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

BULLETIN 2101 June 1, 1973

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ITEM

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

BULLETIN 2101 June 1, 1973

1. COURT DECISIONS - EFFENBERGER v. ELIZABETH - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-2896-71

EDMUND A. EFFENBERGER,
t/a PRINCETON BAR AND GRILL,

Appellant-Respondent,

v.

BOARD OF COMMISSIONERS OF THE TOWN
OF BELLEVILLE and VILLA ITALIA
CORPORATION, t/a VILLA ITALIA,

Respondents-Appellants.

Submitted April 30, 1973 - Decided May 16, 1973.

Before Judges Lora, Allcorn and Handler.

On appeal from New Jersey Division of Alcoholic Beverage Control.

Mr. Robert W. Schwankert, attorney for the appellant.

Mr. Robert A. Gaccione, attorney for respondent Edmund A. Effenberger.

Mr. George F. Kugler, Jr., Attorney General, filed a statement in lieu of brief on behalf of the Director of the Division of Alcoholic Beverage Control.

PER CURIAM

(Appeal from the Director's decision in Re Effenberger v. Belleville, Bulletin 2054, Item 1. Director affirmed. Opinion not approved for publication by the Court Committee on Opinions).

2. DISCIPLINARY PROCEEDINGS - INDECENT ENTERTAINMENT (TOPLESS) - SUSPENSION OF 50 DAYS.

In the Matter of Disciplinary Proceedings against	)	
Starshock, Inc. t/a Lido 7980 South Crescent Boulevard Pennsauken, N.J.,	)	CONCLUSIONS and ORDER
Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Pennsauken.	)	

Toll, Friedman, Pinsky & Jones, Esqs., by John A. Jones, Esq., Attorneys for Licensee
David S. Piltzer, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

"1. On Friday night November 10, 1972, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that you allowed, permitted and suffered females to perform on your licensed premises for the entertainment of your customers and patrons in a lewd, indecent and immoral manner, viz., 'topless'; in violation of Rule 5 of State Regulation No. 20.

"2. On Saturday night November 11, 1972, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that you allowed, permitted and suffered females to perform on your licensed premises for the entertainment of your customers and patrons in a lewd, indecent and immoral manner, viz., 'topless'; in violation of Rule 5 of State Regulation No. 20.

"3. On Sunday night November 12, 1972, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that you allowed, permitted and

suffered females to perform on your licensed premises for the entertainment of your customers and patrons in a lewd, indecent and immoral manner, viz., 'topless'; in violation of Rule 5 of State Regulation No. 20."

The Division's case was established through the testimony of three ABC agents, who were specifically assigned to investigate an allegation that "topless" go-go dancers were performing in the licensed premises. Their testimony was corroborated by two local police officers who assisted them in the said investigation.

The factual complex is not in controversy since no witnesses were presented or testified on behalf of the licensee. Although the attorney for the licensee sought to stipulate that there was, in fact, "topless" dancing on the dates alleged in the said charges, the offer was objected to by the attorney for the Division as being premature, i.e., that such stipulation should not be made until the conclusion of the Division's case.

However, at the conclusion of the Division's presentation, the attorney for the licensee stated that although the licensee presented no factual contrary evidence, he did not desire to make any such stipulation but would instead rely upon the legal arguments which will be discussed infra.

The Division's case may be briefly summarized as follows: ABC agents G and W, accompanied by Detective Andrew Tippin of the Pennsauken Police Department, entered the subject premises at about 10:10 p.m. The premises consist of a large barroom, which contains two large square-shaped bars and a long counter-type bar; an office; and a room adjacent to the barroom, which is used as a service room by employees.

Upon entering, the agents each were required to pay a $4.00 admission fee in return for which they each received two tickets each redeemable for a drink. There were approximately one hundred-thirty patrons present, and the entertainment was in progress. This consisted of two go-go girls performing to recorded music. At the rear bar, one of the performers was dressed in a multi-colored bikini-type brief, but completely "topless"; her breasts and nipples were completely exposed, and the breasts had no supporting bra.

The two dancers performed approximately four numbers which lasted for about twelve to fifteen minutes, and they were followed by two other dancers who were attired in bikini-type briefs and a bra. They then dropped their bras to the floor and danced "topless". This performance also lasted about fifteen minutes. This was then followed by two other dancers who performed in the same manner. After these "topless"

dancers completed their acts, the four "topless" performers engaged in duties as waitresses. The dancers, including the "topless" dancers, would occasionally lean over the bar and have conversations with the patrons and then resume their performances. During these performances, some of the customers would clap and shout "Take it off! Take it off!" referring to the bras worn by the go-go dancers.

Agent G characterized the performances as typical go-go dancing, based upon his experience of having witnessed go-go dancing on forty or fifty occasions in various night clubs and taverns in the State.

Agent G and Detective Sergeant Tippin shortly thereafter, identified themselves to Leslie Safar, the manager of the premises and John Schoch, the secretary-treasurer of the corporate licensee, who were apprised of the alleged violation. They informed the agents that they were going to continue this "topless" entertainment and that they [their attorney] were prepared to "fight this in court."

On cross examination, agent G stated that he did not use the words "lewd" or "immoral" in his conversation with the licensee's employees but merely advised them that, in his opinion, the "topless" dancing was a violation of the regulations of this Division. He also noted that the motor vehicles parked outside the premises contained license plates issued by Pennsylvania and New Jersey.

On Saturday night, November 11, 1972, ABC agent Gr accompanied by Detective Thomas Voight of the Pennsauken Police Department, entered the premises at 10:00 p.m. They were required and did pay an admission fee of $4.00 each at the door and received two tickets which were redeemable for one drink per ticket. On this occasion there were approximately one hundred fifty to two hundred patrons, predominately males. Seven go-go dancers engaged in performances at this time; they alternately performed the go-go dances and were engaged as waitresses between performances. Three of these performers were "topless", that is, they wore bikini-type briefs, had no clothing or covering on from the waist up, and performed in that manner. Their dance was described as normal "go-go routine". The "topless" dancers each performed to four to six recorded numbers for a period of twelve to fifteen minutes. There was the same reaction, as noted hereinabove, on the part of the patrons, and the dancers would occasionally engage in conversation with the patrons seated at the bar.

The agent then identified himself to Safar and Schoch and told Schoch that each day that this type of performance was permitted on the premises would constitute a separate violation. Schoch, however, asserted that he intended to continue this "topless" entertainment and that he was prepared "to go on to fight in court any ruling made by this Division with reference to this entertainment."

The agent then left the premises, and revisited the same on Sunday, November 12, 1972, in the company of Detective Sergeant Andrew Tippin. On that occasion there were approximately one hundred patrons, predominately male. There were, at that time, four go-go dancers who also served as waitresses between performances. Of these four go-go dancers, two performed in the "topless" manner described hereinabove. He observed these performers for about an hour, and then again spoke to Schoch. He advised him that this was a violation of the Rules and Regulations of this Division and that each night on which these performances were permitted would be the basis of a new charge. He received the same response as on the previous nights. During the conversation Schoch handed him two sheets which contained "INFORMATION TO BE GIVEN TO GIRLS" relating to their conduct which will be alluded to later in this report. Significantly, it should be noted that Item 3 of this information sheet contains the following:

"1. Pay Scale
a. $25 per shift b. ¢25 per drink served c. tips

Should equal $50 - $100 per day depending on
(1) Ability (2) Following (3) Ambition"

On cross examination, agent Gr stated that he had observed several hundred go-go performances during his ten years as an agent for this Division and asserted that he never observed "topless" go-go dancers in this State during his tenure.

As noted hereinabove, no factual evidence was presented on behalf of the licensee. It is thus clear that from the evidence presented that there was indeed "topless" dancing performed on three occasions set forth in the charges, and that the licensee thus permitted females to perform on its premises in a lewd, indecent and immoral manner.

I shall now discuss the legal arguments advanced by the attorney for the licensee.

I

A motion was made at the commencement of this hearing by the attorney for the licensee to defer this hearing until pending criminal charges against the employees of the licensee are terminated. It appears that, on the Friday preceding the hearing in this Division, a raid was conducted by the New Jersey State Police and the County Prosecutor's Office and a number of the employees, including the principals of the corporate licensee were arrested and charged with a criminal offense in the County Court. The attorney argued that since the performers, including the dancers and the waitresses and the other employees were faced with a criminal prosecution, they were exercising their Fifth Amendment constitutional rights at this time by refusing to "incriminate" themselves in these proceedings by being required to testify.

This argument is clearly specious and lacks substance. These proceedings are civil and disciplinary in nature and not criminal, are directed solely against the license and are not concerned with any criminal action against the individuals involved. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956); In re Schneider, 12 N.J. Super. 449, 454 (App. Div. 1951); The Panda v. Driscoll, 135 N.J.L. 164 (E. & A. 1947).

Disciplinary proceedings have no bearing on pending criminal charges and contain different elements. They require proof by a preponderance of the credible evidence only as distinguished from criminal proceedings which require proof beyond a reasonable doubt. Also, as noted above, these proceedings are against the license and not against the individuals.

Since this is an action against the license it would be inappropriate to withhold these proceedings until the termination of the criminal proceedings which may extend over a period of years when taking into consideration the requirements of indictment, trial and appeals to the appellate courts. A deferment pending the determination of criminal proceedings would frustrate and stultify the proper administration of this administrative agency in the enforcement of the Alcoholic Beverage Law and would be contrary to the public interest. It has been well established, therefore, that the administrative proceedings are not dependent upon and are unrelated to the criminal proceedings. Thus, the courts have negatively viewed the contention that administrative proceedings be deferred pending the outcome of criminal action. Cf. De Vita v. Sills, 422 F. 2d 1172; 279 Club, Inc., v. Newark, 73 N.J. Super. 15 (App. Div. 1962); Atkinson v. Parsekian, 37 N.J. 143, 149 (1962); In re Darcy, 114 N.J. Super. 454, 458 (App. Div. 1971); Standard Sanitary Manufacturing Company v. United States, 226 U. S. 20,47; United States v. Kordel, 397 U.S. 1 (1970). I therefore recommend that the motion be denied.

II

The licensee argues that it cannot present any contrary factual testimony because its witnesses are faced with criminal prosecution in the Camden County Court and that their appearance in these proceedings would jeopardize their Fifth Amendment constitutional rights against self-incrimination. I find this argument to be frivolous because, the determination of whether particular persons should testify or not is a matter that could not be considered in advance. It may very well be that these witnesses would be willing to testify.

Furthermore, the claim of constitutional privilege cannot be anticipated before the witnesses appear and that claim can only be asserted by the witnesses themselves at the time of the hearing. Also, it should be noted that the attorney for the licensee concedes that he does not even represent all of those witnesses.

Furthermore, the attorney for the licensee has refused to make a proffer of proof which may be at variance with the testimony adduced by the Division. Absent such proffer of proof that there would be any oral or documentary proof that would contradict or deny the facts as presented by the Division witnesses, any deferment of this action is unreasonable and unwarranted. It is therefore recommended that this motion also be denied.

III

Licensee next argues that, because of the changing mores during the past ten years, "topless" dances should be permitted as an expression of free speech, and that Rule 5 of State Regulation No. 20 is too narrowly interpreted because it did not take into consideration the "changing times, the changing attitude of the people." Further, he argues that merely because the liquor license is a privilege does not mean that licensees "lose their constitutional rights." Taking note of the prior decisions in our appellate courts with respect to nudity, he contends that the decision of the Director and the courts are in error and that the criteria applied should be based on that expressed in Roth v. United States, 354 U.S. 476 (1957).

Although the standards in the field of entertainment may have changed in the theaters and in books, the standards have never been lowered in liquor licensed premises. See Davis v. New Town Tavern, 37 N.J. Super. 376 (App. Div. 1955); Re Mrs. Jay's, Inc., Bulletin 1903, Item 2. As Judge Jayne pointed out in McFadden's Lounge v. Alcoholic Beverage Control, 33 N.J. Super. 61 at p.62 (App. Div. 1954):

> "Experience has firmly established that taverns where wine, men, women, and song centralize should be conducted with circumspect respectability. Such is a reasonable and justifiable demand of our social and moral welfare intelligently to be recognized by our licensed tavern proprietors in the maintenance and continuation of their individualized privilege and concession...."

In Re Club "D" Lane, Inc., 112 N.J. Super. 578 (App. Div. 1970), Judge Mintz considered similar contentions involving a charge against a liquor licensee under Rule 5 of State Regulation No. 20, that it permitted a dancer wearing transparent bibs and pasties covering only the nipples on her breasts to perform on licensed premises. Rule 5 of State Regulation No. 20 promulgated pursuant to N.J.S.A. 33:1-39, provides that:

> "No licensee shall engage in or allow, permit or suffer in or upon the licensed premises any lewdness, immoral activity or foul, filthy, indecent or obscene language or conduct, or any brawl, act of violence, disturbance or unnecessary noise; nor shall any licensee allow, permit or suffer the licensed place

of business to be conducted in such a manner as to become a nuisance."

In that case, the licensee argued that, as here, lewdness and immoral activity should be determined in accordance with the criteria set forth in N.J.S.A. 2A:115-1.1, the statute dealing with obscenity, which incorporates the First Amendment right as defined by the United States Supreme Court. Roth v. United States, supra 354 U.S. 476 (1957), rehearing den. 355 U.S. 852.

Said the court (112 Super. at p.579):

"A license to sell intoxicating liquor is not a contract nor is it a property right. Rather it is a temporary permit or privilege to pursue an occupation which is otherwise illegal. Since it is a business attended with danger to the community, it may be entirely prohibited or be permitted under such conditions as will limit to the utmost its evils. Mazza v. Cavicchia, 15 N.J. 498, 505 (1954).

"We are not here concerned with the censorship of a book, nor with the alleged obscenity of a theatrical performance. 'Our immediate interest and attention is confined to the disciplinary action taken against the licensee of a public tavern, whose privileges may lawfully be tightly restricted to limit th the utmost the evils of the trade.' McFadden's Lounge, Inc. v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 61, 68 (App. Div. 1954). Lewdness or immorality for the purpose of alcoholic beverage control may be determinable on a distinctly narrower basis than for purposes of regulation of commercial entertainment generally. Davis v. NewTown Tavern, 37 N.J. Super. 376, 378 (App. Div. 1955); Jeanne's Enterprises, Inc. v. New Jersey, etc., 93 N.J. Super. 230 (App. Div. 1966), aff'd o.b. 48 N.J. 359 (1966).

"The public policy of this State strictly limiting the type of permissible entertainment in taverns was recently declared in Paterson Tavern & Grill Owners Ass'n Inc., v. Hawthorne, 108 N.J. Super. 433, 438 (App. Div. 1970), rev'd on other grounds, 57 N.J. 180 (1970), where the court stated:

'The ordinance seeks to ban from Hawthorne's taverns and other licensed premises the 'topless' and 'bottomless' entertainer or dances. The community has a right to protect itself against this kind of an immoral atmosphere which exists elsewhere in the United States. Such so-called 'entertainment' is nothing more or less than an appeal to the prurient interest. It is bait

> to bring customers to the bar and hold them there, for the obvious purpose of increasing the sale of alcoholic beverages. It may be validly curbed, as Hawthorne provides in its ordinance."

Thus, it is clear that, historically, nudity has not been countenanced in liquor licensed premises by this Division or by the courts. While the standards of dress at other than licensed premises have changed in recent years, there has been no lowering in the standard apparel as it relates to female entertainers on licensed premises. In a business as highly sensitive as the traffic of liquor, the Director is charged with the exercise of constant vigilance in the enforcement of the various statutes and the rules and regulations pertaining thereto. A public convenience should not be allowed to degenerate into a social evil.

> "The conduct of those who have been granted the special privilege of vending alcoholic beverages at a designated location 'may lawfully be tightly restricted to limit to the utmost the evils of the trade.'"

See Jeanne's Enterprises, Inc., v. Division of Alcoholic Beverage Control, 93 N.J. Super. 230 (App. Div. 1966), aff'd 48 N.J. 359 (1966).

In California et al., v. Robert LaRue et al, Docket 71-30, _____, U.S. ____, 41 LW 4039 (decided December 5, 1972), the United States Supreme Court upheld the California State Alcohol Control Board's regulations prohibiting sale of liquor by drink in establishments offering live or filmed sexual entertainment and held that in the context, not of censoring dramatic performances in a theater, but of licensing bars and nightclubs to sell liquor by the drink, the States have broad latitude under the Twenty-First Amendment to control the manner and circumstances under which liquor may be dispensed; and here the conclusion that sales of liquor by the drink and lewd or naked entertainment should not take place simultaneously in licensed establishments was not irrational nor was the prophylactic solution unreasonable.

The court pointed out that the criteria of what is obscenity as set forth in the Roth line of cases did not apply with respect to liquor licensed premises nor did it believe that it was limited with respect to 'communicative contact as limited under the standards laid down by the court in United States v. O'Brien, 391 U.S. 367 (1968).

Said the court (41 LW 4039 at 4042):

> "The Department's conclusion, embodied in these regulations, that certain sexual performances and the dispensation of liquor by the drink ought not to occur simultaneously at premises which have licenses was not an irrational one. Given the added presumption in favor of the validity of the state

> regulation in this area which the Twenty-first Amendment requires, we cannot hold that the regulations on their face violate the Federal Constitution."

And further:

> "The substance of the regulations struck down prohibit licensed bars or nightclubs from displaying, either in the form of movies or live entertainment, 'performances' which partake more of gross sexuality than of communication... [these regulations] merely proscribed such performances in establishments which it licenses to sell liquor by the drink."

In sum, the court stated that "States may sometimes proscribe expression which is directed to the accomplishment of an end which the State has declared to be illegal when such expression consists, in part of 'conduct' or 'action'". Hughes v. Superior Court, 339 U.S. 460 (1950); Giboney v. Empire Storage & Ice Co., 336 U.S. 490 (1949).

The many pronouncements and disciplinary decisions rendered through the years by this Division in delineating the boundaries beyond which licensees may not permit questionable entertainment to proceed constitute adequate and sufficient notice to guide conscientious licensees. See Re Paddock International, Bulletin 1429, Item 2. In Re DiAngelo, Bulletin 753, Item 4, the Director, in discussing what was meant by lewd and immoral activity within the intendment of the said rule, stated:

> "Entertainment, if presented upon licensed premises, must be of such character as not to be inimical to the public welfare and morals or to the best interests of the industry... Nudity has no place in the liquor industry."

The fact that the Division agents were not sexually excited, as they testified, is not determinative, provided as here, that "the predominant object and natural effect upon the observers-patrons of one portion of the performance was erotic excitation." Davis v. New Town Tavern, 37 N.J. Super. 377 (App. Div. 1955).

Finally, it should be pointed out that although statutes penal in character normally must be strictly construed, the Legislature enjoined the courts otherwise in N.J.S.A. 33:1-73 which provides:

> "Intention and construction of law. This chapter is intended to be remedial of abuses inherent in liquor traffic and shall be liberally construed."

Vide, Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947); Kravis v. Hock, 135 N.J.L. 259 (Sup. Ct. 1947); Greenbrier v. Hock, 14 N.J. Super. 449 (App. Div. 1951), at p.43. The statute as a whole is intended to be remedial of abuses inherent in the liquor traffic and the discretion of the Director is sufficiently broad to accomplish the purpose intended. Butler Oak Tavern v. Division of Alcoholic Beverage Control, supra (at p.385).

IV

Licensee argues that there has been no Division action against male entertainers dancing in the exact manner, i.e., "topless" as a female and that, therefore, the action against the licensee for permitting female "topless" dancers was discriminatory.

With respect to this argument, I would take judicial notice of the fact that there is a decided difference in the anatomy of males from the waist up from that of females. In any event, there has been no proof introduced to establish such alleged discriminatory action by the Division.

V

Finally, the licensee argues that there was no guilty knowledge on the part of the licensee, or scienter necessary in order to establish the truth of the charges herein. The short answer to this contention is that the evidence clearly shows that both the manager and secretary-treasurer of the corporate licensee were fully aware of what was taking place on the licensed premises. In fact, when apprised of the alleged violations they vigorously insisted to the Division agents that they intended to continue to permit the "topless" dancing, and did, in fact, continue the same until their ultimate arrest by the State Police on November 16, 1972. Thus, the licensee was clearly responsible for and clearly inculpated by the actions performed by its employees on the licensed premises. This would be so, even if the licensee did not know what was transpiring. Rule 33 of State Regulation No. 20. Greenbrier v. Hock, supra.

Furthermore, it is clear that the licensee knew or should have become aware of the Division regulation as construed with respect to "topless" entertainment because of a recent position taken by the Director and the court cases sustaining that position. In Re Club "D" Lane, Inc., supra, at p.580, the court restated the admonition given by a former Director of this Division, in Re Play Pen Incorporation, Bulletin 1778, Item 5, reprinted in Bulletin 1805, Item 1, as follows:

"In passing, however, I wish emphatically to advise all licensees that so-called 'topless' female employees, whether entertainers or otherwise, and whether with pasties described by the Division agents or the larger ones described by the licensee's witnesses, will not be tolerated on licensed premises in this State."

Moreover, the evidence clearly manifests that the licensee deliberately embarked upon this activity because it conceived that this was a "gimmick" to attract people to the licensed premises and increase the business of the licensee. As the agents testified, there was a $4.00 admission charge, redeemable for two drinks, before a person could get into the premises to watch these performers. And the business of the licensee did, indeed, increase.

The instruction sheet given by the licensee to the employees sets forth, among others, the following:

"1. When they come for an audition wear their most provocative costume.

3. Inform them of all our policies and procedures as follows:

(1) Pay Scale
a. $25 per shift b. ¢25 per drink served c. tips

Should equal $50 - $100 per day depending on
(1) Ability (2) Following (3) Ambition

5. Absolutely no drinking of anything on the floor. If offered a drink by customer merely say that 'we are not permitted to drink while working but we can accept tips," GET THE MONEY
They can have anything they want to drink in the back room. It will be free!!!! IMMEDIATE DISMISSAL for drinking anything in the cocktail lounge area.

7. No hustling in club. If you make a contact you would like to pursue further tell them you will meet them somewhere else after work. DO NOT discuss specifics in the club. DO NOT leave with anyone from the club that you intend to score with. Any hustling in the club is IMMEDIATE DISMISSAL."

The instruction sheet manifests that these go-go dancers were paid a percentage of drinks they induced the patrons to purchase. They were encouraged to bring their following to the licensed premises to foster the sale of alcoholic beverages. Patently this was a method to unduly stimulate greater sales of alcoholic beverages for more money and not to express any ideas or expressions to the public. In fact, one of the Division witnesses testified that the "topless" dancers were the poorest

dancers, "They were just walkers", as distinguished from those girls who wore regulation attire.

I therefore find this contention totally lacking in substantial merit.

VI

In sum, I find that the charges here have been established by substantive evidence and that the legal contentions advanced by the licensee must be rejected.

Licensee has no prior adjudicated record. Considering that this constitutes an aggravated situation in view of the warnings by the agents and the continued operation in the proscribed manner by the licensee as denounced by the regulation of this Division, it is recommended that the license be suspended for fifty days.

Conclusions and Order

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

I find that the matters contained in the exceptions have been fully considered by the Hearer in his report or are lacking in merit.

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

Reports of investigations by Division agents disclose that the "topless" activity is being carried on at the present time by the licensee, and that it is in continuous violation of the Division regulation set forth in the subject charges. In view thereof, I have determined to impose the recommended suspension of the said license for fifty days without further delay, effective 2:00 a.m. Thursday, April 12, 1973.

Accordingly, it is, on this 11th day of April 1973,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Pennsauken to Starshock, Inc. t/a Lido for premises 7980 South Crescent Boulevard, Pennsauken, be and the same is hereby suspended for fifty (50) days, commencing 2:00 a.m. Thursday, April 12, 1973 and terminating 2:00 a.m. Friday, June 1, 1973.

Robert E. Bower
Director

3. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary Proceedings against	)
Wertz, Inc. t/a D'Scene Route 9, PO South Amboy Sayreville Borough, N.J.,	) SUPPLEMENTAL ORDER
Holder of Plenary Retail Consumption License C-28, issued by the Mayor and Borough Council of the Borough of Sayreville.	)
- -	)

Thomas C. Brown, Esq., Attorney for Licensee

BY THE DIRECTOR:

On March 7, 1973 a resolution and order was entered by the local issuing authority suspending the subject license herein for ten days, effective March 15, 1973, after finding licensee guilty of a charge alleging the sale, delivery and consumption of alcoholic beverages on its licensed premises between the hours of 3:00 a.m. and 7:00 a.m. on January 14, 1973, in violation of the local ordinance.

Prior to the commencement of the said suspension licensee made application to me for the imposition of a fine in lieu of the said suspension in accordance with the provisions of Chapter 9 of the Laws of 1971. An order was thereupon entered on March 13, 1973 staying the said suspension pending my consideration of the licensee's application.

On April 4, 1973, the local issuing authority adopted a resolution wherein it recommended that a fine not be accepted in lieu of the license suspension, setting forth, among other reasons "...that in the best interest of the community and for the good and welfare of the Borough the licensee should be closed for a period of ten days."

In view of the objection to the licensee's application, I have determined, in the exercise of my discretion, to deny the licensee's said application for the payment of a fine in lieu of suspension.

Accordingly, it is, on this 12th day of April 1973,

ORDERED that the application of the licensee for the payment of a fine in lieu of suspension be and the same is hereby denied; and it is further

ORDERED that my order dated March 13, 1973 staying the suspension heretofore imposed by the Mayor and Council of the Borough of Sayreville be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-28, issued by the Mayor and Borough Council of the Borough of Sayreville to Wertz, Inc., t/a D'Scene, for premises Route 9, Sayreville, be and the same is hereby suspended for ten (10) days, commencing 3:00 a.m. Tuesday, April 24, 1973, and terminating 3:00 a.m. Friday, May 4, 1973.

ROBERT E. BOWER
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against

Wildwood Crest Liquors, Inc.
t/a Crest Tavern
9600 Pacific Avenue
Lower Township
Po Wildwood, N.J.,

Holder of Plenary Retail Consumption License C-15, issued by the Township Committee of Lower Township.

AMENDED ORDER

George M. James, Esq., Attorney for Licensee

BY THE DIRECTOR:

On December 29, 1972 I entered an Amended Order in this matter suspending the subject license for ten days after finding the licensee guilty of a charge alleging that on Saturday, July 31, 1971, it sold alcoholic beverages not pursuant to the terms of its license as defined by R.S. 33:1-12(1), viz., whiskey and beer drinks for consumption off its licensed premises, in violation of R.S. 33:1-2. Re Wildwood Crest Liquors, Inc., Bulletin 2085, Item 6.

The effective dates of the said suspension were to be fixed by a further order when the licensee resumed the operation of its business on a substantial full-time basis. Reports of investigation disclose that the licensee is presently operating on a substantial full-time basis. Thus the effective dates of the suspension may now be fixed.

Accordingly, it is, on this 16th day of April 1973,

ORDERED that Plenary Retail Consumption License C-15, issued by the Township Committee of Lower Township to Wildwood Crest Liquors, Inc., t/a Crest Tavern for premises 9600 Pacific Avenue, Lower Township, be and the same is hereby suspended for ten (10) days, commencing 2:00 a.m. on Monday, April 30, 1973 and terminating at 2:00 a.m. on Thursday, May 10, 1973.

Robert E. Bower
Director