

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

BULLETIN 1928

September 9, 1970

TABLE OF CONTENTSITEM

1. APPELLATE DECISIONS - MITCHELL'S CAFE INC., v. LAMBERTVILLE.
2. APPELLATE DECISIONS - E A V LIQUORS & BAR INC., v. PATERSON.
3. APPELLATE DECISIONS - KOVAL v. KEANSBURG - SUPPLEMENTAL ORDER.
4. DISCIPLINARY PROCEEDINGS (Belleville) - SUPPLEMENTAL ORDER.
5. DISCIPLINARY PROCEEDINGS (Newark) - FAILURE TO HAVE COPY OF LICENSE APPLICATION AVAILABLE FOR INSPECTION - PRIOR RECORD OF SUSPENSION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Ewing Twp.) - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Camden) - FALSE STATEMENT IN APPLICATION - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO CORRECT.
8. DISCIPLINARY PROCEEDINGS (Hoboken) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

- (g) Similar, and even more serious, disturbances in other licensed premises were not prosecuted by the Board and thus the appellant did not have "fair equitable treatment."

The answer of the Board denies the substantive allegations of the petition and attached to the answer is the resolution and order setting forth the Board's finding which in pertinent part states:

"WHEREAS, charges having been heretofore duly served upon the above named licensees charging that on or about Wednesday, August 27, 1969, they did conduct said business in a manner so as to become a nuisance in that they did allow a disturbance to take place on the licensed premises at Mitchell's Cafe, 11½ Church Street, Lambertville, New Jersey, and the same to be continued on to Church Street, a public street in the said city. Parties involved in this disturbance were Chester O. Lear, R.D. #1, Lambertville, New Jersey; Theodore Ditmar, 39 Ferry Street, Lambertville, New Jersey; and Anna Schwartz, 32 York St., Lambertville, N.J., in violation of Rule 5 of State Regulations #20 of the Alcoholic Beverage Control, State of New Jersey, and at a hearing duly held thereon the testimony having established the truth of said charge:...."

Upon the filing of the appeal an order was entered by the Director staying the Board's order of suspension until the entry of a further order herein.

The appeal was heard de novo and was based upon the transcript of the proceedings held before the Board, supplemented by additional testimony adduced at this de novo hearing on behalf of the appellant pursuant to Rules 6 and 8 of State Regulation No. 15.

I

Several matters raised in the petition of appeal will be considered for resolution before making an evaluation of the testimony. Appellant first asserts that the Board refused to call witnesses who were "alleged to have been involved in the charge" and erred in ruling on the admissibility of evidence. I find, however, from the voluminous record herein that the appellant was afforded full opportunity to call any witnesses whose testimony it considered relevant, and was not prevented from presenting its defense. Appellant's attorney defended his client vigorously and at length, and I find no substance to this contention. In any event, any infirmities that may have existed at the hearing with respect to the introduction of evidence or any other matters before the Board were cured on this appeal since appellant was afforded full opportunity at this plenary de novo hearing to present such additional testimony that it considered relevant to this proceeding. Cino v. Driscoll, 130 N.J.L. 535 (1943).

Further, I find no merit to the contention that appellant was refused permission to introduce evidence with respect to other licensed premises, since the same would be entirely immaterial and irrelevant in the determination hereof.

No evidence of any prejudice on the part of any member of the Board is reflected in the record, and I am

persuaded from my examination that appellant was not denied due process.

II

Upon examination and evaluation of the transcript, I make the following findings of fact: On the evening of August 26, 1969 at about 7 p.m., Mrs. Anna Schwartz entered the subject premises and remained there until 2 a.m. of August 27, which was the closing time. During that time this patron consumed a substantial amount of alcoholic beverages. She was known to James Bishop (an officer and bartender at these premises) as a trouble-maker and "instigator" and in fact had been theretofore "flagged", i.e., barred from the premises. She could not explain why she was permitted to re-enter the tavern on this occasion but she assumed that she was welcome because nothing was said to her and she was served drinks. During the evening she sat at the bar in the company of a person (whom she identified by his first name as Steve) and another patron who was seated nearby.

Later that evening, between 11 and 12 p.m., Chester Lear and Theodore Ditmar entered the premises and seated themselves at the bar. Ditmar took the seat immediately next to Mrs. Schwartz and started to annoy and insult her. Mrs. Schwartz stated that he was constantly cursing her, banging his leg against hers and using obscene language. Lear got into an argument with the patron seated next to Mrs. Schwartz apparently with respect to his attention to and relationship with Mrs. Schwartz. Obscene language and raised angry voices punctuated these confrontations in which Lear actively participated.

It is significant that both Lear and Ditmar were considered to be trouble-makers by the local Chief of Police Francis P. Masterson, who specifically warned Bishop and William Blackwell (a bartender there) in separate conferences about these two individuals. He told them that Lear and Ditmar were "trouble makers and that they couldn't handle their whisky and so forth, and that they should not allow this type of individual to frequent the premises and cause trouble in their particular tavern."

It became evident near the closing time on August 27 that the quarrel between Ditmar, Lear and the other patron would develop into a fight when they left the tavern. All of these persons had consumed quantities of beer and whiskey, and it should have been quite evident that the use of intoxicants had excited their tempers, emotions and actions.

At the two o'clock closing they started to leave the tavern and it appears that Bishop knew that this quarrel and disturbance would continue in a more physical manner outside the tavern. As Mrs. Schwartz was leaving, he said to her, "keep out of it, Redhead, you think you are so strong" and, in her words, "flipped me over on my nose." After she fell, he "pushed his hand down on my face onto the concrete, which wasn't funny, I thought my nose was broken, and blood was spitting all over the place."

Ditmar and Lear then engaged in a battle with Mrs. Schwartz. As a result of this altercation she suffered numerous contusions and abrasions on her face and shoulder which were graphically shown on the photographs taken the

following morning. The photographs (Exhibits R-2 and R-3) show also discoloration of her eyes (she claimed she was struck in her eye) and bruises on the nose.

During the course of this fight Ditmar was "kneed" in the groin by Mrs. Schwartz. She insisted that "he [Lear] would have killed me because he kept on pounding into my face and my body down to the ground" so she was "screaming at the top of my bloody lungs." When the police arrived, "they took off." Lear graciously offered her a handkerchief in order to stop the bleeding of her nose. During all of this time the witness stated she engaged in loud screaming to attract attention, and there was a general loud commotion.

The record shows that a complaint of assault and battery was made by Mrs. Schwartz against Lear and Ditmar, and counter complaints were made against Mrs. Schwartz; these were dismissed in the local municipal court.

From my assessment of the entire record I am satisfied that appellant, through its agent or employee, allowed a disturbance to take place on the licensed premises. A "disturbance" has been defined as an interruption of a state of peace and quiet, a public commotion. See 11 C.J.S. 817.

It is apparent that this disturbance was initiated by Lear and Ditmar, with the active cooperation of Mrs. Schwartz and several other patrons there. I hold no brief for Mrs. Schwartz for the evidence shows that she not only has a loud voice but she engaged in a considerable amount of obscene language on this occasion. I find also from the evidence that Lear was using obscene language and, because all of these persons imbibed freely in beer and liquor, their tempers and emotions were quite aroused.

I am persuaded that it became the duty of appellant's employees to control the patronage and to prevent this situation from developing as it did, in the fight outside the premises. Seidel v. Upper, Bulletin 1246, Item 1.

While it is true that a licensee has been held not to be responsible for a "sudden flare-up" on his premises where he could not have reasonably been aware of its imminence, such is not the case here. Bishop was well aware of the fact that Mrs. Schwartz was a trouble-maker. Also, he was previously specifically warned by the Chief of Police on one occasion, and Blackwell was warned on another occasion, that both Lear and Ditmar were trouble-makers, imbibed too heavily in alcoholic beverages, and generally did not conduct themselves properly in licensed premises. Therefore he had a specific duty to see to it that, when any loud voices were heard from these individuals and they started to engage in quarrels on the premises, they should have been required to leave. This he did not do. Cf. Jackson v. Newark, Bulletin 1600, Item 2.

The law is well-settled that the word "permit" is synonymous with "suffer" so that it may be said that one who suffers the doing of a thing, which he might have prevented, permits it. Connor v. Fogg, 75 N.J.L. 245 (S. Ct. 1907).

The question involved here is whether the licensee could have taken steps to prevent the act of violence and disturbance that took place both within and without the licensed premises but failed to do so. This Division has consistently held that:

"... Licensees may not avoid their responsibility for the conduct of their premises by merely closing their eyes and ears. On the contrary, licensees must use their eyes and ears, and use them effectively, to prevent the improper use of their premises." Bilowith v. Passaic, Bulletin 527, Item 3.

While, as I have stated hereinabove, Mrs. Schwartz was an active participant in the disturbance, nevertheless I find her testimony to be substantially credible. On the other hand, some of the witnesses have obviously testified falsely. This is particularly true of the two witnesses (Elaine Venose and Kenneth Joiner) who seemed to see or hear nothing both inside and outside of the premises. Thus, for example, Venose was asked:

"Q And when you got out on this street, you didn't see anything happen to Mrs. Schwartz while she was going out the door?

A No, I didn't.

Q You didn't see her fall down?

A No.

Q You didn't see her leap on anyone?

A No. I just saw us walking out the door.

Q Nothing happened outside as far as you were concerned with respect to Mrs. Schwartz?

.

Q Is that your testimony, that you didn't see anything happen?

A No, I didn't see anything....

Q And you didn't hear anything or see anything?

A No, I didn't."

Appellant contends that this fight took place outside the licensed premises and therefore appellant is not liable for such incident. However, it has been well established that the responsibility lies in licensees for conditions and incidents that exist both inside and outside the premises which are caused by its patrons and, as in this instance, by its employee. Cf. Conte v. Princeton, Bulletin 139, Item 8; Kaplan and Buzak v. Englewood, Bulletin 1745, Item 1, aff'd id nom. (App. Div. 1968), not officially reported, recorded in Bulletin 1790, Item 1; certif. den. 51 N.J. 464.

Since I find that this disturbance started inside the premises and continued on the outside of the premises, it is clear that the appellant conducted its business in a manner as to become a nuisance, and allowed the disturbance to take place on the premises and to be continued onto the public street.

Finally, it should be noted that, notwithstanding the battle that took place in the street with the resultant injuries empirically and graphically reflected on the photographs of Mrs. Schwartz, Bishop did not consider it important or obligatory on his part to summon the police at any time. As the master of the house, he not only had the duty to intervene when the disturbance started, but the clear responsibility to notify the police. Jackson v. Newark, supra. As noted above, he indeed participated to the extent that in his anxiety to get Mrs. Schwartz out of the premises he caused her to fall

and injure herself.

I have examined the other matters raised in appellant's petition and find them lacking in merit.

Having carefully considered the entire record herein, I find that the credible evidence adequately supports the conclusions reached by the Board. Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501 (App. Div. 1956).

In view of the aforementioned finding, I conclude that the Board has sustained the burden of establishing the charge herein by a fair preponderance of the believable evidence. I recommend, therefore, that an order be entered affirming the action of the Board, dismissing the appeal, and fixing the effective dates for the said suspension imposed by the Board and stayed pending the entry of a further order herein.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's report, with supportive argument, were filed by the attorney for appellant. An answer to the exceptions was filed by the attorney for respondent.

I have analyzed the exceptions and find that they have either been satisfactorily answered in the Hearer's report or are lacking in merit.

Having carefully considered the entire record herein, including the transcripts of testimony, the exhibits, the Hearer's report, the exceptions filed thereto and the answer to the exceptions, I concur in the conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 13th day of July 1970,

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

ORDERED that Plenary Retail Consumption License C-5 (for 1970-71 licensing period), issued by the Board of Commissioners of the City of Lambertville to Mitchell's Cafe Inc., for premises 11½ Church Street, Lambertville, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, July 27, 1970 and terminating at 2 a.m. Thursday, August 6, 1970.

RICHARD C. McDONOUGH
DIRECTOR

2. APPELLATE DECISIONS - E A V LIQUORS & BAR INC. v. PATERSON.

E A V Liquors & Bar Inc.,)	
Appellant,)	
v.)	On Appeal
)	CONCLUSIONS and ORDER
Board of Alcoholic Beverage Control for the City of Paterson,)	
Respondent.)	

Goodman and Rothenberg, Esqs., by Robert I. Goodman, Esq.,
 Attorneys for Appellant
 Joseph L. Conn, Esq., by Samuel K. Yucht, Esq.
 Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant appeals from the action of respondent (hereinafter Board) whereby the members thereof unanimously voted to deny the application for renewal of appellant's plenary retail consumption license for 1969-70 for premises 302 Market Street, Paterson. The resolution denying renewal, dated June 25, 1969, adopted by the Board is as follows:

"WHEREAS, application has been made to this Board for the renewal of Plenary Retail Consumption License C-281, heretofore issued to E.A.V. Liquors & Bar, Inc., 302 Market Street, Paterson, New Jersey; and,

"WHEREAS, this Board having heard the testimony of witnesses and having reviewed the history of these premises based on the records of the Paterson Police Department; and,

"WHEREAS, it appears that the premises sought to be licensed constitute a public nuisance and a detriment to the health and safety of the people of the City of Paterson; NOW, THEREFORE,

"BE IT RESOLVED, that the renewal of Plenary Retail Consumption License C-281 be and the same is hereby denied."

In the petition of appeal appellant denies that it operated its liquor establishment in such a manner as to constitute a nuisance.

The answer filed on behalf of the Board denies the allegations set forth in appellant's petition of appeal.

When the instant appeal was filed the Director entered an order dated June 27, 1969, extending the term of appellant's 1968-69 license pending determination of the

of the appeal.

The matter herein was heard de novo in accordance with Rule 6 of State Regulation No. 15, affording the attorneys for the respective parties an opportunity to present testimony if they so desired and to cross-examine witnesses.

Donald McAteer (a police detective) testified that on April 12, 1969 he was assigned to investigate "a triple shooting, one homicide" that had occurred the previous day at the appellant's licensed premises; that the detective's investigation of the person who died as a result of the shooting disclosed the victim to be a girl nineteen years of age, and that two other minor girls were learned to be in the premises at the time of the occurrence.

Detective McAteer, in response to questions of the Board's attorney, stated that he obtained adequate cooperation from the employees of the appellant and that they were helpful in the investigation of the incident.

On cross examination Detective McAteer testified that he has visited appellant's licensed premises on occasions since 1967 and in his opinion the operation of the place has improved and the premises are maintained in a clean condition. Moreover, the detective said that his investigation of the shooting disclosed that it resulted from a feud between certain political factions and, to his knowledge, there were no charges brought that the tavern was implicated in the matter and thus the case was considered closed.

Lieutenant Urban Giardino testified that in March 1969 he received an assignment to investigate persons who allegedly frequented appellant's premises, which investigation did not include the tavern itself; that he never personally made any observations regarding the operation of appellant's tavern or what occurred in the immediate vicinity of the place, but at times saw people congregated outside the premises; that he found the "usual tavern noise, music and conversation, you know, both loud and at times soft, usual tavern noises."

On cross examination Lieutenant Giardino testified that there has been an improvement in the condition of the appellant's licensed premises when compared to the time he first visited it a few years ago.

John R. Bell (Director of the Paterson Model Cities Program, an objector) testified that, as a result of a study of conditions in the neighborhood wherein appellant's licensed premises were located, it was recommended to the Board that appellant's license, as well as the licenses of other liquor establishments in the neighborhood, be denied renewal for the 1969-70 period. Mr. Bell stated "... these taverns not be renewed because in our judgment they were contributing to the deterioration of the neighborhood." Mr. Bell further said that he was at appellant's tavern on two occasions but "I don't recall seeing anything improper at any time I was present." When questioned about the shooting incident, Bell said that he was aware from inspection of the police report that it was described as "suddenly" happening.

Gaetano A. Verduci (president of appellant) testified that during the past three years appellant's licensed premises itself has been improved; that the patrons of his establishment be termed as "family trade;" that he received no notice that

the Board would not act favorably on the application for renewal of the license for the current licensing period; that to his knowledge at times two or three people might talk outside the premises, and that at no time are there more than twenty or thirty patrons in the tavern; that he is not aware of any brawls on the licensed premises but he remembered on one occasion summoning the police to remove a man from the tavern who was acting "obnoxious and noisy."

I am impressed with the testimony of Detective McAteer that, when this unfortunate incident happened on April 11, 1969, when a girl was shot, he obtained the cooperation of the appellant's employees who, as he stated, were very helpful to the investigation of the incident.

Detective McAteer also said that during the past several years he had occasion to visit appellant's licensed premises and it was his opinion that the operation of the said establishment has improved and the building, or the licensed premises itself, is maintained in a clean condition. Detective McAteer also made mention that the shooting which resulted in the death of the girl in question happened when two men of opposite political views became involved in an argument. However, he knew of no charges whatsoever being brought that the tavern was implicated in this occurrence and because the case had been considered closed.

Also, the testimony of Lieutenant Giardino disclosed that his complaint was because of people congregating outside of appellant's licensed premises.

Mr. Bell, who testified as an objector, admitted that he had visited the appellant's premises on two separate occasions but did not see anything improper occur during his visits. There was also testimony brought out by the president of the appellant corporate licensee that there are several other liquor outlets in the vicinity which might contribute to any noise that might occur in the neighborhood.

Appellant has the responsibility to conduct its licensed premises pursuant to the law and regulations, especially with reference to those persons who might reside in the area. Appellant is now put on notice that, if his premises shall in any manner be conducted as a nuisance, his license will be subject to suspension or revocation.

It is elementary that an owner of a license or privilege acquires through his investment therein an interest which is entitled to some measure of protection in connection with a transfer. Lakewood v. Brandt, 38 N. J. Super. 462 (App.Div. 1955). This also applies to a licensee seeking renewal of the license. Furthermore, in the Brandt case it was ruled that under the law a case is heard de novo by the Director (Cino v. Driscoll, 130 N.J.L. 535 (Sup.Ct. 1943)) and he may properly rely on the evidence brought out in the Division. See Florence Methodist Church v. Tp. Committee, Florence Tp., 38 N.J. Super. 85 (App. Div. 1955).

I have examined the objections upon which the denial of appellant's license was based and I am of the opinion that they are not sufficient to deprive appellant of its license. It is unfortunate, indeed, that an innocent person was killed as a result of a feud by two other persons, but there was no evidence whatsoever to implicate appellant

with the tragedy. It might be reiterated, however, that a licensee or anyone in charge of a licensed premises must keep the premises and the patronage under strict control because of the licensee's responsibility for conditions both inside and outside the licensed premises. Galasso v. Bloomfield, Bulletin 1387, Item 1.

It is recommended that appellant be given an opportunity to demonstrate its worthiness to hold a liquor license if future conditions warrant. The Board should not hesitate to institute disciplinary proceedings or to deny appellant's application for renewal of its license for the succeeding licensing term. Thus it is further recommended that the action of the Board be reversed and that the Board be directed to grant the license to appellant for the 1969-70 license period in accordance with the application filed therefor.

Conclusions and Order

Exceptions to the Hearer's report and written argument in support thereof have been filed by respondent Board pursuant to Rule 14 of State Regulation No. 15. No answering argument has been filed by appellant.

The Board argues that the Hearer's report failed to mention either the previous disciplinary record of the licensee or a shooting incident which took place on the licensed premises on December 17, 1967, or the fact that on the occasion of such shooting and the shooting which occurred April 11, 1969, minors were present on the licensed premises.

I have carefully reviewed the entire record herein, and as a result find that the Board's action constitutes an unreasonable exercise of discretionary authority. I find that the disciplinary record of the licensee, although not enviable, was not sufficient reason for refusing renewal of the license in question. The last suspension against the license was imposed by the Board in 1966 and this was the obvious reason the Hearer did not advert to such record. The Board renewed this license for two succeeding years after such last suspension, apparently considering the seriousness of such record to be of similar import. The 1967 shooting incident is likewise of diminished significance, particularly since no disciplinary proceeding was then instituted against the licensee.

As to the 1969 shooting incident, the Hearer has correctly pointed out the lack of evidence in the record to inculpate the licensee in this connection. The proofs show this to be an isolated occurrence, rather than one of a series of frequent similar events, which was not preceded by any activity which should have alerted the licensee's agents to take preventive action. The mere presence of minors in the licensed premises on this and the prior occasion, without proof of their being served or consuming alcoholic beverages or being otherwise involved in any prohibited activity, is of little probative value to the resolution of the issues involved herein.

Under the circumstances, I concur in the Hearer's recommended findings and shall reverse the Board's action.

Accordingly, it is, on this 10th day of July 1970,

ORDERED that the action of respondent Board of Alcoholic Beverage Control for the City of Paterson be and the same is hereby reversed; and it is further

ORDERED that respondent Board grant appellant's application for 1969-70 renewal nunc pro tunc in accordance with the application filed therefor.

RICHARD C. McDONOUGH
DIRECTOR

3. APPELLATE DECISIONS - KOVAL v. KEANSBURG - SUPPLEMENTAL ORDER.

George Koval, t/a "Club Shamrock",)

Appellant,)

v.)

Municipal Council of the Borough of Keansburg,)

Respondent.)

On Appeal
SUPPLEMENTAL ORDER

James F. McGovern, Jr., Esq. Attorney for Appellant
Howard A. Roberts, Esq., Attorney for Respondent

BY THE DIRECTOR:

On September 26, 1969 I entered an order herein dismissing the appeal and reimposing a ten-day suspension. Re Koval v. Keansburg, Bulletin 1881, Item 5. Because it appeared that the business was not then being conducted on a full-time basis, the order provided that the effective date of such suspension would be fixed by subsequent order.

It now appears from report of investigation that appellant has resumed normal operation for the summer season and the licensed premises are being operated on a substantial full-time basis. Therefore the suspension can now be reimposed.

It is on this 9th day of July 1970,

ORDERED that the ten-day suspension of Plenary Retail Consumption License C-11 (for the 1970-71 licensing period), issued by the Municipal Council of the Borough of Keansburg to George Koval, t/a "Club Shamrock", for premises 94-96 Beachway, Keansburg, be and the same is hereby reimposed, commencing at 2:00 a.m., Monday, July 27, 1970 and terminating at 2:00 a.m. Thursday, August 6, 1970.

RICHARD C. McDONOUGH
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary Proceedings against)

Ernie's Nest, Inc.)
36 Holmes Street)
Belleville, N. J.)

Holder of Plenary Retail Consumption License C-8 (for the 1969-70 and 1970-71 licensing periods), issued by the Board of Commissioners of the Town of Belleville, and transferred during the pendency of these proceedings to)

SUPPLEMENTAL ORDER

Booker's Lounge, Inc.)

for the same premises.)

Licensee, by Ernest Henry, President, Pro se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

On April 17, 1970 an order was entered herein deferring the license suspension of fifteen days for possession of alcoholic beverages in four bottles bearing labels which did not truly describe their contents because it appeared that the licensed business was not being conducted on a substantial full time basis by the licensee or any transferee of the license. Re Ernie's Nest, Inc., Bulletin 1911, Item 6.

Report of recent investigation discloses that the licensed business has now been resumed and is being conducted on a substantial basis by Booker's Lounge, Inc., the transferee of the said license. Consequently, I am satisfied that the deferred suspension may now be imposed.

Accordingly, it is, on this 8th day of July 1970,

ORDERED that Plenary Retail Consumption License C-8, issued by the Board of Commissioners of the Town of Belleville to Booker's Lounge, Inc., the transferee of Ernie's Nest, Inc., for premises 36 Holmes Street, Belleville, be and the same is hereby suspended for fifteen (15) days commencing at 2:00 a.m. Thursday, July 23, 1970, and terminating at 2:00 a.m. Friday, August 7, 1970

RICHARD C. McDONOUGH
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - FAILURE TO HAVE COPY OF LICENSE APPLICATION AVAILABLE FOR INSPECTION - PRIOR RECORD OF SUSPENSION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Club 232, Inc.
t/a Club 232
232 Mulberry Street
Newark, N. J.,

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-459, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

-----)
Licensee, by Angel Torres, President, Pro se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to the following charge:

"On July 18, 1969, and divers days prior thereto, you conducted your licensed business without keeping on the licensed premises a list containing the names and addresses and other required information with respect to all persons then currently employed on your licensed premises, contrary to and in violation of Rule 16 of State Regulation No. 20."

Licensee has a previous record of suspension of license by the Director for twenty days, effective September 16, 1969, for purchase of alcoholic beverages from another retailer and filing false Beverage Tax Bureau reports (Re Club 232, Inc., Bulletin 1882, Item 6). In addition, license held by Club 339 Inc. for premises 339 Mulberry St., Newark, N.J., in which the licensee is linked by common officers, stockholders and directors, was suspended by the municipal issuing authority for fifteen days, effective March 31, 1969, for sale of alcoholic beverages during hours prohibited by local regulation, and by the Director for twenty-five days, effective September 15, 1969, for purchase of alcoholic beverages from another retailer and filing false Beverage Tax Bureau reports. Re Club 339, Inc., Bulletin 1881, Item 11.

The license will be suspended for ten days (cf. Re Edward J. Power, Inc., Bulletin 1487, Item 5), to which will be added five days by reason of the record of suspension of license for dissimilar violation within the past five years (Re Harrington & Burns, Inc., Bulletin 1882, Item 5), and ten days by reason of the record of the two suspensions of license of Club 339, Inc., for dissimilar violation within the past five years (Re Tunnel Hill Corporation, Bulletin 1877, Item 4 and Re Tooley's Bar, Inc., Bulletin 1806, Item 6), or 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 8th day of July 1970,

ORDERED that Plenary Retail Consumption License C-459

(as renewed for the 1970-71 licensing period), issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Club 232, Inc., t/a Club 232, for premises 232 Mulberry Street, Newark, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, July 21, 1970, and terminating at 2:00 a.m. Monday, August 10, 1970.

RICHARD C. McDONOUGH
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
Frank J. Rasimowicz)
t/a Extension Tavern)
1450 North Olden Avenue)
Ewing Township)
PO Trenton, N.J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-4 (for 1969-70 and)
1970-71 licensing periods), issued)
by the Township Committee of the)
Township of Ewing.)

-----)

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

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that, on April 10, 1970, he sold drinks of beer to two minors ages 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for five days, effective December 7, 1942, for sale to a minor. Re Rasimowicz, Bulletin 540, Item 8.

The previous record of suspension of license for similar violation occurring more than ten years ago disregarded, 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 Banjo Palace, Inc., Bulletin 1875, Item 9.

Accordingly, it is, on this 8th day of July, 1970,

ORDERED, that Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Ewing to Frank J. Rasimowicz, t/a Extension Tavern, for premises 1450 North Olden Avenue, Ewing Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, July 20, 1970, and terminating at 2:00 a.m. Thursday, July 30, 1970.

RICHARD C. McDONOUGH
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO CORRECT.

In the Matter of Disciplinary Proceedings against)

G.G.H. Corp.)
t/a The Spot)
535-37 Liberty Street)
Camden, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-117 (for 1969-70 licensing period and C-169 for 1970-71 licensing period), issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

-----)
Novack & Trobman, Esqs., Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges (1), (2) and (3) alleging that, by false statement in its application filed with the municipal license issuing authority for its license which expired June 30, 1970, it concealed the fact it farmed out its license to one Philip Wintheim, and permitted him to retain all of the profits of the licensed business.

Licensee has a record of suspension of license by the Director for fifty-five days, commencing May 28, 1970 and terminating July 22, 1970, for permitting gambling (acceptance of numbers and horse race bets) on the licensed premises. Re G.G.H. Corp., Bulletin 1915, Item 6.

The record of suspension of license effective May 28, 1970, disregarded in admeasuring the penalty because imposed subsequent to the occurrence of the violation herein (Re Cletzky, Bulletin 1659, Item 6), the license would usually be suspended on the three charges herein for twenty days (Re Tied Inc., Bulletin 1796, Item 7; Re Whitestone of Trenton Inc., Bulletin 1862, Item 4). However, since, to date, no proof has been submitted by the licensee corporation that correction of the unlawful situation has been accomplished, its license for the current year will be suspended for the balance of its term, with leave granted to the licensee corporation or any bona fide transferee of the license to apply for lifting of the suspension upon submission of proof that the unlawful situation has been corrected, but such lifting shall not be granted in any event sooner than twenty days from the commencement of the suspension herein.

Accordingly, it is, on this 8th day of July 1970,

ORDERED that Plenary Retail Consumption License C-169, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to G.G.H. Corp., t/a The Spot, for premises 535-37 Liberty Street, Camden, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1971, commencing at 2:00 a.m. Wednesday, July 22, 1970, with leave to the licensee corporation or any

bona fide transferee of the license to file a verified petition establishing correction of the unlawful situation for lifting of the suspension of license on or after 2:00 a.m. Tuesday, August 11, 1970.

RICHARD C. McDONOUGH
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
JAMES E. CHIRICHELLA and SANTA CHIRICHELLA)	CONCLUSIONS AND ORDER
104 Hudson St.)	
Hoboken, N. J.)	
Holder of Plenary Retail Consumption License C-20, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.)	

Maurice Gottlieb, Esq., Attorney for Licensees.
Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on March 17, 1970, they possessed alcoholic beverages in thirteen bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for forty-five days with remission of five days for the plea entered, leaving a net suspension of forty days. Re Columbus Bar & Grill, Inc., Bulletin 1809, Item 5.

Accordingly, it is, on this 6th day of August, 1970

ORDERED that Plenary Retail Consumption License C-20, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to James E. Chirichella and Santa Chirichella, for premises 104 Hudson St., Hoboken, be and the same is hereby suspended for forty (40) days, commencing at 2:00 a.m. Thursday, August 20, 1970, and terminating at 2:00 a.m., Tuesday, September 29, 1970.

Richard C. McDonough
Richard C. McDonough
Director