.Div. 1951).

The testimony of the detectives, which I am satisfied is accurately expressed (i.e., that they apprehended persons attempting to sell narcotics in licensed premises) is uncontradicted. All the elements, save delivery, existed in the licensed premises. That delivery did not take place in the licensed premises is immaterial.

Where narcotics activity has been clearly proven to have taken place on licensed premises, the established penalty is outright revocation. Re Gnewcenski, Bulletin 1722, Item 1; Smith v. Newark, Bulletin 1726, Item 1; Hodes Corporation v. Newark, supra; Re Smithpaul Corporation, Bulletin 1777, Item 1; Ishmal v. Newark, Bulletin 1829, Item 3; Re Richards, supra; Re Elite, Inc., Bulletin 1951, Item 1.

It is therefore recommended that an order be entered finding the licensee guilty of said charges.

Licensee has a prior adjudicated record of suspensions for five days effective February 5, 1956 and for ten days effective June 22, 1970, by the local issuing authority for local "hours" violations, and by this Division for five days effective September 9, 1968 for possessing liquor not truly labeled. Re Kyle, Bulletin 1819, Item 7.

In view of the serious consequences resulting from the commercialized traffic in narcotics, the nature of the charges being considered, as well as the prior record of suspensions for dissimilar violations, the only proper penalty is outright revocation, which I accordingly recommend. Re Richards, supra.

Conclusions and Order

Pursuant to Rule 6 of State Regulation No. 16, written exceptions to the Hearer's report have been filed by the attorney for licensee.

In substance the exceptions challenge the severity of the recommended penalty of revocation because (a) there was no proof that narcotics in any form were present in the licensed premises, (b) arrangements were made by licensee's sons who were employed as bartenders and the actual consummation of the transaction wherein the narcotics were alleged to have been delivered took place outside the premises, and (c) the licensee himself had no knowledge of the activities of his errant sons.

The Hearer's recommendation with respect to penalty turns upon the broad principle that any activity within licensed premises that enlarges upon narcotics traffic is cause for the revocation of the license privilege. While the driving force behind this principle is valid, its application cannot in all cases be so arbitrarily applied that revocation results as an automatic consequence. Cf. Clarence's Music World, Inc. v. Newark, Bulletin 1925, Item 1; Ferraro v. Paterson, Bulletin 1878, Item 2. In our system of jurisprudence, both in the criminal courts and administrative agencies, maximum penalties are usually imposed circumspectly and only in extreme circumstances. Mitigating factors have always been considered in the imposition of a penalty and in the modification thereof. Revocation is the harshest and most stringent penalty that may be imposed in these proceedings, and its imposition should be applied only where patently warranted.

It is my finding that revocation, with its concomitant disqualification of the licensee from being associated with the alcoholic beverage industry for two years (R.S. 33:1-31), is unduly severe in this case.

From my consideration of the entire record herein, including the exceptions and argument concerning the Hearer's report, I find that the circumstances herein require a modification of the recommended penalty. The record discloses that the licensee himself had no personal knowledge of the activity of his sons and was an innocent victim of such activity. There was no evidence of any transfer or delivery of narcotics in the licensed premises. While there is evidence that the licensee was present in the licensed premises at the time of one of the discussions, there is no showing that he overheard any conversation between his sons and the alleged purchaser with respect thereto.

Furthermore, this Division has not adhered to a strict policy with respect to revocation of licenses involving narcotics activity as stated by the Hearer. See Re Gi-Mo-Do Enterprises, Bulletin 1979, Item 1; Ferraro v. Paterson, *supra*. In fact, in a recent opinion the Supreme Court has completely exonerated the licensee under the special facts and circumstances in that matter. Ishmal v. Division of Alcoholic Beverage Control (N.J. Supreme Court, decided May 24, 1971), 58 N.J. 347 (1971).

I shall therefore modify the Hearer's recommendation and, instead of affirming the license revocation, will impose a suspension of one hundred eighty days, to which will be added ten days by reason of the licensee's record of two prior suspensions for dissimilar offenses occurring within the past five years,

making a total suspension of one hundred ninety days.

Accordingly, it is, on this 24th day of June 1971,

ORDERED that any renewal by the Township Committee of the Township of Green Brook of Plenary Retail Consumption License C-5 granted to Edward A. Kyle, t/a Eddie's Liquors, for premises on Route #22, Green Brook Township, be and the same is hereby suspended for one hundred ninety (190) days, commencing at 2 a.m. Monday, July 12, 1971, and terminating at 2 a.m. Tuesday, January 18, 1972.

RICHARD C. McDONOUGH
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - SALE TO MINOR - FALSE STATEMENT IN LICENSE APPLICATION - LICENSE SUSPENDED FOR 65 DAYS.

In the Matter of Disciplinary Proceedings against

Jive Shack Bar (A Corp.)
274 - 15th Avenue
Newark, N. J.,

)
) *affirmed*
) 2043/1
) CONCLUSIONS
) and
) ORDER

Holder of Plenary Retail Consumption License C-439, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Jacob M. Goldberg, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following three charges:

- "1. On Friday, October 16, 1970, at about 11:55 P.M. and on Saturday, October 17, 1970 at about 12:05 A.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., a 1/2 pint bottle of Gordon's Dry Liqueur on the former occasion and a pint bottle of Richard's Pineapple Wine on the latter occasion, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.
- "2. On October 17, 1970, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Joseph T---- age 17; in violation of Rule 1 of State Regulation No. 20.

- "3. In your application filed with the Municipal Board of Alcoholic Beverage Control of the City of Newark, dated May 20, 1970, and upon which you obtained your current plenary retail consumption license, you failed to disclose in answer to Question No. 35, or elsewhere therein, that a plenary retail consumption license held by you for these same premises had been suspended by said Board for fifteen (15) days effective September 15, 1969 for sale of alcoholic beverages in violation of Rule 1 of State Regulation No. 38; such evasion and suppression being in violation of R.S. 33:1-25."

In substantiation of the charges, agent G testified that on October 16, 1970, shortly before midnight he, accompanied by Newark Police detectives, Williams and Payne, observed the licensed premises from a point of observation across the street. At approximately 11:55 p.m. he observed a male, later identified as James Robertson, enter empty-handed, and depart in a few minutes. As Robertson was departing he observed a male, later identified as Joseph ---- age seventeen, enter the premises. Robertson was approached and at the request of agent G, he produced a half-pint bottle of gin from his pocket. Agent G and Detectives Payne and Williams questioned Robertson and returned to the licensed premises. As they entered, Joseph --- was leaving and was observed placing a bottle in his pocket. Upon questioning Joseph produced a bottle of wine and admitted paying sixty-five cents for it. Robertson admitted paying \$1.90 for the gin.

Agent G, Detectives Payne and Williams, Robertson and Joseph --- approached the bar to confront the bartender, later identified as James Durant, who, at that time, was handing bottles of alcoholic beverages to two patrons. Durant, upon being apprised of the alleged violation admitted the sale to Robertson, but could not recall a sale to Joseph ---.

On cross examination, agent G testified that efforts to produce Robertson to testify were unsuccessful. Joseph --- did not say that he had found the bottle of wine.

Joseph --- testified that he was born May 11, 1953, is presently seventeen years of age and he has been in the licensed premises on two occasions. He entered the licensed premises shortly after midnight on a Friday evening, in October 1970, and purchased a bottle of pineapple wine for sixty-five cents. He was not requested to show any proof of age. As he was departing the premises he was confronted by Detective Williams. He thereafter showed his identification to agent G.

On cross examination he admitted being unable to identify the bartender; he admitted prior denials of the purchase and the fabrication that he had found the bottle in the toilet in the premises, but declared that these untruths were prompted by fear of possible penalty; he heard the bartender admit to the officer that he had made the sale.

Detective Lee Williams of the Newark Police Department testified that he accompanied agent G to the licensed premises on October 16, 1970 at approximately 11:50 p.m. He observed Robertson enter the premises empty-handed and depart shortly thereafter with his hand in his pocket. Upon request, Robertson produced a one-half pint of Gordon's Gin. The bottle was initialed by agent G in the presence of Williams and Payne. Thereupon he entered the licensed premises with Robertson, Payne and agent G. They confronted the bartender and, after proper identification, he apprised the bartender of the alleged violation.

He observed agent G confront Joseph who gave the bottle of pineapple wine to agent G.

On cross examination he testified that he and Detective Payne did not file criminal charges against the bartender because they did not actually observe the sale.

The witness further testified that he observed Joseph about to emerge from the premises with a bottle of wine, and the bartender was confronted with the allegation of a sale to the said minor.

Robert L. Payne, a detective with the Newark Police Department testified that he accompanied agent G and Detective Williams, and that his testimony would be corroborative of that of each of them.

As to the charge against the licensee concerning failure to respond to Questions 33 and 35 of the application in the proper manner, counsel for the licensee conceded that the licensee failed to mention a suspension of license that occurred during the past year. In explanation of that omission the licensee, William Kochansky, testified that the omission on the license was an error committed by his accountant.

In defense to the charges of unlawful sales, the bartender James Durant, testified that he did not sell anything for off-premises consumption nor did he sell wine to the minor. He recalled being accused by the agent of selling to the minor, but asserted that the minor told the agent, in his presence, that the wine was found in the bathroom. He stated that he visited the home of the minor subsequently and the minor denied ever having purchased wine in the premises. He maintained that the minor denied ever having been in the licensed premises and explained that he had recently lost his wallet and that perhaps some other person had misrepresented himself with the help of the credentials in the lost wallet.

At the close of the Division's case and at the conclusion of the entire case, the licensee moved for dismissal of charges one and two on the ground of insufficient evidence. I find the motion to be without merit and recommend that the motion be denied.

A motion to dismiss charge number three on the ground that the mere omission without more, is not sufficient to find guilt is similarly without merit. In Re Club Rio, Bulletin 1594, Item 3, a case in which the secretary for the licensee's attorney failed to set forth in the license application that the license had been previously suspended, the Director said:

"Responsibility for truthful statements must remain on the licensee or, as in this case, the officers of the corporate licensee, and they cannot escape responsibility therefor. However, the misstatement occurred, in fact it was a misstatement, proscribed by the alcoholic beverage law. In any event, the public impact of the violation is the same, regardless of how it occurred."

It is recommended that the motion with respect to charge number three be denied.

Preliminarily, it should be observed that disciplinary actions are civil in nature and not criminal. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). Thus, the proof must only be supported by a fair preponderance of the credible evidence. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956). Evidence, 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 in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961).

From the testimony adduced herein, I am persuaded that there was a sale of alcoholic beverages during prohibited hours for off-premises consumption and a sale to the minor as charged. The testimony of the minor, the agent and the two detectives clearly established the sale to the minor. The false account of the minor thereafter is understood as the desire of a seventeen-year old boy to escape the consequences of his act. His testimony, under oath, was unequivocal that he had made the purchase and was leaving the premises when apprehended.

The absence of the testimony of Robertson who could not be located for service of the subpoena does not, in any way, nullify the charge of the unlawful sale for off-premises consumption. The testimony of the agent and two detectives and the presentation of the bottle of gin as evidence make it abundantly clear that such sale was made.

The agent and each detective individually recalled the response of the bartender when apprised of the charges. Each quoted the bartender as saying, "Yeah. I know you got me."

From the testimony presented on behalf of the licensee it is apparent that it relied upon its accountant to prepare the application and its officer did not go over it before signing it. It is fundamental that the licensee is responsible for the acts of its agents, servants or employees. Greenbrier v. Hock, 14 N.J. Super. 39 (App. Div. 1951); Mazza v. Cavicchia, 28 N.J. Super. 288 affd. 15 N.J. 498 (1954).

After carefully considering all of the testimony with respect to each of the said charges, the conclusion is inescapable that each of them have been established by a fair preponderance of the believable evidence, indeed, by substantial evidence. Accordingly, I recommend that the licensee be found guilty on each of the charges.

Licensee has a previous record of two suspensions. On the first for five days, effective October 31, 1966 by the Director, for possession of liquor not truly labeled (Re Jive Shack Bar, Bulletin 1706, Item 8); and on the second, effective September 15, 1969, for fifteen days, by the local issuing authority, for sale of alcoholic beverages for off-premises consumption during prohibited hours.

The prior record of suspensions for similar and dissimilar violations considered, it is recommended that the license be suspended on the first charge for thirty (30) days, Re Maesm, Bulletin 1717, Item 7; on the second charge for twenty-five (25) days. Re D'Alessandro, Bulletin 1732, Item 5; and on the third charge for ten (10) days, Re Rosman, Bulletin 1600, Item 10, or a total of sixty-five (65) days.

Conclusions and Order

Written exceptions to the Hearer's report, with supportive argument thereto, were filed by the attorney for licensee pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's report, and the exceptions thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 23rd day of June 1971,

ORDERED that any renewal license by the Municipal Board of Alcoholic Beverage Control of the City of Newark of Plenary Retail Consumption License C-439 to Jive Shack Bar (A Corp.), for premises 274 - 15th Avenue, Newark, be and the same is hereby suspended for sixty-five (65) days, commencing at 2 a.m. Wednesday, July 7, 1971, and terminating at 2 a.m. Friday, September 10, 1971.

RICHARD C. McDONOUGH
DIRECTOR

3. NOTICE - ELECTRONIC DISPENSING SYSTEMS - USE OF SYSTEM INCORPORATING VISIBLE ILLUMINATED SIGN IN LIEU OF LABELS TO IDENTIFY BRANDS PERMITTED - RESTRICTIONS.

NOTICE TO ALL RETAIL CONSUMPTION LICENSEES:

On December 4, 1970, I issued a notice addressed to all retail licensees in which I described and approved certain types of electronic systems used for the automatic dispensing of drinks of alcoholic beverages at bars. My notice of approval bore certain conditions and restrictions that necessarily required compliance.

I recently received a request to approve an automatic dispensing system which varies slightly from those approved.

In systems previously approved the containers of alcoholic beverages are inverted and confined in a locked cabinet. Hoses attached to the inverted bottles lead to spigots controlled by push buttons. The condition in my previous notice specified that the cabinet, housing the alcoholic beverages, be accessible at all times for examination of contents by all law enforcement officers and that each spigot bear a label clearly indicating the brand being taken from that spigot.

The problem of access to the cabinet, in the system I recently examined, has been eliminated. The containers of alcoholic beverages are upright in an open compartment, under the bar, and available for examination at any time. The hoses leading from the bottles are attached to a primary hose with controls and spigots on the head and the flow of beverage is controlled by a plunger. With this arrangement, it is difficult to place the brand name of the beverage being taken on the spigot or the plunger. In lieu

of this the device electronically activates a relay which illuminates a sign, placed in full view of consumers, indicating the brand name of the beverage on the various segments of the sign.

Inasmuch as the recently examined device complies with all of the conditions I imposed on previous electronic dispensing systems, I will approve its use at bars, on premises holding plenary or seasonal retail consumption licenses.

Of course, while these types of automatic systems may be used in the dispensing of pre-mixed bottled cocktails, licensees may not, in accordance with our regulations, pre-mix cocktails themselves, in bottles, and insert them into the system. Cocktails would necessarily have to be mixed subsequent to the withdrawal of the ingredience from the unit.

I do not anticipate, and will not countenance, any substantial problem of liquor control. In the event that any shall arise, I will not hesitate in rescinding this or any previous permission for use of these systems.

RICHARD C. McDONOUGH
DIRECTOR

Dated: August 2, 1971

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

In the Matter of Disciplinary Proceedings against

Mrs. Jay's, Inc.
t/a Mrs. Jay's
909-911-913 Ocean Avenue
Asbury Park, N.J.,

)
)
) Supplemental
) CONCLUSIONS
) and
) ORDER

Holder of Plenary Retail Consumption License C-5, issued by the City Council of the City of Asbury Park.

Anshelewitz, Barr, Ansell & Bonello, Esqs., by Robert I. Ansell, Esq.
Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On March 26, 1971 an Amended Order was entered herein, upon affirmance by the Appellate Division of the Superior Court of the Director's action (Re Mrs. Jay's, Inc. v. Director, etc., not officially reported, recorded in Bulletin 1967, Item 2), reinstating a previously imposed thirty-day suspension and providing further that the dates of such suspension were to be fixed by further order. On June 1, 1971, the Supreme Court entered an Order dismissing a Petition for Certification in the said appeal.

Suspension of such thirty-day period may now be fixed. However, an application has now been made by the licensee for the imposition of a fine in lieu of suspension pursuant to Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$1,200 in lieu of suspension.

Accordingly, it is, on this 23rd day of June 1971,

ORDERED that the amended order entered in this matter on March 26, 1971, directing that dates of suspension of the license be thereafter fixed, be and the same is hereby vacated, and the payment of \$1,200 is hereby accepted in lieu of such thirty-day suspension.

Richard C. McDonough
Director

- 5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

JDK Corporation)
Berkshire Valley Road & Pheasant Drive)
Jefferson Township)
PO Oak Ridge, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-17 issued by the Township Committee of the Township of Jefferson.)

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

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on January 31, 1971 it sold drinks of beer to two minors, both age 19, in violation of Rule 1 of State Regulation No. 20.

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 Jodi Inn, Inc., Bulletin 1959, Item 7. 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 \$650.00 in lieu of suspension.

Accordingly, it is, on this 24th day of June 1971,

ORDERED that the payment of a \$650.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough
Director

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 15 DAYS LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

COLUMBUS BAR & GRILL, INC.)
t/a Columbus Lounge & Italian)
Restaurant)
1512 Calhoun Street)
Trenton, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-56, issued by the City Council of the City of Trenton.)

Cascone & Hofing, Esqs., Attorneys for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that, on October 17, 1970, it sold mixed drinks of alcoholic beverages to two minors, both age 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a prior record of suspension of license by the Director for forty days, effective July 3, 1968, for possession of alcoholic beverages in bottles not truly labeled. Re Columbus Bar & Grill, Inc., Bulletin 1809, Item 5. In addition, a license held by Giovanni Baldassari, 49% stockholder of licensee corporation, in partnership with Paul Martini, for the same premises, was suspended by the Director for twenty days, effective July 5, 1961, for accepting horse race bets on the licensed premises. Re Baldassari and Martini, Bulletin 1399, Item 4.

The prior record of suspension of license for dissimilar violation in 1961 occurring more than five years ago disregarded but the suspension for dissimilar violation in 1968 occurring within the past five years, considered, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Maple Hotel, Inc., Bulletin 1583, Item 8. 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 \$1,200.00 in lieu of suspension.

Accordingly, it is, on this 24th day of June, 1971,

ORDERED that the payment of a \$1,200.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough
Director

7. 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

JOHN J. DONOHUE and FRANK C. McALLISTER
t/a Donohue and McAllister
582½-584 Broadway
Passaic, N. J.

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)
) CONCLUSIONS
) AND ORDER
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Holder of Plenary Retail Consumption License C-155, issued by the Municipal Board of Alcoholic Beverage Control of the City of Passaic.

Joseph M. Keegan, Esq., Attorney for the Licensees.
Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that, on Sunday, December 13, 1970, they sold six cans of beer for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Pierce and Pierce, Bulletin 1943, Item 12. However, the licensees have 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 licensees to pay a fine of \$400.00 in lieu of suspension.

Accordingly, it is, on this 24th day of June, 1971,

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

Richard C. McDonough
Director

8. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against FALK'S BAR & LIQUORS, INC. Route #22 Pohatcong Township R.D. #1, Phillipsburg, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of Pohatcong Township.

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 30, 1971 it sold alcoholic beverages to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

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 Krogh's Restaurant, Inc., Bulletin 1975, 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 \$1,000.00 in lieu of suspension.

Accordingly, it is, on this 24th day of June 1971,

ORDERED that the payment of a \$1,000.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough Director

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 15 DAYS LESS 5 FOR PLEA -
APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against
Testers Caterers, Inc.
96 East Main Street
Little Falls, N. J.
Holder of Plenary Retail Consumption License C-7 issued by the Township Committee of the Township of Little Falls.

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) CONCLUSIONS
) AND ORDER
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Licensee, Pro Se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleaded guilty to a charge alleging that on January 8, 1971 it possessed alcoholic beverages in two bottles bearing labels that did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

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 Walter McIndoe, Bulletin 1944, Item 8. 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 \$560.00 in lieu of the suspension.

Accordingly, is it, on this 24th day of June, 1971,

ORDERED that the payment of a \$560.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough
Director

10. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Sophie B. O'Brien)
t/a O'Brien Brown Derby)
W/S U.S. Route 9)
Howell Township)
P.O. RFD 4, Freehold, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Howell.)
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Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on March 14, 1971 she sold alcoholic beverages in violation of local ordinance.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Salvatore Sena, Bulletin 1953, Item 5.

Accordingly, it is, on this 14th day of June 1971,

ORDERED that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Howell to Sophie B. O'Brien, t/a O'Brien Brown Derby, for premises on W/S U.S. Route 9, Howell Township, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1970, commencing at 2:00 a.m. Monday, June 28, 1971; and it is further

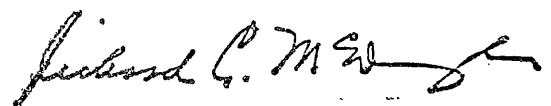
ORDERED that any renewal license shall be and the same is hereby suspended until 2:00 a.m. Thursday, July 8, 1971.

Richard C. McDonough
Director

11. STATE LICENSES - NEW APPLICATIONS FILED:

Soda Stores, Inc.
146 Route 17
Hasbrouck Heights, New Jersey
Application filed August 10, 1971 for person-to-person transfer of State Beverage Distributor's License SBD-74 from Bohl Beverage Company, Inc.

United Vintners, Inc.
Building 173 Export Street
Newark, New Jersey
Application filed August 10, 1971 for additional salesroom license for premises 14 Commerce Drive, Cranford, New Jersey, in connection with Plenary Wholesale License W-13.



Richard C. McDonough
Director