Ambrose

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

BULLETIN 1988 July 22, 1971

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ITEM

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

BULLETIN 1988 July 22, 1971

1. COURT DECISIONS - KOWAL v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-636-70

ADELE KOWAL, t/a Midway Tavern,

Appellant,

v.

DIVISION OF ALCOHOLIC BEVERAGE CONTROL, STATE OF NEW JERSEY,

Respondent.

Argued June 14, 1971 -- Decided June 22, 1971.

Before Judges Sullivan, Collester and Labrecque.

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

Mr. Anthony J. Iuliani argued the cause for appellant (Mr. Sam Weiss, of counsel).

Mr. Charles R. Parker, Deputy Attorney General, argued the cause for respondent (Mr. George F. Kugler, Jr., Attorney General of New Jersey, attorney; Mrs. Virginia Long Annich, Deputy Attorney General, of counsel).

PER CURIAM

Appeal from decision in Re Kowal, Bulletin 1950, Item 5. Director Affirmed. Opinion not approved for publication by the Court Committee on Opinions.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (PROCUREMENT FOR PROSTITUTION) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 185 DAYS.

In the Matter of Disciplinary Proceedings against

The Lark Lounge, Inc.
1103 Broad St.
Newark, N. J.,

Holder of Plenary Retail Consumption License C-49 (for 1969-70 and 1970-71 license periods), issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS and ORDER

Waldor and Hochberg, Esqs., by Milton A. Waldor, Esq., Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On February 7 and 13, 1970, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you, through a person employed as a bartender on your licensed premises, allowed, permitted and suffered solicitation by ostensible female customers and/or patrons on your licensed premises of male customers and patrons thereon for prostitution and/or acts of illicit perverted sexual relations, the making of overtures and arrangements by said females with said male customers and patrons for acts of illicit sexual intercourse and/or acts of perverted sexual relations, and further, you, through said person employed on your licensed premises as a bartender, made offers to male patrons or customers on your licensed premises to procure females to engage in acts of illicit sexual intercourse and/or in acts of illicit perverted sexual relations with said male patrons or customers, and in furtherance of such offers made arrangements with and procured females to engage in acts of illicit sexual intercourse and/or in acts of illicit perverted sexual relations with said male patrons or customers, as aforesaid; in violation of Rule 5 of State Regulation No. 20."

In support of said charge the Division produced testimony of four of its agents. Agent G testified that, accompanied by Agents S, R and G, he visited the subject licensed premises on two occasions (February 7 and February 13, 1970). The premises consist of a barroom with a large oval-shaped bar. Of the two bartenders on duty, one (identified as John Salkowski) was engaged in a conversation and, upon the agent's inquiry "Are there any broads in here? We want to get fixed up", was advised to wait

a short while. Thereafter a female came in and was waved over to the agents by the bartender who told her to "take care" of them. Negotiations between the female and the agents ensued pertaining to the costs for her services as a prostitute. The price being fixed, the agent reported the conversation with the bartender, indicating they would return the following week to keep their rendezvous.

On February 13, 1970, the agent and his colleagues returned with marked money, saw the same bartender and asked for the female with whom they had negotiated previously. He did not know the female by name, and the agent informed him of the conversation with the prostitute as described hereinabove. At her absence, the bartender signaled another female named Ellie --- who, in the presence of the bartender, agreed to engage in illicit sexual intercourse or "put on a show" with another girl. Reappearing with another female, further conversations ensued resulting in the replacement of this female by another identified as Tammy. This female entered the discussion which was related to the bartender, all of which pertained to a show the females would put on of unnatural sexual acts. The bartender was invited to join but protested that he was unable to do so.

Two of the agents and females retired to an apartment a short distance away, where one of the agents gave the female marked money. Both females disrobed and began unnatural sex acts, at which point the apartment was entered by the remaining two agents and two local police officers. The marked money was recovered and the females were arrested.

It was stipulated that the testimony of the other agents would be essentially corroborative of that of Agent G on direct examination, and remained substantially the same under cross examination.

The licensee produced testimony of the bartender John Salkowski who denied arranging for any female to engage in sexual relations with the agents. He admitted, however, seeing a girl standing, talking to the agents, and admitted their inquiries about loose females, to which he allegedly responded, "I'm not a pimp; I'm a bartender." He admitted he was advised by one of the agents that "We are going to get a girl" and, as he looked around, he saw a girl he knew talking to them. He admitted also that the agents informed him that they were going out with the girl but "I didn't know who they were talking about."

The manager of the licensee (Sol Steinberg) testified to a visit by the agents at the conclusion of the incident and that he asked his bartender if he (the bartender) had made arrangements for the agents, to which the bartender replied that he had said "Go ahead, fellows, you want to go, lots of luck." The witness added, "I was very mad."

We are dealing here with a purely disciplinary measure and its alleged infraction. Such measures are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup.Ct. 1948). Thus the Division need establish its case only by a fair preponderance of the credible evidence. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956). In other words, the finding must be based upon a reasonable certainty as to the probabilities arising from a fair consideration of all of the evidence. 32 C.J.S. Evidence, sec. 1042.

It is apparent from the testimony of both agents, as well as the bartender, that the bartender was aware that there were women patronizing the licensed premises who made arrangements to engage in immoral activities.

Taking the bartender's testimony relating to the incidents, it strains credibility to conjecture that he did not know what went on in front of him. That these three girls could engage in conversation obviously resulting in subsequent immoral conduct and an arrest, in the immediate presence of the bartender, without his latent masculine curiosity being aroused and making some inquiry, is simply unbelievable. Even the ire of the manager upon obtaining the bartender's reaction to his question obviates further inquiry into the culpability of the bartender. There is no persuasive evidence that the licensee's employee directly procured the said female for immoral purposes. Were it established that a corporate member or employee had actually procured the female to engage in sexual intercourse, the license would be revoked. Re Merjack Corp., Bulletin 998, Item 1.

I therefore conclude that the Division has established by a fair preponderance of the credible evidence that the said licensee, through its employee, allowed, permitted and suffered the immoral activities as set forth in the charge herein and, accordingly, recommend that it be found guilty thereof.

Licensee has a prior adjudicated record. Effective July 15, 1968 its license was suspended by the Director for fifteen days for employing an ineligible (criminal) employee. Re The Lark Lounge, Inc., Bulletin 1806, Item 7.

It is recommended that the license be suspended for two hundred ten days on the charge herein (Re New Glass Bar, Inc., Bulletin 1888, Item 3), to which will be added five days for the prior dissimilar violation occurring within the past five years, making a total of two hundred fifteen days.

Conclusions and Order

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

Having carefully considered the entire record herein, including the transcript of testimony, the exhibits and the Hearer's report, I concur in the factual determination of the Hearer but am unable to adopt his conclusions nor accept the recommendation as to penalty.

The testimony of the agents disclosed that on two occasions they received the aid of the bartender toward making arrangements for illicit conduct with females, including introduction to them, which conduct contains the essence of procurement. Permissiveness to a prostitute to solicit on the licensed premises carries a minimal penalty of ninety days. Re Stewart, Bulletin 1886, Item 3; Re Totem Pole Enterprises, Inc., Bulletin 1838, Item 2; Re Ri-Bo Inc., Bulletin 1965, Item 3.

The Hearer has properly indicated that the actual and absolute procurement of a female for prostitution done by the licensee or his agents would result in revocation of the license. Re Merjack Corporation, supra. Here the elements of procurement fell short of that degree of agency required to come within that doctrine calling for complete revocation.

Additionally, in the instant matter evidence revealed more than mere solicitation for prostitution -- conduct of the females, both in licensed premises, as well as at place of apprehension, was debased and perverted. This aggravates the offense already aggravated by the aspect of procurement, all of which calls for an additional suspension of ninety days. Hence the license will be suspended for one hundred eighty days, to which will be added five days for the prior dissimilar violation occurring within the past five years, making a total of one hundred eighty-five days.

Accordingly, it is, on this 1st day of June 1971,

ORDERED that Plenary Retail Consumption License C-49, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to The Lark Lounge, Inc., for premises 1103 Broad Street, Newark, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1971, commencing at 2 a.m. Tuesday, June 15, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2 a.m. Friday, December 17, 1971.

Richard C. McDonough
Director

3. APPELLATE DECISIONS - EDELSON v. PATERSON.

#3504
REUBEN A. EDELSON,
t/a SOUTHSIDE BAR & BILLIARDS,
RUBY'S GAY 90's,

Appellant,

v.

BOARD OF ALCOHOLIC BEVERAGE CONTROL
FOR THE CITY OF PATERSON,

Respondent.

Affirmed 12/7/3

ON APPEAL
CONCLUSIONS
AND ORDER

Edelson & Kilstein, Esqs., by Herman D. Edelson, Esq., Attorneys for Appellant.
Joseph Conn, Esq., by Samuel K. Yucht, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant, Reuben A. Edelson, holder of a plenary retail consumption license for premises 155-157 Pennsylvania Avenue and 74-76 Alabama Avenue, Paterson, was found guilty by respondent Board of Alcoholic Beverage Control for the City of Paterson (Board) of the following charge:

"On Friday, March 27, 1970, he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages,

directly or indirectly to a person under the age of 21 years, viz., Manuel --- age 18, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon his licensed premises; in violation of Rule 1 of State Regulation No. 20."

The Board suspended appellant's license for fifteen days, effective June 29, 1970.

In his petition of appeal, appellant alleged that the Board's action was erroneous because:

(a) It is contrary to the weight of evidence.

(b) The penalty imposed is unreasonable.

The Board, in its answer, admitted the jurisdictional allegations of the petition and denied the substantive allegations contained therein.

An order was entered by the Director herein on June 22, 1970, staying the Board's order of suspension until the further order of the Director.

This matter was heard de novo, pursuant to Rule 6 of State Regulation No. 15, with full opportunity for counsel to present testimony under oath and cross-examine witnesses.

The stenographic record of the hearing below was submitted pursuant to Rule 8 of State Regulation No. 15. This was supplemented at this hearing by testimony of witnesses produced on behalf of both parties.

The testimony below and at this hearing presents the following picture:

Manuel ---, age 18, was in the billiard parlor section of appellant's licensed premises on March 27, 1970, playing pool, when he was approached by Sergeant Donald Young of the local police department. At the time that Sergeant Young approached him, Manuel was moving around with a bottle of beer in his hand. He denied putting the bottle to his lips or drinking anything. Two companions playing pool with him were drinking beer. He had the bottle of beer in his hand in order to move it from one side of the table to the other. At the same time, he had a cue stick in his hand.

Sergeant Young testified that he entered the barroom of the licensed premises accompanied by local police officer Richard Ochs and saw appellant tending bar. He went into the adjoining room which contained several pool tables. He observed Manuel "standing at the pool table with a bottle of Rheingold in his right hand at his mouth." He took the beer from Manuel, brought it to the bar and informed appellant of what he had observed. Edelson admitted that only he was tending bar that night and that he had served Manuel.

Upon being questioned by the sergeant as to whether or not he was aware of Manuel's age, Edelson replied, "He's old enough. I saw his proof of age." Edelson asserted that he had checked Manuel's identification. The sergeant informed Edelson that he, too, had checked Manuel's identification, that it disclosed he was 18 years of age. Whereupon Edelson said, "Oh, I made a mistake. It was another Puerto Rican that did look like him to me."

Police officer Richard Ochs, who had accompanied Sergeant Young in the subject investigation, testified that Manuel "had just taken a bottle of Rheingold away from his lips. He looked at Sergeant Young and myself, and he set it down on the pool table." Upon being questioned as to the length of time that Manuel held the bottle to his lips, Officer Ochs testified, "A second or two. A swallow." Manuel was not holding a cue stick in his hand at any time the officer observed him. He further stated that, when Sergeant Young confronted Edelson concerning the alleged sale of beer to Manuel, Edelson admitted the sale but asserted that he had asked Manuel for identification and that Manuel showed proof that he was 21 years of age.

Reuben Edelson, appellant herein, testified (at the hearing before the Board and at this hearing) that he was tending bar unassisted when he observed Sergeant Young in the pool room at approximately 10:45 P.M. on March 27th. Sergeant Young brought Manuel from the pool room to the bar. He did not see Officer Ochs at that time. Upon being questioned by Sergeant Young as to whether he served beer to Manuel that night, he at first responded affirmatively and, upon looking again, said "No. It was a different one." It was dark at that corner of the bar. He denied ever serving Manuel beer. He served beer to the other three males who were playing pool with Manuel.

Francisco Lopez testified that he was playing pool with Manuel and two other males for approximately two hours in the licensed premises when Sergeant Young walked in on the night in question. Manuel was drinking Pepsi-Cola. He and the other males were drinking beer. He had placed a bottle of beer on the side of the pool table. Manuel moved the bottle; he did not drink any of the beer. Lopez saw only one police officer that night.

The testimony of Damian Rivera, who was one of the quartet playing pool on the night of March 27, was similar to the testimony offered by Lopez. He and his companions were frequent patrons at the licensed premises for more than a year prior to the date alleged herein.

Hildur Edelson, wife of appellant, testified that she frequents the licensed premises nightly and has seen Manuel on many occasions. He never ordered anything other than soda. She observed only one police officer enter the pool table area of the licensed premises.

The burden of establishing that the Board acted erroneously and in an abuse of its discretion is upon appellant. The ultimate test in this matter is one of reasonableness on the part of the Board, in its determination based upon the presented evidence. 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 Assn. v. Hoboken, 135 N.J.L. 502 (E. & A. 1947); cf. Nordco, Inc. v. State, 43 N.J. Super. 277 (App. Div. 1957).

I find nothing in the record to suggest any bias or prejudice on the part of the Board. My analysis of the testimony and the totality of the evidence produced before me convinces me that the Board acted properly, and that the record, on the whole, supports its determination that appellant was guilty of said charge. I conclude, therefore, that appellant has failed to sustain the burden of establishing that respondent's action was erroneous

and against the weight of the evidence, as required by Rule 6 of State Regulation No. 15. See also Suppa v. Harrison, Bulletin 1783, Item 2; Sussman v. Paterson, Bulletin 1817, Item 1.

Appellant finally argues that the penalty imposed herein was excessive and unreasonable. The authority of the Director to reduce or modify a penalty imposed by the Board will be sparingly exercised and then only with the greatest caution. Pete Jacobs, Inc. v. Winslow, Bulletin 1568, Item 1. The penalty imposed herein, viz. 15 days suspension of license for sale of alcoholic beverages to an 18 year old minor is the established minimum penalty imposed by the Director in unaggravated first offense matters Re Rios, Bulletin 1882, Item 8. Thus I find that the Board acted within the limits of sound discretion in the imposition of the said penalty. Benedetti v. Trenton, Bulletin 1040, Item 1.

It is recommended that an order be entered affirming the Board's action, dismissing the appeal, and fixing the effective date for the suspension of license imposed by the Board.

Conclusions and Order

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

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 his recommendations.

Accordingly, it is, on this 26th day of May 1971,

ORDERED that Plenary Retail Consumption License C-229, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Reuben A. Edelson, t/a Southside Bar & Billards, Ruby's Gay 90's, for premises 155-157 Pennsylvania Avenue and 74-76 Alabama Avenue, Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. Thursday, June 10, 1971, and terminating at 3:00 a.m. Friday, June 25, 1971.

Richard C. McDonough
Director

4. APPELLATE DECISIONS - LEMONGELLI v. NEWARK.

Ralph Lemongelli, Appellant, v. Municipal Board of Alcoholic Beverage Control of the City of Newark, Respondent.	ORDER DISMISSING APPEAL

Mario V. Farco, Esq., Attorney for Appellant
William H. Walls, Esq., by Jonathan Kohn, Esq., Attorney for Respondent

BY THE DIRECTOR:

Appellant appeals from the action of respondent whereby on June 18, 1970 it denied the application of appellant for renewal of his plenary retail consumption license for the 1970-71 license period for premises 28 Columbia Street, Newark; and

It now appears that said appellant's plenary retail consumption license has been revoked by Conclusions and Order entered in this Division on January 20, 1971, effective immediately (Re Lemongelli, Bulletin 1960, Item 2). The time limited for appeal from said order of revocation to the Appellate Division of the Superior Court has expired. Thus the present action has become moot, and I shall dismiss this appeal on my own motion.

Accordingly, it is, on this 28th day of May 1971,

ORDERED that the appeal herein be and the same is hereby dismissed.

Richard C. McDonough,
Director.

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR DISSIMILAR VIOLATION - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

Fred Sims
348-350 First Street
Jersey City, N.J.,

Holder of Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS and ORDER

Licensee, Pro se.
Walter H. Cleaver, 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 Sunday, October 25, 1970, you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., six 12-ounce cans of Rheingold beer, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

On behalf of the Division agent R testified that, pursuant to a specific assignment, he arrived in the vicinity of the licensed premises in the company of agents D and G and Detectives Cunningham and Brown, on Sunday, October 25, 1970 at approximately 11:55 a.m., and they took up a post of observation nearby. Shortly thereafter he observed a male enter the premises empty handed and emerge thereafter with a brown paper bag. The male patron was subsequently identified as William Britton.

As Britton approached his automobile, agents R, G and local Detectives Cunningham and Brown approached Britton, questioned him and he admitted the purchase of a chilled six-pack of Rheingold beer which was in the bag. All five then entered the premises and the agents and detectives identified themselves to the bartender, Herbert Martin, and apprised him of the alleged violation. Sims appeared from a back room; the agents and detectives identified themselves to him, and repeated the allegation of violation. Sims emphatically denied the sale.

On cross examination agent R admitted sending an agent in to attempt to purchase alcoholic beverages after confronting Britton, but before the agents and detectives entered the premises. However, he was not aware that the agent who attempted to make the purchase spoke to the bartender in the Spanish language.

Through questioning the Hearer determined that agent R initialed the brown paper bag and witnessed agents G and D do likewise; the agents and detectives entered the premises with Britton at 12:05 p.m.; agent D was the officer who entered to make the purchase and agent R did not accompany him.

Agent G corroborated the testimony of agent R and further testified that all the officers and agents, except agent D, entered the premises with Britton.

Agent D corroborated the testimony of agents R and G up to the point at which they confronted Britton. At that point he entered alone and attempted unsuccessfully to purchase a pint of Seagrams whiskey from Martin. He thereupon departed the premises and moved the motor vehicle which the agents had used. He thereafter returned to the premises. He asserted that he does not speak Spanish.

William Britton testified on behalf of the licensee that he was a passenger in an automobile stopped by Detectives Cunningham and Brown in the proximity of the licensed premises to which he referred to as "Pete's Place." The officers asked him about drugs and noticed a six-pack of beer on the floor of the vehicle. The officers then summoned agents R, G and D. He explained to them that he had purchased only six bags of potato chips in the licensed premises.

On cross examination he explained that he and his brother, the driver of the vehicle, were going to visit a friend and had brought the cold six-pack from his home refrigerator. The police officers stopped the vehicle a short distance from the licensed premises just after the car had entered the traffic lane in the road from its parked position, and the police signaled the agents who ran up to the car. He concluded that he had purchased six ten-cent bags of potato chips and nothing else in the licensed premises.

Herbert Martin testified that he did not sell a six-pack of beer to Britton; agent D attempted to purchase whiskey, and agent D spoke in Spanish.

On cross examination he testified he works part-time on Sundays, from 11:00 a.m. until 6:00 p.m.; he is regularly employed as a sewing machine operator; the clientele is primarily black; and he did not sell the six-pack of beer to Britton.

Fred Sims testified that he was in the back room and upon entering the main bar area, agents R and G were behind the bar questioning Martin.

Clearly the only inquiry presented is factual. In evaluating the testimony and its legal impact we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 313 (1956).

In light of the conflicting testimony presented it is clear that the credibility of witnesses must be weighed. Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546 (1954).

Having had the opportunity to observe the demeanor of the witnesses as they testified and having made a careful analysis and evaluation of their testimony, I am satisfied that the account given by the agents has the ring of truth, presents a true account of the occurrences, and is not significantly refuted by the testimony of Britton, Martin and Sims. I reject the version of Britton as to the purchase of potato chips as wholly incredible. The denial of the sale by Martin loses considerable force as the result of the circumstances as described by the agents.

I conclude that the Division has established the truth of the charge by a fair preponderance of the believable evidence, and recommend that the licensee be found guilty of the charge.

Licensee has a prior adjudicated record. On July 16, 1968, the license was suspended for fifteen days for sale to minors. Re Fred Sims, Bulletin 1810, Item 9. The prior record of a dissimilar violation within the past five years considered, it is further recommended that the license be suspended for twenty days. Re Rocky and Joe's, Inc., Bulletin 1945, Item 8.

Conclusions and Order

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

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 his recommendations.

Accordingly, it is, on this 28th day of May 1971,

ORDERED that the Plenary Retail Consumption License C-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Fred Sims for premises 348-350 First Street, Jersey City, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1971 commencing at 2:00 a.m. Tuesday, June 15, 1971; and it is further

ORDERED that any renewal license that may be granted be and the same is hereby suspended until 2:00 a.m. Monday, July 5, 1971.

Richard C. McDonough
Director

6. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against

Edna Ruth Walker
t/a Do Drop Inn
216 South Salem Street
Randolph Township
PO Dover, N. J.,

Holder of Plenary Retail Consumption License C-10, issued by the Township Council of the Township of Randolph.

AMENDED ORDER

Licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On May 24, 1971, I entered Conclusions and Order herein suspending the license for twenty days with remission of five days for the plea of non vult entered herein leaving a net suspension of fifteen days. Said order further provided that said suspension commence at 3:00 a.m. Thursday, May 27, 1971.

Licensee thereafter requested that the said suspension commence on Wednesday, June 10, 1971 instead of Thursday, May 27, 1971.

It further appears that the licensee has already served one day of the said suspension. For good cause shown, I shall grant the request.

Accordingly, it is, on this 28th day of May 1971,

ORDERED that Plenary Retail Consumption License C-10 issued by the Township Council of the Township of Randolph to Edna Ruth Walker, t/a Do drop Inn, for premises 216 South Salem Street, Randolph Township, be and the same is hereby suspended for the balance of fourteen (14) days, commencing at 3:00 a.m. Wednesday, June 10, 1971, and terminating at 3:00 a.m. Friday, June 24, 1971.

Richard C. McDonough
Director

7. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION - UNLAWFUL SITUATION CORRECTED - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against Kel-Mar Corp. 4715 Broadway Union City, N. J., Holder of Plenary Retail Consumption License C-128, issued by the Board of Commissioners of the City of Union City.	CONCLUSIONS and ORDER

Joseph W. Farrell, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee entered a plea of guilty to the following charge:

> "In your application filed with the Board of Commissioners of the City of Union City dated August 19, 1970, and upon which you obtained your current plenary retail consumption license you falsely stated 'No' in answer to Question No. 32, which asks: 'Has the applicant or has any person mentioned in this application having a beneficial interest in the license applied for or in the business to be conducted under said license ever been convicted of any crime?' whereas in truth and fact Juan Colon listed in such application as president, director and fifty per cent shareholder of your corporation, had been convicted on or about June 8, 1962 of the crime of desertion and willful neglect to support his minor children in violation of N.J.S. 2A:100-2; such false statement being in violation of R.S. 33:1-25."

Concurrent with entry of the plea herein, counsel for the licensee advised that all of the corporate stock in licensee corporation in the name of Juan Colon has been transferred to another and the said Juan Colon, in consequence thereof, has terminated his relationship with the corporation as its president and a director.

Absent prior violation the usual penalty for such offense is to suspend the license for the remainder of licensing term with leave granted to the licensee or any bona fide transferee of the license to apply for lifting of the suspension whenever the unlawful situation is proven to have been corrected but in no event sooner than twenty days from the commencement of the suspension to the balance of its term, viz., until 3:00 a.m. June 30, 1971 and thereafter upon any renewal of license that may be granted. Paddock Lounge, Inc., Bulletin 1929, Item 3.

Accordingly, it is, on this 7th day of June 1971,

ORDERED that Plenary Retail Consumption License C-128 (for the 1970-71 licensing period) issued by the Board of Commissioners of the City of Union City to Kel-Mar Corp., for premises

4715 Broadway, Union City, is hereby suspended for the balance of its term expiring at midnight June 30, 1971, commencing at 3:00 a.m. on Thursday, June 24, 1971, with leave for the licensee or any bona fide transferee to apply by verified petition for the lifting of the suspension whenever the unlawful situation has been corrected. Thereafter in no event sooner than twenty (20) days from the commencement of the suspension herein; and it is further

ORDERED that any extension or renewal license that may be granted shall be and the same is hereby suspended until 3:00 a.m. Thursday, July 15, 1971.

Richard C. McDonough
Director

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF LOCAL ORDINANCE - FALSE STATEMENT IN APPLICATION - LICENSE SUSPENDED FOR 20 DAYS - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against	)	
Warren Cocktail Lounge (A Corporation) 671 Memorial Parkway Phillipsburg, N. J.,	)	CONCLUSIONS and ORDER
Holder of Plenary Retail Consumption License C-35, issued by the Town Council of the Town of Phillipsburg.	)	

Barr, Kaplus, Cohen & Friedland, Esqs., by Mac A. Kaplus, Esq., Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on October 28, 1970 it (1) sold alcoholic beverages on its licensed premises after 2 a.m., during hours prohibited by local ordinance, and (2) in its application for plenary retail consumption license filed May 22, 1970 it failed to disclose a record of a suspension, in violation of R.S. 33:1-25.

Absent prior record, the license would normally be suspended for fifteen days on the first charge and ten days on the second charge, or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Feeney, Bulletin 1936, Item 6; Re Elmora Liquors, Inc., Bulletin 1962, Item 7. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of $800 in lieu of suspension.

Accordingly, it is, on this 8th day of June 1971,

ORDERED that the payment of an $800 fine by the licensee is hereby accepted in lieu of a suspension of license for twenty days.

Richard C. McDonough
Director

9. DISCIPLINARY PROCEEDINGS - AMENDED ORDER - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against

Converst Cuttino
t/a Springwood Bar & Grill
26 Valley Street
Union Township (Union County)
PO Vaux Hall, N. J.,

Holder of Plenary Retail Consumption License C-43, issued by the Township Committee of the Township of Union.

AMENDED ORDER

Kein, Pollatschek & Iacopino, Esqs., by Julius R. Pollatschek, Esq., Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On May 24, 1971 a supplemental order was entered suspending subject license for thirty days effective June 8, 1971, upon licensee's plea of non vult to charges alleging that (1) on January 18, 1971 he possessed an alcoholic beverage in a bottle which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20 and (2) in application for current license he failed to disclose a prior suspension, in violation of R.S. 33:1-25. Re Cuttino, Bulletin 1985, Item 6.

Prior to the effectuation of said suspension, in accordance with the provisions of Chapter 9 of the Laws of 1971 licensee made application for the imposition of a fine in lieu of said suspension. Having favorably considered the application in question, I have determined to accept an offer of compromise by the licensee to pay a fine of $1200 in lieu of suspension.

Accordingly, it is, on this 8th day of June 1971,

ORDERED that supplemental order dated May 24, 1971 be and the same is hereby vacated; and it is further

ORDERED that the payment of $1200 fine by the licensee is hereby accepted in lieu of a suspension of thirty days.

Richard C. McDonough
Director