

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

BULLETIN 1886

December 1, 1969

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

BULLETIN 1886

December 1, 1969

1. APPELLATE DECISIONS - BEL-AIR LIQUORS, INC, v. PATERSON.

Bel-Air Liquors, Inc., t/a)
Bel-Air Liquors,)
Appellant,)
v.)
Board of Alcoholic Beverage)
Control for the City of)
Paterson,)
Respondent.)

CONCLUSIONS
and
ORDER

Schwartz & Schwartz, Esqs., by Louis Schwartz, Esq., Attorneys
for Appellant
Joseph L. Conn, Esq., by Samuel K. Yucht, Esq., Attorney for
Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This appeal is addressed to the action of the respondent Board of Alcoholic Beverage Control for the City of Paterson (hereinafter Board) which by resolution dated June 11, 1969, suspended appellant's plenary retail consumption license for premises 127 West Broadway, Paterson, for twenty days effective June 23, 1969, after finding it guilty in disciplinary proceedings of a charge alleging that on Saturday, May 3, 1969, at approximately 9 a.m., it allowed, permitted and suffered a minor employee to sell, serve and deliver an alcoholic beverage, in violation of Rule 2 of State Regulation No. 13.

Upon the filing of this appeal an order was entered by the Director on June 18, 1969, staying the Board's order of suspension until further order of the Director.

In its petition of appeal the appellant alleges that the Board's action was erroneous because no competent evidence was introduced to establish the said alleged sale or that the minor was in fact an employee of the appellant. Further, it alleges that the Board failed to prove that the said regulation was violated.

The answer of the Board denied the substantive allegations of the petition. This matter was presented for determination upon the stenographic transcript of the proceedings held before the Board which was submitted pursuant to Rule 8 of State Regulation No. 15 and was supplemented by a written memorandum of counsel.

In the memorandum, counsel for the first time asserts that the Board did not have "jurisdiction to institute this matter as R.S. 33:1-5.1, under which the local board operates, is unconstitutional, as it pertains to the City of Paterson."

This contention lacks merit because a challenge to the validity of statutes and ordinances can only be adjudicated by a civil court of competent jurisdiction since statutes are presumed to be valid on their face. Re Paula, Bulletin 1762, Item 2; Blanck v. Magnolia, 73 N.J. Super. 306.

The transcript reflects the following: Lawrence Spagnola (a local police officer who was on patrol on the morning of May 3, 1969) was summoned to the subject premises. Upon his arrival he observed a person (later identified as James Cave) leaving the premises with an unopened can of Rheingold beer. Upon questioning this individual he admitted that he had just purchased this can of beer from a person in the premises. The can of beer was being carried in a horizontal position and the officer was certain that the can was unopened. The officer immediately thereupon entered the premises and spoke to the minor who identified himself as Warren --, age 20, and informed the officer that he had just opened the store and was engaged in sweeping the floor. The officer then returned to nearby premises where Cave was consuming the can of beer, and noted that the contents of the can looked like beer, had the clear odor of beer and was in his opinion unmistakably beer. At the request of the police officer, Cave accompanied him to the premises and identified the minor as the one who sold him the beer and charged him twenty cents for it. This was acknowledged by the minor. Both the minor and Cave were taken to police headquarters where a statement was taken from Cave to the same effect.

James Cave, testifying on behalf of the Board, gave the following account: On the morning in question he purchased a can of beer and paid the minor twenty cents for it. The minor told him that he put water into the can and that in fact the can contained water instead of beer. However, the can was sealed upon its purchase and had a "flip top." He was then questioned sharply about the statement he gave at police headquarters in which he admitted that he purchased the can of beer from this minor on the date in question and paid him twenty cents therefor. He further admitted acknowledging in the statement that he had purchased beer at these premises on prior occasions. And, finally, he admitted that the statement he gave at police headquarters was the truth.

On cross examination the witness again testified that the can actually contained water.

On redirect, he was asked the following by a Board member:

- "Q The can, did you open that can yourself?
 A Yes.
 Q What did it have on the top there to open that can?
 A A flip-top.
 Q How did you open that can?
 A Flip-top.
 Q The can wasn't opened prior to you getting it?
 A No.
 Q It wasn't opened?
 A No.
 Q Until you opened it yourself?
 A Yes."

Police Officer William Villalobos participated in the investigation of this matter on the morning of May 3, 1969. He visited the premises, spoke to the minor and to Cave, and observed the contents of the can of beer which was seized by Officer Spagnola. It was his clear impression, from his personal knowledge

of beer, that the contents were beer, and had the characteristic odor of beer. He questioned Cave at headquarters and corroborated the fact that the questions in the statement were voluntarily answered by Cave to the effect that he purchased a can of Rheingold beer from the said minor and that it was in fact beer and not water.

Warren -----(the minor herein), testifying on behalf of the appellant, gave the following account: He is regularly employed in construction work for his uncle and he was asked by Eugene Sharpe (a corporate officer of the appellant) to perform work in cleaning the premises on the date in question. On that morning he obtained the key from Sharpe and was in process of sweeping the floor of the tavern when Cave entered and asked for a can of beer. He charged him twenty cents and stated that the can did not actually contain beer but contained water and that Cave knew it. On cross examination he admitted that Cave did not return to complain about the fact that he was allegedly sold water instead of beer. It was stipulated that this minor was in fact twenty years of age.

Eugene Sharpe testified that he employed this minor to clean the premises before it was opened on that day and gave him a key to open the premises. Shortly thereafter police officers contacted him and informed him that a sale had been made by the minor and that the twenty cents received was rung up on the cash register. This witness admitted that the cash register reflected a sale in the sum of twenty cents. Finally, he insisted that the minor had "no authority to do anything in the store. No more than to sell a bottle of soda water."

We are dealing here with a purely disciplinary measure and its alleged infraction. Such proceedings are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948). Thus the Board was required to 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. In other words, the finding must be based upon a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

Since this matter was presented on appeal upon the transcript, I did not have the opportunity that the Board did to personally observe the demeanor of the witnesses and give weight to such testimony as it found credible. It is axiomatic that evidence, to be believed, must not only proceed from the mouths of credible witnesses but must be credible in itself, and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App.Div. 1961).

It is quite apparent that the Board considered the version of the minor, that he sold water instead of beer, to be woven out of whole cloth and a total fabrication. They also clearly were convinced that Cave was a person of very limited intelligence and obviously was not telling the truth about being served water instead of beer. They chose to believe the testimony of Officer Spagnola and police officer Villalobos that beer was sold by a minor on the date in question. The fact is that both police officers recognized, through the sense of smell and observation, that the can contained beer and not water.

The general rule is that a beverage sold pursuant to an order for the purchase of a type of alcoholic beverage creates the permissible inference that the beverage ordered was actually sold and further warrants judicial notice of the fact that such beverage had an alcoholic content of more than one-half of one per cent. by volume and, hence, constitutes an "alcoholic beverage" within the statutory definition at R.S. 33:1-1(b). See State v. Marks, 65

N.J.L. 84, 87; Lewinsohn v. U.S., 278 F. 421, 425, 426; Holmes v. Cavicchia, 29 N.J. Super. 434.

The Board, therefore, found, and I concur in such finding, that the minor did in fact sell an alcoholic beverage as alleged herein.

The appellant further alleges that the minor was not an actual employee of the appellant and was not authorized to transact this sale. The general rule is that to "employ" is to make use of the services of another; to have or to keep at work; to entrust with some duty, as distinguished from to "hire." Re Flaminck, Bulletin 147, Item 4. In Kravis v. Hock, supra, at P. 255, the court considered the issue of employment in the following language:

"Webster defines the word 'employ:' 'To use, to have in service; to cause to be engaged in doing something; to make use of as an instrument, a means, a material, etc., for a specific purpose.'"

Thus, whenever one utilizes the services of another to accomplish his business, he is employing that other. See also Re Neim, Bulletin 1772, Item 2. The Board was persuaded, and quite properly, that this minor was in fact employed on the date herein charged.

The burden of establishing that the Board acted erroneously and in an abuse of its discretion is upon the appellant. The ultimate test in these matters is one of reasonableness on the part of the Board. Or, to put it another way, could the Board, as reasonable men, acting reasonably, have come to its determination based upon the credible evidence presented. Cf. Hudson Bergen Liquor Dealers Ass'n v. Hoboken, 135 N.J.L. 502. In other words, the Director should not reverse until 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. Nordco, Inc. v. State, 43 N.J. Super. 277 (App.Div. 1957).

I am persuaded from my reading of the entire record that the evidence on the whole supports the decision of the Board. I find, therefore, that there was a sale of alcoholic beverages by a minor who was an employee of the appellant on the date alleged in the charge herein. The appellant is liable for the acts of his employee. In re Olympic, Inc., 49 N.J. Super. 299; Rule 33 of State Regulation No. 20.

I conclude, therefore, that the appellant has not sustained the burden of proof of showing that the Board's action was erroneous and against the weight of the evidence, as required by Rule 6 of State Regulation No. 15.

It is accordingly recommended that an order be entered affirming the Board's action, dismissing the appeal, and reimposing the suspension.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's report and argument in support thereof were filed by the attorney for appellant. No answer to the exceptions was filed by respondent.

I have carefully analyzed the exceptions and find that they have either been answered in the Hearer's report or are lacking in merit.

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

Accordingly, it is, on this 7th day of October, 1969,

ORDERED that the action of respondent be and the same is hereby affirmed and that the appeal be and the same is hereby dismissed; and it is further

ORDERED that Plenary Retail Consumption License C-314, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Bel-Air Liquors, Inc., t/a Bel-Air Liquors, for premises 127 West Broadway, Paterson, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. Tuesday, October 14, 1969, and terminating at 3:00 a.m. Monday, November 3, 1969.

Joseph M. Keegan,
Director

2. DISCIPLINARY PROCEEDINGS - PROCUREMENT FOR PROSTITUTION-
LICENSE SUSPENDED 210 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Phyllis Ferdinand)
t/a Inn Discreet)
35 Joyce Street)
West Orange, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-9 issued by the Board of Alcoholic Beverage Control of the Town of West Orange)

Saul C. Schutzman, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 3, 1969, she permitted procurement for prostitution on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Absent prior record, the license will be suspended for two hundred ten days, with remission of five days for the plea entered, leaving a net suspension of two hundred five days.
Re McCarthy, Bulletin 1870, Item 2.

Accordingly, it is, on this 6th day of October, 1969,

ORDERED that Plenary Retail Consumption License C-9, issued by the Board of Alcoholic Beverage Control of the Town of West Orange to Phyllis Ferdinand, t/a Inn Discreet, for premises 35 Joyce Street, West Orange, be and the same is hereby suspended for two hundred five (205) days, commencing at 2:00 a.m. Monday, October 13, 1969, and terminating at 2:00 a.m. Wednesday, May 6, 1970.

Joseph M. Keegan,
Director

3. DISCIPLINARY PROCEEDINGS - SOLICITATION FOR PROSTITUTION
- PRIOR DISSIMILAR RECORD - AGGRAVATING CIRCUMSTANCE -
LICENSE SUSPENDED FOR 130 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Estyre Stewart)
t/a Center Bar)
1719 Pacific Avenue)
Atlantic City, N.J.,)

Holder of Plenary Retail Consumption)
License C-21, issued by the Board of)
Commissioners of the City of Atlantic)
City.)

CONCLUSIONS
and
ORDER

Edward I. Feinberg, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 21, 1969 she permitted solicitation for prostitution on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for twenty-five days effective April 28, 1958, for sale to minors; by the municipal issuing authority for ten days effective June 24, 1960, and again by the Director for sixty days effective October 31, 1960, both for permitting apparent homosexuals on the licensed premises; by the municipal issuing authority for ten days effective September 11, 1967 and again by the Director for twenty days effective September 24, 1968, both for sale to minors. Re Stewart, Bulletin 1820, Item 10.

The license will be suspended for ninety days (Re Totem Pole Enterprises, Inc., Bulletin 1838, Item 2), to which will be added ten days by reason of the record of two suspensions for dissimilar violations in 1967 and 1968 within the past five years (Re Malone, Bulletin 1873, Item 9), and thirty days by reason of the aggravating circumstance of there having occurred five previous suspensions of license (Re Scangarello, Bulletin 1751, Item 13), or a total of one hundred thirty days, with remission of five days for the plea entered, leaving a net suspension of one hundred twenty-five days.

Accordingly, it is, on this 14th day of October 1969,

ORDERED that Plenary Retail Consumption License C-21, issued by the Board of Commissioners of the City of Atlantic City to Estyre Stewart, t/a Center Bar, for premises 1719 Pacific Avenue, Atlantic City, be and the same is hereby suspended for one hundred twenty-five (125) days, commencing at 7 a.m. Tuesday, October 21, 1969, and terminating at 7 a.m. Monday, February 23, 1970.

Joseph M Keegan,
Director.

4. DISCIPLINARY PROCEEDINGS - FRONT - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against)

George Allen)
t/a Bismark Cafe)
29 East Hanover Street)
Trenton, New Jersey,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-125, issued by the City Council of the City of Trenton.)
-----)

No appearance on behalf of Licensee
Louis F. Treole, Esq., Appearing for the Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

The following charges were preferred against the licensee:

- "1. In your application dated February 3, 1969, filed that same date with the City Council of the City of Trenton and upon which you obtained your current plenary retail consumption license on February 21, 1969 by transfer from George Kriss, you falsely stated: 'No' in answer to Question No. 29, which asks: 'Has any individual, partnership, corporation or association, other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact the aforesaid George Kriss had such an interest in that he continued to be and was the real and beneficial owner of said license and of any and all business to be conducted thereunder; said false statement being in violation of R.S. 33:1-25.
- "2. In your aforesaid application, you falsely stated 'No' in answer to Question No. 30 which asks: 'Has the applicant agreed to permit any person to receive, or agreed to pay to any employee or other person (by way of rent, salary or otherwise), all or any portion or percentage of the gross or net profits or income derived from the business to be conducted under the license applied for?', whereas in truth and fact you had agreed to permit the aforesaid George Kriss to retain all the profits and income derived from the conduct of any business by you under the license transferred to you as aforestated; said false statement being in violation of R.S. 33:1-25.
- "3. From on or about February 3, 1969, until the present time, you knowingly aided and abetted George Kriss to exercise contrary to R.S. 33:1-26, the rights and privileges of your plenary retail consumption license; in violation of R.S. 33:1-52."

The charges dated June 3, 1969, were mailed to the licensee by certified mail addressed to the licensed premises, but were returned by the post office as "Unclaimed." Thereafter, on July 3, 1969, a telegram was sent to the licensee which states:

"Plea in your case due June 10 not received. Send by return wire. Hearing scheduled for July 8 at 10:00 A.M."

No plea to the charges was entered by the licensee nor did he appear at the scheduled hearing. Accordingly, the hearing was held and proof was presented ex-parte.

In addition to the testimony presented by the agent who investigated the alleged violations, verified statements were taken from the licensee and also from the prior licensee by the agent and were received in evidence herein.

The testimony of ABC Agent B discloses that on March 21, 1969 he visited the licensed premises in question "and found it to be locked; "that, as a result of inquiry in various business establishments in the area, he ascertained that the licensed premises "had been closed for several months;" that on the same day he located the licensee at a licensed premises known as the Trenton House Bar where he was employed as a bartender. As a result of questioning the licensee herein, he (Allen) gave a verified statement to the agent to the effect that George Kriss (hereinafter Kriss), the former licensee, was transferring the liquor license to him without having to make any payments therefor, on the condition that, after the debts owed by Kriss were satisfied, the license was to be transferred back to him. Allen said that Kriss gave him the money to pay for all the expenses of the transfer of the license and, after payment of the debts owed by Kriss, the license was to be transferred back and Kriss would give him (Allen) \$200; that during the time between the transfer of the license to Allen and when the license was again to be transferred to Kriss, he (Allen) was to have worked on a salary basis as a bartender and that Kriss would take care of the account books, records and payment of debts. Allen stated to Agent B that he did not consider himself to be the licensee but, as a favor to Kriss, accepted the license in his name.

As a result of a conversation with Kriss on March 26, 1969, Agent B obtained a verified statement from him wherein he admitted that he had given the money representing fees and expenses for transfer of the license to Allen and that the latter agreed to pay for the license with the understanding that, if he did not wish to operate the business when the same was opened, he (Kriss) would give him (Allen) a few hundred dollars at the time when the license was transferred back to him in July 1969. Kriss said he kept the license certificate in his possession in order to prevent it from being stolen.

When Allen was confronted with the aforesaid statement made by Kriss, that he (Allen) agreed to purchase the licensed business, Allen emphatically denied it saying that the matter of sale of the business was never discussed.

Neither Allen nor Kriss appeared at the hearing held in this matter. A check of the records of the Division disclosed that there was neither a transfer of the license nor was there application for renewal of the license in question filed for the 1969-70 licensing year. It is apparent that the transfer of the license in the name of Allen was a fraudulent scheme perpetrated upon the local issuing authority.

I am satisfied that Allen has told the truthful version of what had taken place in this matter whereas Kriss still tried to justify the illegal transaction with untrue accounts of the said transaction. Thus, since the evidence presented herein discloses that Allen was the nominal holder of the license and held same merely for the benefit of Kriss who was in

financial straits and overburdened with debts, there is no alternative other than a recommendation that the instant licensee be found guilty of the charges preferred herein. Under the circumstances and in view of the nature of the violations and, moreover, the failure of the licensee to appear at the hearing, it is recommended that the only proper and justifiable penalty is revocation of the license. Cf. Re Krieg Corporation, Bulletin 1841, Item 3.

Conclusions and Order

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

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

Notwithstanding expiration of the license on June 30, 1969 and its non-renewal for 1969-70, it may still be revoked, pursuant to Rule 1 of State Regulation No. 16. And properly so, to bring into effect the provision of the Alcoholic Beverage Law, in R.S. 33:1-31, that a revocation of license shall render the licensee ineligible to hold any alcoholic beverage license for two years from the effective date of the revocation.

Accordingly, it is, on this 7th day of October, 1969,

ORDERED that Plenary Retail Consumption License C-125, issued by the City Council of the City of Trenton to George Allen, t/a Bismark Cafe, for premises 29 East Hanover Street, Trenton, be and the same is hereby revoked, effective immediately.

Joseph M. Keegan,
Director.

5. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) -
LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Frederick M. Ader and Ninfa Ader)
t/a Freddy's Place)
322 South Main Street)
Wharton, N.J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-10 issued by the Borough Council of the Borough of Wharton)

Saul A. Wolfe, Esq., Attorney for Licensees
Louis F. Treole, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on March 20, 21 and 25, 1969, their predecessor in interest, Stanley W. Zelensky, t/a Stan's Bar, from whom the license was transferred effective June 30, 1969, permitted acceptance of horse race bets and pay-off thereon on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Polonaise Lounge, Inc., Bulletin 1871, Item 7.

Accordingly, it is, on this 9th day of October, 1969,

ORDERED that Plenary Retail Consumption License C-10, issued by the Borough Council of the Borough of Wharton to Frederick M. Ader and Ninfa Ader, t/a Freddy's Place, for premises 322 South Main Street, Wharton, be and the same is hereby suspended for fifty-five (55) days, commencing at 1:00 a.m. Tuesday, October 14, 1969, and terminating at 1:00 a.m. Monday, December 8, 1969.

Joseph M. Keegan,
Director.

6. DISCIPLINARY PROCEEDINGS - PURCHASE FROM ANOTHER RETAILER
- FALSE BEVERAGE TAX BUREAU REPORTS - PRIOR DISSIMILAR
RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

The Little Doll, Inc.)
506 Summit Avenue)
Union City, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-115 issued by the Board of)
Commissioners of the City of)
Union City)

Licensee, by Anthony Garafola, President, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on
divers dates between May 19 and August 12, 1969, it purchased
alcoholic beverages from other retailers, in violation of Rule 15
of State Regulation No. 20, and (2) filed a false Beverage Tax
Bureau report for June 1969, in violation of R.S. 54:45-1 and 47.3.

Licensee has a previous record of suspension of license
by the municipal issuing authority for ten days effective June 28,
1965, for permitting a brawl on the licensed premises and employing
a person without municipal identification card.

The license will be suspended on the first charge for
fifteen days and on the second charge for ten days (Re Club 232,
Inc., Bulletin 1882, Item 6), to which will be added five days
by reason of the prior record of suspension for dissimilar viola-
tion within the past five years (Re Mugil, Bulletin 1867, Item 5)
or a total of thirty days, with remission of five days for the
plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 14th day of October, 1969,

ORDERED that plenary Retail Consumption License C-115,
issued by the Board of Commissioners of the City of Union City to
The Little Doll, Inc. for premises 506 Summit Avenue, Union City,
be and the same is hereby suspended for twenty-five (25) days,
commencing at 3:00 a.m. Thursday, October 16, 1969, and terminating
at 3:00 a.m. Monday, November 10, 1969.

Joseph M. Keegan,
Director.

7. DISCIPLINARY PROCEEDINGS - PURCHASE FROM ANOTHER RETAILER -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

James S. Root, Jr.)
716 Broadway)
Bayonne, N.J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-72 issued by the Municipal)
Council of the City of Bayonne)

Feinberg, Dee & Feinberg, Esqs., by William M. Feinberg, Esq.,
Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on
divers dates between February 5, 1968 and July 28, 1969, he pur-
chased alcoholic beverages from another retail licensee, in vio-
lation of Rule 15 of State Regulation No. 20.

Absent prior record, the license will be suspended for
fifteen days, with remission of five days for the plea entered,
leaving a net suspension of ten days. Re M.V. Patterson, Inc.,
Bulletin 1849, Item 5.

Accordingly, it is, on this 10th day of October, 1969,

ORDERED that Plenary Retail Consumption License C-72,
issued by the Municipal Council of the City of Bayonne to James
S. Root, Jr. for premises 716 Broadway, Bayonne, be and the same
is hereby suspended for ten (10) days, commencing at 2:00 a.m.
Friday, October 17, 1969, and terminating at 2:00 a.m. Monday,
October 27, 1969.

Joseph M. Keegan,
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO ANOTHER RETAILER -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Zimcon, Inc.)
t/a Zimp's)
459 Ocean Avenue)
Jersey City, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-357, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Jersey City.)

Licensee, by James Smith, President, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
divers dates between April 28 and July 24, 1969, it sold alcoholic
beverages to another retail licensee, in violation of Rule 15 of
State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Sparacin, Inc., Bulletin 1820, Item 14.

Accordingly, it is, on this 14th day of October 1969,

ORDERED that Plenary Retail Consumption License C-357, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Zimcon, Inc., t/a Zimp's, for premises 459 Ocean Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, October 21, 1969, and terminating at 2 a.m. Friday, October 31, 1969.

Joseph M. Keegan
Director.

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

One on One Corp.
131 James Street
Newark, New Jersey,

Holder of Plenary Retail Consumption License C-359, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS
and
ORDER

Licensee, by Martha Davis, Secretary, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 24, 1969, it possessed alcoholic beverages in six bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Kellner, Bulletin 1859, Item 8.

Accordingly, it is, on this 14th day of October 1969,

ORDERED that Plenary Retail Consumption License C-359, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to One on One Corp., for premises 131 James Street, Newark, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, October 21, 1969, and terminating at 2 a.m. Monday, November 10, 1969.

Joseph M. Keegan,
Director.

10. DISCIPLINARY PROCEEDINGS - PURCHASE FROM ANOTHER RETAILER -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

James Smith,)
237 Randolph Avenue)
Jersey City, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-287, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on divers dates between April 28 and July 24, 1969, he purchased alcoholic beverages from another retail licensee, in violation of Rule 15 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re M.V. Patterson, Inc., Bulletin 1849, Item 5.

Accordingly, it is, on this 14th day of October 1969,

ORDERED that Plenary Retail Consumption License C-287, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to James Smith, for premises 237 Randolph Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2a.m. Tuesday, October 21, 1969, and terminating at 2 a.m. Friday, October 31, 1969.

Joseph M. Keegan,
Director.

11. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 35 DAYS, LESS 5 DAYS FOR PLEA - EFFECTIVE
DATE OF SUSPENSION DEFERRED.

In the Matter of Disciplinary)
Proceedings against)

d'Scene of Atlantic City, Inc.)
t/a d'Scene)
2415 Pacific Avenue)
Atlantic City, New Jersey)

Holder of Plenary Retail Consumption)
License C-115, issued by the Board)
of Commissioners of the City of)
Atlantic City.)

CONCLUSIONS
and
ORDER

Edwin H. Helfant, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 31, 1969 it sold mixed drinks of alcoholic beverages to three minors, one age 15, one age 16 and one age 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days. Cf. Re Renna Enterprises, Inc., Bulletin 1706, Item 4.

Report of recent investigation discloses that the licensed business has been discontinued and that the license is in process of person-to-person transfer. Since no effective penalty can be imposed at this time, the effective dates for the suspension will be fixed by the entry of a further order herein after the operation of the licensed business has been fully resumed on a substantial basis by the licensee or any transferee of the license.

Accordingly, it is, on this 3rd day of November 1969,

ORDERED that Plenary Retail Consumption License C-115, issued by the Board of Commissioners of the City of Atlantic City to d'Scene of Atlantic City, Inc., t/a d'Scene, for premises 2415 Pacific Avenue, Atlantic City, be and the same is hereby suspended for thirty (30) days, the effective dates of such suspension to be fixed by further order as aforesaid.

Joseph M. Keegan,
Director.

12. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 DAYS FOR PLEA.

In the Matter of Disciplinary Proceedings against Clemente Manzo 1657 Kennedy Blvd. Jersey City, N.J., Holder of Plenary Retail Consumption License C-296, 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 the Division

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on Sunday, September 14, 1969, he sold a pint bottle of whiskey for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Licensee (then in partnership with Angelo D'Amico at premises 423 1/2 Monmouth Street, Jersey City) has a previous record of suspension of license by the Director for ten days effective July 7, 1958 for similar violation. Re D'Amico & Manzo, Bulletin 1239, Item 7.

The prior record of suspension for similar violation occurring more than ten years ago disregarded, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Dale Rose, Inc., Bulletin 1879, Item 3.

Accordingly, it is, on this 3rd day of November 1969,

ORDERED that Plenary Retail Consumption License C-296, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Clemente Manzo, for premises 1657 Kennedy Blvd., Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, November 11, 1969, and terminating at 2 a.m. Friday, November 21, 1969.

JOSEPH M. KEEGAN, DIRECTOR

13. STATE LICENSES - NEW APPLICATION FILED.

Herbert E. Hachbarth t/a Community Beverage 561 Bay Avenue Stafford Twp. PO Manahawkin, New Jersey

Application filed November 26, 1969 for person-to-person transfer of State Beverage Distributor's License SBD-103 from Leslie B. Johnson, t/a Johnson's Beer & Soda Distributors.

Handwritten signature of Joseph M. Keegan and typed name: Joseph M. Keegan, Director