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

BULLETIN 2234 August 9, 1976

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ITEM

STATE OF NEW JERSEY
Department of Law and Public Safety
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August 9, 1976

1. APPELLATE DECISIONS - HARRY'S BAR and GRILL, INC. v. ROSELLE PARK.

Harry's Bar and Grill, Inc. t/a The Cannonball,	
Appellant,	On Appeal
v.	CONCLUSIONS AND ORDER
Mayor and Council of the Borough of Roselle Park,	
Respondent.	

Henry Edward Gabler, Esq., Attorney for Appellant
A. Raymond Guarriello, 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 Mayor and Council of the Borough of Roselle Park (hereinafter Council) which suspended appellant's Plenary Retail Consumption License C-5, for premises 404 Westfield Avenue, Roselle Park, for thirty days following a finding that on April 21, 1975, appellant permitted the sale of alcoholic beverages to two minors; in violation of both the applicable municipal ordinance and N.J.S.A. 33:1-77.

Upon the filing of this appeal, the Director, by order dated October 28, 1975 stayed the Council's order of suspension pending the determination of this appeal.

Appellant, in its petition of appeal, contends that the action of the Council was erroneous in that the matter was prejudged; the findings of the Council were arbitrary; and the suspension imposed was excessive. In its answer, the Council denied these contentions.

At the de novo hearing, the parties were afforded full opportunity to present evidence and cross-examine witnesses pursuant to Rule 6 of State Regulation No. 15. A Stipulation of Facts entered into by counsel for the parties, was introduced in evidence pursuant to Rule 8 of State Regulation No. 15 and made the basis for determination of the issues. This was supplemented by oral argument.

The stipulation of facts established that Donald G--- and Kathleen M---, conceded to be minors, testified that they had been in appellant's premises on the evening of April 21, 1975 and consumed beer. The bartender, William Bowman, testified that he rejected Donald as a patron because the identification produced by him was that of his deceased brother, with whom Bowman was acquainted. Donald left the premises, and when he later attempted to return, he was refused admission. Councilwoman McKenney admitted having the police reports and statements prior to the hearing by the Council.

I.

Appellant, in its oral argument urges that since the bartender rejected the male minor's attempt to purchase beer through his production of a false identification, any allegation by such minor that he consumed beer in the establishment should be given no credence. Such argument is not valid.

The candid admission by both minors that they consumed beer in appellant's premises is an admission against interest.

A violation results when a minor consumes an alcoholic beverage because the law provides that no licensee shall "allow, permit or suffer" the service or delivery of alcoholic beverages directly or indirectly to any minor on the licensed premises or the consumption of such beverages by a minor on such premises. See Essex Holding Corp. v. Hock, 136 N.J.L. 28 wherein it was held that the word "suffer" imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. See also The Bunny Hutch, Bulletin 1722, Item 2 and cases cited therein. Thus, I find that a violation has been established.

In determining this matter on the merits I observe, preliminarily, that we are dealing with a purely disciplinary action; such action is civil in nature and not criminal. In re Schneider, 12 N.J. Super, 449 (App. Div. 1951). Thus the proof must be supported only by a preponderance of the credible evidence. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

It is firmly settled that the Director's function on appeal, is not to reverse the determination of the municipal 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 respondent. Schulman v. Newark, Bulletin 1620, Item 1; Monteiro v. Newark, Bulletin 2073, Item 2, and cases cited therein.

The burden of establishing that the Board acted erroneously and in an abuse of its discretion rests with appellant, Rule 6 of State Regulation No. 15. The ultimate test in these matters 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? The Director should not reverse unless he finds as a fact that there was a clear abuse of discretion or unwarranted finding of fact or mistake of law by the Board. Cf. Hudson-Bergen County Retail Liquor Stores Ass'n. v. Hoboken, 135 N.J.L. 502.

I find no evidence to sustain appellant's assertion that the Council prejudged this matter and that it was improperly motivated in arriving at its determination that appellant was guilty of the subject charge.

II.

Appellant urges that the suspension assessed herein was excessive.

The penalty to be imposed in disciplinary proceedings instituted by the Council rests within its sound discretion in the first instance; and the power of the Director to reduce or modify it on appeal should be exercised sparingly and only where such penalty is manifestly unreasonable and clearly excessive. Harrison Wine and Liquor Company, Inc. v. Harrison, Bulletin 1296, Item 2; Rajah Liquors v. Div. of Alcoholic Beverage Control, 33 N.J. Super. 598 (App. Div. 1955); Gach v. Irvington, Bulletin 2058, Item 1, and cases cited therein.

Under the facts and circumstances herein, I find that the Council acted soundly in its assessment of the penalty. Such action was eminently dictated as the proper penalty, and there is no basis for reversal or even modification on this appeal.

I conclude that appellant has failed to sustain the burden of establishing that the Council's action was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15. I recommend, therefore, that an order be entered affirming the Council's action dismissing the said appeal, vacating the Order staying the suspension, and reimposing the aforesaid suspension of license for thirty days.

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 exhibit, the argument of Counsel in Summation, 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 11th day of May 1976,

ORDERED that the action of the Council in finding appellant guilty of the charge herein 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 dated October 28, 1975, staying Council's action pending the determination of this appeal, be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-5, issued by the Mayor and Council of the Borough of Roselle Park to Harry's Bar and Grill, Inc., t/a The Cannonball, for premises 404 Westfield Avenue, Roselle Park, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. on Tuesday, May 25, 1976 and terminating at 2:00 a.m. on Thursday, June 24, 1976.

Joseph H. Lerner
Acting Director

2. DISCIPLINARY PROCEEDINGS - LEWD ACTIVITY - INDECENT ENTERTAINMENT - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against Country Hearth, Inc. t/a Drop Inn Rte. 34 (Box 185c) RD #1 Madison Township P.O. Matawan, N. J., Holder of Plenary Retail Consumption License C-30, issued by the Township Committee of the Township of Madison.	CONCLUSIONS and ORDER

Lepis & Lepis, Esqs., by John J. Curley, Esq., Attorneys for Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleads "not guilty" to the following charges:

1. On Tuesday, July 22, 1975, you allowed permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you allowed, permitted and suffered male persons, while performing in and upon your licensed premises for entertainment of your customers and patrons, to engage in conduct, by themselves and in association with customers and patrons in and upon your licensed premises, of a lewd, indecent and immoral manner and to commit and engage in acts, gestures and movements of and with their hands, legs and other parts of their bodies, by themselves and in association with customers and patrons in a manner and form having lewd, indecent and immorally suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20.

2. On Tuesday, July 29, 1975, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you allowed, permitted and suffered male persons, while performing in and upon your licensed premises for entertainment of your customers and patrons, to engage in conduct, by themselves and in association with customers and patrons in and upon your licensed premises, of a lewd, indecent and immoral manner and to commit and engage in acts, gestures and movements of and with their hands, legs and other parts of their bodies, by themselves and in association with customers and patrons in a manner and form having lewd, indecent and immorally suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20.

I

At the onset of this hearing, the licensee objected to these proceedings and to my presiding at the hearing because of the alleged merger of functions in this Division. It is contended that the "investigating officers and the hearing officers are all part of the same Agency, and that this Agency is a part of the State, and the A.G's office also has a supervisory capacity over the Division and over the investigating officers."

This contention is without merit, and has been found to be without legal substance in numerous adjudicated matters. In In re Larsen, 17 N.J. Super. 564 (App. Div. 1952) the court stated:

> "...in the evolution of governmental administrative and supervisory agencies, the Congress and the legislatures have constitutionally and quite uniformly delegated to such agencies the power to adjudicate controversies arising within the area of the particular administrative field."

The court cited Brinkley v. Hassig, 83 Fed. 2d 351, 356 (C.C.A. 10, 1936):

> "The spectacle of an administrative tribunal acting as both prosecutor and judge has been the subject of much comment, and efforts to do away with such practice have been studied for years. The Board of Tax Appeals is an out-

> standing example of one such successful effort. But it has never been held that such procedure denies constitutional right. On the contrary, many agencies have functioned for years, with approval of the courts, which combine these roles. The Federal Trade Commission investigates charges of business immorality, files a charge in its own name as plaintiff, and then decides whether the proof sustains the charges it has preferred. The Interstate Commerce Commission and State Public Service Commissions may prefer complaints to be tried before themselves."

Added the court, in resolution of this contention:

> "The wisdom and prudence of the legislative delegation of such a broad variety of functions to an administrative executive or board are not justiciable subjects."

Recently, the court in Kelly v. Sterr, 119 N.J. Super. 272,274-275 (App. Div. 1972), aff'd 62 N.J. 105 (1973), cert. dn. 414 U. S. 822, (1973), considered an appeal by a State Police officer from a conviction after a departmental trial, presided over by a State Police captain. The appellant complained that the hearing "did not comport to due process". The court held that where rules allegedly violated by State Police officers were promulgated in accordance with legislative authority; the policeman had been notified of the charges made against him; was represented by counsel; had the opportunity to be heard at a departmental hearing and to be confronted with witnesses and to cross-examine witnesses; and a factual determination was made, the policeman was thereby accorded procedural due process notwithstanding that officers who investigated the case, as well as the officer who heard and decided the case, but who was not the investigating officer, were members of the State Police.

The court pointed out that "The hearing officer was appointed pursuant to legislative authority, and his findings reviewed and concurred in by the appropriate reviewing authority. Except where the Legislature has otherwise provided, such has traditionally been the accepted practice in administrative hearings, and we see no infirmity therein. See In re Bernaducci, 85 N.J. Super. 152(App. Div. 1964), certif. den. 44 N.J. 402 (1965) and cases cited therein."

See also In re Information Resources, 126 N.J. Super. 362 (App. Div. 1973); Re Reingold, Bulletin 2212, Item 2.

II

Pursuant to a specific assignment to investigate alleged lewd performances at the subject premises, female ABC agents W and P visited the said premises on Tuesday, July 22, 1975 at approximately 9:10 p.m.; and their testimony may be summarized as follows:

Upon entering the premises, separately, they each paid a dollar admission fee and seated themselves at the main bar. At the same time a male ABC Agent took a position at a point of observation at the outside of the premises.

The main bar is U-shaped and there is a carpeted dance stage at the end of the bar. Tables and chairs are located along the main entrance wall. At this time, there were approximately 20 female patrons observed, and at the height of activity the patronage increased to 30 female patrons as well as approximately 4 male patrons, who were seated at the rear bar. The bartender at the main bar was a male, later identified as Frank Masi.

They observed that there was a male go-go dancer named Phil who was clad in a black bikini-type bathing costume. During his performance he was observed to bring both his hands over the area of his penis and testicles.

At that moment, a young female patron walked onto the stage and placed a $1.00 bill into the inside of his bikini costume. His dance consisted of bumps and grinds, simulating intercourse, to the applause of the female patrons. At the conclusion of the performance, Phil left the platform and mingled with the patrons.

The next male go-go dancer to perform was identified as Tony. Clad in light blue jeans, a long sleeve sport shirt and white canvas loafers, Tony commenced his performance. As he danced, he removed his shirt and continued to dance to the music supplied by the juke box. He then removed his blue jeans and loafers and was clad in a black bathing suit. Upon removing the black bathing suit, he displayed a multi-colored suit which he removed, and he was then clad in a very brief white bikini-type suit which barely covered his pubic area. He then removed this suit and was clad in a gold metalic suit.

At this point, one female patron went onto the stage and began to dance the bumps with this performer. Tony got down on his knees, projected his head back and forth in the area of this female's vagina, and made motions and movements of his mouth to simulate oral sex (cunnilingus). When the female left the platform,

Tony continued his dance by simultaneously pulling down the sides of his metalic bikini so that his buttocks were exposed. Numerous females placed paper currency in the inside of his bikini. This performance occasioned loud shouts on the part of the female patrons to "take it off."

After Tony concluded his performance, Phil re-entered the stage clad in blue jeans and an open sport shirt. A female patron, later identified as Cathy,joined Phil in his act and began to caress his thighs, placing paper currency into the inside of his bikini, which was the only thing worn by him at this time, after he removed his jeans and shirt.

Another female patron, later identified as Sue, stepped onto the stage and started dancing with Phil.

During the dance he got down on his knees and made motions with his mouth directed at her pubic area. The motions appeared to be simulation of oral sex (cunnilingus). While Sue was on the stage, Cathy was making various sounds into a hand microphone which simulated the sounds of an individual apparently having an orgasm. While shewas dancing, Cathy stood in front of Phil and thrust her pubic area into Phil's pubic area.

She then left the stage and was joined by Tony who is a principal of the corporate licensee. Tony, using the microphone, asked Cathy and Sue their names. Cathy in reply to questions about the show, among other things, said "I'm Horney"; and Sue echoed, "I'm horney too." They were asked how they liked it; Sue replied "Morning, noon and night." The agents, thereupon, left the premises.

They returned to these premises on July 29, 1975, at about 9:20 p.m. Agent W entered the premises first while Agents P and G remained outside at points of observation. Shortly thereafter, Agent P entered the premises and paid one dollar admission. She took her seat at the bar in the main bar area.

During the height of the activity there were approximately 65 female patrons and 6 male patrons. Larry Peterson, previously identified as Tony in the Agents' reports on the activity of July 22, 1975, was engaged in his go-go dancing routine. Clad in a white bikini suit, he placed a white towel between his legs which he rubbed back and forth in a suggestive manner with his hands over his buttocks and genitals. He then turned his back to the audience and pulled down the back portion of his costume exposing most of his buttocks, while the female patrons began to shout, "take it off."

After he completed his dance, a second male dancer began to perform. This dancer, later identified as George Buckzkowski wore a red bathing suit and, as he commenced his performance, a female patron shouted that she would give him $20.00 if he removed his costume. A male later identified as Thomas Sorrentino, a principal officer of the corporate licensee shouted, "Come on George, let's get them going."

George thereupon started to simulate sexual intercourse by embracing a pole which was located at the left side of the stage, lifting his right leg and thrusting his genitals into the pole in a suggestive manner. At that point, a female patron picked up a hand microphone and in the manner of an auctioneer exhorted the patrons: "come on girls, do we have a dollar for George. Let's go girls a dollar for George." George shouted in a loud voice, "Come on girls, let the juice flow." At the same time, he received paper currency from a female patron who placed the money inside his bikini costume. Agent W departed the premises at about 10:10 p.m.,followed shortly by agent P who met with ABC agent G on the outside of the premises.

The licensee called as its witnesses 7 female patrons, all of whom testified that either on July 22, or July 29th they witnessed the performances. In their opinion, they saw nothing objectionable or offensive in these shows, and they did not consider that these performances constituted immoral activity. Some of them testified that they did not actually see patrons placing their hands in the inside of the bikini costume of the male dancers.

These witnesses uniformly acknowledged that the account of the activity on the date charged herein,given by the agents was accurate; but Mrs. Cassidy "found it funny and amusing and entertaining."

As the final witness for the licensee, Dr. Henry Tugender gave the following account: He is a practicing psychologist in New Jersey and other States, and has worked as a clinical psychologist at the Rochester State Hospital, at Middlesex County Mental Health Clinic and at the Morton Clinic as a part time employee engaged in hypnotherapy.

He is familiar with studies of prurient stimuli and with studies relating to what people generally consider lewd and obscene activity. In his opinion, the activity as described by the agents was neither lewd, obscene or immoral.

On cross examination, he admitted that he did not observe the performances on the nights charged herein. However, he observed performances on other occasions in order to "convince myself that this was non-prurient and not lewd and so forth...."

The witness frankly acknowledged that he did not read nor is he familiar with any of the reported decisions in this Division or in the New Jersey courts which considered the matters of alleged lewd performances and obscenity on liquor licensed premises.

Specifically questioned whether the insertion of paper currency by female patrons in the bikini-type costumes in the pubic

area of the male dancers in liquor licensed premises would, in his opinion, be considered lewd, immoral and obscene, replied: "That would be probably reprehensible behavior, if it was an actual overt way of placing money in or on or near the genitals of the dancer. It would probably be a kind of behavior, I guess, we normally wouldn't countenance."

He was then asked whether he felt certain activity which might not be prohibited on other premises might well be considered lewd and immoral on liquor licensed premises, and that such activity should be more carefully circumscribed or proscribed on liquor licensed premises. His reply: "Probably. It's reasonable to assume that, where liquor is served, we probably need more safeguards than where liquor is not being served. I think any reasonable person would probably answer that in the affirmative."

III

We are dealing here with a purely disciplinary matter and its alleged infraction. Such measures are civil in nature, and not criminal. Kravis v. Hock, supra. Thus, the Division need establish its case only by a fair preponderance of the believable evidence. 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 other words, the finding must be based upon a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

In appraising the factual picture presented herein, the credibility of witnesses must be weighed. Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. It must be such as the common experience and observation of mankind can approve as probable in circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961).

Using the said principle as a guide, I have carefully evaluated the extensive testimony produced both on behalf of the Division and the licensee and have had the opportunity to observe their demeanor as they testified. I am persuaded that the testimony of the ABC agents was forthright, concise, credible and fully supportive of the charges.

There was no showing of any improper motivation on their part and no bias against the licensee. They were assigned to pursue an investigation and it was natural that their observation should be directed at the full activities during their visit. Consequently, their testimony was of a positive nature, clear and entirely corroborative.

In fact, the testimony of the female patrons produced by the licensee does not challenge the truth or accuracy of the testimony of the two female agents. In their opinion, however, the actions and the activities as described by the agents did not constitute lewd

and immoral activity. Obviously,their opinion is not binding upon the Hearer or the Director in the determination of this matter.

With respect to the testimony of the licensee's expert witness, Dr. Tugender admitted that, if the activity occurred as described by the agents, particularly with reference to the insertion of paper currency on the inside of the bikini-type trunks of the dancers by female patrons, such conduct would be lewd and obscene. Moreover, he stated that it would constitute lewd or obscene activity "no matter where it took place," but surely on liquor licensed premises.

The charges herein allege a violation of Rule 5 of State Regulation No. 20 which reads as follows:

> "RULE 5. No licensee shall engage in or allow, permit or suffer in or upon the licensed premises any lewdness, immoral activity, or foul, filthy, indecent or obscene language or conduct, or unnecessary noise; nor shall any licensee allow, permit or suffer the licensed place of business to be conducted in such manner as to become a nuisance."

As the court stated in Re Club "D" Lane, Inc., 112 N.J. Super. 577 (App. Div. 1971):

> "We are not here concerned with the censorship of a book, nor with the alleged obscenity of a theatrical performance. 'Our immediate interest and attention is confined to the disciplinary action taken against the licensee of a public tavern, whose priveleges may lawfully be tightly restricted to limit to the utmost the evils of the trade.' McFadden's Lounge, Inc. v. Div. of Alcoholic Beverage Control, 33 N.J. Super. 61, 68 (App. Div. 1954). Lewdness or immorality for the purpose of alcoholic beverage control may be determinable on a distinctly narrower basis than for purposes of regulation or commercial entertainment generally. Davis v. New Town Tavern, 37 N.J. Super. 376, 378 (App. Div. 1955); Jeanne's Enterprises, Inc. v. New Jersey, etc., 93 N.J. Super. 230 (App. Div. 1966)."

See Re Starshock, Inc., Bulletins 2101, Item 2 and 2111, Item 1.

I find, as a fact, that the licensee allowed, permitted and suffered lewdness and immoral activity on the licensed premises with audience participation in the manner set forth in subject charges, and as detailed by Division witnesses. Thus, I conclude that the charges herein have been established by a fair preponderance of the credible evidence. I, therefore, recommend that an Order be entered finding the licensee guilty of the said charges.

IV

Licensee has no prior adjudicated record. It is, accordingly, recommended that the license be suspended for sixty (60) days. Re: Reingold, Supra.

Conclusions and Order

Written Exceptions to the Hearer's report were filed by the licensee, and a Written Answer to the said Exceptions was filed on behalf of the Division pursuant to Rule 6 of State Regulation No. 16.

In its Exceptions, the licensee asserts that the conclusion reached in the Hearer's report, recommending that the licensee be found guilty of the charge was erroneous. In support of that contention, the licensee seeks to translate a host of minor variables and apparent conflicts between the testimony of the ABC Agents, into a conclusion of the licensee's innocence.

For example, it seeks to characterize the motions of the performer, described by the Agents as "bumps" as a conventional dance, whereas the description of the performance was never intended, by its very nature, to be that of a conventional dance.

Further, the licensee attempts to characterize a performer's particularly sordid motions with a pole as the dancer "caressing the pole". This is untenable. In sum, such characterizations of what was patently a disgustingly sordid performance, are unacceptable rationalizations of the reality of the lewdness of the acts of the performers. In fact, the testimony of all seven female witnesses corroborated the testimony of the Division witness. Indeed, the testimony of the licensee's own expert Dr. Tugender, supports the finding that a lewd show occurred.

An examination of his testimony indicates that he had come prepared to express his opinions as to a performance which he had observed at the licensee's premises at a date well after the dates relevant to the charges. Dr. Tugender then eventually came to understand that he was required to express his opinion as to the events which occurred on the night in question.

In this respect, it is significant that he answered the last question of licensee's counsel put to him in the following manner:

> "Q Assuming all that the judge has questioned you about, may I just ask, taking all that into consideration and again recalling the testimony of the two State witnesses this morning, do you find that the activity that should be proscribed in a place where liquor is served?
>
> A In terms of what I witnessed subsequent to the alleged activity in contrast to the described activity, I personally must say that the thing to me has a sort of comical entertainment aspect rather than anything that could be characterized as being dangerous. This is my professional opinion. (Emphasis supplied.) T. 97-4 to 13."

I have analyzed and evaluated the said Exceptions, and find that they are lacking in merit. Thus, having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's report, the Exceptions filed with respect thereto, and the Answer to the said Exceptions, I concur in the findings and recommendations in the Hearer's report, and adopt them as my conclusions herein.

Accordingly, it is, on this 20th day of May 1976,

ORDERED that Plenary Retail Consumption License C-30, issued by the Township Committee of the Township of Madison to Country Hearth, Inc., t/a Drop Inn, Route #34 (Box 185c), RD #1 Madison Township, P.O. Matawan, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. on Monday, May 31, 1976 and terminating at 2:00 a.m. Wednesday, June 30, 1976.

Joseph H. Lerner
Acting Director

3. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against

Country Hearth, Inc.
t/a Drop Inn
Rte. 34 (Box 185c)
RD #1 Madison Township
P.O. Matawan, N.J.,

Holder of Plenary Retail Consumption License C-30, issued by the Township Committee of the Township of Madison.

AMENDED ORDER

Lepis & Lepis, Esqs., by John J. Curley, Esq., Attorneys for Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

On May 20, 1976, Conclusions and Order were entered herein suspending the subject license for thirty days, commencing on Monday, May 31, 1976, after licensee was found guilty of a charge alleging that it permitted and suffered lewdness and immoral activity in and upon its licensed premises; in violation of Rule 5 of State Regulation No. 20. Re Country Hearth, Inc., Bulletin 2234, Item 2.

It now appears that the suspension for a period of thirty days was imposed inadvertently, in view of the fact that the recommended suspension for sixty days, by the Hearing Officer, was adopted as the Director's conclusions herein. Therefore, an Amended Order will now be entered imposing a corrected suspension for a period of sixty days as recommended. Since the suspension has not actually commenced, to date, the licensee has, of course, suffered no harm by reason of the said unintentional error.

Accordingly, it is, on this 26th day of May 1976,

ORDERED that the Conclusions and Order entered herein on May 20, 1976, be and the same is hereby amended as follows:

ORDERED That Plenary Retail Consumption License C-30, issued by the Township Committee of the Township of Madison to Country Hearth, Inc., t/a Drop Inn, Route #34 (Box 185c), RD #1 Madison Township, P.O. Matawan, be and the same is hereby suspended for the balance of its term, viz., midnight, June 30, 1976, commencing at 2:00 a.m. on Monday, May 31, 1976; and it is further

ORDERED that any renewal of the said license which may be granted herein, be and the same is hereby suspended until 2:00 a.m. Friday, July 30, 1976.

Joseph H. Lerner
Acting Director

4. STATE LICENSES - NEW APPLICATION FILED.

Beverage World of New Jersey, Inc.
Route #70 & Route 73 Intersection
Marlton Circle
Marlton, New Jersey
Application filed August 6, 1976 for person-to-person and place-to-place transfer of State Beverage Distributor's License SBD-14 from Anthony J. Ciccia, t/a New Milford Home Beverages, 26 E. Madison Avenue, Dumont, New Jersey.

Joseph H. Lerner
Director