

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

BULLETIN 2059

August 25, 1972

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

BULLETIN 2059

August 25, 1972

1. APPELLATE DECISIONS - SCHWERTFEGER v. EAST NEWARK.

Dorothy Schwertfeger, t/a)	
The Cimarron Lounge,)	
Appellant,)	On Appeal
v.)	CONCLUSIONS
Borough Council of the Borough)	and
of East Newark,)	ORDER
Respondent.)	
-----)	

Nusbaum, Stein and Goldstein, Esqs., by Lewis Stein, Esq.,
Attorneys for Appellant
Joseph F. McCarthy, 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 Borough Council of the Borough of East Newark (hereinafter Council) whereby it denied appellant's application for renewal of her plenary retail consumption license for the 1971-72 licensing period, for premises 423 N. 3rd Street, East Newark.

In her petition of appeal, appellant alleges that the action of the Council was erroneous in that the failure of Council to conduct a hearing upon objections filed, constituted a denial of due process of law. Further, the Mayor of East Newark should have disqualified himself because his written and verbal objections to the renewal, coupled with the fact that the Mayor's residence is in close proximity to appellant's licensed premises, placed him in the position of serving conflicting interests.

The Council in its answer denies that it deprived appellant of due process of law and avers that the Mayor cast no vote in the instant matter, since by law, he may not vote unless a Council deadlock exists.

The subject resolution, in pertinent part, sets forth that:

"That the application of Renewal for Retail Plenary Consumption License C-#13, presently held by Dorothy Schwertfeger for the premises located at 423 N. Third Street, East Newark, also known as the Cimarron Lounge, is hereby denied.

That said License C-13, over the past several years, has engaged in or allowed, permitted or suffered in or upon its premises lewdness, immoral activity, foul, filthy, indecent, obscene language and conduct, brawls, acts of violence, disturbances or unnecessary noise, that said License C-13 has been conducted in such a manner as to become a nuisance in violation of State Regulation No. 20 - Rule 5 of the State of New Jersey Department of Law & Public Safety, Division of Alcoholic Beverage Control...."

At the hearing, appellant amended her petition of appeal to allege that the Mayor exerted undue influence over the voting members of the Council in arriving at their decision. In short, while he admittedly was prohibited by statute from casting a vote herein, by presiding over the hearing, he made his feelings known to the members of the Council.

The Council presented its reasons for denial of renewal of the license through the testimony of William B. Knowles, Chief of Police of East Newark; Robert A. Holzschuh, Clerk-treasurer of East Newark, and Juanita Hotaling, objector.

The testimony of Chief Knowles with reference to the police blotter and additional reports with respect thereto includes twenty-two reports with reference to the licensed premises herein, or to the immediate vicinity thereof.

These complaints, often anonymous, referred to numerous brawls, fights and acts of violence. There is further, one reference to numerous minors on the licensed premises and several complaints concerning loud noise emanating from the premises.

Admittedly, several of the reports referred to the general area rather than the specific licensed premises. It should be noted that there are four licensed premises located in the immediate vicinity.

The following significant police reports were noted: the report of December 30, 1970, in which the investigating officer recommends that the licensee be brought in for a conference; on February 13, 1971, a fight was reported in the licensed premises at 1:25 a.m., a continuing fight in front of the residence adjacent to the licensed premises at 1:27 a.m., and the concluding comments by the investigating officer at 1:35 a.m.: "Patrol reports tavern a mess ... I told them to close the place for night. We cannot endanger police if owner and bartender do not cooperate."; and on February 19, 1971 police reported a congregation of individuals in front of the licensed premises drinking beer.

Chief Knowles asserted that trouble had developed in the premises under the prior licensee, Charles Augustine. The policy followed by Chief Knowles has always been to call licensees in to his office for a conference in an effort to correct any troublesome condition. Augustine was called in and did try to cooperate. The present licensee acquired the license from Charles Augustine in October 1970.

Because the premises remained troublesome after its purchase by the present licensee, Chief Knowles called her for a conference. He advised her against hiring two individuals who, although they had no adjudicated criminal record were, nonetheless, in his opinion unsavory characters.

The clientele consisted of an element calculated to be troublesome. He concluded his direct testimony as follows:

"In addition, while you see there are no complaints, I think I have a compassionate police force. They're all born and raised in our town. Each of them like a beer as I do myself, but I think a lot of these complaints were not signed because they would rather chase a fellow on his way, than arrest him for creating a disturbance."

On cross examination he identified the bartenders about whom he voiced his objections as one Cathcart and one Sloan.

With reference to specific dates on the police blotter, he candidly admitted that many of the calls were anonymous and that, in most instances, no complainant or victim was present upon arrival by his officers.

He maintained that, although the previous licensee (Augustine) had cooperated and attempted to correct the troublesome conditions, no such cooperation was forthcoming from the present licensee although he sought such cooperation from her and her bartenders. He had expected that Cathcart's leaving might improve the situation, but no change resulted.

He concluded that although there were several violations against this license during prior ownership only one violation, for sales to minors, appears against the present licensee for which she received a ten-day suspension.

Robert Holzschuh, Clerk-treasurer of the Borough of East Newark, testified that five letters objecting to the renewal of the license herein, were received by him and were submitted to the Council. Additionally he testified that he had personally received other anonymous objections to this renewal.

On cross examination, he testified that one of the letters is signed by the daughter of the Mayor of the Borough, who resides immediately adjacent to the licensed premises. Further, two of the letters are unsigned and one is dated March 26, 1971, several months prior to the application for renewal.

Juanita Hotaling, wife of the Mayor, testified that she resides at 421 North 3rd Street, with her husband, daughter, son-in-law and three grandchildren. The residence is immediately adjacent to the licensed premises herein. Her primary objection to the licensed premises was to the constant noise and foul language to which she and her family were subjected.

She has frequently observed patrons emerging from the premises and enter the alleyway between the building, where they conducted themselves in a disorderly manner.

She had voiced objections to prior licensees but had not done so to the present licensee, although the objectionable conditions continued. There are four other licensed premises in the immediate vicinity but none has caused or permitted any conduct which she found offensive.

On cross examination, she admitted complaining to the prior licensee but not to the present licensee. Further, on several dozen occasions within the past year, she observed patrons depart the licensed premises, enter her alleyway, vomit or urinate, and repeatedly engage in loud, foul language.

Moreover, the noise emanating from the premises has become objectionable since the present licensee started to operate this facility.

Dorothy Schwertfeger testified that she purchased the license herein from Charles Augustine on October 20, 1970 and that the license has been suspended, on one occasion, for ten days, upon her plea of non vult to a charge of serving minors. (Re Schwertfeger, Bulletin 1994, Item 10.) On that occasion, she had been tending bar herself for only the second time in her life. She has not tended bar since that time nor does she intend to.

Shortly after this incident she closed the premises voluntarily:

"...to try to change the personnel and the people who were frequenting the tavern. There had been a group that we just felt would be better if they weren't there."

It was during this time that Cathcart ended his employment. Sloan has also terminated his employment.

On several occasions she called the police to quell disturbances. Her present entertainment is limited to the use of a juke box, although, previously she employed a band on the premises on week ends.

With respect to her meeting with Chief Knowles she testified that the conversation was confined to the subject of service to minors, and, as a result thereof, she attempted to ensure that no minors would be served.

Since reopening after her voluntary closing she has received no complaints of brawls or fights, but she has received several complaints regarding noise.

She concluded that this is her first venture into the tavern business, and that she has no intention of rehiring Sloan or Cathcart.

On cross examination she admitted that on the night the Mayor and Council approved the application for transfer from Charles Augustine to herself, she was advised that she was taking on a problem location and that the premises were frequented by a troublesome element. She did not recall, however, that the Mayor and Council suggested that she rid the premises of this element.

She added that she is generally on the premises during business hours, 8:00 p.m. until 2:00 a.m. and vaguely recalls some four or five visits to the premises by the police officers with respect to noise complaints.

From the evidence presented, I find that the appellant herein assumed ownership and control of the licensed premises on October 20, 1970. From that date until June 19, 1971, the East Newark Police responded to twenty calls or complaints involving the license herein or the immediate vicinity in which it is located. Of the twenty complaints, fifteen have been shown to be directly connected with the licensed premises and include such activities as fights, brawls, undue concentration of patrons in front of the premises drinking beer, patrons on the premises after hours, sales to minors and numerous complaints of loud noises emanating from the premises.

I further find, indeed the licensee admits, that she was forewarned by the local issuing authority that she was assuming a license which had been fraught with problems for some time prior thereto, when it was operated by Charles Augustine, t/a Charlie's Capri, Inc. (See Bulletins 1853, Item 3; 1891, Item 3; 1901, Item 1 and 1927, Items 1, 2 and 3.)

Additionally, I find that only one disciplinary proceeding was instituted against the licensee during the period of ownership. (See Re Schwertfeger, Bulletin 1994, Item 12.)

I find further that of the five letters to the Clerk-treasurer purportedly to be letters objecting to the renewal of this license, one is dated March 26, 1971, admittedly considerably prior in time to the application for renewal; two of the letters are undated, and one letter is dated June 26, 1971. Only the last of these five letters can be considered as having been written in objection to the renewal, notwithstanding the testimony of the Clerk-treasurer to the contrary.

I find from the testimony of Chief Knowles that, while the prior licensee, upon receipt of notice from the Police Department, did try to cooperate and correct the conditions or improvement of conditions, no cooperation was forthcoming after due notice to the present licensee.

The issuance, renewal and transfer of a liquor license rests in the sound discretion of the issuing authority and will not be disturbed in the absence of a clear abuse of discretion. Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App. Div. 1955). Therefore, the crucial issue on this appeal is whether the record substantiates and justifies the Council's action in refusing to renew appellant's license. The burden of proof in all of these cases which involve discretionary matters, where renewal of a license is sought, falls 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) at p. 287. See also Re R.B. & W. Corp. v. North Caldwell, Bulletin 1921, Item 1.

In the area of licensing, as distinguished from disciplinary proceedings, the determinative consideration is the public interest in the creation or continuance of the licensed operation, not the fault or merit of the licensee. In issuing or renewing licenses the responsibility of the local issuing authority is "high", its discretion "wide" and its guide the "public interest". Lublner v. Bd. of Alcoholic Bev. Cont. Paterson, 33 N.J. 428 (1960) at p.446.

However, it is equally well established, that an application for renewal of a license may not be denied capriciously, but must be based on reasonable grounds or will be reversed. Tompkins v. Seaside Heights, Bulletin 1398, Item 1.

In a memorandum of law submitted by the licensee it is argued:

(1) The evidence to be considered in this matter should be limited to the conduct of the present licensee from October 20, 1970 and that that evidence is not sufficient to show the existence of a nuisance.

(2) Respondent is estopped, by virtue of the renewal for the 1970-71 licensing period and further by its approval of the transfer to the present licensee, from its present action.

More specifically appellant urges review of Re Charlie's Capri, Inc., v. East Newark, Bulletin 1901, Item 1, in which this Division reversed the order of respondent therein denying renewal of the license on the grounds of conducting a nuisance.

Further, appellant reiterates the argument presented in her petition of appeal that failure to hold a formal hearing with respect to the question whether or not the appellant's license constituted a nuisance, and the failure to provide appellant the right to present evidence in contradiction, was a denial of due process since it denied appellant the right to present evidence and cross-examine witnesses.

It would have been a more satisfactory procedure for the respondent to initiate proceedings upon specific charges and to base its refusal to renew on an adjudicated record. However, it is understandable that local issuing authorities, at times, as here, withhold the institution of disciplinary charges with the expectation that, where warranted and upon notice, licensees will make efforts to improve conditions in the operation of the licensed business. This would appear to be the natural thing for a liquor licensee to do in order to protect his investment.

The right of a hearing de novo at the Division on testimony taken there cures any infirmity allegedly arising by denial of a hearing before the local Board. Nordco v. State, supra. at p.287, citing Cino v. Driscoll, 130 N.J.L. 535 (Sup. Ct. 1943) at p.539.

As defined in Webster's Third New International Dictionary (1961), "Nuisance" is -

"An offensive, annoying, unpleasant, or obnoxious thing or practice; a cause or source of annoyance that although often a single act is usually a continuing or repeated invasion or disturbance of another's right."

See One Eleven Wines & Liquors, Inc., v. New Brunswick, Bulletin 1656, Item 5, and the numerous cases cited therein.

The word "nuisance" as it is used in Rule 5 of State Regulation No. 20, is not to be restricted by technical definitions applicable to criminal cases. The reason for this distinction is that the licensee is engaged in the exercise of a privilege, not a right.

Accordingly, in defining the word "nuisance" I am not unmindful of its everyday usage. Alpine Village Tavern, Inc. v. Newark, Bulletin 629, Item 3.

Having found that at least twenty complaints requiring the presence of police officials were committed on or proximate to the premises and that the nature of those offenses constituted substantive proof that the licensed premises was conducted in an objectionable manner, I find further, pursuant to the rule set forth in One Eleven Wines & Liquors, Inc., supra., that the premises was reasonably found to be a nuisance.

I am not unmindful of the fact that the licensee herein was made aware by the Mayor and Council that she was taking upon herself a licensed premises which was a problem.

With respect to Charlie's Capri, Inc. v. Newark, supra. which has been called to my attention by appellant, marked dissimilarities are apparent. In that matter, the application for renewal by the prior owner of the license herein was denied. There was no resolution of the respondent in evidence. Respondent's answer to that appeal alleged that the licensed premises was a perennial "trouble spot" and that serious charges were pending against that licensee.

At that hearing Chief Knowles testified that he considered the premises a "semi-nuisance" because it was in a residential area. Further, he indicated that Augustine had done everything possible to maintain his business in a peaceful and proper manner. In the instant matter, the testimony of Chief Knowles is directly contrary. While several disciplinary actions had been taken against the prior licensee there is no record of numerous complaints and police calls nor were any objections to the renewal filed with the local issuing authority. Lastly, in that matter, a review of the then current licensing period reflected only two significant episodes.

The course of conduct herein lists numerous complaints all of which become significant in a review of the conduct of the licensed premises under its present proprietorship.

Unfortunately, some licensees do not take the hint and consider that the failure of the issuing authority to take specific action as a license for continued misconduct. See R.B. & W. Corp. supra.

With respect to conditions in the immediate area but outside the licensed premises, the language of the court in Nordco v. State, supra. at p.282, is pertinent:

"...It seems to us entirely proper for both the local and the state agencies, when passing on such applications, to take into account not only the conduct of the licensee, but also condition, not attributable to its conduct, which render a continuance of a tavern in a particular location against the public interest."

The evidence clearly shows that the conditions that existed in the premises were due in substantial part to the culpability of the licensee.

I find from my examination and assessment of the total record herein, that the respondent's determination was supported by substantial evidence and that it acted circumspectly in the public interest in its discretion to refuse to renew appellant's license for the current licensing year. Further, I conclude that appellant has not established that the action of respondent was erroneous and should be reversed. Rule 6 of State Regulation No. 15.

It is, therefore, recommended that the respondent's action be affirmed and that the appeal herein be dismissed.

Conclusions and Order

Written exceptions to the Hearer's report, with supportive argument, were filed by appellant pursuant to Rule 14 of State Regulation No. 15. Thereafter I granted oral argument to the parties herein.

Having carefully considered the entire matter herein, including transcript of the testimony, exhibits, the Hearer's report, the exceptions and oral argument, I have concluded that the best interests of all concerned will be better achieved by a modification of the Hearer's recommendations.

While I am satisfied that Mrs. Schwertfeger is not able to control the conduct of the licensed premises, I further am satisfied that the tavern's character as a "trouble spot" and nuisance was due in some measure to its physical location.

I am advised that appellant is in destitute financial circumstances and, further, that denial of renewal of this license would preclude the issuance of a new license to another licensee in accordance with limitations imposed upon the issuance of new licenses based upon the population in this municipality. N.J.S.A. 33:1-12.14.

I therefore believe that appellant should be given an opportunity to secure some of her investment in the said license provided the same is transferred to a reputable person at another location. Since fairness is the touchstone of the administrative process, it appears reasonable to afford appellant such opportunity. See Brummert v. Newark, Bulletin 2039, Item 1.

Accordingly, it is, on this 21st day of June 1972,

ORDERED that the action of respondent Borough Council in denying appellant's application for renewal of her plenary retail consumption license be and the same is hereby reversed, and respondent be and is hereby directed to grant renewal of appellant's license for the current 1971-72 license period, expressly subject to the following conditions:

- (a) That the license, when renewed, shall not be actually issued to appellant but shall be retained by the Borough Council;
- (b) That appellant may file a consent to transfer the license herein in conjunction with the application for transfer by and to a bona fide transferee and to other suitable premises;
- (c) That within four months from the date of the order herein, the Borough Council may in its discretion grant such application for a person-to-person and place-to-place transfer;
- (d) If the said application for person-to-person and place-to-place transfer is not approved within the above stated four months period or any extension of time thereof granted by the Borough Council or this Division, the said license shall be cancelled.

Robert E. Bower,
Director.

2. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 50 DAYS, LESS 10 FOR PLEA.

In the Matter of Disciplinary Proceedings against Thunderbird Bar, Inc. 301 Walnut Avenue Trenton, N.J. Holder of Plenary Retail Consumption License C-236 issued by the City Council of the City of Trenton.

CONCLUSIONS and ORDER

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 1, 1972, it possessed ten bottles of alcoholic beverages, the labels of which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a prior adjudicated record of suspensions of license within the past five years, i.e. (1) by the municipal issuing authority for ten days effective May 8, 1967 for "hours" violation, and (2) by the Director for twenty-five days effective July 12, 1971 for similar violation Re Thunderbird Bar, Inc., Bulletin 1994, Item 6.

The license will be suspended for thirty-five days (Re Cross Keys Hotel & Rest., Inc., Bulletin 1797, Item 3) to which will be added five days by reason of the dissimilar offense occurring within the past five years (Re DeGano, Bulletin 2043, Item 10) and ten days by reason of the similar offense occurring within the past five years (Re Falcaro's Restaurant, Inc., Bulletin 2005, Item 8) making a total of fifty days, with remission of ten days for the plea entered, leaving a net suspension of forty days.

Accordingly, it is on this 22nd day of June, 1972

ORDERED that any renewal that may be granted of Plenary Retail Consumption License C-236 issued by the City Council of the City of Trenton to Thunderbird Bar, Inc., for premises 301 Walnut Avenue, Trenton be and the same is hereby suspended for forty (40) days commencing 2:00 A.M. on Thursday, July 6, 1972 and terminating 2:00 A.M. on Tuesday, August 15, 1972.

Robert E. Bower, Director

3. NOTICE - DISAPPROVAL OF SAMPLE BALLOTING ON LICENSED PREMISES AS ADVERTISING OR PROMOTIONAL DEVICE.

Carling Brewing Company
Waltham, Mass.

Gentlemen:

We have your letter of June 20, 1972, together with copies of advertising copy describing a promotional scheme which is tied in with the upcoming presidential election and identified as "Beer Drinkers Vote".

It would appear that you plan to promote the program by asking beer drinkers to vote their preference for President of the United States, by filling in a "ballot" which would be obtained and deposited at retail outlets. These "ballots" would then be forwarded to an independent tabulating service. Additionally, the participating "voter" be given a token gift of nominal value in the form of a certificate or commemorative empty beer can.

You will agree, that any general advertisement or promotion by malt and/or alcoholic beverage manufacturers and wholesalers makes, and is intended to make, the public "alcoholic beverage conscious". This Division has never adopted the view that, therefore, any and all types of advertising or promotion must be disapproved. To the contrary, we have permitted many traditional methods of advertising.

However, while recognizing that there should be legitimate room for advertising, we also feel that certain kinds of advertising tend to "overplay" the hand from the viewpoint of sound alcoholic beverage control. In this category we place among other things, schemes or promotions utilizing contents in which members of the public may compete for prizes or giveaways and endorsements or testimonials by outstanding athletes. Additionally, this Division has consistently disapproved advertising relating to certain areas which can almost be categorized as sacrosanct; i.e. religious holidays and images, children, and legends or schemes which make a mockery or cast aspersions towards well known public and private persons or office holders.

In our opinion, the upcoming presidential election is a very serious and important one to many many people, and, should not be regarded lightly. Any promotional scheme which (1) infers even facetiously that so called "beer drinkers" will have the united strength and will elect the next president of the United States and (2) proclaims a united strength of 70,000,000 far exceeding any other so-called "bloc of voters," can be regarded as an example of advertising which makes a mockery of our elective system and certainly a slur on the office of the Presidency, regardless of political party, faith or belief.

Furthermore, in our opinion, the industry id resorting to advertising of this nature exposes itself to severe criticism; is short sighted and ignores constantly flashing danger signals, which are evidenced in so many instances, by highly critical congressional reports. Abuses of the advertising privilege can only lead to severe curtailment, if not total elimination of that privilege in the alcoholic beverage field.

Accordingly, you are advised that we disapprove of the submitted promotional plan "Beer Drinkers Vote" in New Jersey.

Very truly yours,

Robert E Bower,
Director

Dated: June 29, 1972

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AT LESS THAN FILED PRICE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Linda Enterprises, Inc.)
367 First St. & 270 Railroad Ave.)
Jersey City, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution License D-22, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City)

Licensee, Pro se
Peter E. Rhatican, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 28, 1972, it sold twelve bottles of whisky at less than filed prices, in violation of Rule 5 of State Regulation No. 30.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Bergenfield Liquor Shop, Inc., Bulletin 1934, Item 11.

Accordingly, it is, on this 22nd day of June 1972,

ORDERED that any renewal that may be granted of Plenary Retail Distribution License D-22, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Linda Enterprises, Inc., for premises 367 First St. & 270 Railroad Ave., Jersey City, be and the same is hereby suspended for five (5) days, commencing 2 a.m. Thursday, July 6, 1972, and terminating 2 a.m. Tuesday, July 11, 1972.

Robert E. Bower,
Director.

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA - APPLICATION TO PAY FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

Park Lounge, Inc.)
t/a Park Cafe)
416 Clinton Avenue)
Newark, N.J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-718 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark)

- - - - -
Paul E. Parker, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 13, 1971, it possessed five bottles of alcoholic beverages, the labels of which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior adjudicated record, for similar violation occurring within the past five years, the license would normally be suspended for twenty-five days with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Property Marketing Corp., and Aladco, Inc., Bulletin 2020, Item 6.

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 22nd day of June, 1972

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

Robert E. Bower
Director

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

In the Matter of Disciplinary Proceedings against Harry's Place, Inc. t/a Harry's Place 113 N. Fairview St. Riverside, N.J.

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-9 issued by the Township Committee of the Township of Riverside.

Worth & Worth, Esqs., by Herbert L. Worth, Esq., Attorneys for Licensee. Peter E. Rhatican, Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on Tuesday, April 18, 1972, it sold alcoholic beverages to two minors, ages 17 and 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Nelson, Bulletin 2029, Item 13.

Accordingly, it is on this 23rd day of June, 1972

ORDERED that any renewal that may be granted of Plenary Retail Consumption License C-9 issued by the Township Committee of the Township of Riverside to Harry's Place, Inc., t/a Harry's Place for premises 113 N. Fairview Street, Riverside be and the same is hereby suspended for fifteen (15) days commencing 1:00 A.M. on Thursday, July 6, 1972 and terminating 1:00 A.M. on Friday, July 21, 1972.

Robert E. Bower, Director

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

In the Matter of Disciplinary Proceedings against)

Post Bar, Inc., A N.J. Corp.)
t/a Post Bar)
154 Fort Dix Road)
Wrightstown, N.J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-9 issued by the Borough Council of the Borough of Wrightstown)

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 11, 1972, about 11:25 P.M., it sold alcoholic beverages for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Absent prior adjudicated record within the past ten years, 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 Ryglicki, Bulletin 2046, Item 6.

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 \$450.00 in lieu of suspension.

Accordingly, it is, on this 26th day of June, 1972

ORDERED that the payment of a fine in the amount of \$450.00 by the licensee is hereby accepted in lieu of the suspension of license for ten days.

Robert E. Bower,
Director

8. DISQUALIFICATION PROCEEDINGS - CONSPIRACY TO COMMIT ABORTION - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant)
to R.S. 33:1-31.2)
Case No. 2629)
- - - - -)

CONCLUSIONS
and
ORDER

BY THE DIRECTOR:

Petitioner's criminal record discloses that in 1962 he was convicted of the crime of conspiracy to commit abortion in the Bergen County Court and was sentenced to one - two years State Prison (suspended), \$200.00 fine and three years probation.

Since the crime of which petitioner was convicted involves the element of moral turpitude (Cf. Re Elia, Bulletin 319, Item 13) he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing held herein, petitioner (44 years old) testified that he is married ; that for the past 19 years he has lived at his present address.

Petitioner further testified that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that, ever since his conviction in 1962 , he has not been convicted of any crime.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against petitioner.

Petitioner produced three character witnesses (a department store owner, a restaurant owner and an investigator) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

Considering all the aforesaid facts and circumstances, I am satisfied that petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 27th day of June , 1972

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed, in accordance with the provisions of R.S. 33:1-31.2.

Robert E. Bower,
Director

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA - APPLICATION TO PAY FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against
 Hod Corporation
 t/a Club 400
 6-8 Reid Street
 South River, N.J.)
)
) CONCLUSIONS
) and
) ORDER
 Holder of Plenary Retail Consumption License C-38 issued by the Borough Council of the Borough of South River)
)

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 22, 1971, it possessed four bottles of alcoholic beverages, 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 fourteen days, effective May 12, 1969, for permitting a minor in its licensed premises unaccompanied by a parent, in violation of local ordinance.

Prior suspension for dissimilar violation occurring within the past five years considered, the license would normally be suspended for twenty-five days with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Jones, Shute & Williams, Bulletin 2029, Item 14.

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 28th day of June, 1972

ORDERED that the payment of a fine in the amount of \$1,000. by the licensee is hereby accepted in lieu of the suspension of license for twenty days.

ROBERT E. BOWER
DIRECTOR

10. STATE LICENSES - NEW APPLICATION FILED.

Jules Berman & Associates, Inc., Robertson Plaza, Suite 909, 116 North Robertson Blvd., Los Angeles, California

Application filed August 24, 1972
for plenary wholesale license.

Robert E. Bower
Robert E. Bower
Director