

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

BULLETIN 2137

March 7, 1974 .

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1. COURT DECISIONS - NEWARK v. SILVER EDGE CORP.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-1292-72

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY OF
NEWARK,

Plaintiff-Respondent

v.

SILVER EDGE CORP., t/a SILVER EDGE
VAILSBURG,

Defendant-Appellant.

Submitted January 8, 1974 - Decided January 17, 1974.

Before Judges Carton, Seidman and Demos.

On appeal from Division of Alcoholic Beverage Control.

Messrs. Noonan and Flynn, attorneys for appellant
(Mr. Robert J. De Groot, of counsel and on the brief).

Mr. William H. Walls, Corporation Counsel, attorney for
respondent (Mr. Salvatore Perillo, Assistant Corporation
Counsel, on the brief).

Mr. George F. Kugler, Jr., Attorney General of New Jersey,
filed a statement in lieu of brief on behalf of Division of
Alcoholic Beverage Control (Mr. David S. Piltzer, Deputy
Attorney General, of counsel).

PER CURIAM

(Appeal from the Director's decision in Re Silver Edge Corp.
v. Municipal Board of Alcoholic Beverage Control of the City
of Newark, Bulletin 2083, Item 2. Director affirmed.
Opinion not approved for publication by the Court Committee
on Opinions).

2. COURT DECISIONS - PAITAKIS v. NEW BRUNSWICK ET AL.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-1270-72

CHRIST J. PAITAKIS,

Appellant,

v.

CITY COUNCIL OF THE CITY OF NEW
BRUNSWICK and JOYCE KILMER BOWLING
CORP.,

Respondents.

Argued November 27, 1973 - Decided January 7, 1974.

Before Judges Kolovsky, Fritz and Crane.

On appeal from Division of Alcoholic Beverage Control,
Department of Law and Public Safety.

Mr. Barry D. Maurer argued the cause for appellant
(Messrs. Maurer & Maurer, attorneys).

Mr. Franklin F. Feld argued the cause for respondent City
of New Brunswick (Mr. John J. Harper, on the brief).

Mr. George F. Kugler, Jr., Attorney General of New Jersey,
filed a statement in lieu of brief for Division of Alcoholic
Beverage Control (Mr. David S. Piltzer, Deputy Attorney General,
of counsel).

Messrs. Garrenger & Rosta filed a brief on behalf of Ojbector,
Court Tavern, Inc. (Mr. Robert L. Garrenger, Jr. on the brief).

The opinion of the court was delivered by

CRANE, J.A.D.

(Appeal from the Director's decision in Re Paitakis v.
New Brunswick et al., Bulletin 2082, Item 1. Director
affirmed. Opinion not approved for publication by the
Court Committee on Opinions).

3. COURT DECISIONS - HILLCREST, INC. - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-2475-72

In the Matter of Disciplinary
Proceedings against

HILLCREST, INC.
t/a Hillcrest
189A-191 Avenel Street
Avenel, N. J.

Holder of Plenary Retail Consumption
License C-68 issued by the Council of
Woodbridge Township.

Argued December 18, 1973 - Decided January 8, 1974.

Before Judges Carton, Seidman and Demos.

On appeal from Division of Alcoholic Beverage Control.

Mr. Thomas W. Sharlow argued the cause for appellant,
Hillcrest, Inc. (Mr. Donald T. Joworisak, on the brief).

Ms. Carla Vivian Bello, Deputy Attorney General, argued the
cause for respondent, Division of Alcoholic Beverage Control
(Mr. George F. Kugler, Jr., Attorney General of New Jersey,
attorney; Ms. Virginia Long Annich, Deputy Assistant Attorney
General, of counsel).

PER CURIAM

(Appeal from the Director's decision in Re Hillcrest, Inc.,
Bulletin 2105, Item 3. Director affirmed. Opinion not
approved for publication by the Court Committee on Opinions).

4. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary
Proceedings against

Hillcrest, Inc.,
t/a Hillcrest
189-A-191 Avenel Street
Woodbridge Township
Avenel, N.J.,

SUPPLEMENTAL
ORDER

Holder of Plenary Retail Consumption
License C-68, issued by the Council
of the Township of Woodbridge.

Thomas W. Sharlow, Esq., Attorney for Licensee
David S. Piltzer, Esq., Appearing for Division

BY THE DIRECTOR:

On April 26, 1973 Conclusions and Order were entered suspending the subject license for twenty days, commencing Wednesday, May 9, 1973, after licensee was found guilty of a charge alleging that on October 19, 1972, it sold alcoholic beverages to two minors, in violation of Rule 1 of State Regulation No. 20. Re Hillcrest, Inc., Bulletin 2105, Item 3.

Upon appeal filed, an order was entered by the Appellate Division of the Superior Court staying the said suspension pending the determination of the appeal. On January 8, 1974, the said court affirmed the action of the Director, Re Hillcrest, Inc., (App. Div. 1972, Docket No. A-2475-72) not officially reported, recorded in Bulletin 2137, Item 3. The suspension may now be reimposed.

On January 10, 1974, the licensee requested an opportunity to pay a fine in compromise in lieu of suspension, in accordance with the provisions of Chapter 9 of the Laws of 1971. A similar request had previously been made upon the entry of the Conclusions and Order dated April 26, 1973. At that time I determined to deny the said request because of the recency of licensee's prior record of suspension of license. I find no warrant to change my position with respect thereto. Therefore, the request of licensee to pay a fine in compromise in lieu of suspension of license is hereby denied.

Accordingly, it is, on this 23rd day of January 1974,

ORDERED that Plenary Retail Consumption License C-68, issued by the Council of the Township of Woodbridge to Hillcrest, Inc., t/a Hillcrest, for premises 189-A-191 Avenel Street, Woodbridge, be and the same is hereby suspended for twenty (20) days, commencing 2:00 a.m. on Tuesday, January 29, 1974 and terminating 2:00 a.m. on Monday, February 18, 1974.

ROBERT E. BOWER
DIRECTOR

5. APPELLATE DECISIONS - DOUBLE E., INC. v. JERSEY CITY.

Double E., Inc.,)	
Appellant,)	
v.)	On Appeal
Municipal Board of Alcoholic)	CONCLUSIONS
Beverage Control of the City)	and
of Jersey City,)	ORDER
Respondent.)	

 Leon Sachs, Esq., Attorney for Appellant
 Raymond Chasan, Esq., by Bernard Abrams, Esq., Attorney for
 Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant challenges the action of the respondent Municipal Board of Alcoholic Beverage Control of the City of Jersey City (Board) which, by resolution dated June 28, 1973 denied appellant's application for renewal of its plenary retail consumption license for the current licensing period, for premises 541 Ocean Avenue, Jersey City.

In its petition of appeal, appellant alleges that the action of the Board was erroneous for the following stated reasons:

- "(a) The conclusions were against the weight of the evidence.
- (b) The findings were the result of hearsay testimony.
- (c) Arbitrary, capricious, and an abuse of discretion.
- (d) The action was beyond the scope of the authority of the Board of Alcoholic Beverage Control of the City of Jersey City, State of New Jersey."

In its answer, the Board denied the substantive allegations of the petition and defends that it acted properly because the "testimony of many objectors produced at the hearing on June 26, 1973, was overwhelming in showing that the tavern of the appellant represents a nuisance and is objectionable to the neighbors in the vicinity thereof."

Upon the filing of the appeal, by order dated June 29, 1973, the Director extended appellant's 1972-73 license until the determination of the appeal and the entry of a further order herein.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded counsel to introduce testimony and cross-examine witnesses.

At the de novo hearing in this Division, a number of witnesses were produced by the Board, who testified substantially to the same effect as reflected in the minutes of the meeting held before the Board. The synthesis of their testimony is as follows: This tavern is located at the corner of a busy intersection in Jersey City; there are numerous business establishments and a bank is located on the opposite corner; there is a bus stop located in front of the premises.

According to Leonard Greiner, the clerk of the Board, the immediate area contains seven liquor facilities.

The objectors have concentrated their attack primarily on the conditions outside of the premises. None of the objectors had ever entered the premises, and were not familiar with the conditions inside. Generally, they alleged that numerous persons, some of whom are patrons of the premises, loiter in front of and near the premises and obstruct pedestrians and motorists alike. The children of the neighborhood are subject to obscene language while passing the premises. These witnesses have observed some of these congregants to be intoxicated, and in some instances they were seen drinking from bottles on the outside of the premises. At least one of the objectors stated that, while driving past the premises he has observed individuals inserting needles, presumably containing narcotics, into their arms. None of these witnesses attempted to contact the principal of the corporate appellant or speak to the manager of the premises, nor was any complaint made to the Board with respect to these alleged conditions.

Captain Rodney Thomaier testified to a number of criminal incidents which occurred on the corner of Bayview and Ocean Avenue, where the tavern is located. These included reports of assaults, robberies and possession of dangerous weapons. However, he was unable to state whether these incidents and arrests occurred on the corner at which the tavern is located or on one of the three other corners of this intersection; and the records which he referred to at the hearing did not so specify.

However, he stated that a number of narcotics arrests both in front of the tavern and in the immediate area were made. He was then asked:

"Q Is there anything in your records which in any way indicates that the operators of this tavern had anything to do with any of these incidents?

A Not to my knowledge."

And further:

"Q And, of course, when you indicated that these arrests took place or these incidents took place at the corner, you don't know specifically where on the corner or which corner?

A No.

Q Now, as a captain of two years standing and 20 years in the police department, can you give us any idea of narcotic arrests throughout the city? Would you care to characterize it, whether it's as to the amount of arrests? Would you say it's substantial, medium or what?

A The entire city--there would be a substantial number of narcotic arrests, yes, sir."

William Fitzgerald, a local police officer attached to the Narcotic Squad, testified that he had made numerous arrests of narcotic users both on this corner and also two or three arrests inside the tavern. These arrests resulted from his assignment to make a surveillance of this particular area.

However, he admitted that none of appellant's employees were ever involved, to his knowledge, with this narcotics activity, and, in fact, according to his records, no arrests were actually made in the tavern. Furthermore, he states that he never saw any sale of narcotics in the tavern. He was then asked:

"Q Did you ever speak to the manager or to the bartender with respect to the operation of the tavern for either inside or outside of it?

A I, myself? No, sir."

Finally, he admitted that he had never made any charges against the tavern.

Detective John Tkaczyk testified generally as to the narcotics activity in the area and outside of that tavern. He specifically stated that he never complained to the operator of the tavern. He then explained that the bartender in the tavern gave him information from time to time. He was then asked:

"Q Detective, I take it from what you said about the information given to you by the bartender that he was trying to be cooperative?

A I would say so, yes, sir.

Q And if anything they didn't want anybody with narcotics in the tavern.

A Well, I believe that's the impression I received, yes, sir."

Edward Walker, called on behalf of appellant gave the following account: The appellant has operated this facility since May 22, 1972 and he has been employed as its manager since then. At no time prior to the hearing before the Board on appellant's application for renewal was he ever notified as to any complaints made nor were any charges instituted against this tavern by the Board. No resident in the area ever complained to him or to anyone in the employ of appellant.

He admitted that there was "milling about in or in front of the premises". He explained that not only patrons of this establishment but persons waiting for a bus and patrons of the other businesses in the area would congregate in front of and near these premises. He made every effort to disperse these people and personally spoke to Captain Neilson to enlist his aid. As a result of this conference, "They had walking patrolmen on the corner and over in the area that he'd--Well, it's not no where near like it was before."

He also spoke to the captain of the Narcotic Squad and suggested that he set up a surveillance to spot narcotic suspects. Additionally, appellant took several measures to try to correct this condition. Since June of 1973 appellant has closed the tavern at 8 p.m. on Monday through Thursday and on Sunday the tavern is closed at 10 p.m.

With respect to the alleged narcotics activity, he stated that there were two arrests made in the tavern as a result of observations made by police officers of the sales which were actually made outside of the tavern. There was also an arrest made in the tavern of a person who possessed a dangerous weapon. In that case, the male who possessed the dangerous weapon walked

into the tavern and was followed immediately by a detective who made the arrest. This person was not a patron, and did not even have time to sit at the bar.

He further denied that he had any knowledge of anyone possessing narcotics in the tavern; however, he made every effort to cooperate with the police in informing them of anyone he suspected of engaging in narcotic activity or possessing narcotics.

On cross examination, he stated that he had discussed the situation regarding the problem of persons gathering outside the tavern with the captain of the precinct. He explained to the captain that he frequently expelled undesirable persons from the tavern, but once they left the tavern, they refused to move from outside the premises, and they would say to him "You don't own the sidewalk." He would then immediately call the police emergency squad, and when the police responded, these persons would leave. But as soon as the police left, they would return. It was then that he decided to speak to the captain and enlist the cooperation of the police department.

It is well established that the grant or denial of an alcoholic beverage license rests in the sound discretion of the Board in the first instance and, in order to prevail on this appeal, the appellant must show that the Board acted unreasonably and that such action constitutes a clear abuse of its discretion. Rajah Liquors v. Div. of Alcoholic Beverage Control, 33 N.J. Super. 598 (App. Div. 1955); Planck v. Magnolia, 38 N.J. 484 (1962). Upon such showing, the Director is authorized to reverse the Board's action. The Florence Methodist Church v. Florence Township, 38 N.J. Super. 85 (App. Div. 1955); Belmar v. Div. of Alcoholic Beverage Control, 50 N.J. Super. 423 (App. Div. 1958).

No one is entitled to the renewal of a liquor license as an inherent right. On the other hand, "a licensee who has lived up to the law and complied with all requirements ought, in fairness, to have first consideration when renewals are determined." William J. Malone v. Township Committee of Bordentown Township, Bulletin 129, Item 8. As was stated in Tp. Committee of Lakewood Tp. v. Brandt, 38 N.J. Super. 462, 466 (App. Div. 1955):

"An owner of a license or privilege acquires through his investment therein, an interest which is entitled to some measure of protection..."

As the testimony herein reflects, the tavern is located at a very busy intersection which contains other active businesses including a bank, and a bus stop is located immediately in front of the tavern.

The problem of narcotic activity is one that exists not only in Jersey City but in most of the major cities of this State. Also, in the ambience of our times, it is common knowledge that crimes of violence in the streets of most major cities have increased considerably in recent years, and it is fair to state that the fears expressed by the objectors influenced the Board's action in denying appellant's application for renewal.

Obviously, the appellant was under an obligation to keep the outside of his premises free from obstreperous persons who, as the testimony indicates, engaged in drinking, and in some cases, molesting and interfering with the free passage of passersby.

As early as in Conte v. Princeton, Bulletin 139, Item 8, this Division has held that a licensee is responsible for conditions both in and outside of his licensed premises which are caused by patrons thereof. Cf. Garcia v. Fair Haven, Bulletin 1149, Item 1.

Bearing this in mind, I have nevertheless been impressed by the efforts which were apparently made by the manager of these premises to disperse these crowds. He has found a number of these persons to be belligerent and on many occasions has enlisted the assistance of the police department. He had a conference with the captain of the precinct in which these premises are located and received some assistance as a result thereof.

Furthermore, he has cooperated with the police and has informed them on numerous occasions according to police testimony of suspected narcotic addicts and other undesirables. It is this spirit of cooperation which was recognized as a significant factor in Ishmal v. Div. of Alcoholic Bev. Control, 58 N.J. 347 (1971). Additionally, it cannot be said as a fact that all of the persons who congregated in front of the licensed premises were patrons of this establishment since there are seven other liquor outlets in the area as well as other businesses in the immediate vicinity of this facility.

The appellant has indeed taken steps to remedy the situation and since June 1973, has closed the tavern at 8 p.m. during the week and 10 p.m. on Sundays. The testimony reflects that conditions since June have markedly improved. The cooperation of the appellant with the police authorities, the steps it has taken to correct the complained of conditions, and the apparent improvement in the conditions since the date of the Board's action, are crucial in the determination of this appeal.

Moreover, it is significant that no disciplinary proceedings were instituted against the appellant since it began its operation. In fact, there has been no serious complaints

against the operation inside the tavern; the only objection has been to the conditions that exist outside the tavern.

While these conditions on the outside of the tavern are not to be condoned, it seems plain that this tavern was not much different from the other taverns in the area and that it was permitted to function in this fashion without a warning since it began its operation. If the tavern was as bad as the Board now says it is, the Board should have instituted disciplinary proceedings long before the time for renewal. Had it done so, or had it even warned the appellant that its policy of benevolent blindness was a thing of the past, an affirmation of the Board's determination would be fully warranted. This is not to say that a prior warning is necessary in every case. There may be conduct so indisputably bad that a single instance would warrant revocation or the refusal to renew; but this is not such a case. See Monesson v. Lakewood, Bulletin 657, Item 1; Salmanowitz v. Hightstown, Bulletin 807, Item 2; see also Bayonne v. B & L Tavern, Inc., and Division of Alcoholic Beverage Control (App. Div. 1963). not officially reported, reprinted in Bulletin 1509, Item 1, and affirmed 42 N.J. 131 (1964).

I am persuaded upon the examination of the entire record herein that the appellant has made good faith efforts to improve the conditions which exists and that it should be given one more opportunity to prove its worthiness to have the license. If undesirable conditions develop in the future, the Board always has the power which they should promptly exercise, to institute disciplinary proceedings even before the renewed licensing period has expired.

I conclude that the appellant has met its burden of establishing that the action of the Board was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

Thus, it is recommended that the action of the Board be reversed, and that the Board be directed to grant the license to appellant for the 1973-74 licensing period, in accordance with the application filed therefor.

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, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 10th day of January 1974,

ORDERED that the Municipal Board of Alcoholic Beverage Control of the City of Jersey City be and is hereby directed to renew appellant's plenary retail consumption license for the 1973-74 licensing period nunc pro tunc in accordance with the application filed therefor.

ROBERT E. BOWER
DIRECTOR

6. APPELLATE DECISIONS - SILVERMAN and PAGE, INC. v. PATERSON.

Silverman and Page Inc.,)	
Appellant,)	
v.)	On Appeal
Board of Alcoholic Beverage)	CONCLUSIONS
Control for the City of)	and
Paterson,)	ORDER
Respondent.)	

Dominick Giordano, Esq., Attorney for Appellant
Ralph L. De Luccia, Jr., Esq., by Edward J. Nyklewicz, Esq.,
Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant appeals from the action of respondent (Board) whereby it denied the application for renewal of appellant's plenary retail consumption license for the 1973-74 licensing period for premises 253 - 12th Avenue, Paterson. The Board's resolution reads as follows:

"WHEREAS, application has been made to this Board for the renewal of Plenary Retail Consumption License C-111, heretofore issued to Silverman & Page, Inc., t/a Page 253, for premises situated at 253 - 12th Avenue, Paterson, New Jersey; and

WHEREAS, investigation discloses that the application for transfer of said license to the above corporation, granted by this Board on May 5, 1973, was fraudulent in that Elsworth Page, secretary to the applicant corporation, failed to reveal that he had been convicted of a crime on April 20, 1961; and

WHEREAS, the said Elsworth Page made a false statement as to his age in this Board's required police questionnaire; NOW, THEREFORE,

BE IT RESOLVED, that the renewal of said license be and the same is hereby denied."

In its petition of appeal, appellant alleges that the action of the Board was erroneous in that its action was arbitrary, capricious and contrary to law. This contention was denied by the Board, in its answer.

Upon filing of the appeal, by order dated June 29, 1973, the Director extended appellant's 1972-73 license until the determination of this appeal.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded counsel to present testimony and cross-examine witnesses.

Elsworth Page, a forty-nine percent stockholder and the secretary-treasurer of the corporate appellant, testified that appellant's application filed in April 1973, for a person-to-person transfer of a plenary retail consumption license (which was subsequently granted) reflected that no person therein mentioned was convicted of a crime.

He recalled paying a fine in the Harrington Park Municipal Court in 1961 in a matter involving a bad check charge. He asserted that he had issued three checks and had requested the payee to delay depositing one check. The payee did not delay depositing any of the checks and after payment thereof was not honored, the payee filed a complaint which resulted in the payment of the fine. He was under the impression that he was charged as a disorderly person and so informed his attorney and Sergeant DeFranco of the local ABC Board at the time the application for the person-to-person transfer was filed.

A letter addressed to appellant's attorney by the Clerk of the Harrington Park Municipal Court which reflected that on May 10, 1961 Page was found guilty and that the Court imposed a fine on Page was received in evidence. The letter was silent as to the nature of the offense.

The application for the license transfer containing an assertion that no individual therein named was ever convicted of a crime was received in evidence.

Sergeant Anthony De Franco, who serves with the Board, testified that in the early part of May 1973, he interviewed Page in connection with the application filed. Page related that he had problems with checks which were "straightened out" in court; that on his questionnaire he listed his date of birth as "9/15/26". Upon application to it, the Division of State Police, Bureau of Identification, reported "no record" concerning Page. Later, Page listed his true date of birth as "9/26/15".

Thereafter, another investigation relative to Page's criminal record, if any, was made by the State Police. That record, received in evidence reflected that Page was convicted of a charge of violation of N.J.S.A. 2A:111-15 in Harrington Park on April 20, 1961, was fined \$111.00 (payment suspended) and \$5.00 costs. That crime, which concerns itself with overdrawing credit or checking account, has been designated by the Legislature as a misdemeanor. The aforementioned crime involves the element of moral turpitude.

In arriving at a determination herein, it is noted that N.J.S.A. 33:1-25 precludes the issuance of a license "...to any person who has been convicted of a crime involving moral turpitude....". This restriction applies with equal force to stockholders holding ten percent or more of stock in corporate applicants for the issuance of a license, and thus, the Board could not have lawfully granted a license to the corporate appellant.

It is worthy of emphasis that in Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946), the court stated at p.587, 588:

"The question of a forfeiture of any property right is not involved. R.S. 33:1-26. A liquor license is a privilege. A renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor by retail. Crowley v. Christensen, 137 U.S. 86, and no person is entitled as a matter of law to a liquor license. Bumhall v. Burnett, 115 N.J.L. 254; Paul v. Gloucester, 50 Id. 585; Voight v. Board of Excise, 59 Id. 358; Meehan v. Excise Commissioners, 73 Id. 382, affirmed, 75 Id. 557. No licensee has vested right to the renewal of a license. Whether an original license should issue or a license be renewed rests in the sound discretion of the issuing authority. Unless there has been a clear abuse of discretion this court should not interfere with the actions of the constituted authorities. Allen v. City of Paterson, 98 Id. 661; Fornarotto v. Public Utility Commissioners, 105 Id. 28. We find no such abuse. The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. The common interest of the general public should be the guide post in the issuing and renewing of licenses."

Appellant is disqualified to hold any license covered by the Alcoholic Beverage Law, and remains so disqualified unless and until such disqualification is removed through proceedings in this Division. N.J.S.A. 2A:168-A.

I am persuaded that the application contained a misrepresentation of a material fact, was a fraud upon the Board, and that no attempt was made to correct the situation as of the time of the

hearing held herein.

It is, therefore, recommended that the Board's action in denying appellant's application be affirmed, and the appeal herein be dismissed.

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, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 10th day of January 1974,

ORDERED that the action of the respondent Board of Alcoholic Beverage Control for the City of Paterson be and the same is hereby affirmed and the appeal herein be and is hereby dismissed.



Robert E. Bower
Director