

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

BULLETIN 2007

November 4, 1971

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DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
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BULLETIN 2007

November 4, 1971

1. COURT DECISIONS - PATERSON v. E.A.V. LIQUORS & BAR, INC.,  
ET AL. - DIRECTOR AFFIRMED..

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
A 2173-69

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BOARD OF ALCOHOLIC BEVERAGE CONTROL  
FOR THE CITY OF PATERSON,

Appellant,

v.

E.A.V. LIQUORS & BAR, INC. and  
RICHARD C. McDONOUGH, DIRECTOR OF  
THE STATE DIVISION OF ALCOHOLIC BEVERAGE  
CONTROL,

Respondents.

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Argued September 22, 1971 Decided October 4, 1971

Before Judges Lewis, Kolovsky and Halpern.

On appeal from the Division of Alcoholic  
Beverage Control.

Mr. Samuel K. Yucht, Legal Assistant,  
argued the cause for appellant (Mr. Joseph  
L. Conn, City Counsel, attorney).

Mr. Robert I. Goodman argued the cause for  
respondent (Messrs. Goodman and Rothenberg,  
attorneys; Mr. Ronald W. Bronstein, on the  
brief).

Mr. George F. Kugler, Jr., Attorney General,  
filed a Statement in Lieu of Brief for Respondent  
Division of Alcoholic Beverage Control (Mr. Michael  
T. Hency, Deputy Attorney General, of Counsel and  
on the brief).

PER CURIAM

(Appeal from Decision in re E.A.V. Liquors & Bar, Inc.  
v. Paterson, Bulletin 1928, Item 2, Director affirmed,  
opinion not approved for publication by the Court  
Committee on Opinions.)

2. DISCIPLINARY PROCEEDINGS - INDECENT MATTER (LEWD MOTION PICTURE FILMS) - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against )

Charles D. Kuchar & Mary Brupbacher, t/a Charlmaree Tavern & Rest. 126 Anderson Street Hackensack, N.J. )

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-19, issued by the City Council of the City of Hackensack. )

-----) Frederick Klaessig, Esq., Attorney for Licensee Kuchar Gross, Demetrakis & Donohue, Esqs., by Joel M. Ellis, Esq., Attorney for Licensee Brupbacher Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

- "1. On Friday, March 17 and 19 , 1971 you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that on both of said dates, you through a person employed as a bartender on your licensed premises, made offers to and arrangements with patrons and customers on your licensed premises to procure, obtain for and sell to them matter containing obscene, indecent, filthy, lewd, lascivious and disgusting matter, viz., reels of motion picture films depicting male and female persons engaged in acts of sexual intercourse, acts of sexual perversion and other lewd and indecent sexual poses, acts and practices, and on said date of March 19, 1971, sold two reels of such motion picture films to customers and patrons on your licensed premises; all such activity being in violation of Rule 5 of State Regulation No. 20.
- 2. On March 19, 1971, you allowed, permitted and suffered in and upon your licensed premises and possessed, distributed and caused to be distributed thereon obscene, filthy, lewd, lascivious and disgusting matter, viz., two reels of motion picture films depicting male and female persons engaged in acts of sexual intercourse, acts of sexual perversion and other lewd and indecent poses, acts and practices; in violation of Rule 17 of State Regulation No. 20."

The Division's case was based on the testimony of ABC agents S and G who were specifically assigned to investigate alleged gambling activities within the licensed premises. While on one of several visits, that is, on March 17, 1971, they were offered pornographic film by the bartender in consequence of which agent S returned to the premises two days thereafter on March 19, 1971, and bought the films. Agent G remaining in surveillance outside the premises, was able to see the bartender go to the trunk of his car and extracted something and return with it. Shortly thereafter agent S rejoined agent G and presented the purchased film. Despite lengthy and vigorous cross examination, this synthesis of their testimony remained intact.

The defense to the charges revolved principally around the testimony of the bartender, Eugene Lynch, also called "Gino" who was specifically warned by counsel for licensee Kuchar, that any testimony he gave might be self-incriminating as Gino had been arrested and was awaiting indictment and trial with respect thereto. Nonetheless, Gino voluntarily testified. He readily admitted the sale but averred that such sale took place outside the licensed premises, adjacent to his car, where he delivered the films, and, upon his re-entry to the premises, accepted payment from the agent when both were on the customer's side of the bar. He emphatically denied delivery of the films to the agent within the licensed premises. The agent had testified that the bartender had left the premises with an empty brown paper bag and returned with the films in such a bag. The bartender's version was that the films were in such a bag while in the trunk of his car.

At the hearing of this matter, it was stipulated by all counsel that the films were pornographic, hence no description nor characterization of them is here necessary.

Counsel for the licensees strenuously urged a three-pronged defense. Firstly, it was urged that the bartender was the victim of an entrapment. Secondly, as the bartender kept his illegal wares within his own trunk compartment of his car, the licensees could not be guilty of permitting or suffering their storage in the premises. Thirdly, any sale that did take place was done outside the licensed premises for which the licensee is not responsible. In a memorandum supplied by counsel for the licensee, it was urged that the doctrine of Ishmal (Ishmal v. Div. of Alcoholic Bev. Control, 58 N.J. 347 (1971)), be applied to this matter. This contention must be promptly rejected as the factual situations in both cases are not analagous.

I shall first consider the defense of an alleged entrapment. There was testimony that the agents expressed interest in the illegal film and induced the sale. It has been urged that such interest by the agents nullifies the commission of the act charged. I find no merit to this argument. "A single violation of the liquor statute may be sufficient basis for revoking a license; and it has been held that a violation is not excused by the fact that it was induced by the enforcement officers or agents ...." 48 C.J.S. Intoxicating Liquors, Par. 175, p.283. Our courts have further held: "Judicial abhorrence of entrapment does not mean that police officials cannot afford opportunities or facilities for the commission of criminal offenses. Artifice and stratagem, traps, decoys and deceptions may be used to obtain evidence of the commission of crime or to catch those engaged in criminal enterprises." State v. Dolce, 41 N.J. 422 (1964). Cf. State v. Rosenberg, 37 N.J. Super.197 (App. Div. 1955); Highlander Hotel Corp., Bulletin 1475, Item 1. It is not here found that the agents did use any form of entrapment other than not identifying themselves as agents before the purchase.

The second defense, i.e., that the licensees did not permit the distribution of the offending films on the licensed premises, is equally groundless. The arrangement for the purchase of the films was made in the tavern between the bartender, then on duty, and the agent as a patron. The payment was made there, albeit the bartender was not then standing behind the bar. The delivery was made either in the tavern or alongside the bartender's car parked immediately outside, depending on which version of testimony is acceptable. In either situation, the delivery was an immediate part of the transaction and is not a separable part. The licensee is responsible for the unlawful activity both inside and outside the licensed premises which involved patrons thereof. Re Sue & Frank Club, Inc., Bulletin 1963, Item 2; Conte v. Princeton, Bulletin 139, Item 8; Garcia v. Fair Haven, Bulletin 1149, Item 1.

The third defense, that the sale by the bartender, being outside of the building, was not part of his employment activity for which the licensee is not accountable, also lacks substance. It is a well established and fundamental principle that a licensee is responsible for the misconduct of persons employed and is fully accountable for their activities during their employment on licensed premises. In re Olympic, Inc., 49 N.J. Super. 299 (App. Div. 1958). There was no testimony offered by either licensee that the bartender was proscribed from visiting his car directly alongside the licensed premises. Certainly had he sustained an injury while visiting his car, such injury would have been compensable. Buerkle v. United Parcel Service, 26 N.J. Super. 404 (App. Div. 1953); Gullo v. American Lead Pencil Co., 119 N.J.L. 484 (E. & A. 1937). In fact, it has been held that a licensee is not relieved even if the employee violates his explicit instructions. Greenbrier v. Hock, 14 N.J. Super. 39 (App. Div. 1951); F. & A. Distrib. Co. v. Div. of Alco. Bev. Contr., 36 N.J. 34 (1961).

It is to be noted that the case sub judice is a companion to a matter involving another licensee (Kiefer's Tavern, Inc.) wherein the same bartender, agents and charges were involved; those cases being parallel, they were heard in sequence and should be read together.

I conclude that the testimony herein generates no doubt whatever that there was, in fact, a sale and delivery of pornographic films by the licensees' agent and that the licensees permitted and suffered the material distributed within the premises, in violation of Rules 5 and 17 of State Regulation No. 20.

Accordingly, it is recommended that the licensees be found guilty of said charges.

Licensees have no prior adjudicated record of suspension of license. It is, further recommended that the license be suspended on the charges herein for ninety days. Re New Hurricane Bar, (A Corp.), Bulletin 1927, Item 7; Re The Bird Cage, Inc., Bulletin 1775, Item 1.

Conclusions and Order

Written exceptions to the Hearer's report were filed by the attorneys for the licensees pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record, including the transcripts of the testimony, the exhibits, the Hearer's report and the exceptions filed thereto which I find to be lacking in merit, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 16th day of September 1971,

ORDERED that Plenary Retail Consumption License C-19, issued by the City Council of the City of Hackensack to Charles D. Kuchar & Mary Brupbacher, t/a Charlmaree Tavern & Rest. for premises 126 Anderson Street, Hackensack, be and the same is hereby suspended for ninety (90) days, commencing at 2:00 a.m. Thursday, September 30, 1971, and terminating at 2:00 a.m. Wednesday, December 29, 1971.

Richard C. McDonough  
Director

3. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Elsie I. Allsop )  
t/a Rio Grande Liquor Store )  
100-102 W. Rio Grande Ave. )  
Wildwood, N.J., )

CONCLUSIONS  
and  
ORDER

holder of Plenary Retail Distribution License D-1, issued by the Board of Commissioners of the City of Wildwood. )

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Perskie and Perskie, Esqs., by Marvin D. Perskie, Esq., Attorneys for Licensee

Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 31, 1971 she sold alcoholic beverages to a minor age 16, in violation of Rule 1 of State Regulation No. 20.

Absent prior record the license will be suspended for twenty-five days with remission of five days for the plea entered, leaving a net suspension of twenty days. Re J.B.T. Inc., Bulletin 1996, Item 7.

Accordingly, it is, on this 15th day of September 1971,

ORDERED that Plenary Retail Distribution License D-1 issued by the Board of Commissioners of the City of Wildwood to Elsie T. Allsop, t/a Rio Grande Liquor Store for premises 100-102 W. Rio Grande Avenue, Wildwood, be and the same is hereby suspended for twenty (20) days, commencing 3:00 a.m. on Wednesday, September 29, 1971 and terminating 3:00 a.m. on Tuesday, October 19, 1971.

Richard C. McDonough  
Director

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

In the Matter of Disciplinary Proceedings against  
 Madonna Liquors, Inc.  
 t/a Madonna Liquors  
 817 Springwood Avenue  
 Asbury Park, N. J.,  
 Holder of Plenary Retail Consumption License C-17 (for 1970-71 and 1971-72 license periods), issued by the City Council of the City of Asbury Park.  
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CONCLUSIONS and ORDER

Sisselman and Nitti, Esqs., by Louis J. Nitti, Esq., Attorneys for Licensee  
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

- "1. On Saturday, March 20, 1971, at about 10:45 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., four twelve-ounce bottles of Champale Malt Liquor, at retail, in their original containers for consumption off your licensed premises, and allowed, permitted and suffered the removal of said alcoholic beverages, in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.
- "2. On Saturday, March 20, 1971 between 10:50 P.M. and 11:10 P.M., you through agents servants, employees and other persons in your behalf, failed to facilitate, hindered, delayed, caused the hindrance and delay, and attempted to hinder, delay and cause the hindrance and delay of an investigation and inspection of your licensed premises then and there being conducted by Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of Rule 35 of State Regulation No. 20."

Three ABC agents participated in the investigation leading to the preferment of the charges.

Agent B testified that, accompanied by Agents D and J, he arrived in the vicinity of the licensed premises on Saturday, March 20, 1971, at 10:20 p.m. Immediately thereafter, accompanied by Agent D, he entered the licensed premises (described as a neighborhood bar) and sat at the bar. Three male bartenders were on duty serving approximately forty patrons. He identified a male named James Warrington (who was seated in the hearing room) as one of the bartenders. The agent was served by a male whose identity is unknown to him. At approximately 10:45 p.m. Agent B requested the unidentified bartender to give him six cans of Champale to take

out. The bartender refused because it was later than 10 p.m. Agents B and D got off their stools and were about to leave the premises when Warrington spoke to the agents, and Agent B informed him that he wanted six cans of Champale to go. Warrington stated that he would see what he could do and proceeded through a doorway behind the bar into the package goods section. Upon returning, Warrington informed Agent B that he had four-packs of Champale. Agent B replied that he would take the four-pack to go. Warrington returned to the package section and returned with a brown paper bag which contained a four-pack of Champale (an alcoholic beverage). Agent B paid Warrington for the beer and departed from the premises at approximately 10:50 p.m.

After conversing with Agent J, Agents B and D re-entered the barroom at approximately 10:55 p.m. and identified themselves to Warrington who was tending bar. Agent B showed Warrington the four-pack of Champale. Warrington responded that he hadn't realized that it was after 10 p.m. when he made the sale.

Agent B requested Warrington to call the other two bartenders for the purpose of obtaining their identifications. Agent B identified himself to each of the other bartenders and requested each to produce identification, name and address. Both refused to produce identification or give their names and addresses despite being warned that the licensee could be charged with hindering. The agents departed approximately twenty minutes after this second entry without being able to secure identification of either of the two bartenders. Warrington cooperated fully with the agents.

On cross examination Agent B testified that he determined the time of entry into the licensed premises by checking his and Agent J's watches. He had checked the accuracy of his watch with the time-checks repeatedly broadcast by radio stations. He did not note whether there was a clock in the tavern. He looked at his watch when he was ready to order the Champale.

It was stipulated that the testimony of Agent D, who had participated with Agent B in the subject investigation, would be corroborative of the testimony of Agent B.

Agent J testified that he accompanied Agents B and D to the licensed premises on March 20. Agents B and D entered the premises at approximately 10:20 p.m. He waited in an automobile parked in the immediate vicinity. At approximately 10:45 or 10:50 p.m. Agents B and D emerged from licensed premises and rejoined Agent J. Agent B was carrying a brown paper bag. Upon examining the contents, he ascertained that the bag contained a four-pack of Champale. Agent J entered the licensed premises immediately thereafter and positioned himself at the front part of the bar. Three male bartenders (one of whom he identified as Warrington) were behind the bar. Shortly thereafter he observed Agents B and D enter the licensed premises and engage in conversation with Warrington at the rear end of the bar. He then observed the other two bartenders proceed separately to where Agents B and D were positioned. He did not overhear any of the conversation between the bartenders and the agents.

Finally, Agent J testified that he was in charge of the subject investigation and that he was acting pursuant to specific assignment that "alcoholic beverages were being sold in its original containers after ten o'clock."

None of the agents was able to identify any individual

in the hearing room as being one of the bartenders other than Warrington.

In defense of the charges, Louis Chiola (president of the corporate licensee) testified that in the fifteen years he has been engaged in the liquor business he has had an unblemished record; that, in order to prevent sales after hours, he has set the clock in the package goods store five minutes ahead and the clock in the barroom ten minutes ahead; that on March 20 he left the premises at approximately 6 p.m. and, upon departing from the premises, he left Warrington in charge of the package goods store and an individual, identified in the hearing room as Daniel Davis, working behind the bar.

On cross examination the witness conceded that he did not know whether Davis remained on duty on the night of March 20.

James Warrington testified that he usually tends bar at the licensed premises; that on the night in question he checked the clock and closed the liquor store at 9:55 p.m.; that he generally closes the liquor store five minutes early; that the clock in the store is kept four or five minutes fast and the clock in the tavern area is kept eight or ten minutes fast. Upon closing the package goods area, he worked behind the bar to 3 a.m. He identified the male previously identified as Daniel Davis as one of the bartenders on the night in question and a part-time employee identified as Leedy Kenny (who is no longer in the employ of the licensee) as the other bartender. Warrington then testified as follows:

"Q What happened? Tell us what happened.

A After I -- like I said, I closed the front, I came out back, this gentleman [Agent B], he asked one of the bartenders could he get a six-pack of Champale. I hadn't locked up, getting ready to lock the entrance to the bar.

Q Go ahead.

A The clock in the bar was still 10 after.

Q What was it in the bar?

A 10 after. It really was 10 but the clock is 10 minutes fast. I said, 'Wait a minute. I can help you. I am ready to close up the package store.' I went out and got the package goods."

Thereafter he locked the door leading from the rear of the barroom to the package goods department.

The ABC agent departed from the barroom, returned in approximately twenty minutes and accused him of making an after-hours sale. He cooperated with the agent. He reiterated that, although the bar clock showed the time to be 10:10 p.m., the actual time of the sale was 10 p.m.

Upon request of the agents he called for the other two bartenders. He did not hear the conversation between the bartenders and the agents.

Daniel Webster Davis testified that he tended bar between the hours of 5 p.m. on March 20 to 3 a.m. the following day. Upon being requested by the ABC agents to identify himself, he refused to divulge his name and address for the reason that he did not participate in the alleged after-hours transaction.

Harry Jackson, who patronizes the tavern regularly, testified that he entered the licensed premises on March 20 at

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approximately 9:30 p.m. and positioned himself four stools distant from where Agents B and D were located. He noticed them because they were strangers to the premises. He recalled that the agents purchased the Champale. Upon being questioned concerning the time of the purchase, the witness replied, "By the bar clock it would be ten o'clock. Actually, it showed ten after." He was aware of the time because he had to make a telephone call to his wife. He noted that the agents departed a moment later and returned fifteen or twenty minutes thereafter with a brown bag and conferred with Warrington.

In rebuttal the ABC agents testified that Davis did not tend bar on the night of March 20.

It is apparent that the issues critical to the determination of the guilt or innocence of the licensee are (1) the time at which the sale of the alcoholic beverages occurred, and (2) the alleged refusal by two bartenders (who were not in anywise connected with the alleged after-hours sale) to reveal their identities to the ABC agents.

Preliminarily, I observe that it is a firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App.Div. 1960); Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1.

In appraising the factual picture presented in this proceeding, the credibility of witnesses must be weighed. Evidence, to be believed, must not only proceed from the mouths of credible witnesses, but must be credible in itself, and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App.Div. 1961).

I have had an opportunity to observe the demeanor of the witnesses as they testified and have made a careful analysis and evaluation of their testimony.

Concerning charge (1) I am persuaded that the testimony of the agents presented in a clear and detailed manner was not a fabrication but was factual and credible and that the sale and delivery of alcoholic beverages in contravention of Rule 1 of State Regulation No. 38 was made at approximately 10:45 p.m. On the other hand, I am persuaded that Warrington's testimony that the sale was made a moment prior to 10 p.m., or at the exact hour of 10 p.m., was not persuasive or believable.

It is noteworthy, too, that the investigation was made pursuant to a specific assignment to investigate a closing-hour violation.

Relative to charge (2) it is uncontroverted that the two bartenders (other than Warrington and who were not connected with the closing-hour violation) refused to divulge their identities to the agents upon request.

It was argued by the licensee's attorney that, inasmuch as these particular bartenders were in nowise connected with the alleged violation, they cannot be charged with hindering an investigation for the reason that they refused to reveal their identities. I am of the opinion that this argument is without

merit since the ABC agents were unlawfully prevented from properly pursuing and completing their investigation. To hold otherwise would critically impede the Division agents in the performance of their lawful duties in licensed premises and would tend to render sterile the enforcement of the salutary provisions of the Alcoholic Beverage Law.

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Finally, I observe that it is a fundamental principle that a licensee is responsible for the misconduct of his employees and is fully accountable for their activities on the licensed premises. Kravis v. Hock, 137 N.J.L. 252(Sup.Ct. 1948); In re Schneider, 12 N.J. Super. 449 (App.Div. 1951); Rule 33 of State Regulation No. 20.

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I conclude and I find that the Division has established the truth of charges (1) and (2) by a fair preponderance of the credible evidence, and I recommend that the licensee be found guilty of said charges.

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Although the licensee has no previous record of suspension of license, the license in the name of Ralph Madonna, an officer in subject corporate licensee, was suspended by the municipal issuing authority for ten days effective November 26, 1935 for sale in an undersized container. It is further recommended that the prior record for dissimilar violation having occurred more than five years ago be disregarded and that an order be entered suspending the license on the first charge for fifteen days (Re Leshner, Bulletin 1983, Item 3) and on the second charge for ten days (Re Eszlari, Bulletin 1982, Item 4), making a total suspension of twenty-five days.

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Conclusions and Order

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

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

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Accordingly, it is, on this 15th day of September 1971,

ORDERED that Plenary Retail Consumption License C-17, issued by the City Council of the City of Asbury Park to Madonna Liquors, Inc., t/a Madonna Liquors, for premises 817 Springwood Avenue, Asbury Park, be and the same is hereby suspended for twenty-five (25) days, commencing at 3 a.m. Thursday, September 30, 1971, and terminating at 3 a.m. Monday, October 25, 1971.

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Richard C. McDonough,  
Director.

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5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - FALSE STATEMENT IN APPLICATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against WAYNE'S LOG CABIN, INC. 304 Crescent Blvd. Brooklawn, PO Gloucester City, N.J. Holder of Plenary Retail Consumption License C-3 issued by the Borough Council of the Borough of Brooklawn.

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on May 7, 1971 it sold alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20 and (2) with falsely stating in its application for renewal of its plenary retail consumption license that the license had not been previously suspended whereas, in fact, its license had been previously suspended by the Director; said false statement was a suppression and evasion of a material fact, in violation of N.J.S.A.33:1-25.

Licensee has a previous record of suspension of license by the Director for five days effective May 6, 1963 for possessing an alcoholic beverage in a bottle, the label on which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20. It was the failure to disclose this suspension (Re Wayne's Log Cabin, Inc., Bulletin 1515, Item 6) that gave rise to the second charge herein. However, this suspension, occurring more than five years ago, shall be here disregarded for penalty purposes.

License would normally be suspended on the first charge for ten days (Re Buckwald, Bulletin 1982, Item 8) and on the second charge for ten days (Re Rosman, Bulletin 1600, Item 10) making a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days.

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 \$720 in lieu of suspension.

Accordingly, it is, on this 15th day of September 1971,

ORDERED that the payment of a \$720 fine by the licensee is hereby accepted in lieu of a suspension of license for fifteen days.

Richard C. McDonough Director

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

7.

In the Matter of Disciplinary Proceedings against )

In Pro

Dominick & Mary Cartolano & S. Paul & Carmela T. Cappelle t/a Seashore Family Liquor Store 3311 Pacific Avenue Wildwood, N. J., )

CONCLUSIONS and ORDER

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Holders of Plenary Retail Distribution License D-3, issued by the Board of Commissioners of the City of Wildwood. )

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Alan I. Gould, Esq., Attorney for Licensees Edward F. Ambrose, Esq., Appearing for Division

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BY THE DIRECTOR:

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BY :

Licensees plead non vult to a charge alleging that on June 16, 1971 they sold alcoholic beverages to a minor, age 17, in violation of Rule 1 of State Regulation No. 20.

(1) they the

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 Bembas, Bulletin 1984, Item 10.

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Accordingly, it is, on this 9th day of September 1971,

ORDERED that Plenary Retail Distribution License D-3, issued by the Board of Commissioners of the City of Wildwood to Dominick & Mary Cartolano & S. Paul & Carmela T. Cappelle, t/a Seashore Family Liquor Store, for premises 3311 Pacific Avenue, Wildwood, be and the same is hereby suspended for fifteen (15) days, commencing at 9 a.m. Monday, September 27, 1971, and terminating at 9 a.m. Tuesday, October 12, 1971.

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Richard C. McDonough, Director.

Coun Orde Boro fift 29, 1971

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF LOCAL ORDINANCE - HOURS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
	)	
WASH. LODGE #512 LOYAL ORDER OF MOOSE	)	CONCLUSIONS
31 Belvidere Avenue	)	AND ORDER
Washington Borough (Warren County), N.J.	)	
	)	
Holder of Club License CB-2 issued by the Common Council of the Borough of Washington (Warren County).	)	
	)	

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 Stover & Stover, Esqs., by Edward E. Stover, Esq., Attorneys  
 for Licensee.  
 Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on (1) Sunday, August 1, 1971, between 10:30 a.m. and 1:00 p.m. they sold drinks of alcoholic beverages and (2) failed to have the licensed premises closed, in violation of local ordinance.

Licensee has a prior adjudicated record of suspension of license by the Director for five days effective June 18, 1951 for allowing licensed premises to be used in connection with illegal activity (slot machines) Re Washington Lodge #512 Loyal Order of Moose, Bulletin 912, Item 7.

Prior record of suspension occurring more than ten years ago disregarded for penalty purposes 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 White & Angermeier, Bulletin 1994, Item 7; Re Pintozzi, Bulletin 1959, Item 3.

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

ORDERED that Club License CB-2 issued by the Common Council of the Borough of Washington to Wash. Lodge #512 Loyal Order of Moose for premises 31 Belvidere Avenue, Washington Borough (Warren County) be and the same is hereby suspended for fifteen (15) days commencing 1:00 a.m. on Wednesday, September 29, 1971 and terminating at 1:00 a.m. on Thursday, October 14, 1971.

Richard C. McDonough  
Director

8. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against	)	
	)	
E. & R. Testa, Inc.	)	
t/a Boulevard Sweet Shoppe	)	CONCLUSIONS
401 Boulevard	)	and
East Paterson, N.J.,	)	ORDER
Holder of Plenary Retail Distribution License D-9, issued by the Mayor and Council of the Borough of East Paterson)	)	

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Grabow, Verp & Rosenfelt, Esqs., by George S. Grabow, Esq.,  
Attorneys for Licensee  
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleaded guilty before the municipal issuing authority to a charge alleging that on May 11, 1971 it sold alcoholic beverages to a minor, age nineteen, in violation of Rule 1 of State Regulation No. 20, whereupon its license was suspended for ten days effective July 23, 1971. However, the effective date thereof was stayed pending determination by the Director of licensee's application for 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 \$590 in lieu of suspension.

Accordingly, it is, on this 15th day of September 1971,

ORDERED that the payment of a \$590 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough,  
Director.

9. DISCIPLINARY PROCEEDINGS. - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

Allgeier Associates, Inc. )  
t/a Jerry's Place )  
501 Market Street )  
Gloucester City, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-19 (for 1970-71 license period) and C-20 for 1971-72 license period, issued by the Common Council of the City of Gloucester City. )

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

BY THE DIRECTOR:

Licensee pleads not guilty to a charge alleging that on May 15, 1971 it sold alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

A partial hearing was held thereon in this Division on July 23, 1971, after which licensee withdrew the plea of not guilty and entered a plea of non vult.

Absent prior record, the license will be suspended for ten days with no remission for plea entered subsequent to hearing thereon. Re M & M Tavern, A Corp., Bulletin 1989, Item 9.

Accordingly, it is, on this 16th day of September, 1971,

ORDERED that Plenary Retail Consumption License C-20 issued by the Common Council of the City of Gloucester City to Allgeier Associates, Inc., t/a Jerry's Place for premises 501 Market Street, Gloucester City, be and the same is hereby suspended for ten (10) days commencing 2:00 a.m. on Monday, September 20, 1971 and terminating 2:00 a.m. on Thursday, September 30, 1971.

Richard C. McDonough  
Director

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

In the Matter of Disciplinary )  
Proceedings against )

WAG-WUR, INC. )  
t/a Sheffield Bar & Grill )  
542 Grand Avenue )  
Englewood, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-11 issued by the Common Council )  
of the City of Englewood. )

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

BY THE DIRECTOR:

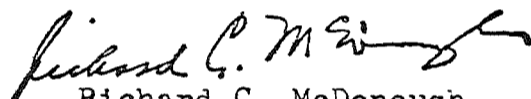
Licensee pleads non vult to a charge alleging that on June 10, 1971 it sold two bottles of alcoholic beverages, the labels of which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Piez, Bulletin 1975, 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 \$400 in lieu of suspension.

Accordingly, it is, on this 16th day of September 1971,

ORDERED that the payment of a \$400 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

  
Richard C. McDonough  
Director