

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

BULLETIN 2155

August 27, 1974

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STATE OF NEW JERSEY
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BULLETIN 2155

August 27, 1974

1. COURT DECISIONS - ESSEX COUNTY PACKAGE STORES ASSOCIATION v. NEWARK ET ALS. - REMAND TO DIRECTOR FOR REHEARING ON PROPOSED ALTERATIONS.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-2028-72
M-1385-73

ESSEX COUNTY PACKAGE STORES
ASSOCIATION,

Appellant-Appellant,

v.

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY OF
NEWARK, NEW JERSEY; FIRST MOTOR INN
CORPORATION, t/a Gateway Downtown Motor
Inn, and ROBERT E. BOWER, Director of
Division of Alcoholic Beverage Control
of the State of New Jersey,

Respondents-Respondents.

Argued December 10, 1973; Submitted for Determination
March 25, 1974 - Decided April 17, 1974; Rehearing
granted May 28, 1974 - Decided June 10, 1974.

Prior note with respect to determination set forth in
Bulletin 2148, Item 1.

2. DISCIPLINARY PROCEEDINGS - GAMBLING (POSSESSION OF NUMBER SLIPS) - PERMITTED MINOR TO SELL ALCOHOLIC BEVERAGES - LICENSE SUSPENDED FOR 100 DAYS.

In the Matter of Disciplinary)
 Proceedings against)
 Victor Colon & Marino Burgos)
 t/a La Isla Club)
 163 Fulton Street)
 Elizabeth, N. J.,)
 Holder of Plenary Retail Consumption)
 License C-257, issued by the City)
 Council of the City of Elizabeth.)
 -----)

CONCLUSIONS
and
ORDER

Bernard P. Escandon, Esq., by Anthony M. Costa, Esq., Attorney
 for Licensee
 David S. Piltzer, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to two charges alleging that on July 13, 1973, they (1) permitted gambling, i.e., possessed gambling or "numbers" slips on the licensed premises in violation of Rule 6 of State Regulation No. 20 and (2) permitted a minor, age 17, to sell and serve alcoholic beverages in violation of Rule 2 of State Regulation No. 13.

The Division offered the testimony of two ABC agents and a member of the police force of the City of Elizabeth in substantiation of the charges. Agent D testified that he had received training and had conducted numerous investigations relative to gambling activities, including "numbers" betting. On July 13, 1973, he in the company of Agent P and a detective of the Elizabeth Police visited the licensed premises. He observed fifteen or twenty patrons being serviced by two barmaids, one of whom was Loretta --- (later identified as a minor). One of the licensee partners, Marino Burgos, was also present.

Upon ascertaining that the barmaid who served drinks to the agents was a minor, the agents identified themselves and made a routine search of the premises. Alongside the cash register, on the back bar, the agents discovered piles of papers among which were several slips, identified as "numbers" slips, which were introduced into evidence.

Agent P spoke to this licensee, Burgos, who admitted hiring the minor and paying her "\$5 or \$6 a night." He confirmed the location of the "numbers" slips discovered adjacent to the cash register.

Detective Francis J. Healey of the Elizabeth Police Department testified that he and a fellow detective were outside of the licensed premises on July 13, 1973, at about 11:00 p.m. He observed Loretta --- emerge from the establishment and they recognized her as a minor from previous juvenile cases in which she was involved. They re-entered the premises where the minor admitted being employed on the premises. The witness secured the originals of the "numbers" slips discovered on the back bar.

The minor Loretta --- (born December 29, 1955) testified that, when she was hired as a barmaid, she was asked to sign an employment form required by the Division of each licensee and on it she indicated her age as "18." She admitted that the bartender had known her as a child for she had lived nearby at that time. She further admitted being asked to prove her age to the licensee but never provided such proof.

Licensee Marino Burgos testified that he is one of the partners owning the licensed premises. He denied the fact of employment of the minor and maintained that she helped his bartender merely on three or four occasions. He recalled having her sign the employment roster (Form E-141) on which she indicated her age as 18 and that he had repeatedly asked for but never received proof of her age.

In connection with the gambling charge, he denied that there was any gambling on the licensed premises, nor did he have personal knowledge of how the "numbers" game is operated. He knows only that a State lottery exists but has no knowledge of any other type of gambling. The papers alongside of the cash register were a collection of bills and anything else found on the bar which he would save for later examination by his accountant who prepared the payment of the bills. As he had a limited education and has a language barrier with the English language, he distrusts himself to determine what should be kept and thrown away. Hence he keeps most everything until his accountant makes his visit.

The defense to the first charge, that the minor falsely indicated her age, is without substance. The simple requirement of production of proof of age would have obviated the violation as the minor would undoubtedly not have obtained employment.

In evaluating the testimony and its legal impact we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App.Div. 1960).

In appraising the factual picture presented in this proceeding, the credibility of witnesses must be weighed. Evidence to be believed 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).

The "numbers" slips introduced into evidence by the Division consist of a series of numbers scrawled on the margin of printed order blanks furnished by a liquor distributor. The numbers in and of themselves are meaningless; only through the expert testimony of the agent can they be related to the "numbers game." Who wrote the numbers and when they were to be used, if ever, was not revealed.

The licensee's explanation that they were meaningless to him and collected among a collection of other papers to be exhibited to the accountant is, in view of his obvious language difficulty, understandable. Proof that he or anyone in the licensed premises had any understanding of the rather complicated system of "numbers" betting was totally lacking. Unlike a pornographic photo, a mere recitation of numbers, in the absence of supportive evidence, constitutes no violation. In short, and absent such evidence, the licensee cannot be said to have "suffered" gambling activity to take place on the licensed premises. See Essex Holding Corp. v. Hock, 136 N.J.L. 28 (1947).

It has been long established that the mere possession or custody of lottery slips within a licensed premises constitutes a violation of Rule 7 of State Regulation No. 20. This rule has been affirmed judicially in State v. Zurawski, 89 N.J. Super. 488 (App.Div. 1965). However, while the rule is applicable to the instant matter, the facts herein are distinguishable from Zurawski, supra. There the police discovered a wagering slip on a shelf in a pantry and others secreted under a box on a kitchen shelf. Additionally, the licensee admitted being a bookmaker and having accepted wagers linked to the slips. (See Zurawski v. Linden, Bulletin 1617, Item 1.) In the present matter no secreted slips were found; they were part of a massed collection of trivia placed in open public view ostensibly to await the visit of the accountant. Again no testimony was offered by the Division indicating that the licensee or any employee or any patron was engaged in any gambling activity to which the slips could relate.

A careful evaluation and consideration of the testimony and the evidence adduced herein and the legal principles applicable thereto compel the conclusion that the Division has established the truth of the second charge herein, but not the first.

Absent prior record, it is recommended that the license be suspended for ten days on the second charge herein, and that

the first charge be dismissed. Re Schmale, Inc., Bulletin 1906, Item 11.

Conclusions and Order

Pursuant to Rule 6 of State Regulation No. 16, written exceptions to the Hearer's report, with supportive argument, were filed by the attorney for the Division. A written answer to the said exceptions, with supportive argument, was filed by the attorney for the licensee. In addition, oral argument was had before me and the parties were permitted to advance further argument in summation.

I have carefully examined the entire record herein, as a consequence of which I concur in the findings and conclusions of the Hearer with respect to his recommendation of the finding of guilt as to the second charge herein, but I am unable to agree with the Hearer's finding and recommendation of not guilty with respect to the first charge. The first charge alleges that on July 13, 1973, the licensees permitted gambling, i.e., they possessed gambling or "numbers" slips on the licensed premises, in violation of Rule 6 of State Regulation No. 20.

The central rationale of the Hearer in arriving at his recommendation that the first charge should be dismissed was that the Division had failed to establish that the licensees or their employees were aware that the lottery slips found on the side of the cash register located on the licensees back bar were, in fact, "numbers" bets.

My review of the testimony satisfies me that Victor Colon, co-licensee herein, did know what a "numbers" bet was, and in fact answered affirmatively to that effect "I might guess lottery" on cross examination. Furthermore, the slips were found on the back bar and were admittedly not within the reach of any one other than the licensees or their employees. Thus, it could not be reasonably maintained that these slips were surreptitiously placed there by a patron without the knowledge of the licensees or their employees.

As the Hearer pointed out "...it has been long established that the mere possession or custody of lottery slips within licensed premises constitutes a violation of the applicable rule." This rule was affirmed judicially in State v. Zurawski, 89 N.J. Super. 488 (App. Div. 1965).

I find, from the proofs, that the licensees possessed "numbers" slips. Such possession is sufficient to establish guilt regardless of whether they knew that they were "numbers" slips. In any event, Colon knew that there were "numbers" slips.

The exceptions note and the attorney for the Division persuasively emphasized the said principle in the oral argument before me. He cited State v. Lobato, 7 N.J. 137, 147-148 (1951) where in construing the offense of possession of lottery slips,

in violation of the Disorderly Persons Law. The court held that no proof was required to establish that the person possessing the slips was aware that they were illegal lottery slips. "The Legislature may make the doing of the prohibited act criminal or penal regardless of a corrupt or criminal purpose or even knowledge of the illegal character of the act; and in such case only the doing of the proscribed act need be shown." Ibid, 7 N.J. at 149.

According to the testimony herein, Victor Colon, while denying any personal knowledge of the "numbers" bets admitted that his brother-in-law Sal Torres was employed during the day time as a bartender in these premises, and in fact worked on the night in question. Nevertheless, notwithstanding the fact that Torres was still employed at these premises on the date of the hearing, and was available as a witness, he was not called upon to testify. No reason was given for the licensee's failure to call this important witness.

Under the factual circumstances herein, the licensees, at the very least, have the burden of establishing that no employee knew that the "numbers" slips found on the premises were, in fact, "numbers" slips. By their failure to produce Torres as a witness, the licensees have failed to discharge this burden.

The well established principle is that the unexplained failure of a party to produce a witness whom he would naturally be expected to call permits the inference that his testimony would have been unfavorable to that party. Schultz v. Hinz, 20 N.J. Super. 346, 351; Hickman v. Pace, 82 N.J. Super. 483, 490; Nehoc Tavern, Inc. v. Paterson, Bulletin 2112, Item 1; Paramount Wines and Liquors v. Paterson, Bulletin 2114, Item 5. Thus the proper adverse inference which may be fairly drawn from Torres' failure to testify was that he could not truthfully deny the testimony with respect to the presence of lottery slips which were found on the premises or to deny either the character of the slips or his knowledge of their presence. Thus, the failure to call him as a witness, in my view, a critical omission.

A licensee is responsible for the acts of its agents, servants or employees.

"The fact that the licensee did not participate in the violation or that his agent, servant or employee acted contrary to instructions given to him by the licensee or that the violation did not occur in the licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings."

Rule 33 of State Regulation No. 20; Olympic Inc. v. Director, Division of Alcoholic Beverage Control, 49 N.J. Super. 299; Benedetti v. Trenton, 35 N.J. Super. 30; Greenbrier, Inc. v. Hock, 14 N.J. Super. 39.

Finally, I would add that, from my perusal of the record, I seriously question the credibility of Colon's testimony in several important respects. To cite one instance: he states that, when he was arrested, he was not informed of the reason for his arrest; in fact he was first shown the lottery slips, when he was questioned at headquarters. This is contrary to the testimony of the officers who participated in the arrest, and does violence to human experience.

After considering the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's report and the exceptions filed with respect thereto, the summation of counsel, the written exceptions, the answer to the said exceptions, and the oral argument before me, I conclude that the Division has established the truth of both charges by a fair preponderance of the credible evidence. I, therefore, concur with respect to the second charge and reject the Hearer's recommendation with respect to the first charge and shall enter an order based upon my finding of guilt as to both charges.

I shall, thus, suspend the said license for ninety (90) days on the first charge which is the minimum penalty precedentally imposed by the Division for such violation, Re Ancorp National Services, Inc., Bulletin 2073, Item 5, and ten (10) days on the second charge, making a total suspension of one hundred days.

Accordingly, it is, on this 11th day of June 1974,

ORDERED that Plenary Retail Consumption License C-257, issued by the City Council of the City of Elizabeth to Victor Colon & Marino Murgos, t/a La Isla Club, for premises 163 Fulton Street, Elizabeth, be and the same is hereby suspended for the balance of the term, viz., 12 p.m. June 30, 1974, commencing at 2:00 a.m. Wednesday, June 19, 1974; and it is further

ORDERED that any renewal of the said license that may be granted be and the same is hereby suspended until 2:00 a.m. Friday, September 27, 1974.

Joseph H. Lerner
Acting Director

3. APPLICATION TO DIRECTOR FOR TRANSFER OF PLENARY RETAIL CONSUMPTION LICENSE OF COLUMBIAN CLUB OF CLARK.

In the Matter of an Application of)
Columbian Club of Clark, for a)
person-to-person Transfer of)
Plenary Retail Consumption License)
C-1, issued by the Township Committee)
of the Township of Clark to)
Wiktorya Dziedzic, t/a)
Augie's Lanes and Bar, Inc., for)
premises)
27 Westfield Avenue,)
Clark, N.J.)

CONCLUSIONS
and
ORDER

-----)
Shevick, Ravich, Koster, Baumgarten & Tobin, Esqs., by Michael N.)
Tobin, Esq., Attorneys for Objectors)
Francis C. Foley, Esq., Attorney for Transferor)
O'Brien, Daaleman & Liotta, Esqs., by Raymond D. O'Brien, Esq.,)
Attorneys for Transferee)

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

A hearing was held in this Division on an application by Columbian Club of Clark for a person-to-person transfer of a plenary retail consumption license of Wiktorya Dziedzic, t/a Augie's Lanes and Bar for premises 27 Westfield Avenue, to it. The application was made directly to the Director of this Division in accordance with State Regulation No. 4, because it appeared that a majority of the members of the local issuing authority, the Township Committee of the Township of Clark, are members of the prospective transferee and have declared themselves ineligible to entertain the said application.

At the said hearing, two objectors, officers and stockholders of Elba Realty Corporation and Baumels Liquors, Inc. entered objections and contended that the issuance of the license to the transferee, a non-profit organization consisting of more than four hundred members, changes the character of the license from that of a neighborhood tavern to a "club" license, which in turn will cause attendant traffic and parking problems.

There was no testimony or evidence offered to indicate that the applicant was unworthy or unfit to engage in the

alcoholic beverage industry, and there is no factual foundation in the record to support the contention that the license privilege will be abused. As was stated in Marsillo v. Randolph, Bulletin 1367, Item 3:

"The appellant is at least entitled to prove that he will sincerely and conscientiously live up to the rules and regulations (both State and municipal) governing the operation of the licensed premises."

Walban, Inc. v. Deal, Bulletin 1894, Item 2.

Conditions surrounding the operation of any licensed business may change affirmatively or negatively, and if such operation is in detriment of the public welfare, the solution then arises upon an application for renewal of license. Cf. Kademian v. Fort Lee, Bulletin 2027, Item 1.

Enrico Gannett, Eli Krinzman and Sergeant Fred Asal, who testified on behalf of objectors, Elba Realty Corporation and Baumels Liquor, Inc. emphasized the traffic and parking difficulties that plague businesses located on that portion of Westfield Avenue in Clark. The absence of adequate off-street parking has been noticed by the local officials. Westfield Avenue, as a County road, is increasing in daily usage as the public becomes more familiar with its adjacency to Route 287.

The applicant, Columbian Club of Clark, by its president, Joseph J. Cataline, indicated that its purchase of these licensed premises was motivated solely for the purpose of having a "club" location and that, in its use, there would be little significant change from the prior use.

The daughter of the transferor, Magdalena Versusky, stated that there exists a large room suitable for meetings and banquets, to which such use has been put in the past, without significant objection by any neighbors or local residents.

In any event, objections to person-to-person transfers relate, in the main, to the character and integrity of the proposed transferee. In this matter, no objector questioned the bona fides of the transferee, or challenged its intention to operate the licensed premises in accordance with law.

Parking inadequacies, traffic congestion and situations surrounding a licensed premises may be the basis for serious considerations that influence the determinations as to whether or not a license should be located at a given place but once the location of the premises is approved, the licensee obtains some stature in the eyes of the law and these rights that he has obtained should be considered. Twp. Committee of Lakewood Tp. v. Brandt, 38 N.J.

Super. 462 (App. Div. 1955). Thus, a right to apply for a bona fide transfer to a bona fide transferee should not be rejected lightly or without sufficient reason.

Licenses are issued annually; if appellant conducts these premises in violation of the law and in a manner contrary to the public interest, the renewal of such license may be denied by the respondent. Four Corners Bar v. Newark, Bulletin 1152, Item 1; 4 Leaf Liquors & Lounge v. Newark, Bulletin 1830, Item 1.

In accordance with the foregoing principles, it is, therefore, recommended that the application of Columbian Club of Clark for a person-to-person transfer to it of Plenary Retail Distribution License C-1 presently issued to Wiktorya Dziedzic, t/a Augie's Lanes and Bar for premises 27 Westfield Avenue, Clark, be approved.

Conclusions and Order

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

Having carefully considered the transcript of the testimony, the exhibits, the argument of counsel, the Hearer's report, all of which represent the entire record herein, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 18th day of June 1974,

ORDERED that the application of Columbian Club of Clark for transfer to it of Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Clark to Wiktorya Dziedzic, t/a Augie's Lanes and Bar, Inc., for premises 27 Westfield Avenue, Clark, be and is hereby approved subject to compliance by the transferee with all statutory requirements.

Joseph H. Lerner
Acting Director

4: APPELLATE DECISIONS - BARNES and MAZYCK v. JERSEY CITY.

Peter Barnes & Daisy Mazyck, t/a B & M Tavern)	
)	
Appellants,)	On Appeal
)	
v.)	CONCLUSIONS
)	and
Municipal Board of Alcoholic Beverage Control of the City of Jersey City,)	ORDER
)	
Respondent.)	
-----)	

Tulipan & Indursky, Esqs., by Alexander Kushner, Esq., Attorneys
for Appellants
Dennis L. McGill, Esq., by Bernard Abrams, Esq., Attorney for
Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from action of the Municipal Board of Alcoholic Beverage Control of the City of Jersey City (hereinafter Board) which, on February 11, 1974 suspended appellants' plenary retail consumption license, for thirty days effective March 4, 1974 upon finding the appellants guilty of a charge alleging that they permitted the presence of patrons in and upon the licensed premises during hours prohibited by the local ordinance. On March 6, 1974, the Director stayed the effective date of the suspension, pending the determination of the appeal.

In their petition of appeal, the appellants allege that the action of the Board was erroneous and against the weight of the evidence. The Board denied these contentions. A de novo hearing was held in this Division, with all parties afforded full opportunity to present evidence and cross-examine witnesses, pursuant to Rule 6 of State Regulation No. 15.

The Board introduced the testimony of two police officers of the Jersey City Police Department, Detective Patrick Rochford stated that at 2:00 a.m. on July 27, 1973 he investigated the licensed premises. He was admitted through

the front door at 2:10 a.m. and found more than a dozen people seated at the bar. There were both drinks and currency on the bar. One of the co-licensees Peter Barnes was emptying the cash register and a barmaid, Celistine Williamson, was apparently tending bar. He observed a patron drink from a glass of beer and noted the time then to be 2:15 a.m.

Detective John Harnett testified that he was in the company of Detective Rochford when the investigation was made. His statements fully corroborated those of Rochford.

Appellant, Peter Barnes testified that his premises are locked by 1:45 a.m. in order to insure compliance with the closing ordinance. He insisted that both detectives had come in and departed by 2:05 a.m. and that the management was in the process of gently evicting the patronage at that time. He admitted that, in addition to the employees, there were six or seven people in the premises on the arrival of the detectives and there were a few of them left there after the detectives departed.

The barmaid, Celistine Williamson, testified that, after the front door was locked, before 2:00 a.m., no further drinks were served and the patrons at the bar were requested to leave. She recalled that there were some people still at the bar after the detectives departed.

Bartender John Walker testified that the patrons were asked to depart about 1:45 a.m.; the detectives arrived and departed by 2:00 a.m. when some of the patrons were still there. By 2:20 a.m. the premises were cleaned and the bartender and barmaid departed.

The applicable ordinance (Sec. 4-13 (a) (1)) provides the following:

"No licensee shall: (1) Conduct the licensed business or suffer or permit any person whatsoever, except the licensee and his actual employees and agents in or upon the licensed premises during other than the following hours ... from 6:00 A.M. to 2:00 A.M...."

The testimony of all of the witnesses contained one constant; there were patrons within the licensed premises subsequent to 2:00 A.M. on the date in question. There was further uncontroverted testimony that there were glasses and change upon the bar when patrons were present after 2:00 A.M. In short, there was a clear violation of the ordinance.

I conclude therefore that appellant has failed to

sustain the burden of establishing that the Board's action was erroneous and against the weight of the evidence as required by Rule 6 of State Regulation No. 15.

Appellant finally contends that the penalty imposed was excessive. The measure or extent of a penalty to be imposed in disciplinary proceedings rests within the sound discretion of the issuing authority and will not be disturbed on appeal unless the evidence clearly shows an abuse of discretion. Schwartz v. Paterson, Bulletin 1577 Item 2.; Bacus v. Guttenberg, Bulletin 1332 Item 4.

The power of the Director to reduce or modify a penalty imposed by the local issuing authority will be sparingly exercised and then only with the greatest caution. Sventy & Wilson v. Point Pleasant Beach, Bulletin 1930 Item 1.

There appears to be no great or substantial variance between the penalty herein imposed by the Board and the precedential penalties imposed from time to time by this Division for such offense. Therefore, I find that this contention lacks merit.

It is, accordingly, recommended that an order be entered affirming the Board's action, dismissing the appeal, vacating the order staying the suspension pending the determination of this appeal, and fixing the effective dates for the suspension of license heretofore imposed by the Board and stayed by the said Order.

Conclusions and Order

Written 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 argument of counsel, the Hearer's Report and the exceptions filed thereto, which I find to be without merit, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein. I shall, therefore, reimpose the suspension of license for thirty (30) days.

Accordingly, it is, on this 7th day of June 1974,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Jersey City be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that my order of March 6, 1974, staying respondent's order of suspension pending determination of this appeal, be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-82, issued by the Municipal Board of Alcoholic Beverage Control to Peter Barnes and Daisy Mazyck, t/a B & M Tavern for premises 68 Bergen Avenue, Jersey City, be and the same is suspended for the balance of its term, viz., midnight, June 30, 1974, commencing at 2:00 a.m. on Wednesday, June 19, 1974; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. on Friday, July 19, 1974.

JOSEPH H. LERNER
ACTING DIRECTOR

5. APPELLATE DECISIONS - BARNES and MAZYCK v. JERSEY CITY - ORDER STAYING SUSPENSION PENDING APPLICATION TO PAY FINE IN LIEU OF.

Peter Barnes & Daisy Mazyck,)	
t/a B & M Tavern)	
) Appellants,)	On Appeal
))	
) v.)	O R D E R
))	
Municipal Board of Alcoholic)	
Beverage Control of the City)	
of Jersey City,)	
) Respondent.)	
-----)	

Tulipan & Indursky, Esqs., by Alexander Kushner, Esq., Attorneys for Appellants
Dennis L. McGill, Esq., by Bernard Abrams, Esq., Attorney for Respondent

BY THE DIRECTOR:

Conclusions and Order were entered June 7, 1974 where- by appellant's Plenary Retail Consumption License C-82, for premises, 68 Bergen Avenue, Jersey City, was suspended for the balance of its term commencing at 2:00 a.m. on Wednesday, June 19, 1974, with the further suspension of any renewal li- cense that may be granted until 2:00 a.m. on Friday, July 19, 1974.

Subsequent to the entry of the above Order, the appellant applied for the imposition of a fine in lieu of suspension pursuant to the provisions of Chapter 9 of the Laws of 1971. I shall, therefore enter an order staying the suspension hereto- fore imposed pending my consideration of the aforesaid applica- tion.

Accordingly, it is, on this 14th day of June 1974,

ORDERED that my Order of suspension dated June 7, 1974 of Plenary Retail Consumption License C-82, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Peter Barnes & Daisy Mazyck, t/a B & M Tavern for premises 68 Bergen Avenue, Jersey City, be and the same is hereby stayed until the entry of a further order herein.

JOSEPH H. LERNER
ACTING DIRECTOR

6. APPELLATE DECISIONS - BARNES and MAZYCK v. JERSEY CITY - ORDER.

Peter Barnes & Daisy Mazyck,)
t/a B & M Tavern)

Appellants,)

v.)

Municipal Board of Alcoholic)
Beverage Control of the City)
of Jersey City,)

Respondent.

On Appeal

O R D E R

Tulipan & Indursky, Esqs., by Alexander Kushner, Esq., Attorneys
for Appellants

Dennis L. McGill, Esq., by Bernard Abrams, Esq., Attorney for
Respondent

BY THE DIRECTOR:

On June 14, 1974, an Order was entered herein staying my June 7, 1974 Order of suspension of appellants' plenary retail consumption license for thirty days, pending consideration of appellants' application for the imposition of a fine in lieu of suspension pursuant to the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered appellants' application for the imposition of a fine in lieu of suspension aforesaid, I have determined to accept an offer in compromise by the appellants to pay a fine of \$1,200.00 in lieu of suspension of license for thirty days.

Accordingly, it is, on this 26th day of July, 1974

ORDERED that the payment of a fine of \$1,200.00 by the appellants is hereby accepted in lieu of suspension of license for thirty (30) days.

Leonard D. Ronco

LEONARD D. RONCO
DIRECTOR