

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

BULLETIN 2034

March 21, 1972

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

BULLETIN 2034

March 21, 1972

1. APPELLATE DECISIONS - POODLE CLUB, INC. v. NEWARK.

Poodle Club, Inc.,)	
Appellant,)	
v.)	On Appeal
)	CONCLUSIONS
Municipal Board of Alcoholic)	AND
Beverage Control of the City)	ORDER
of Newark,)	
Respondent.)	

Donald W. Rinaldo, Esq., by Louis M. Minotti, Esq., Attorney
for Appellant
William H. Walls, Esq., by Matthew J. Scola, 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 respondent (Board) which on August 25, 1971 denied appellant's application for renewal of its plenary retail consumption license for the current licensing period, for premises 24 William Street, Newark.

The subject resolution sets forth that, after a full public hearing and in the exercise of its discretion,

"This Board deems such Renewal not to be in the best interest of the public good and welfare of the community, and more particularly for the reasons as expressed in the Board's records, and also the Board's acceptance of the police recommendations, and the full transcript of the hearing on the application for Renewal, does therefore, deny the same."

Appellant alleges that the action of the Board was erroneous because (1) no reasons were set forth in the resolution for the denial, "only conclusions are found therein", and (2) the Board should not have based its action upon police recommendations or the adjudicated record of "past violations".

The Board, in its answer, defends that its action was not arbitrary or unreasonable and that appellant had a "lengthy previous record of suspensions for allowing lewd, indecent and immoral activities to take place on the licensed premises."

The appeal was heard de novo and was based upon the transcript of the proceedings before the Board, supplemented by additional evidence produced by the appellant in accordance with Rules 6 and 8 of State Regulation No. 15.

The following background is reflected in the record now before me: At the time that the appellant made its application for renewal of license for the current licensing period, its license was under suspension by order of the Director of this Division, effective as of October 22, 1970 for a period of two hundred sixty-five days, after the appellant pleaded non vult to charges alleging that (1) on May 19 and 20, 1970 it permitted solicitation for prostitution on the licensed premises in violation of Rule 5 of State Regulation No. 20; (2) on May 5, 6, 13, 14, 19 and 20, 1970, it permitted female entertainers to drink at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20; and (3) on May 20, 1970 it possessed an indecent object on the licensed premises, in violation of Rule 17 of State Regulation No. 20.

The Director, in imposing the said suspension took into consideration the fact that the appellant had a prior record of three (3) suspensions of license by the Director.

(1) for twenty (20) days, effective July 2, 1963 for sales to minors;

(2) for sixty-five (65) days, effective December 1, 1964 for permitting gambling of horse race and numbers bets; and

(3) for one hundred (100) days, effective August 12, 1968 for permitting solicitation for prostitution.

Re Poodle Club, Inc., Bulletins 1525, Item 5; 1596, Item 2; and 1813, Item 3.

The Director pointed out with respect specifically to charge (1), that it was deemed aggravated by reason of the fact that it was a similar offense which occurred within five years from the date of this charge. Accordingly, the license was suspended for the balance of its term with the provision that any renewal license shall remain suspended until July 14, 1971.

The Board had before it the above record and a report of the Police Department which recommended the denial of the said license.

Anthony Margotta, the president and principal officer of the corporate appellant, testified that he did not deny the adjudicated record of violations. However, he stated that when he pleaded non vult on behalf of the appellant to the charge upon which the license was presently suspended he was assured by the attorney for this Division that if he entered such plea the Division would not object to the renewal of the said license. Obviously, this Division does not enter such objections to applications for renewal by a local issuing authority. What was undoubtedly said to him was that upon his entry of a non vult plea this Division would not revoke his license, but that the matter of renewal would reside within the discretion of the local issuing authority.

The sole reason for requesting the renewal of its license was perhaps best articulated by its attorney who expressed the reason to the Board in the following language:

"The licensee has several thousand dollars, or more in fact, invested in this business, and it is his intention not to go back in business at that location for reasons of his own health ... However, he is pleading with this Board to give him consideration to renew his license so that the least he could do is to re-coup part of the moneys that he had invested in the premises."

The attorney for appellant also indicated that he had a "potential buyer" for his license. However, the name of the "potential buyer" was not revealed.

The Board adjourned the hearing on his application for renewal six times in order to give the appellant an opportunity to advance more specific information. On one of these occasions the attorney for the appellant indicated that there was no buyer presently available but that if the license were renewed he would try to sell it. "It may come to a dead issue if no one wants to buy it."

It was then admitted by Margotta that not only did he not intend to go back into business but that the property had been sold and he had been evicted so that he had no premises in which to operate. This was reported by Margotta at the de novo appeal hearing before this Division.

Margotta stated that the building had been sold and that he had, in fact, removed his property therefrom and has no premises at the present time from which to operate. Furthermore, he asserted:

"I want to get out of the business altogether. I just want to get out. It's impossible for me to operate in the City of Newark. It's tough. You got to be -- you got to get closed and closed and closed. Believe me, listen, I wouldn't own a tavern in the City of Newark if you gave it to me for nothing."

Finally he added that the sole reason for renewal was for the purpose of trying to sell the license.

From my examination and evaluation of the total record herein, I find that by its conduct the licensee has shown that it is not worthy of having its license renewed. A renewal license is in the same category as an original license. No person is entitled as a matter of law to a liquor license. Bumball v. Burnett, 115 N.J.L. 254; Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946). A liquor license is a special privilege granted to the few, denied to the many. Meehan v. Jersey City, 73 N.J.L. 382; Federici's Hideaway v. Belleville, Bulletin 1595, Item 2.

In its consideration of this matter the Board was guided by the applicable principle enunciated in Tumulty v. Dunellen and Davis (App. Div. 1963), not officially reported, reprinted in Bulletin 1519, Item 1, as follows:

"...The problem before the Council was what penalty to impose for what his investigators had discovered the licensees had done in the past. The problem before Dunellen, upon the application for renewal of the license, was whether it was in the public interest that this establishment be licensed in the future. Subject to law and to the Director's right of review, a municipality has the power to set its own reasonable standards for the conduct of its licensees. We hold that Dunellen had the right to say that since these licensees permitted the things recited in the Director's 'Conclusions and Order' of June 13, 1962, they were not worthy to continue to hold their license and that it was not in the public interest that the license should be renewed...."

In the area of licensing, as distinguished from disciplinary proceedings, the determinative consideration is the public interest in the creation or continuance of the license operation, not the fault or merit of the licensee. In the matter of licensing, the responsibility of a local issuing authority is "high", its discretion "wide" and its guide "the public interest." Lubliner v. Paterson, 33 N.J. 428, 446 (1960).

The Board here clearly determined that these premises were being operated as a nuisance and that there was clear culpability on the part of the appellant in the said operation. See Nordco, Inc. v. State, 43 N.J. Super. 277.

The sole reason advanced by the appellant for its desire to have the license renewed was that it intended to find a buyer and transfer its license. However, I am not persuaded that it had a buyer nor is this a reason sufficient to grant renewal.

See Nordco, Inc. v. State, supra, where the Court, in sustaining the refusal to grant renewal in order to afford appellant a reasonable opportunity to transfer its license, ruled that "We are not going to hold, as a general matter, that the Division and the local board abuse their discretion in not allowing a licensee such an opportunity when his application to renew his license is about to be rejected." (43 N.J. Super. at p.289)

Furthermore, as noted hereinabove, there are not premises from which this license can be legally operated at the present time and the appellant admits that it has no possessory interest in available premises. The Director has consistently held that the complete absence by the applicant of some right to possession of the premises sought to be licensed would deprive the issuing authority of jurisdiction to renew the license. Hudson-Bergen Package Stores Association v. Garfield, Bulletin 1976, Item 3; Terlizzi v. Union City, Bulletin 860, Item 2; Kleinberg v. Newark, Bulletin 1049, Item 1. The reasons for requiring possession of licensed premises by a licensee are set forth in detail in Re Haneman, Bulletin 449, Item 4. Thus, under the present circumstances the Board had no authority to renew this license.

The Director's function on appeals of this kind is not to substitute his personal opinion for that of the issuing authority but merely to determine whether reasonable cause exists for its action and if so, to affirm irrespective of his personal views. Fiory v. Ridgewood, Bulletin 1931, Item 1. Indeed, as the court stated in Lyons Farms Tavern, Inc. v. Newark et al. 55 N.J. 292 (1970), reprinted in Bulletin 1905, Item 1:

"...Our penetrating review of all the evidence was engaged in by retreating to the fundamental issue in these cases: Did the decision of the local board represent a reasonable exercise of discretion on the basis of evidence presented? If it did that ends the matter of review both by the Director and by the courts...."

I conclude that appellant has failed to sustain the burden of establishing that the action of the Board was erroneous or constituted an abuse of its discretionary power. Rule 6 of State Regulation No. 15.

Accordingly, it is recommended that the Board's action in denying appellant's application for renewal of its license be affirmed, and the appeal herein be dismissed.

Conclusions and Order

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

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

Accordingly, it is, on this 15th day of February 1972,

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

Robert E. Bower,
Director.

2. APPELLATE DECISIONS - GARLAND BAR, INC. v. NEWARK.

Garland Bar, Inc.,)
Appellant,)
v.)
Municipal Board of Alcoholic)
Beverage Control of the City)
of Newark,)
Respondent.)

On Appeal

CONCLUSIONS
and
ORDER

Leon Sachs, Esq., Attorney for Appellant
William H. Walls, Esq., by Matthew J. Scola, 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 respondent Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) which, by resolution adopted October 18, 1971 suspended appellant's plenary retail consumption license for premises 55 Lentz Avenue, Newark, for ninety days effective November 8, 1971, after finding it guilty of permitting gambling on the licensed premises, i.e., permitting a lottery known as the "numbers game" on February 26, 1971.

Appellant alleges that the decision of the Board was erroneous in that it was contrary to the weight of the evidence produced at a hearing held before the Board.

The Board answered that its decision was based upon the factual testimony before it from which it, in its sound discretion, concluded the charges were substantiated by the evidence, and the penalty imposed was warranted.

The effective date of the suspension was stayed by order of the Director on November 3, 1971, until the determination of this appeal.

The 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. Both parties relied upon the stenographic transcript of the proceedings held before the Board, which was admitted into evidence in accordance with Rule 8 of State Regulation No. 15.

Additionally, appellant by its principal stockholder and corporate president, Irving Garland Boone, testified at the de novo hearing before this Division.

In support of the charges, the transcript contained the testimony of Detective Robert J. Purcell of the Newark Police Department. He was on duty February 26, 1971, assigned to the Gambling Squad. He was armed with a search warrant, and was accompanied by several other officers. Prior to entry into the tavern, Boone was stopped outside of it by another detective and searched, which search revealed the possession of a gun. No gambling slips were found on his person. While that search was in progress, Detective Purcell searched the licensed premises. In response to the question "Did you find anything in the bar?" he answered "No sir. No lottery play." He was further asked "You found nothing in the bar?"; and he answered, "No, sir."

Further testimony surrounded the search of the apartment directly above the licensed premises where \$1,750.50 in lottery play was confiscated, along with a number of miscellaneous papers with Boone's name on them, including utility bills of the Garland Bar.

"...the majority of the lottery play came from the book which had on it the name of ABC Distributors. And the lottery play ran from early in December right through until the 26th day of February".

He was asked if there was a "connection" between the apartment and the licensed premises. Apparently interpreting the word "connection" to mean a physical connection between them, the detective responded, "There is a door as you walk in Mr. Boone's tavern, the door on the extreme right, that leads to a hallway." "To go upstairs?" he was asked, "Yes" was his only response.

The "connection" between the upstairs apartment and the licensed premises, apart from its physical relationship had pertinency, according to the detective, because on a prior visit made to the licensed premises, he had made some observations that elicited the following colloquy:

"Q What did you notice about Mr. Boone?

A Well, while the tavern was under surveillance, on a number of occasions I had entered the bar during different hours, anywhere from 11 o'clock in the morning right through until four or 5 o'clock in the afternoon, and during the day I noticed that Mr. Boone at approximately 1 o'clock would leave the tavern and he would go upstairs, or he would leave the tavern through the side door, and on several occasions persons had come in and asked for Mr. Boone, and someone would send upstairs for him.

Q And would he come down?

A Usually.

Q Did you see any slips?

A At times there were monies passed from persons who would ask for Mr. Boone, and some papers.

Q Did you ever see those papers?

A No, I never got close enough to look."

No slips, book or paraphernalia related to gambling were presented into evidence before the Board. In short, there were no exhibits offered in substantiation of the detective's observation.

Irving Garland Boone testified on behalf of the appellant, both before the Board and in the hearing at this Division, that he is the principal stockholder of the corporate licensee and is its president. The corporation owns the building in which the licensed premises are located, the second and third floors of which are tenanted by persons who have no connection with the license. The second floor is tenanted by a Mrs. Audry Caldwell whose apartment he has visited only as an agent of the corporate landlord, and any mail there with his or the licensee's name on it might have resulted from children taking all the mail to the second and third floors.

On the day the detectives visited the premises he was carefully searched as was his car and the licensed premises. No gambling data was found. He was vehement in his denial that gambling activity had taken place in the licensed premises at any time. He was pointedly asked concerning the observations made by Detective Purcell during the period the licensed premises were under surveillance, and particularly as to his own actions at that time.

Admitting to a heart condition, he indicated he could not serve at the bar for long periods of time and his patrons, knowing this, would contact him during these intermittent periods. One of the major reasons for contact, he believed, was his efforts to secure members to the "East Ward Civic Association", membership cards and dues for which were handed to him over the bar.

At the hearing before this Division he exhibited a sample membership card to that association. It was the exchanges of cards and money that he believed the detective saw and assumed were lottery or gambling slips. Once while the detective was present, a patron left an address slip for his bartender, and he put that slip aside. The back door from which he emerged so frequently that led to the stairway to the second floor also led to the back of the building where his car was parked. On the day of the search and immediately prior thereto, he had left the building by that door, got into his car and was about to go for his son at school when a detective accosted him.

In order to prevail on this appeal, the appellant must sustain the burden of establishing that the action of the Board was clearly erroneous and against the logic and effect of the presented facts. Hudson Bergen County Retail Liquor Stores Ass'n v. Hoboken et al., 113 N.J.L. 502 (1947). The Director's function in matters of this kind is not to reverse the determination of the local issuing authority 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. Schulman v. Newark, Bulletin 1620, Item 1; Empire Liquor Co., v. Newark, Bulletin 1847, Item 2; Lyons Farms Tavern v. Newark, 55 N.J. 292 (1970).

The ultimate test is one of reasonableness on the part of the Board. Or, to put it another way, could the members of the Board, as reasonable men acting reasonably have come to their determination based upon the evidence presented? See Pilon and Craner v. Paterson, 112 N.J. Super. 436 (App. Div. 1970); Nordco Inc. v. State, 43 N.J. Super. 277 (App. Div. 1957).

The search of the licensed premises, the person and car of Boone revealed no evidence of gambling. Evidence of gambling was discovered in the second floor apartment. That apartment was neither part of the licensed premises, nor was there any proven association between the two.

Apparently the Board misconstrued the law applicable, i.e., lottery or bookmaking shall not be permitted "in or upon the licensed premises", to include the upstairs apartment. If such was the Board's impression, then reliance was placed upon the testimony of the detective that the discovery of gambling paraphernalia was in some way related to the licensed premises. Such relationship, if any, had to have arisen from the testimony of the detective concerning his prior visits to the licensed premises, when he observed "At times there were monies passed from persons who would ask for Mr. Boone, and some papers." No seizure of such suspected papers had ever been made by the detective who "...never got close enough to look."

The Board might have been mindful of the principle that it makes no difference whether bets are committed to paper or to memory and hence it is not necessary to prove a tangible record was made, State v. De Stasio, 49 N.J. 247, 253 (1967), which would preclude the need for the production of such slips into evidence to substantiate conviction. However, in the absence of such production convincing evidence in support of the charge is required.

The conjecture of the detective that what he had seen during prior visits to the licensed premises had been gambling transactions was explained away by the uncontroverted testimony of Boone who recounted his part in obtaining membership/applications and dues for the East Ward Civic Association. While a disciplinary proceeding needs only a preponderance of the credible evidence to substantiate a finding (Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956)), the charge must be established by affirmatively satisfactory evidence. Re Silidker, Bulletin 405, Item 5.

The Board is clothed with the responsibility of arriving at its determinations based upon the evidence presented before it, which evidence must preponderate against the party against whom the charges are laid if a guilty finding results. In the instant matter, evidence in support of the charges was singularly absent. In its place was conjecture and suspicion upon which a finding of guilt cannot be based. Cf. State v. Martinek, 12 N.J. Super. 320 (App. Div. 1951).

I conclude that, from the absence of affirmative satisfactory evidence, the finding against appellant was erroneous and should be set aside. Accordingly, the appellant has sustained the burden imposed upon it under Rule 6 of State Regulation No. 15. It is, therefore, recommended that the action of the Board be reversed and the charge be dismissed.

Conclusions and Order

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

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

Accordingly, it is on this 15th day of February 1972,

ORDERED that the action of the respondent Municipal Board of Alcoholic Beverage Control of the City of Newark be and the same is hereby reversed and the charge herein be and the same is hereby dismissed.

Robert E. Bower
Director

3. NOTICE - RE REQUESTS FOR SEARCHING OF DIVISION RECORDS.

NOTICE TO ALL PARTIES CONCERNED:

Recently the Division has been deluged with requests from licensees and prospective licensees or their attorneys for a Division search of the disciplinary record and the default status of a particular license. These searches are time consuming and not a required function of this office. They have been done as a courtesy and a convenience to the public, without fee.

The alternative to discontinuing this service is to institute a fee, reasonable enough to cover the time and expense involved. Thus, henceforth, any requests for searches of Division records for previous and pending violations and Default and Non-Delivery records must be accompanied by a fee of \$5.00.

Dated: February 8, 1972

Richard C. McDonough
Director

4. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS) - POSSESSION OF INDECENT MATTER - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 115 DAYS, LESS 23 FOR PLEA.

In the Matter of Disciplinary)	
Proceedings against)	
Alfred T. Lombard)	
t/a Old Elizabeth Tavern)	CONCLUSIONS
959 Elizabeth Avenue)	and
Elizabeth, N.J.,)	ORDER
Holder of Plenary Retail Consumption)	
License C-183, issued by the City)	
Council of the City of Elizabeth.)	

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

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on June 17, 21 and 23, 1971, he permitted the acceptance of "numbers" bets on the licensed premises, in violation of Rule 6 of State Regulation No. 20; and (2) on June 23, 1971, he possessed obscene matter, viz., four (4) photographs of semi-nude females, in violation of Rule 17 of State Regulation No. 20.

Licensee has a prior record of suspension by the Director for ten days, effective June 5, 1967, for gambling activity (Re Lombard, Bulletin 1742, Item 7), and by the municipal issuing authority for fifteen days, effective August 12, 1968, for sale to minors.

License will be suspended for ninety days on the first charge (Re Guglielmi, Bulletin 2025, Item 4), and on the second 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 one hundred-fifteen days, with remission of twenty-three days for the plea entered, leaving a net suspension of ninety-two days.

Accordingly, it is, on this 18th day of February 1972,

ORDERED that Plenary Retail Consumption License C-183, issued by the City Council of the City of Elizabeth to Alfred T. Lombard, t/a Old Elizabeth Tavern for premises 959 Elizabeth Avenue, Elizabeth, be and the same is hereby suspended for ninety-two (92) days, commencing 2:00 a.m. on Monday, March 6, 1972, and terminating 2:00 a.m. on Tuesday, June 6, 1972.

Robert E. Bower
Director

5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR & PRIOR SIMILAR RECORD -
LICENSE SUSPENDED FOR 35 DAYS, LESS 7 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Lois Pauline Leonard)
t/a Mauneys Liquor Store)
49-51 South Broad Street)
Penns Grove, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution)
License D-1, issued by the Borough)
Council of the Borough of Penns Grove.)

Licensee, Pro se
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 15, 1972, she sold alcoholic beverages to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

Licensee in her own name has no record of prior violations; however, the present license when in the name of the present licensee and others, has a prior record of suspensions as follows: (a) for five days, effective October 19, 1964, by the local issuing authority for sale to minors; (b) for ten days, effective January 3, 1966, by the local issuing authority for sale to a minor; and (c) for fifteen days, effective November 25, 1968, by the local issuing authority for sale to a minor.

The license will be suspended for fifteen days (Re Lincoln Lounge, Bulletin 1997, Item 6) for the charge herein to which will be added ten days by reason of the suspension for similar offense occurring within the past five years; and ten days by reason of the two previous similar violations occurring within the past ten years, making a total of thirty-five days, with remission of seven days for the plea entered, leaving a net suspension of twenty-eight days (Re Willner's Liquors, Bulletin 1795, Item 6).

The licensee is further pointedly warned that inasmuch as this offense is the fourth similar offense occurring within the past ten years, any subsequent violation may well result in outright revocation of the license.

Accordingly, it is, on this 15th day of February 1972,

ORDERED that Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Penns Grove to Lois Pauline Leonard, t/a Mauneys Liquor Store for premises 49-51 South Broad Street, Penns Grove, be and the same is hereby suspended for twenty-eight (28) days, commencing 2:00 a.m. on Monday, February 28, 1972 and terminating 2:00 a.m. on Monday, March 27, 1972.

Robert E. Bower
Director

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 15 DAYS - SUSPENSION DEFERRED.

In the Matter of Disciplinary)
Proceedings against)

The Chateau Corporation)
t/a The Chalet)
120 West Passaic Street)
Rochelle Park, New Jersey,)

SUPPLEMENTAL

Holder of Plenary Retail Consumption) ORDER
License C-1, issued by the Township
Committee of the Township of)
Rochelle Park.)

-----)
Heller & Laiks, Esqs., by Murray A. Laiks, Esq., Attorneys for
Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On October 21, 1970, Conclusions and Order were entered herein suspending the license herein for fifteen days upon licensee's plea of not guilty to a charge alleging that on July 25, 1969 it possessed, had custody of and allowed, permitted and suffered in and upon the licensed premises alcoholic beverages in bottles which bore labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20. Re The Chateau Corporation, Bulletin 1943, Item 8.

Prior to the effectuation of the said order of suspension, on appeal filed the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal. The court affirmed the action of the Director on December 17, 1971. The Chateau Corporation v. The Director of the Department of Law and Public Safety etc., Sup. Ct. (App.Div. 1970), Docket A-365-70, not officially reported, recorded in Bulletin 2022, Item 1.

Report of investigation by Division agents on January 6, 1972 discloses that the building in which the said licensed premises are located has been torn down and there is no building presently located at the said location. Police Chief Lawal informed the agent the premises had been sold to the American Telephone & Telegraph Company, which demolished same.

The Township Clerk informed the agent that the licensee is seeking to obtain other premises to which the license may be

transferred. However, it is clear that no meaningful suspension can be reimposed at this time.

Accordingly, it is, on this 18th day of February 1972,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Rochelle Park to The Chateau Corporation, t/a The Chalet, for premises 120 West Passaic Street, Rochelle Park, be and the same is hereby suspended for fifteen (15) days, the effective dates of which shall be deferred until further order herein.

Robert E. Bower
Director

7. DISCIPLINARY PROCEEDINGS - HINDERING - NOLLE PROSSED.

In the Matter of Disciplinary)
Proceedings against)

735 Anderson Avenue Corp.)
t/a The Interlude)
735 1/2 Anderson Avenue)
Cliffside Park, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-20, issued by the Mayor and)
Council of the Borough of Cliffside)
Park.)

-----)

Robert S. Moraff, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleaded not guilty to the following charge:

"From on or about May 11, 1971 to date, you failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation of your licensed business by personnel of the Division of Alcoholic Beverage Control, viz., in that you failed to answer or respond to any of the various communications sent to you in connection with such an investigation; in violation of Rule 35 of State Regulation No. 20."

It appears from a letter dated January 11, 1972, of Robert S. Moraff, Esq., attorney for the licensee, and verified by the attorney for this Division, that the principal stockholders were absentee owners of the corporate licensee and were out of the State during the dates charged herein. The premises were operated by one Lawrence Beyer, a minority stockholder, who has since disappeared and his present whereabouts are unknown. The attorney for the Division states that the principal owners are now back in active control, and I am satisfied that there was no willful and deliberate failure to hinder and delay the investigation of the licensed premises.

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

ORDERED that the charge herein be and the same is hereby nolle prossed.

Richard C. McDonough
Director

8.

ACTIVITY REPORT FOR FEBRUARY 1972

ARRESTS:			
Total number of persons arrested			45
Licensees and employees	14		
Bootleggers	12		
Minors	19		
SEIZURES:			
Alcohol - gallons			.25
Distilled alcoholic beverages - gallons			42.30
Wine - gallons			22.025
Brewed malt alcoholic beverages - gallons			77.82
COMPLAINTS AND INVESTIGATIONS:			
Inspections & visits made on assigned investigations			1,542
Complaints assigned for investigation			319
Investigations completed			247
Investigations pending			371
Premises where alcoholic beverages were gauged			553
Bottles gauged			8,818
Premises where violations were found			191
Number of violations found			279
License applications investigated			4
Contacts made with other law enforcement agencies			320
LABORATORY:			
Analyses made			93
Refills from licensed premises - bottles			42
Bottles from unlicensed premises			25
IDENTIFICATION:			
Criminal fingerprint identifications made			28
Persons fingerprinted for non-criminal purposes			221
Identifications made with other enforcement agencies			147
DISCIPLINARY PROCEEDINGS:			
Cases instituted at Division			27
Violations involved			30
Sale to minors	11	Perm. foul language on prem.	1
Possessing liquor not truly labeled	6	Possessing chilled beer (DL Lic.)	1
Purchase from improper source	3	Fraud and front	1
Perm. lottery activity on premises	2	Fail. to keep true books of acct.	1
Perm. misc. gambling on premises	1	Perm. immoral activity on prem.	1
Hindering investigation	1	Sale during prohibited hours	1
Cases brought by municipalities on own initiative and reported to Division			25
Violations involved			29
Sale to minors	12	Perm. brawl on premises	3
Failed to close prem. dur. proh. hrs.	5	No Form E-141-A on premises	1
Perm. lottery acty. on premises	3	Perm. narcotic acty. on premises	1
Act of violence	3	Hindering investigation	1
HEARINGS HELD AT DIVISION:			
Total number of hearings held			33
Appeals	8	Eligibility	3
Disciplinary proceedings	21	Seizures	1
STATE LICENSES AND PERMITS:			
Total number issued			1,103
Licenses	2	Wine permits	17
Solicitors' permits	46	Miscellaneous permits	251
Employment permits	193	Transit insignia	92
Disposal permits	69	Transit certificates	12
Social affair permits	421		
OFFICE OF AMUSEMENT GAMES CONTROL:			
Licenses issued	89		
Enforcement files established	6		

ROBERT E. BOWER
Director of Alcoholic Beverage Control
Commissioner of Amusement Games Control

Dated: March 8, 1972

9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE
REGULATION NO. 20 - SALE TO MINORS - LICENSE SUSPENDED
FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Polish Peoples Home)
196-198 Main Avenue)
Wallington, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-26, issued by the Mayor)
and Council of the Borough of)
Wallington.)

Joseph M. Keegan, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to two charges alleging
that on May 14, 1971 it (1) sold alcoholic beverages to a
minor, age 19, in violation of Rule 1 of State Regulation
No. 20, and (2) it permitted the sale of alcoholic beverages
in original containers for off-premises consumption during
prohibited hours, in violation of Rule 1 of State Regulation
No. 38.

Absent prior record, the license will be suspended
on the first charge for fifteen days (Re Mar-May, Inc., Bul-
letin 2020, Item 5), and on the second charge for fifteen
days (Re Welcome Inn, Bulletin 2003, Item 10), 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 15th day of February
1972,

ORDERED that Plenary Retail Consumption License
C-26, issued by the Mayor and Council of the Borough of
Wallington to Polish Peoples Home, for premises 196-198
Main Avenue, Wallington, be and the same is hereby suspended
for twenty-five (25) days, commencing at 2 a.m. Monday, February
28, 1972, and terminating at 2 a.m. Friday, March 24, 1972.

Robert E. Bower,
Director.

10. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary)
Proceedings against)

Polish Peoples Home)
196-198 Main Avenue)
Wallington, N.J.,)

AMENDED ORDER

Holder of Plenary Retail Consumption)
License C-26, issued by the Mayor and)
Council of the Borough of Wallington.)

-----)
Joseph M. Keegan, Esq., Attorney for Licensee)
Walter H. Cleaver, Esq., Appearing for Division)

BY THE DIRECTOR:

On February 15, 1972, Conclusions and Order were entered herein suspending the subject license for twenty-five days, commencing Monday, February 28, 1972, upon licensee's plea of non vult to two charges alleging that on May 14, 1971, it (1) sold alcoholic beverages to a minor, age 19, in violation of Rule 1 of State Regulation No. 20, and (2) it permitted the sale of alcoholic beverages in original containers for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38. Re Polish Peoples Home, Bulletin 2034, Item 9.

The licensee has now 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 carefully considered the application in question, I have determined to accept a fine in compromise by the licensee to pay a fine of \$1200 in lieu of suspension.

Accordingly, it is, on this 23rd day of February 1972,

ORDERED that my order dated February 15, 1972, be and the same is hereby vacated; and it is further

ORDERED that the payment of a \$1200 fine by the licensee is hereby accepted in lieu of the suspension of twenty-five days heretofore imposed.


Robert E. Bower
Director