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

BULLETIN 2227

May 27, 1976

TABLE OF CONTENTS

ITEM

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

BULLETIN 2227 May 27, 1976

1. APPELLATE DECISIONS - ROVIRIAN, INC. v. EAST ORANGE.

Rovirian, Inc., t/a Graney's, Appellant, v. Municipal Board of Alcoholic Beverage Control of the City of East Orange, Respondent.	)	On Appeal CONCLUSIONS and ORDER

Harry P. Durkin, Esq., Attorney for Appellant
Julius Fielo, Esq., by David Brantley, 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 the Municipal Board of Alcoholic Beverage Control of the City of East Orange (hereinafter Board) which, on October 7, 1975, suspended appellant's Plenary Retail Consumption License C-5 for sixty days, effective October 25, 1975, for premises 171-3 North Park Street, East Orange, upon a guilty finding to charges alleging that appellant permitted gambling on its licensed premises on May 13 and 14, 1975, in violation of Rule 7 of State Regulation No. 20.

Upon the filing of this appeal, the Director of this Division by order dated October 21, 1975, stayed respondent's order of the said suspension, pending the determination of this appeal.

An appeal de novo was held in this Division pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and cross-examine witnesses. A transcript of the proceeding before the Board was made part of the record, pursuant to Rule 8 of State Regulation No. 15.

The only witness who testified on behalf of the respondent that gambling occurred in appellant's premises was Gladstone Evans, an East Orange police patrolman who had been assigned to do undercover work in the subject premises. He related, in great detail visits to appellant's premises over many days, during which he made observations of what he believed to be gambling activities.

For the most part, the Board did not adopt such conclusions, so that of the five instances specified in the charges, the Board found that only the charges relating to incidents of May 13 and 14, 1975 were sufficiently established.

Officer Evans testified that, on May 13, after some discussion with the bartender about a "numbers" play, Evans requested the bartender to accept his bet, gave the numbers, and laid down cash to cover the bets in front of the bartender and departed. The following day, May 14, Evans returned and repeated his bet; this time he handed the money to the bartender and observed the bartender place the bet slip in his pocket.

Essentially, this was the only testimony that recounted direct gambling activity. Despite vigorous cross examination in this Division, Evans affirmed his placing those bets. With respect to other gambling activity allegedly having taken place within appellant's premises, Evan's testimony was sprinkled with "I can't recall" or "I don't remember". However, with respect to the bets that he had placed on May 13 and 14, his testimony remained definite, clear and unshaken.

For reasons unclear, the appellant failed to call any witnesses, particularly the bartender who was alleged to have accepted the bets. In the absence of rebuttal testimony, the Board had no alternative but to accept the testimony of the police officer as being prima facie evidence that gambling activity did take place. Honey v. Brown, 22 N.J. 433 (1956).

Appellant urges that since no gambling slips nor paraphernalia were offered into evidence, the testimony of the officer, standing alone, is insufficient upon which to predicate a guilty finding. Such contention lacks merit. It makes no difference whether bets are committed to paper or to memory; hence, it is not necessary to prove that a tangible record was made. State v. De Stasio, 49 N.J. 247 (1967).

The Board endeavored to supply evidence that gambling slips were discovered as a result of a raid upon appellant's premises which occurred on May 24, 1975. However, appellant thwarted the acceptance of such evidence (whatever it may have been) by demanding the suppression of such evidence upon the ground that the search warrant obtained was defective. Again, for unclear reasons, the Board capitulated to such specious reasoning, when such evidence (if it existed) was clearly admissible. A search of licensed premises by law enforcement officers need not be predicated upon the possession of a search warrant. State v. Zurawski, 89 N.J. Super. 488, aff'd 47 N.J. 160 (1966). Hence, I was unable to draw any conclusion that gambling slips were discovered in appellant's premises as a result of that raid.

However, the failure of appellant to offer rebuttal testimony or evidence "may invite the indulgence against it of every inference warranted by the evidence presented by its adversary." 31A C.J.S. 156 (4) Evidence, p.422; Hackensack Motel Corporation v. Little Ferry, Bulletin 1648, Item 1. Officer Evan's testimony that he twice placed bets with the bartender, supported by details as to the specific bets placed and the amount of money bet, remains unrefuted. Such testimony was not shown to be false, biased, prejudiced nor egaggerated. Officer Evans is, admittedly, a young inexperienced police officer who was hastily given the task to obtain evidence of alleged gambling. His frequent lapses of memory, coupled with his incomplete observing and reporting resulted in his failure to substantiate the charges pertaining to incidents other than May 13 and 14, 1975. None of these absences diluted or diminished his credibility relative to the charges upon which the guilty findings were based. I find that they have been established by a fair preponderance of the credible evidence, and that the action of the Board was not erroneous.

The burden of establishing that the Board was in error and its action should be reversed on appeal, rests with appellant, pursuant to Rule 6 of State Regulation No. 15. I find that the appellant has not met its burden.

It is, therefore, recommended that the action of the Board be affirmed and the appeal herein be dismissed.

Conclusions and Order

Written Exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

I have analyzed and evaluated the said Exceptions and find them lacking in merit. I want to comment, however, on licensee's exception to the penalty of sixty days suspension of license imposed by the Board, on the ground that the same is excessive. Under present Division policy penalty of ninety-day suspension of license would normally be imposed for this type of gambling charge where, as here, the said gambling was engaged in by an employee. I, therefore, find that this exception has no merit.

The appellant's request for oral argument before me appears to be unwarranted, and is denied.

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

Accordingly, it is, on this 31st day of March 1976,

ORDERED that the action of the respondent Municipal Board of Alcoholic Beverage Control of the City of East Orange be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my order dated October 21, 1975 staying the Board's Order of suspension pending the determination of this appeal, be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-5, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange, to Rovirian, Inc., t/a Graney's, for premises 171-3 North Park Street, East Orange, be and the same is hereby suspended for sixty (60) days, commencing 2:00 a.m. Monday, April 12, 1976 and terminating at 2:00 a.m. on Friday, June 11, 1976.

LEONARD D. RONCO
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - SALE AFTER HOURS - LICENSE SUSPENDED ON BOTH CHARGES FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against

Conpap, Inc.
t/a Rainbow Inn
265 A Smith Street
Perth Amboy, N.J.,

Holder of Plenary Retail Consumption License C-4, issued by the Board of Commissioners of the City of Perth Amboy.

CONCLUSIONS AND ORDER

Spevack, Kogos and Coe, Esqs., by Ronald W. Spevack, Esq., Attorneys for Licensee
David S. Piltzer, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleads "not guilty" to the first charge, and non vult to the second charge herein:

"1. On August 1, 1975, you sold, served or delivered or allowed, permitted or suffered the sale, service or delivery of alcoholic beverages, directly or indirectly, to a person under the age of eighteen (18) years, viz., Benjamin I--, age 17, and allowed, permitted or suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

2. On Friday, August 1, 1975, at about 10:30 P.M., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of an alcoholic beverage, viz., a pint bottle of Seagram's '7' Whiskey, at retail, in its original container, for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverage, in its original container, from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

Pursuant to a specific assignment, ABC Agents P and C visited the subject licensed premises on Friday, August 1, 1975 at about 10:00 p.m., and concluded their assignment at these premises at 12:15 a.m. on Saturday, August 2, 1975.

ABC Agent P gave the following account: The premises consist of a multi-story building. To the left of the main entrance is a small package goods section with a counter. In the rear of the entrance is located an L-shaped bar. To the right of the bar is a juke box; and to the left of the bar is located a large room with a pool table, which adjoins another room which is furnished with a pool table, table and chairs.

The Agents were served by a bartender, later identified as Conrado Marrero. During the first half hour, they observed four males playing pool at one of the tables, two of whom appeared to be minors. One of these was later identified as Benjamin I--, age 17.

At 10:30 p.m., on August 1, 1975, the Agents observed a male, later identified as Felipe Tirado, approach the bar where he ordered and was sold four seven-ounce bottles of Schaefer beer. Tirado brought the beer over to the pool table, which was in the clear view of the Agents and handed each of the male pool players a bottle. Benjamin, who was one of them, opened his bottle and consumed a small portion of the beer.

At this time, the Agents observed another male who appeared to them to be a minor, purchase a bottle of alcoholic beverages. Since the time was now 10:35 p.m., this witness realized that this was clearly an unlawful sale of alcoholic beverages for off-premises consumption; whereupon, he ordered a bottle of Seagrams '7' from Marrero, and paid him with four "marked" one dollar bills.

The Agents thereupon left the premises, but were unable to apprehend the apparent minor. At 10:45 p.m., the Agents reentered the premises, identified themselves to Marrero and Benjamin and seized the bottle containing the unconsumed portion of the beer which was served to the minor.

When the minor was questioned, he admitted that he was seventeen years of age, and that he had been "told to stay out of the premises (on several occasions)". Marrero was also arrested, and he also admitted to the Agents that he had warned the minor to stay out of the premises.

The remaining portion of the liquid in the bottles was put in a sample bottle, sealed, labeled and brought to the Division Chemist for analysis. A certification by the Director established that the portion seized and analyzed was an alcoholic beverage, fit for beverage purposes, as defined by N.J.S.A. 33:1-1 (b).

The bartender also admitted the sale after lawful hours for such sale of the alcoholic beverages, at retail, in its original container, for consumption off the licensed premises, in violation of Rule 1 of State Regulation No. 38, as set forth in the second charge.

On cross examination, the Agent asserted that his view of the pool table at which the minor was playing pool, was unobstructed, and that the bartender also had a clear and unobstructed view of the table so that he could readily observe that the minor had been served with and was consuming the beer.

ABC Agent C substantially corroborated the testimony of the prior witness, and added that he was able to see clearly the labels of the four beer bottles which Tirado purchased at the bar; and he identified them as seven-ounce Schaefer beer bottles. He explained that he speaks Spanish and understood the conversation in Spanish of Tirado with the bartender when Tirado ordered the said beers.

Benjamin testified that he was born on December 29, 1957, and was seventeen years of age on the date charged herein. The examination of the witness on behalf of the Division was limited to proof of his age; the licensee then made the minor his witness for the purpose of defense.

Benjamin acknowledged that he had been ordered by Marrero to leave the premises on a number of occasions, but, notwithstanding, he entered the premises on several occasions, and was in the premises on the date charged herein. While he was playing pool, he saw Tirado buy four beers, but, none of the beers were purchased for him. Nor did he consume any of the beer purchased by Tirado.

He explained that he had been drinking beer at a friend's house before he entered this facility; when he arrived, he immediately engaged in a game of pool with several Mexicans. Although the beer was not purchased for him, he saw a bottle of beer on the table and picked it up with the intention of drinking; but as he lifted the bottle to his lips, he decided that "I didn't want to drink no more, because I was drinking in my friend's house". He had a sudden change of heart, although the other three players were drinking beer.

Finally, he admitted that, several weeks before this incident, he was questioned by the bartender as to his age, and when he informed the bartender that he was seventeen years of age, he was told he "couldn't hang out in the bar". Nevertheless, he returned on several occasions thereafter.

Questioned, on cross examination, whether he knew why he was arrested, he replied that he thought that it was "because I didn't have I.D.".

"Q Did you know you were not allowed to drink beer because you were under eighteen? A Yes."

He insisted that the Agent told him that he couldn't prove he was drinking.

"Q When he said he couldn't prove you were drinking didn't you know that was why you were arrested? Because you were drinking. A Probably."

Felipe Tirado, testifying on behalf of the licensee, gave the following account: He saw the minor in the premises on the date and time charged herein but he did not play pool with them. He played pool with three Mexicans whose identity was unknown to him. He bought four beers for these two of which were for the Mexicans; one was placed on the table, and he took one. He never saw the minor drink any beer before the confrontation with the Agents took place.

On cross examination, he asserted that the first time he saw this minor on the premises was about five or ten minutes to 10 p.m. when the minor was in the telephone booth. Shortly thereafter, the minor left the telephone booth and went to the pool table where he completed a game of pool. At that point, an ABC Agent approached him and seized the bottle of beer that he held in his hand. He didn't challenge the Agent's action or ascertain why the Agent seized the beer, because the Agent had identified himself. He was then questioned about a gun which was allegedly pulled on the minor by the Agent as testified to by the minor. This witness frankly conceded that he didn't see any gun displayed or used.

Agent P was recalled for further cross examination, and reaffirmed that the bottles served were, indeed, Schaefer beer bottles.

Conrado Marrero, a 50% stockholder and principal officer of the corporate appellant, who was engaged as a bartender in these premises on the date charged herein, explained that this minor had visited into these premises on a number of occasions before the date charged herein, and each time "he see me he goes away because I chase him out". On this evening, he first became aware that Benjamin was in the premises when the Agent confronted him with the charge that the minor was served with and consumed beer.

He admitted that he sold four bottles of beer on this very hot night to Tirado, but that it was, in fact, Miller beer rather than Schaefer. He acknowledged that he knew that Benjamin was only seventeen years of age and, therefore, ordered him to leave on each occasion that Benjamin entered the premises.

He couldn't state exactly how many people were playing at the one pool table that was operable at the time. Furthermore, he could not identify any of the players other than Tirado. He admitted that usually, he had a clear view of the table from where he was stationed at the bar, but that, on this occasion, his view was blocked by patrons standing at the bar. He denied knowing why he was arrested; then he was asked:

"Q What did you think he was arresting you for?

A He arrested me because he [Benjamin] was minor."

Questioned whether he knew for whom the beers were purchased: "I really don't know for sure". The questioning continued:

"Q On August 1, Mr. Marrero, did you realize that you were responsible not only to prevent direct sales of beer to minors but also to prevent any minors from drinking any beer at your tavern?

A Yes, sir.

Q Did you realize that that responsibility extended to or covered the area by the pool table as well as by your bar?

A Yes, sir. I understand that, sir.

Q Did you take any steps to make sure that anyone drinking beer near the pool table was of legal age?

A Check them?

Q Yes.

A No, sir."

In rebuttal, Agent P denied the minor's charge that he drew his revolver or held it against the minor. He also disputed Marrero's contention that patrons standing at the bar blocked the vision of the bartender at the time that Tirado ordered the beer.

In view of the licensee's confessive plea to the second charge, my evaluation of the evidence and my findings will be addressed to the first charge, which alleges the unlawful sale of alcoholic beverages to a minor in the licensed premises.

We are dealing with a purely disciplinary measure and its alleged infraction, which is civil in nature, and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); The Panda v. Driscoll, 135 N.J.L. 164 (E. & A. 1946). Thus, the Division is required to establish the truth of this charge by a fair preponderance of the credible evidence only. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App. Div. 1960).

In other words, the finding must be based upon a reasonable certainty as to the probabilities arising from a fair consideration of all of the evidence. 32 C.J.S. Evidence, sec. 1042.

In my assay and evaluation of the record herein, I have had the opportunity to observe the demeanor of the witnesses as they testified. The demeanor of a witness may be as revealing as his words. Reynolds v. U.S.,98 U.S. 145,156-7, 25L. Ed. 244, 247 (1879). It is a fundamental principle that no testimony need be believed but, rather, the hearer may credit as much, or as little, as he finds reliable. 7 Wigmore Evidence, sec. 2100 (1940); Greenleaf Evidence, sec. 201 (16th Ed. 1899).

Evidence, to be believed, must not only proceed from the mouths of credible witnesses, but must be credible in itself as 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). This is clearly a case that involves essentially the issue of credibility.

Applying the crucible of these principles, I am persuaded that the more credible version was presented by the Division Agents who personally observed the sale of four bottles of beer by the bartender, the service of one of those bottles to Benjamin, the minor, and the minor's partial consumption of the contents of that bottle. Their testimony was forthright, factual, and consistent with human experience; and remained unshaken under vigorous cross examination. On the other hand, the testimony of the licensee's witnesses was unreliable, inconsistent, contradictory, and does violence to common experience.

The bartender, Marrero, frankly volunteered that he had "chased" this minor from the premises on several prior occasions because he knew that he was under the statutory age. He also conceded that he sold four bottles of beer to Tirado who brought them over to the pool table where the minor was playing. However, he maintained that he did not know that one of the bottles of beer was being purchased for and served to the minor, because his direct vision of the pool table was blocked by patrons who were standing in front of the bar.

The evidence establishes, however, that, at no time during this evening, were there ever more than ten patrons in the entire barroom. It is absurd to believe that the bartender could not have seen and did not see the minor during the period of time that the minor was in the premises and engaged in playing pool. It was, of course, the bartender's responsibility to use his eyes, and use them effectively to see that no such sale or service was made to the minor.

The violation charged herein is embraced within Rule 1 of State Regulation No. 20 which provides, in pertinent part, as follows:

> "No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person under the age of eighteen (18) years... or allow, permit or suffer the consumption of any alcoholic beverage by any such person in or upon the licensed premises."

The attorney for the licensee argues that the Division is required to prove that the bartender had knowledge that the minor actually consumed the alcoholic beverage on the licensed premises. The law is to the contrary. If the licensee failed to prevent the sale, service, delivery, or consumption by a minor, he is guilty of the charge.

That standard has been set forth in Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947), which is a case similar to the instant one. In Essex Holding Corp., several minors (who were accompanying adults at a banquet) admitted imbibing beer when the older men were not looking, and the waiters were not present. It was not shown that the waiters knew that they were drinking the beer. The court sustained the Division's suspension of the license, holding that knowledge is immaterial and it is the responsibility of the licensee to prevent the minor from consuming any beer on licensed premises. Said the court:

> "The prevention of the sale to, or the consumption by, minors of liquor upon licensed premises is of the utmost importance. Its purpose is to protect our youth and thereby make more secure the foundation of society. The intent of the

legislature and the rules and regulations of the department governing enforcement clearly encompass the responsibility of the licensee for the consumption of alcoholic beverages by minors under the circumstances complained of.

"Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. Guastamachio v. Brennan, 128 Conn. 356; 23 Atl. Rep. (2d) 140."

See Gene Bulmer's Enterprises, Inc., Bulletin 2067, Item 7; F. & A. Distributing Co. v. Div. of ABC, 36 N.J. 34, 37 (1961).

The testimony of the minor is equally unbelievable and is a tale woven out of whole cloth. On this hot summer evening, while playing pool in these premises which had no air-conditioning, the minor relates that he picked up a bottle of beer, which was placed near him by Tirado, and as he put the bottle to his lips, he was suddenly conscience-striken (apparently because he felt he was committing an unlawful act), and decided not to drink the beer. He explained that he had consumed some beer at a friend's house before coming into this tavern and, thus, felt no need for any more. I cite this as merely one example of the incredible explanation by this minor.

I find, to the contrary, that there was an indirect delivery of beer by the bartender, through the instrumentality of the adult patron who made the purchase, to the minor. The mere consumption of alcoholic beverages by the minor on licensed premises is a violation of the aforementioned regulation.

The licensee introduced into evidence certain photographs which were intended to establish that another brand of beer, rather than the one identified by the Agents, was, in fact, sold to this patron. The fact is that these photographs were taken on October 4, 1975, approximately two months after the date charged herein; they obviously are unreliable in establishing the true picture and have questionable probative value.

From my evaluation of the totality of the evidence, I conclude that the Division has established the truth of this charge by a fair preponderance of the credible evidence, indeed, by substantial evidence. I, therefore, recommend that the licensee be found guilty as charged.

Licensee has no prior adjudicated record. It is, accordingly, recommended that the license be suspended for fifteen days on the first charge, and for fifteen days on the second charge, making a total suspension of license for thirty (30) days.

Conclusions and Order

Written Exceptions to the Hearer's report were filed on behalf of the licensee, and Answers to the said Exceptions was filed on behalf of the Division, pursuant to Rule 6 of State Regulation No. 16.

In its Exceptions, the licensee argues that the principle enunciated in Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947), relied upon by the Hearer to hold the licensee responsible for the service to and consumption by the minor, does not apply to this case because "the licensee did not know of the presence of the minor."

However, the Hearer found, from the credible evidence presented, that the licensee did, in fact, have such knowledge, or, at the very least, should have known of the minor's presence by exercising requisite care. I am persuaded that the Essex case is squarely applicable here.

Finally, licensee contends that the penalty recommended by the Hearer for this violation is too severe. This contention lacks merit. Not only is this the usual penalty for such offense, but, in fact, this case is aggravated because the licensee had prior knowledge that this minor was not of legal age. Therefore, it should have exercised special care to see that none of the four beers which it sold to the lone adult was given to or consumed by the minor.

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

Accordingly, it is, on this 3rd day of March 1976,

ORDERED that Plenary Retail Consumption License C-4, issued by the Board of Commissioners of the City of Perth Amboy, to Conpap, Inc., t/a Rainbow Inn, for premises 265 A Smith Street, Perth Amboy, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. on Wednesday, March 17, 1976 and terminating at 2:00 a.m. on Friday, April 16, 1976.

Leonard D. Ronco
Director

3. APPELLATE DECISIONS - GRANNY'S HIDEAWAY CORP. v. JERSEY CITY - ORDER.

Granny's Hideaway Corp., t/a Granny's Hideaway,	)	
Appellant,	)	
v.	)	O R D E R
Municipal Board of Alcoholic Beverage Control of the City of Jersey City,	)	
Respondent.	)	

Samuel R. DeLuca, Esq., Attorney for Appellant
Dennis L. McGill, Esq., by Bernard Abrams, Esq., Attorneys for Respondent

BY THE DIRECTOR:

This is an appeal from the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Jersey City, which, on February 9, 1976, suspended appellant's Plenary Retail Consumption License C-38, for premises 372 Bramhall Avenue, Jersey City, for ninety-five days, effective March 1, 1976, in consequence of its finding appellant guilty of charges alleging that appellant permitted controlled dangerous substances and gambling paraphernalia on the licensed premises; in violation of Rules 4 and 6 of State Regulation No. 20.

By Order dated February 25, 1976, the respondent's order of suspension was stayed pending the determination of the appeal.

When the matter came on for hearing, the attorney for the Board appeared, together with the Secretary of the Board and several witnesses. The appellant and its attorney having been duly noticed of the date and time of such hearing, neither appeared to prosecute the appeal nor advised the Division or the respondent of the reason for appellant's failure or inability to be present. In consequence, after a delay of more than an hour, with neither the appellant nor its counsel or anyone appearing on its behalf, a motion was made to dismiss the appeal. Good cause appearing, I shall grant the motion to dismiss the said appeal.

Accordingly, it is, on this 30th day of March 1976,

ORDERED that the appeal filed by appellant be and the same is hereby dismissed; and it is further

ORDERED that my Order, dated February 25, 1976 staying respondent's Order of suspension be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-38, issued by the Municipal Board of Alcoholic Beverage Control for the City of Jersey City to Granny's Hideaway Corp., t/a Granny's Hideaway for premises 372 Bramhall Avenue, Jersey City, be and the same is hereby suspended for the balance of its term, viz., midnite June 30, 1976, commencing at 2:00 a.m. Monday, April 12, 1976; and it is further

ORDERED that any renewal of the said license that may be granted be and the same is hereby suspended until 2:00 a.m. Friday, July 16, 1976.

Leonard D. Ronco
Director

Dated: May 27, 1976

Joseph H. Lerner
Acting Director