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

BULLETIN 2258 July 6, 1977

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ITEM

STATE OF NEW JERSEY
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1. COURT DECISIONS - LAWRENCE M. BLACK v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-4649-75

LAWRENCE M. BLACK
t/a Black's

Appellant,

v.

DIVISION OF ALCOHOLIC BEVERAGE
CONTROL OF THE STATE OF NEW JERSEY,

Respondent.

Submitted March 29, 1977 - Decided April 11, 1977.

Before Judges Matthews, Seidman and Horn.

On appeal from the Division of Alcoholic Beverage Control.

Mr. Peter S. Valentine, attorney for appellant.

Mr. William F. Hyland, Attorney General, attorney for respondent (Ms. Erminie Conley, Deputy Attorney General, of counsel; Ms. Mary Catherine Cuff, Deputy Attorney General, on the brief).

PER CURIAM

(Appeal from the Director's decision in Re Lawrence M. Black v. Division of Alcoholic Beverage Control, Bulletin 2216, Item 3. Director affirmed. Opinion not approved for publication by the Court Committee on Opinions).

2. APPELLATE DECISIONS - ANN T. MURRAY, INC. v. CLIFTON.

Ann T. Murray, Inc. t/a Village Wines and Liquors, Appellant, v. Municipal Board of Alcoholic Beverage Control of the City of Clifton, Respondent.	On Appeal CONCLUSIONS AND ORDER

Robert H. Chester, Esq., Attorney for Appellant
Arthur J. Sullivan, Jr., Esq., by Francis J. Calise, Esq. Attorneys for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

Appellant appeals for the action of respondent, Municipal Board of Alcoholic Beverage Control of the City of Clifton (hereinafter Board) which, on October 27, 1976 suspended appellant's Plenary Retail Distribution License D-9, for premises 385 Piaget Avenue, Clifton, for fifteen days, in consequence of a finding of guilt to a charge alleging that on March 17, 1976, appellant sold alcoholic beverages to a minor; in violation of Rule 1 of State Regulation No. 20.

Appellant contends that the finding of the Board was contrary to the weight of evidence presented before it, hence should be reversed. The Board denied this contention.

Upon the filing of this appeal, the Director, by order dated November 10, 1976, stayed the Council's order of suspension pending the determination of this appeal.

At the de novo hearing in this Division, the parties were afforded full opportunity to present evidence and cross-examine witnesses, pursuant to Rule 6 of State Regulation No. 15.

Testifying on behalf of the Board, Detective Lawrence Rupert described his observations on the evening of March 17, 1976 when he and his partner were in an unmarked police vehicle parked near to appellant's premises. He observed two youths, whom he knew, in his capacity as a member of the Juvenile Division, and watched them enter appellant's premises. He also entered and found one of them, a Mark Corrizzi, had consummated a purchase of a "six-pack" of beer. The other youth had not completed his transaction.

The minor, Mark Corrizzi testified that he was sixteen years of age on March 17, 1976, having been born on September 14, 1958. He admitted making the purchase of the beer, and stated that, on a prior visit to the appellant's premises, he had signed a "paper"with his brother's name and then produced his brother's birth certificate and social security card indicating an age over eighteen.

Appellant called upon James Hild to testify concerning the sale to the minor. He had been the clerk who had made the sale. A printed statement in a form prescribed by this Division was introduced into evidence, and this reflected that a Dean Corrizzi who had been born on October 21, 1957 had signed it, and then had produced a birth certificate and social security card.

Hild admitted that, upon the sale and the immediate entry of the police he did not exhibit this statement as he did not recall having obtained it on February 7, more than a month prior thereto. Thereafter, on the following day, he recollected he had once obtained it, and the principal officer of the corporate appellant located it.

Officer Rupert, being recalled, testified that he had not been either told or shown the minor's statement.

The issue herein was narrowed to the question relative to exculpation of appellant by reason of having obtained the forged certificate. In that connection, it is to be noted that the minor, Mark Corrizzi is over six feet tall and could appear to be eighteen years of age. He presently, at age seventeen, does not appear to be more than eighteen years of age although almost a year has passed since the alleged infraction.

In determining this matter it is observed preliminarily that we are dealing with a disciplinary action which is purely a civil action and not criminal. In re Schneider, 12 N.J. 449 (App. Div. 1951). Thus the proof must be supported only by a preponderance of the credible evidence. Butler Oak Tavern v.Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

It is firmly settled that the Director's function on appeal is not to reverse the determination of the municipal issuing authority unless he finds as a fact that there was a clear abuse of discretion or an unwarranted finding of fact or mistake of law by respondent. Schulman v. Newark Bulletin 1620, Item 1; Monteiro v. Newark, Bulletin 2073, Item 2; Harry's Bar and Grill Inc. v. Roselle Park, Bulletin 2234, Item 1.

The burden of establishing that the Board acted erroneously and in an abuse of its descretion rests with appellant, Rule 6 of State Regulation No. 15. The ultimate test in these matters is one of reasonableness on the part of the Board. Or, to put it another way: Could the members of the Board, as reasonable men, acting reasonably have come to their determination based upon the evidence presented? The Director should not reverse unless he finds as a fact that there was a clear abuse of discretion or unwarranted finding of fact or mistake of law by the Board. Cf. Hudson-Bergen County Retail Liquor Stores Ass'n v. Hoboken 135 N.J.L. 502.

That the clerk did not rely upon the writing of the minor as a basis for the sale was evident upon a review of his testimony. He did not recall the minor's name, did not know where the paper was, and it was not until the next day that a search was instituted for the writing, after he learned the last name of the minor. At no time did he defend his sale to the police officer by any assertion that he had relied upon such writing.

I conclude that appellant has failed to sustain the burden of establishing that the Board's action was erroneous and should be reversed as required by Rule 6 of State Regulation No. 15, as aforesaid.

I recommend, therefore, that an order be entered affirming the Board's action, dismissing the said appeal and vacating the Order staying the suspension. I also recommend that the suspension imposed by the Board of fifteen days be reimposed by the Director.

CONCLUSIONS AND ORDER

No exceptions to the Hearer's Report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's Report, I concur in the findings and recommendations of the Hearer, and adopt them as my conclusions herein.

Accordingly, it is, on this 21st day of March 1977,

ORDERED that the action of the respondent, Municipal Board of Alcoholic Beverage Control of the City of Clifton, 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 of November 10, 1976 staying the suspension imposed by the Board pending the determination of this appeal be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Distribution License, D-9, issued by the Municipal Board of Alcoholic Beverage Control to Ann T. Murray, Inc., t/a Village Wines and Liquors, for premises 385 Piaget Avenue, Clifton, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. Monday, April 4, 1977 and terminating at 3:00 a.m. Tuesday, April 19, 1977.

Joseph H. Lerner
Director

3. APPLICATION FOR EXTENSION OF SPECIAL PERMIT - MONTCLAIR STATE COLLEGE - APPLICATION GRANTED.

In the Matter of the Application of

Faculty-Student Cooperative Association, Inc. of Montclair State College
Student Center Building
Upper Montclair, N.J.

for Extension of Special Permit No. 11677, issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

David W. Conrad, Esq., Attorney for Applicant

BY THE DIRECTOR:

The Faculty-Student Cooperative Association, Inc. of Montclair State College, holder of Special Permit No. 11677, applied to the Director of this Division for an extension of its permit in order to allow the dispensing and consumption of alcoholic beverages in an area of a building presently encompassed by its permit, but not presently designated for such use under that permit.

A review of existing permit privileges indicates that the applicant initially obtained a permit in April, 1974 to permit the sale and consumption of alcoholic beverages within part of the Student Center Building located on the campus of the Montclair State College. An extension of its permit to include what is designated as a Craft Shop, was granted on May 29, 1975.

The applicant appeared before the Board of Trustees of Montclair State College and obtained consent by way of a resolution on May 19, 1976 approving its application to the Director of this Division for a further extension of its permit to include "Formal Dining Room, Kitchen and Ballroom areas".

In consequence of such Board's approval, an application was presented to the Director of this Division requesting an extension of its permit to include those designated areas.

In its formal application to this Division, the permittee declared:

> "Permittee desires to further expand the licensed area within the said Student Center Building to include a Kitchen and Formal Dining Room, in accordance with the diagram 'Exhibit 2', attached hereto. 'Exhibit 1' shows the existing licensed area."

The application further indicates that the expansion area is completely within the same building in which other areas covered by existing permit are located, and the same conditions attached to the present existing permit shall be equally applicable to the extension area, if granted.

Notice of the subject application was duly published in the Montclair Times, a local newspaper, by which notice objectors were informed of an opportunity to register objections with the Director of this Division. No objections were received or registered in this Division pertinent to the application.

A hearing on the application was duly held in this Division, at which the applicant was represented by counsel.

Thomas S. Stepnowski, the Director of the applicant Association, testified in support of the application. He explained that the application pertains to the potentiality of having alcoholic beverages served during meals, particularly banquets and the like, which are a regular part of the student center activity. The number of people accomodated would not substantially increase, but the type of service presently rendered would be enhanced by the service of complete dinners and drinks.

It is noted that, at the hearing relative to applicant's original application for a special permit, there were lenghty and detailed objections stemming about fears that the inclusion of a source for alcoholic beverages on the campus of applicants location, would give rise to myraid conduct deportment problems. In a thorough opinion following that hearing, the Director pointed out that if the issuance of the permit generated a nuisance of the premises, such permit could be cancelled. In the Matter of the Faculty-Student Cooperative, Bulletin 2145, Item 2.

A review of the records of this Division concerning the conduct of applicant reveals no disciplinary proceedings instituted against the applicant that came to the attention of the Director of this Division. It must, thus, be assumed that the said premises are being properly operated, particularly in light of the absence of any objections to the subject application.

It is, further, noted that the application relates primarily to the availability of alcoholic beverages with the service of food, and is not designed merely to encourage increased consumption of alcoholic beverages. It is also assumed that, if the application were not granted the same social functions could take place off the campus and beyond the observation and control of college staff personnel. Hence, apparently, the grant of the applied for extension would have a beneficial effect.

I find that the application is in proper order, is in compliance with the applicable statutes, N.J.S.A. 33:1-74,42, and would benefit the campus community of almost fifteen thousand persons.

Accordingly, it is, on this 15th day of February 1977,

ORDERED that Special Permit No. 11677 issued to Faculty-Student Cooperative Association, Inc., the applicant herein, be and the same is hereby extended to include the additional areas described in its application filed therefor, and shall embrace the ala carte dining room, the formal dining areas designated as ballrooms and the kitchen area adjacent thereto; and it is further

ORDERED that such extension of the aforesaid Special Permit No. 11677 shall have the same conditions attached to the extended areas as are presently in effect on the existing permit.

Joseph H. Lerner
Director

4. DISCIPLINARY PROCEEDINGS - LEWDNESS - INDECENT DANCE - PRIOR SIMILAR VIOLATION - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against Jeanne's Enterprises, Inc. t/a Le Bistro 2201 Pacific Avenue Atlantic City, N.J. Holder of Plenary Retail Consumption License C-191 issued by the Board of Commissioners of the City of Atlantic City.	CONCLUSIONS and ORDER

Sills, Beck, Cummis, Radin & Tishman, Esqs., By Jeffrey Barton Cahn, Esq., Attorneys for Licensee
Carl A. Wyhopen, 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 charge:

> "On December 7, 1975, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., you allowed, permitted and suffered female persons, while performing on your licensed premises for the entertainment of your customers and patrons, to engage in conduct of a lewd, indecent and immoral manner and to commit and engage in acts, gestures and movements with parts of their bodies in a manner and form having lewd, indecent and immorally suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20."

An appearance in behalf of the licensee was entered by Jeffrey Barton Cahn of the law firm of Sills, Beck, Cummis, Radin & Tischman.

On Monday, May 24, 1976, the date set for hearing, neither the licensee nor anyone in its behalf appeared herein.

Prior to commenting upon the testimony presented by the Division a recital of the reasons for permitting the Division to proceed ex parte follows.

The subject charge had been scheduled for hearing at 9:30 A.M. on the above date. At approximately 10:18 A.M. this hearer questioned the Deputy Attorney General, appearing for the Division, concerning the absence of an attorney for the licensee. The Deputy Attorney General stated that, at approximately 10:00 o'clock that morning he requested Donald Newmark, a Legal Assistant of the Division Prosecution Bureau to contact the law

firm representing the licensee in connection herewith.

Newmark testified that he made a telephone call to the said law firm and asked to speak with Jeffrey Barton Cahn who had signed various communications addressed to this Division in behalf of the licensee. Newmark spoke with Cahn's secretary who indicated that Cahn was in court, and that a letter had been sent to this Division.

Newmark explained that he received in the mail on the morning of May 24, 1976 a letter addressed to him, dated May 21st, wherein Cahn stated that he would be engaged in the trial of a civil action in the Superior Court commencing on May 24, 1976 and that he did not know when the trial would be completed. Additionally, Cahn indicated that he had other matters scheduled for trial thereafter.

The letter also set forth that "Mr. Kolker, the principal of Jeanne's Enterprises has recently suffered a heart attack and is unable to attend and be a witness in the proceedings." The letter confirmed Cahn's secretary's advice to Newmark on May 19th concerning the scheduled hearing.

The questioning of Newmark then proceeded, as follows:

"Q Prior to this letter did you have any indication whatsoever from either Mr. Cahan or his secretary that he would not be here this morning?

A Prior to this letter?

Q Prior to receiving this letter and your phone conversation this morning.

A On May 19, 1976 I had conversation with Mr. Cahn's secretary. She indicated to me that Mr. Cahn was tied up in court and could not make it.

I indicated that absolutely no adjournment would be granted, that the matter was set down peremptorily and that someone from the office should come and try the case.

Q Who initiated this conversation?

A I had called up to see if the licensee was intending to try it or change it's plea.

Q That was on May 19?

A That's right."

Newmark's testimony was interrupted by a telephone call from Cahn's secretary. She related that "she had contacted the licensee and that Mr. Kolker had suffered a subsequent heart attack and is now in the hospital in Atlantic City."

Prior to the time that the subject hearing had been peremptorily scheduled for May 24, 1976, this proceeding was scheduled for hearing on four dates from January 28, 1976 to April 20, 1976. On each of these occasions, the hearing was adjourned at the request of the attorney for the licensee.

The license application for the current year revealed that Grace Kolker was the 100 percent stockholder of the corporate license.

On motion of the Deputy Attorney General, and upon considering the past record of adjournments; the fact that the request for the adjournment was untimely made; and that the individual allegedly physically incapacitated was neither an officer nor a stockholder of the corporate licensee, I permitted him to proceed with the hearing ex parte.

In substantiation of the charge, ABC Agent G testified that accompanied by Agents P and K, he conducted an investigation of the licensed premises which contained two bars and a go-go stage located at the center rear of the premises on December 7,1975.

Three females alternated in dancing on the go-go stage for approximately 15 to 20 minutes each.

Two of the females had no covering on the top half of their bodies except for a piece of cloth one-half inch wide which had no functional purpose except to act as a harness encircling the torso and to hold two pasties each one one-half inch wide, covering the nipples of their breasts. The harness with pasties attached were received in evidence. It is apparent that the breasts of the females were neither covered nor supported by any contrivance of female attire.

It has been held as early as Play Pen Incorporation, Bulletin 1778, Item 5, affirmed App. Div. 1968, opinion not approved for publication, that such performance falls squarely within the proscribed conduct referred to in Rule 5 of State Regulation No. 20. See also In Re Club "D" Lane, Bulletin 1900, Item 3, affirmed 112 N.J. Super. 577 (App.Div. 1971).

Thus, I find that the Division has established the truth of the charge by a fair proponderance of the evidence, indeed, by substantial evidence.

Licensee has a prior record of suspension of license by the Director for 30 days, effective October 1, 1971 for similar violation,

It is accordingly, further recommended than an order be entered suspending the license for 60 days.

Supplemental Hearer's Report

An ex parte hearing was held before this Division on May 24, 1976 and a Hearer's report was submitted on September 27, 1976.

The Director granted this supplemental hearing at the licensee's request in order to enable it to cross-examine the Division witnesses and present a defense to the charge.

Cross examination by licensee of Divisions witness, ABC Agent G, failed to disclose anything additional, or of substantive consequence. Counsel then requested, and was granted permission to examine ABC Agent P who had not testified at the first hearing herein, but who was present at the licensed premises on the evening in question and who participated in discussions with the corporate stockholder, Grace Kolker. His testimony was corroborative of Agent G's, with nothing of significance added to alter the version

As stated in the Hearer's report of September 27, 1976, two of the three "go-go" dancers had no covering on the top half of their bodies except for a piece of cloth one-half inch wide which had no functional purpose except to act as a harness encircling the torso and to hold two pasties each one-half inch wide, covering the nipples of their breasts. The harness with pasties attached were received into evidence. It is apparent that the breasts of the females were neither covered nor supported by any contrivance of female attire.

Grace Kolker, one hundred per cent stockholder of corporate licensee testified in its defense. She did not controvert the description of the costumes worn by the aforementioned go-go dancers. She alleges that she obtained her performers through a certain theatrical booking agency who assured her that the aforesaid contumes were in conformity with the Division Rules and Regulations.

In fact, the costumes do not conform to the Division's standards, as set forth in the precedent cases. It has been held as early as Play Pen, Inc. Bulletin 1778, Item 5, affirmed App. Div. 1968 (opinion not approved for publication), that such performance falls squarely within the proscribed conduct referred to in Rule 5 of State Regulation No. 20. See also In re Club "D" Lane, Bulletin 1900, Item 3, affirmed 112 N.J. Super. 577 (App. Div. 1971).

The licensee's inquiry to ascertain whether or not the costumes conformed with Division regulations was directed toward the wrong source. If, as it appears from Kolker's testimony, she had doubt in her mind, an inquiry should have been directed to this Division in order to receive authoritative information. To have relied upon the representations and assurances of the very person anxious to sell her the service was naive and in this instance, of no benefit to the licensee. Certainly, it is not a defense to the charge.

Nothing brought forth in the licensee's examination of the ABC Agents, or its testimony in its own defense alters the findings and recommendation set forth in my prior Hearer's report.

Thus, I again find that the Division has established the truth of the charge by a fair preponderance of the evidence, indeed by substantial evidence.

Licensee has a prior record of suspension of license by the Director for thirty (30) days, effective October 1, 1971 for similar violation.

It is, accordingly, further recommended that an Order be entered suspending the license for sixty (60) days.

Conclusions and Order

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

In its Exceptions, the licensee contends that the proofs submitted at the hearing vary from the charge because, while the charge contains language concerning "acts, gestures and movements with parts of their (the dancers') bodies," it is undisputed that the charge was founded solely on the fact that the dancers wore pasties as described in the Hearer's report.

The distinction which the licensee draws is too close for a common-sense reading of the charge. If the dancers were clothed in a lewd and indecent manner they necessarily had to perform in a lewd manner. The very reason such costumes are prohibited is that they allow for lewd and impermissably suggestive movements by the dancers in the course of their performances. See Play Pen Incorporation, t/a Play Pen, Inc. Bulletin 1778, Item 5.

The licensee also argues that there is no definitive guidelines which could be followed as to permissable costumes of performers on licensed premises. This argument lacks merit. In the Play Pen case previously cited, the Division made its position clear, in that such attire, viz., pasties worn by a female performer, was prohibited. It has been well established by this Division that female dancers on licensed premises must appear with their breasts fully covered and supported.

The licensee has suggested in mitigation that I consider the fact that an officer of the licensee sought advice from the talent agency supplying the dancers as to the propriety of their costumes. I cannot consider this particular action, as argued by the licensee, as a mitigating factor.

It could not be reasonably expected by anyone that the talent agency, because of its pecuniary interest, would have offered any advice different from what the licensee's officer testified was given. The talent agency was, in no respects, an authoritive source on this issue.

If the licensee wanted reliable information concerning Division rules and policy, common sense would dictate that such information should be sought from the Division, and not from the purveyor of services who derived financial benefit from practices violative of Division rules and policy.

Having carefully considered the entire record, including the transcript of the testimony, the exhibits, the Hearer's report, the written Exceptions with supportive argument of the licensee and the answering argument on behalf of the Division, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein, except as to the recommended penalty.

However, with respect to the recommended suspension of sixty-days, I feel that consideration should be given to mitigating circumstances reflected in the record other than those specifically argued by the licensee. I shall, therefore, modify the recommended penalty to a suspension of license for forty days.

Accordingly, it is, on this 4th day of March 1977,

ORDERED that Plenary Retail Consumption License C-191, issued by the Board of Commissioners of the City of Atlantic City to Jeanne's Enterprises, Inc. t/a Le Bistro, for premises at 2201 Pacific Avenue, Atlantic City, be and the same is hereby suspended for forty (40) days, commencing 12:00 midnight on Friday, March 11, 1977 and terminating 12:00 midnight on Wednesday, April 20, 1977.

Joseph H. Lerner
Director

5. DISCIPLINARY PROCEEDINGS - FURNISHING REBATES VIOLATING RULE 11 OF STATE REGULATION NO. 34 - SOLICITING ORDERS WITHOUT PERMIT IN VIOLATION OF RULE 6 OF STATE REGULATION NO. 14 - FINE OF $25,000. IN LIEU OF 20 DAYS SUSPENSION.

In the Matter of Disciplinary Proceedings against Federal Wine & Liquor Company Building 56 Port Kearny, Kearny, New Jersey Holder of Plenary Wholesale License W-56 issued by the Director of the Division of Alcoholic Beverage Control. and Fedway Associates, Inc., t/a Henderson Stuart and Androb Imports Buildings 44 and 56 Port Kearny, Kearny, N.J. Holder of Plenary Wholesale License W-29 issued by the Director of the Division of Alcoholic Beverage Control.	CONCLUSIONS AND ORDER

Robert A. Baime, Esq., Attorney for licensees.

BY THE DIRECTOR:

Licensee Federal Wine & Liquor Company pleads non-vult to two charges, one alleging that, from on or about June 1, 1974 to on or about September 30, 1975 it offered to furnish, and furnished rebates and allowances of money to Emersons, Ltd., the parent company of eight (8) wholly-owned subsidiary corporations holding retail licenses in this State, in violation of Rule 11 of State Regulation No. 34; the other charge alleging that an officer of Federal Wine and Liquor Company during the aforesaid period solicited orders of alcoholic beverages without holding a requisite solicitor's permit, in violation of Rule 6 of State Regulation No. 14.

Licensee Fedway Associates, Inc., moves that the charges against it, alleging the selfsame offenses, be dismissed in view of the non-vult plea entered by its wholly-owned subsidiary Federal Wine & Liquor Company.

Division records disclose that Federal Wine & Liquor Company has a prior record. On April 6, 1972 it was fined by this Division $10,000 in lieu of a ten day suspension for a violation similar in nature to the above-mentioned rebates offense.

Under the circumstances, its license will be suspended for ten (10) days on the first charge, and five (5) days on the second charge to which will be added ten (10) days for a prior similar record within five years, or a total of twenty-five (25) days. Five (5) days of the suspension will be remitted for the plea entered, leaving a net suspension of twenty (20) days.

In view of the fact that the same acts for which such sanction is being imposed against Federal Wine & Liquor Company are the subject of the charges against Fedway Associates, Inc., I will, in accordance with long-standing normal Division policy, grant the motion to dismiss the charges against Fedway Associates, Inc.

Federal Wine & Liquor Company 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 such application, I have determined to accept an offer, in compromise, by the licensee to pay a fine of $25,000.00 in lieu of suspension of license for twenty (20) days.

In setting the amount of this fine, I have taken into consideration the potential profits the licensee may have realized as a result of the prohibited rebates it gave to the retailers purchasing alcoholic beverages from it. In this connection, I wish hereby, to alert all licensees that similar action will be taken with respect to any other infractions of such nature that may come before me.

Accordingly, it is, on this 17th day of March, 1977,

ORDERED, that the payment of a $25,000.00 fine by Federal Wine & Liquor Company is hereby accepted in lieu of a suspension of license for twenty (20) days; and it is further

ORDERED, that the charges herein against Fedway Associates, Inc., be and the same are hereby dismissed.

JOSEPH H. LERNER
DIRECTOR

STATE LICENSES - NEW APPLICATIONS FILED.

Flagstaff Liquor Co.
611 Rahway Avenue
Union, New Jersey
Application filed June 27, 1977 for additional salesroom license for premises 7804 Browning Road, Room #1, Pennsauken, New Jersey, in connection with Plenary Wholesale License W-22.

Banner Liquor Co.
611 Rahway Avenue
Union, New Jersey
Application filed June 27, 1977 for additional salesroom license for premises 7806 Browning Road, Room #25, Pennsauken, New Jersey, in connection with Plenary Wholesale License W-70.

Hiram Walker Incorporated
8325 Jefferson East
Detroit, Michigan
Application filed June 29, 1977 for place-to-place transfer of licensed salesroom from 43 Prospect Street, East Orange, New Jersey, to 2414 Morris Avenue, Union, New Jersey, under Plenary Wholesale License W-12.

Joseph H. Lerner
Director