

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

BULLETIN 2038

April 11, 1972

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

BULLETIN 2038

April 11, 1972

1. APPELLATE DECISIONS - FALETTO v. WEST ORANGE.

Dominick Faletto & Louise M. Faletto, t/a Faletto's,)	
Appellants,)	
v.)	On Appeal
Municipal Board of Alcoholic Beverage Control of the City of Orange,)	CONCLUSIONS and ORDER
Respondent.)	
-----))	
Louis R. Cerefice, Esq., Attorney for Appellants)	
Martin G. Picillo, Esq., Attorney for Respondent)	

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control of the City of Orange (hereinafter Board) which, by resolution dated September 13, 1971, denied the parallel applications of appellants for a transfer of their license to a new location and for renewal of the license for the current licensing period.

The subject resolution adopted by the Board is as follows:

"WHEREAS, Dominick and Louise M. Faletto has made application for transfer of license #C 13 from 544 Freeman Street, Orange, New Jersey to 501 Central Avenue, Orange, New Jersey; and

WHEREAS, Dominick and Louise M. Faletto has made application for renewal of license #C 13 for premises to 501 Central Avenue, Orange, New Jersey; and

WHEREAS, on or about May 4, 1969 licensed premises, 544 Freeman Street, Orange, New Jersey, was destroyed by fire and not being able to be used by the licensee; and

WHEREAS, the Board having renewed the license for the years 1969-1970 and 1970-1971, pending the licensee relocating his licensed premises;

WHEREAS, the Board having found that the premises,

544 Freeman Street has been demolished and not rebuilt and that the premises to which licensee wishes to transfer said license pending another location are unsatisfactory

NOW BE IT RESOLVED BY THE ALCOHOLIC BEVERAGE CONTROL BOARD OF THE CITY OF ORANGE that the request of Dominick and Louise M. Faletto for said temporary transfer of license #C 13 from 544 Freeman Street, Orange, New Jersey, to 501 Central Avenue, Orange, New Jersey, is denied and the request for renewal of license #C 13 to Dominick and Louise M. Faletto for premises 501 Central Avenue, Orange, New Jersey, is therefore denied accordingly."

It is here noted that the address of the licensed premises as referred to in the resolution is in error, the premises being at 554 Freeman Street, Orange.

Appellants allege that the action of the Board is arbitrary and capricious and contrary to law. The Board denies these allegations and contends the evidence presented to it justified its findings.

The hearing on appeal was de novo in accordance with Rule 6 of State Regulation No. 15, with full opportunity afforded counsel to produce testimony and cross-examine witnesses.

Preliminarily, counsel stipulated that the applications submitted by appellants to the Board were technically correct and that appellants have no record of prior violations from the time they became licensees in the mid-thirties to the destruction of their premises by fire in May 1969. It was further agreed that the building was demolished on or about May 1970.

Appellants testified that there were no conditions attached to any renewal of their license in the past. Upon the building in which the licensed premises had been located now being demolished they visited Mrs. Burns of the Municipal Board, who, in her capacity as secretary, advised the appellants that the license would not be renewed at that location and they must relocate it. Appellants related two attempts to dispose of the license for eventual transfer to premises on Day Street, and other premises on Main Street. Contractual problems with the prospective purchaser made both attempts abortive. Finally, in desperation, they placed a want-ad in the newspaper requesting a "home" for their license and a Mr. Querques responded offering an arrangement by which the license could be accommodated in a bakery-ice cream shop at 501 Central Avenue. Accordingly, appellants filed the companion application to transfer the license to Querques' store.

Frank P. Querques testified that he operates a business at 501 Central Avenue, Orange, to which appellants attempted to transfer this plenary retail consumption license. He serves ice cream and pastries at which might be called a soda shop, and would like to serve alcoholic beverages in desserts and with coffee. While he had no intention of permitting a tavern within his establishment, he did desire an "Expresso House" to be modeled after those in Europe. While the nearest residence is more than fifteen hundred feet from his property there are three licensed premises in the immediate proximity, all three of which are restaurants rather than the usual family-type tavern. He has about twenty-two employees in the busy season, seven of whom are in the sixteen to twenty-one age bracket. Within his premises is a room fifteen feet by fourteen feet which contains twenty-two seats at tables. There is no present

provision for off-street parking but he hoped for an arrangement with a nearby factory to use its parking lot immediately adjacent to his own premises. He admitted that he had applied for a transfer of a liquor license to his establishment on three prior occasions, and had been rejected on each occasion.

Carmin E. Capone, Commissioner of the Department of Public Works of the City of Orange and Chairman of the Board, testified that he was familiar with the proposed location of transfer, and those premises are not conducive to the proposed operation. The property is too small. Building codes would be violated; there is no off-street parking; and children, particularly teen-agers, patronize the premises in ample numbers. The area now contains too many licensed premises, in his judgment. He and his colleagues did not object to a proposed transfer of the license to 313 Main Street and as far as he knew, the transfer application was still pending. (Counsel for appellants then represented that that application had been withdrawn by the transferee and was no longer before the local Board.) The witness indicated that there were eighty-nine plenary retail consumption licenses and twelve plenary retail distribution licenses in this municipality which encompassed slightly more than two square miles. Furthermore, at the hearing before the Board, the appellants had asserted that their application for transfer was for a "temporary" location.

John F. Trezza, Commissioner of Public Safety of the City of Orange and member of the Board, testified that he felt that the location of the proposed transfer was unsatisfactory in that there were too many other licensed premises in the immediate vicinity, and the business operated by Querques was not a good location in which liquor should be served. The large presence of children, particularly teen-agers, clustered about this popular ice-cream parlor makes it an undesirable location for the dispensing of alcohol. The sale of alcoholic beverages would aggravate an already complex traffic problem at the intersection near Querques business.

It is apparent that the dispositive issue is: Did the Board act reasonably and in the best interest of the community?

It is basic that a transfer of a liquor license to other premises is not an inherent or automatic right. The issuing authority may grant or deny a transfer in the exercise of reasonable discretion. If denied on reasonable grounds, such action will be affirmed. Richmon Inc. v. Trenton, Bulletin 1650, Item 4; Zicherman v. Driscoll, 133 N.J.L. 586 (1946).

"...No person is entitled to (the transfer of a license) as a matter of law...If the motive of the governing body is pure, its reasons, whether based on morals, economics, or aesthetics, are immaterial...." Fanwood v. Rocco, 59 N.J. Super. 306, 320 (App. Div. 1960), aff'd 33 N.J. 404 (1960).

The Legislature has entrusted to municipal issuing authorities such initial authority and charged them with the duty to approve or disapprove place-to-place transfers. The action of the Board in either approving or denying the application for such transfer may not be reversed by the Director unless he finds the act of the Board was clearly against the logic and effect of the presented facts. Hudson Bergen County Retail Liquor Stores Association v. Hoboken et als., 135 N.J.L. 502 (1947).

In the recent case of Lyons Farms Tavern, v. Mun. Ed. Alc. Bev. Control Newark, 55 N.J. 292, 303 (1970), the court stated:

"The conclusion is inescapable that if the legislative purpose is to be effectuated the Director and the Courts must place much reliance upon local action. Once the municipal board has decided to grant or withhold approval of a premises-enlargement application of the type involved here, its exercise of discretion ought to be accepted on review in the absence of a clear abuse or unreasonable or arbitrary exercise of its discretion. Although the Director conducts a de novo hearing in the event of an appeal, the rule has long been established that he will not and should not substitute his judgment for that of the local board or reverse the ruling if reasonable support for it can be found in the record." (underscoring added)

In the matter herein, the members of the Board were aware of the facts surrounding the location to which the premises were sought to be transferred. The owner on three prior occasions had attempted to obtain approval of the transfer of a license to his store, and was rejected on each occasion by the Board. The members of the Board concluded that the presence of a plenary retail consumption license in what is presently a popular ice-cream parlor would not be in the best interest of the community as a whole. Such determination was based upon their collective experience in grappling with the problems inherent to liquor licensing. Absent improper motivation, the action of the local issuing authority, based upon proper and bona fide use of its discretion, must be affirmed. Hudson Bergen County Retail Liquor Stores Association v. Hoboken et als, supra; Fanwood v. Rocco, supra.

The appellants faced the calamity of destruction of their licensed premises by fire in 1969. They attempted transfer of their license to another location, which was denied by the Board. Another attempt to find a new location died aborning as financing to recondition another building was unavailable. In view of appellants extreme difficulties, it would appear that the words of the then-Director in Monesson v. Lakewood Township, Bulletin 657, Item 1, are applicable:

"As I have heretofore pointed out on many occasions, the grant of a renewal license, like that of an original license, is subject to the exercise of a reasonable discretion by the local issuing authority. Where, however as in this case, a license has been renewed year after year, a refusal to renew thereafter must be founded upon valid and substantial grounds supported by the weight of the evidence."

From an examination of the entire record herein, it is clear that the appellants prior record does not justify a denial of renewal. The denial of renewal of a license is an extreme measure and the authority to deny same should be exercised with great caution. It is elementary that the holder of a license or privilege acquires through his investment therein an interest which is entitled to some measure of protection. Tp. Committee of Lakewood v. Brandt, 38 N.J. Super. 462 (App. Div. 1955).

A license may be issued for renewal and held pending determination and approval of new premises as has been recently stated:

"...However, I further recommend that the transfer of the subject license or any renewal thereof should contain a condition that the license will not be issued until licensee complies with all regulations concerning the suitability of the proposed premises for the operation of a plenary retail consumption license; and ... that the Council allow the respondent ... a reasonable period of time to locate and have its license transferred to other suitable premises in conformance with the alcoholic beverage laws and the rules and regulations pertaining thereto."

Hudson Bergen Package Stores Assn. et al v. Lodi, Bulletin 1936, Item 2.

Since fairness is the touchstone of the administrative process, it appears reasonable to offer the licensees a fair opportunity within a limited time to obtain suitable premises. Rallo's Bar, Inc. v. West Orange, Bulletin 1914, Item 1.

It is recommended that an order be entered affirming the action of the Board in denying the transfer for the reasons hereinabove cited.

It is further recommended that an order be entered reversing the action of the Board in denying application for renewal and directing it to grant the renewal application subject, however, to the following conditions:

- (a) That the license shall not be issued and effective but shall remain in custody and control of respondent Board;
- (b) That appellants may make application for transfer of their license to other suitable premises in the municipality;
- (c) That within three months from the date of the Director's order herein, the Board may, in its discretion, grant such application for transfer;
- (d) That, upon the grant of appellants application for transfer of the said license, held in custody of the Board, the license shall be in full force and effect as soon as the transfer is endorsed on the face of the license certificate; and
- (e) If the said transfer is not granted within the above stated period of time, or any extension of time thereof granted by the Board or this Division, the said license shall be cancelled.

Cf. Rallo's Bar, Inc. v. West Orange, supra.

Conclusions and Order

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

Having carefully considered the entire record herein, including 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 6th day of March 1972,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Orange, in denying appellants' application for a place-to-place transfer of license, be and the same is hereby affirmed and the appeal herein with respect to that action be and the same is hereby dismissed; and it is further

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Orange in denying the subject application for renewal of said license be and the same is hereby reversed, and it is directed to grant renewal of appellants' license for the current licensing period upon the following conditions:

- (a) That the license, when renewed, shall not be actually issued to appellants but shall be retained by the Board;
- (b) That appellants may file prompt application for transfer of their license to other suitable premises in the municipality;
- (c) That, within three months from the date of the order herein, the Board may in its discretion grant such application for transfer;
- (d) That, upon the grant of appellants' application for transfer of said license held in custody of the Board, the said license shall be issued to appellants, and the license shall be in full force and effect as soon as the transfer is endorsed on the face of the certificate;
- (e) If the said application for transfer is not approved within the above stated period of time, or any extension of time thereof granted by the Board or this Division, the said license shall be cancelled.

Robert E. Bower,
Director.

2. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS) - LICENSE
SUSPENDED FOR 90 DAYS, LESS 18 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Polish American Home, Inc.,)
27-29-31 West 22nd Street)
Bayonne, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-1049, issued by the Director of the Division of Alcoholic Beverage Control.)

Edmund Polonitza, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 9, 23, 25 and September 3, 1971, it permitted gambling on the licensed premises, viz., lottery commonly known as the "numbers game" in violation of Rule 6 of State Regulation No. 20.

Absent prior record of suspension of license, the license will be suspended for ninety days (Re Arnone, Bulletin 1971, Item 3), with remission of eighteen days for the plea entered, leaving a net suspension of seventy-two days.

The attorney for the licensee has requested that the period of suspension exclude seven dates, set forth in his letter dated March 3, 1972, because of "bookings" on those dates. The split-up of a suspension period is confusing to the public and is contrary to established Division policy. The request, therefore, is denied.

Accordingly, it is, on this 9th day of March 1972,

ORDERED that Plenary Retail Consumption License C-1049, issued by the Director of the Division of Alcoholic Beverage Control to Polish American Home, Inc., for premises 27-29-31 West 22nd Street, Bayonne, be and the same is hereby suspended for seventy-two (72) days, commencing 3:00 a.m. on Thursday, March 23, 1972, and terminating 3:00 a.m. on Saturday, June 3, 1972.

Robert E. Bower
Director

3. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against
 Polish American Home Inc.
 27-29-31 West 22nd Street
 Bayonne, N. J.,
 Holder of Plenary Retail Consumption License C-1049, issued by the Director of the Division of Alcoholic Beverage Control.

AMENDED ORDER

 Edmund Polonitza, Esq., Attorney for Licensee
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On March 9, 1972 I entered Conclusions and Order herein suspending the subject license for seventy-two days commencing March 23, 1972, upon the licensee's plea of non vult to a charge alleging that on August 9, 23, 25 and September 3, 1971, it permitted gambling on the licensed premises, viz., lottery commonly known as the "numbers game", in violation of Rule 6 of State Regulation No. 20.

The attorney for the licensee has now requested that the commencement of the suspension be deferred until May 28th because of bookings arranged on various dates prior thereto. Good cause appearing, I shall grant the request.

Accordingly, it is, on this 16th day of March 1972,

ORDERED that the order dated March 9, 1972 be and the same is hereby amended as follows:

ORDERED that Plenary Retail Consumption License C-1049, issued by the Director of the Division of Alcoholic Beverage Control to Polish American Home Inc., for premises 27-29-31 West 22nd Street, Bayonne, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1972, commencing at 2 a.m. Monday, May 29, 1972; 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. Wednesday, August 9, 1972.

Robert E. Bower,
 Director.

- 4. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN APPLICATION - FRONT - FAILED TO KEEP TRUE BOOKS OF ACCOUNT - PURCHASED ALCOHOLIC BEVERAGES FROM AN UNAUTHORIZED SELLER - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO CORRECT AFTER 55 DAYS SUSPENSION LESS 11 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Patsy B. Popola)
 t/a Paddy's Cozy Corner)
 1089 Broad Street)
 Newark, N. J.,)

CONCLUSIONS
 and
 ORDER

Holder of Plenary Retail Consumption License C-486, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

-----)
 Abe W. Wasserman, Esq., Attorney for Licensee
 Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges that he (a) made false statements in his license application dated June 18, 1971, in that he failed to reveal that substantial ownership of the licensed premises was in the name of another person, i.e., William Wright, and that William Wright was the real and beneficial owner of the license applied for and in the business to be conducted under said license; in violation of R.S. 33:1-25; (b) he aided and abetted such person to exercise the rights and privileges of such license and retain the profits and income derived from your licensed business; in violation of R.S. 33:1-52; (c) he failed to keep true books of account in connection with the operation of the licensed business in violation of Rule 36 of State Regulation No. 20; and (d) on divers dates between July 15, 1971 to the present, he purchased alcoholic beverages from other than holders of New Jersey manufacturer's or wholesaler's licenses; in violation of Rule 15 of State Regulation No. 20.

Absent prior adjudicated record of suspension of license, the license will be suspended on charges (a) and (b) above for thirty days (Re Ciccone, Bulletin 2021, Item 4); on charge (c) for ten days (Re Ryans, Bulletin 1959, Item 6); and on charge (d) for fifteen days (Re Holiday Lounge, Inc., Bulletin 1958, Item 6), making a total of fifty-five days, with remission of eleven days for the plea entered, leaving a net suspension of forty-four days.

However, as the unlawful situation has not, to date, been corrected, the license will be suspended for the balance of its term, with leave granted to the licensee, or any bona fide transferee of the license to apply to the Director by verified petition, for lifting of the suspension whenever the unlawful situation has been corrected, but such lifting shall not be granted, in any event, sooner than forty-four days from the commencement of the suspension herein.

Accordingly, it is, on this 9th day of March 1972,

ORDERED that Plenary Retail Consumption License C-486, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Patsy B. Popola, t/a Paddy's Cozy Corner, for premises 1089 Broad Street, Newark, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1972, effective 2:00 a.m. Thursday, March 23, 1972, with leave to licensee or any bona fide transferee of the license to apply to the Director by verified petition for the lifting of the suspension whenever the unlawful situation has been corrected, but, in no event, sooner than forty-four (44) days from the commencement of the suspension herein.

Robert E. Bower
Director

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

John T. McGraw)
607 Grove Street)
Jersey City, N.J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License 63, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

James F. Ryan, Esq., Attorney for Licensee
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Saturday, September 25, 1971, he sold alcoholic beverages, viz., a one-pint bottle of gin, for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Absent prior record the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Barnes & Mazyack, Bulletin 2001, Item 10. 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 \$400 in lieu of suspension.

Accordingly, it is, on this 25th day of February 1972,

ORDERED that the payment of a \$400 fine by the licensee is hereby accepted in lieu of a suspension for ten days.

Robert E. Bower
Director

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR SIMILAR VIOLATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Helen June Thorne t/a Bridge Plaza Beer Garden 825 Amboy Avenue Perth Amboy, N. J.,)

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Board of Commissioners of the City of Perth Amboy.)

-----)

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

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on June 5, 1971 she sold an alcoholic beverage in its original container, during prohibited hours, for consumption off her licensed premises in violation of Rule 1 of State Regulation No. 38.

Licensee has a prior record of suspension by the municipal issuing authority for five days, effective November 29, 1965, for sale of alcoholic beverages on a Sunday in violation of Rule 1 of State Regulation No. 38, and by the Director for sixty-five days, effective November 13, 1968, for lottery activity (Re Thorne, Bulletin 1830, Item 2).

The license will be suspended for fifteen days (Re Al's Cafe Bar, Inc., Bulletin 2029, Item 6), to which will be added five days for the similar violation occurring more than five but less than ten years; and five days for a dissimilar violation occurring within the past five years, making a total of twenty-five days; with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 29th day of February 1972,

ORDERED that Plenary Retail Consumption License C-6, issued by the Board of Commissioners of the City of Perth Amboy to Helen June Thorne for premises 825 Amboy Avenue, Perth Amboy, be and the same is hereby suspended for twenty (20) days, commencing 2:00 a.m. on Wednesday, March 15, 1972, and terminating 2:00 a.m. on Tuesday, April 4, 1972.

Robert E. Bower Director

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

Welcome Cafe, Inc.)
t/a Capriotti's)
237-241 South Black Horse Pike)
Mt. Ephraim, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Borough of Mt. Ephraim.)

-----)
Benjamin Friedman, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 21, 1971, it sold alcoholic beverages to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Licensee has a prior record of conviction by the municipal issuing authority for local "hours" violation, dated July 18, 1968, for which penalty was "suspended"; and in addition, license then held by majority stockholder of these premises, was suspended for ten days, effective June 5, 1955, for State "hours" violation. Re Capriotti, Bulletin 1070, Item 4. Prior suspension in 1955 for dissimilar violation occurring more than five years ago disregarded for penalty purposes, the license would normally be suspended for fifteen days (Re 100 Bar, Inc., Bulletin 2012, Item 12) to which would be added five days by reason of the violation occurring for dissimilar offense occurring within the past five years, making a total of twenty days, with remission of five days for the plea entered, for a net suspension of fifteen days. 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 \$2160 in lieu of suspension.

Accordingly, it is, on this 1st day of March 1972,

ORDERED that the payment of \$2160 fine by the licensee is hereby accepted in lieu of a suspension of license for fifteen days.

Robert E. Bower
Director

8. DISCIPLINARY PROCEEDINGS - POSSESSION OF OBSCENE TABLOID PUBLICATIONS, IN VIOLATION OF RULE 17 OF STATE REGULATION NO. 20 - PRIOR DISSIMILAR RECORD - AGGRAVATED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Mario Gonzalez)
2522 Bergenline Avenue &)
419 - 26th Street)
Union City, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-59, issued by the Board of Commissioners of the City of Union City.)

-----)
Robert H. Muller, Esq., Attorney for Licensee
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on August 9, 1971, he possessed obscene matter on the licensed premises, in violation of Rule 17 of State Regulation No. 20. The obscene matter consisted of two tabloid publications.

Licensee has a prior record of suspension of license by the local issuing authority for thirty days, effective May 10, 1971, for (1) sale to minors; (2) unqualified employee; (3) employment without identification card; and (4) fraud in license application. Additionally, subject's license was suspended by the Director for seventy days, effective October 29, 1970 on charges instituted against his predecessor in interest Montmarte Night Club, Inc., for fraud in license application for failure to reveal in its application his full interest in the license; for obtaining alcoholic beverages from unauthorized source; and failure to timely file alcoholic beverage tax reports (Re Montmarte Night Club, Inc., Bulletin 1943, Item 2).

License will be suspended on the subject charge for fifteen days (Re Fasanella, Bulletin 1884, Item 2), to which will be added ten days by reason of the record of two prior dissimilar violations occurring within the past five years, making a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 1st day of March 1972,

ORDERED that Plenary Retail Consumption License C-59, issued by the Board of Commissioners of the City of Union City to Mario Gonzalez for premises 2522 Bergenline Avenue & 419 - 26th Street, Union City, be and the same is hereby suspended for twenty (20) days, commencing 3:00 a.m. on Thursday, March 16, 1972 and terminating 3:00 a.m. on Wednesday, April 5, 1972.

Robert E. Bower
Director

9. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN FILED PRICE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)	
)	
Fenrose Wine & Liquor Stores, Inc., 431-435 West Front Street Plainfield, N. J.,)	CONCLUSIONS and ORDER
)	
Holder of Plenary Retail Consumption License D-13, issued by the Common Council of the City of Plainfield.)	
- - - - -))	
Dalto and Gran, Esqs., by Angelo H. Dalto, Esq., Attorneys for Licensee)	
Edward F. Ambrose, Esq., Appearing for Division)	

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on divers days between December 31, 1969 and January 8, 1971, it sold numerous orders of alcoholic beverages at less than the filed prices thereof, in violation of Rule 5 of State Regulation No. 30. Reports of investigation disclose orders totalling \$2,069.15 were sold with impermissible discount afforded.

Absent prior record the license would normally be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Norsel Liquor Company, Bulletin 1859, Item 6; Re Sitar, Bulletin 1659, 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 \$1410 in lieu of suspension.

Accordingly, it is, on this 3rd day of March 1972,

ORDERED that the payment of a \$1410 fine by the licensee is hereby accepted in lieu of a suspension of license for fifteen (15) days.

Robert E. Bower
Director

10. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN APPLICATION - FRONT - FAILURE TO KEEP BOOKS - SALE TO NON-MEMBERS - LICENSE SURRENDERED TO MUNICIPALITY - NOLLE PROSSED.

In the Matter of Disciplinary Proceedings against)

Eighth Ward Progressive Republican Club)
619 Ferry Avenue)
Camden, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Club License CB-4, issued by the)
Municipal Board of Alcoholic Beverage)
Control of the City of Camden.)

-----)
Ballen, Batoff & Laskin, Esqs., by Lee B. Laskin, Esq., Attorneys)
for Licensee)
Dennis M. Brew, Appearing for Division)

BY THE DIRECTOR:

Licensee pleads not guilty to six charges alleging that on May 6, 1971 it made false statements in its license application and on divers days from July 1969 to date it permitted another to exercise the privileges of the license issued, all of which was in violation of N.J.S.A. 33:1-1 et seq.; and during the same period it failed to keep proper books of account, in violation of Rule 12 of State Regulation No. 7, and sold alcoholic beverages to non-members, in violation of Rule 8 of State Regulation No. 7.

Following the institution of the above charges against the licensee, its license was surrendered to the municipal issuing authority, which surrender was confirmed on February 16, 1972 by the City Clerk.

In view of the surrender of the license and the termination of all license privileges thereunder, the charges herein will be dismissed.

Accordingly, it is, on this 3rd day of March 1972,

ORDERED that the charges made against Eighth Ward Progressive Republican Club, then holder of Club License CB-4 issued to it by the Municipal Board of Alcoholic Beverage Control of the City of Camden for premises 619 Ferry Avenue, Camden, be and the same are nolle prossed.

Robert E. Bower,
Director.

11. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - FAILURE TO DISCLOSE PRIOR SUSPENSION - PRIOR DISSIMILAR VIOLATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Perton's Corporation)
t/a Sanford Inn)
853 Summit Avenue)
Jersey City, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-460, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on (1) September 11, 1971, it permitted removal from its licensed premises of an opened four-fifths quart bottle of alcoholic beverage during prohibited hours, in violation of Rule 1 of State Regulation No. 38; and (2) in its application for current license failed to disclose its record of license suspension, in violation of R.S. 33:1-25.

Licensee has a prior record of suspension by the Director for ten days, effective August 6, 1968, for violation of a local hours ordinance, (Re Perton's Corporation, Bulletin 1812, Item 17), non-disclosure of which being the subject of the second charge.

The prior record of dissimilar violation occurring within the past five years considered, the license will be suspended on the first charge for fifteen days, and on the second charge for ten days (Re The Chestnut, Bulletin 1836, Item 4) to which will be added five days by reason of the prior dissimilar violation, making 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 9th day of March 1972,

ORDERED that Plenary Retail Consumption License C-460, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Perton's Corporation, t/a Sanford Inn, for premises 853 Summit Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing 2:00 a.m. on Thursday, April 13, 1972, and terminating 2:00 a.m. on Monday, May 8, 1972.

Robert E. Bower
Robert E. Bower
Director