

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

BULLETIN 2279

March 9, 1978

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - DANNY'S LOUNGE, INC. v. PATERSON.
2. DISCIPLINARY PROCEEDINGS (Harmony Township) - HOURS VIOLATION -  
IMPROPER SALE FOR OFF-PREMISES CONSUMPTION - HINDERED INVESTIGATION -  
PERMITTED FOUL LANGUAGE WITHIN PREMISES - FAILURE TO HAVE EMPLOYEES  
LIST AVAILABLE - CHANGE OF PLEA TO NON VULT BY TRANSFEREE - FINE  
ACCEPTED IN LIEU OF SUSPENSION OF LICENSE FOR 25 DAYS.
3. DISCIPLINARY PROCEEDINGS (Elizabeth) - LEWDNESS - INDECENT ENTERTAINMENT -  
CHARGES UNPROVEN - DISMISSED.
4. APPLICATION FOR SPECIAL PERMIT EXTENSION - COLLEGE CENTER - RUTGERS  
UNIVERSITY - APPLICATION GRANTED.
5. DISCIPLINARY PROCEEDINGS (Englewood) - CLUB LICENSE NOT IN BONA FIDE  
HANDS IN VIOLATION OF STATE REGULATION NO. 7 and N.J.S.A. 33:1-12(5) -  
HINDERING INVESTIGATION - PRIOR DISSIMILAR RECORD - 65 DAYS SUSPENSION  
LESS 13 DAYS FOR PLEA.
6. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 2279

March 9, 1978

1. APPELLATE DECISIONS - DANNY'S LOUNGE, INC. v. PATERSON.

#4076	}	
Danny's Lounge, Inc.,		
t/a Danny's Lounge	}	On Appeal
Appellant,	}	CONCLUSIONS
v.	}	and
Municipal Board of		
Alcoholic Beverage Control	}	ORDER
of the City of Paterson,		
	}	
Respondent.		

-----  
Thomas Hood, Esq., Attorney for Appellant.  
Joseph A. LaCava, Esq., by Ralph L. DeLuccia, Jr., Esq.,  
Attorneys for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control of the City of Paterson (hereinafter Board) which, on January 26, 1977, denied appellant's application for a place-to-place transfer of its Plenary Retail Consumption License, C-164, from premises 791 Main Street to 762 Main Street, Paterson.

The appellant contends that the Board's action is unreasonable and, more particularly that, by the terms of the applicable local ordinance, the Board is mandated to approve appellant's application for such transfer. The Board defends its denial of appellant's application for reasons set forth in its resolution, hereinafter discussed.

This appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the parties to introduce evidence and to cross-examine witnesses. Additionally, a transcript of the proceedings before the Board was introduced into evidence in accordance with Rule 8 of the State Regulation No. 15.

At the outset of the hearing, from the representations of counsel, it was apparent that there existed no basic factual issue. It was uncontroverted that the appellant held its plenary retail consumption license at premises 791 Main

Street, Paterson, until possession was lost in consequence of the extensive urban renewal program in effect in the area.

At the hearing in this Division, appellant introduced the testimony of Danny Riccardo, husband of Rose Riccardo who owns all of the capital stock of the corporate appellant. He had determined that the distance between the prior location and that for which the current application was made, is two hundred and sixty-five (265) feet. The proposed location is adjacent to an existing tavern. There are approximately twenty-five taverns already existing on Main Street. He and his wife have been searching for another suitable location for the past two years.

The Board provided a list of adjacent licensed premises and a map of a part of the city showing their locations relative to the proposed premises. Further, counsel for the Board emphasized that the position of the Board is best expressed by its resolution denying appellant's application. That Resolution is abstracted as follows:

"Whereas, the proposed new location of this transfer would result in the license being situated immediately adjacent to Plenary Retail Consumption License C-306, issued to Arthur H. Bailey for premises at 764 Main Street, Paterson, New Jersey; and

Whereas, the Board's records indicate that in addition to Plenary Retail Consumption License C-306, there are seven additional Plenary Retail Consumption licenses and one Plenary Retail Distribution license located within a radius of approximately 1100 feet from the proposed new location; and

Whereas, it is the feeling of this Board to situate 2 licenses adjacent to one another would not be in the best interest of the citizens of that community; and

Whereas, the proposed new location is also located approximately one block from St. Joseph's Hospital and Medical Center; and

Whereas, Sister Jane Frances, Administrator of the said Hospital has notified the Board that the Hospital is in objection to the proposed transfer, inasmuch as it would be located such a short distance from the Hospital; and

Whereas, it is the opinion of the Board that a need does not exist for an additional tavern in that area to service the community, particularly since it would be located immediately adjacent to another licensee; and

Whereas, the applicant has not shown that it was not able to find another suitable location in which to situate its license;...

# I

The burden of establishing that the action of the Board was erroneous and should be reversed rests with appellant. Rule 6 of State Regulation No. 15.

The decision as to whether or not a license should be transferred to a particular locality rests within the sound discretion of the municipal issuing authority in the first instance. Hudson-Bergen County Retail Liquor Stores Assn. v. North Bergen, Bulletin 997, Item 2; Paul v. Brass Rail Liquors, 31 N.J. Super. 211 (App. Div. 1954); Biscamp v. Township Council of the Township of Teaneck, 5 N.J. Super. 172 (App. Div. 1949).

Each municipal issuing authority has wide discretion in the transfer of a liquor license, subject to review by the Director. However, action based upon such exercise of discretion will not be disturbed in the absence of clear abuse. Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484 (1962). As Justice Jacobs pointed out in Fanwood v. Rocco, 33 N.J. 404, 414 (1960):

Although New Jersey's system of liquor control contemplates that the municipality shall have the original power to pass on an application for a tavern or package store license or the transfer thereof, the municipality's action is broadly subject to appeal to the Director of the Division of Alcoholic Beverage Control. The Director conducts a de novo hearing of the appeal and makes the necessary factual and legal determinations on the record before him... Under his settled practice, the Director abides by the municipality's grant or denial of the application so long as its exercise of judgment and discretion was reasonable.

Later restated in Lyons Farms Tavern, Inc. v. Mun. Bd. of Alcoholic Beverage Control, Newark, 55 N.J. 292, 303 (1970), the court opined:

The conclusion is inescapable that if the

legislative purpose is to be effectuated the Director and the courts must place much reliance upon local action.... Although the Director conducts a de novo hearing in the event of an appeal, the rule has long been established that he will not and should not substitute his judgment for that of the local board or reverse the ruling if reasonable support for it can be found in the record.

In short, the action of the municipal issuing authority should not be reversed by the Director unless he finds the "act of the Board was clearly against the logic and effect of the presented facts." Hudson-Bergen, &c., Assn. v. Hoboken, 135 N.J.L. 501, 511 (E. & A. 1947); Cf. Teofilak v. Wildwood, Bulletin 1782, Item 2.

The instant matter is basically identical to countless other appeals to the Director upon denial of transfer applications. His settled practice is not to substitute his judgment for that of the local issuing authority unless he finds a manifest abuse of discretion by said authority. W.I.C.K., Inc. v. Chatham, Bulletin 2253, Item 2; Vargas v. Union City, Bulletin 2237, Item 4; Brick Church Pub v. East Orange, Bulletin 2232.

The Board here carefully considered appellant's application. It was attuned to the written petition of objectors in the form of letters received, and it considered the impact upon the community of the proposed move to a place immediately adjacent to an existing licensed premises. The proposed location was found not to be in the best interest of the public and the Board unanimously voted to deny the application for transfer.

Since it is uncontroverted that the Board's motives are pure and no abuse of discretion has been shown, the Director's function on appeal, as hereinabove stated, is to affirm the Board's action as a proper exercise of its discretion.

Accordingly, I find that the appellant has failed on the merits of the matter to meet the burden of establishing that the Board's action was erroneous and should be reversed as required by Rule 6 of State Regulation No. 15.

## II

The appellant further contends that the Board was without power to deny appellant's transfer application. This contention is based upon its interpretation of the applicable transfer of plenary retail license ordinance.

Paterson Ordinance 2:3-3(a), as cited in appellant's memorandum, provides as follows:

No plenary retail consumption license, except renewals for the same premises covered by the previous license and transfers within the same premises, shall be granted for or transferred to any premises within 1,000 feet from an existing licensed premises covered by a plenary retail consumption license. In the event a licensee desires to transfer to another premises, he shall be permitted to do so within 600 feet of the premises wherein he is located at the time of said transfer, but shall comply with the provisions aforementioned when transferring to premises in excess of 600 feet from the premises upon which the transfer is sought. (underscore added)

The thrust of appellant's contention is that the word "shall" in the above ordinance creates a mandatory requirement upon the Board requiring grant of appellant's application for transfer. Appellant cites in support of that contention Diodato v. Camden City Park Commission, 136 N.J. Super. 324 (App. Div. 1975); Tube Bar, Inc. v. Commuters Bar, Inc., 18 N.J. Super. 351 (App. Div. 1952); Sharrock v. Keansburg, 15 N.J. Super 11 (App. Div. 1951).

The Board cites Klaiber v. Frank, 13 N.J. Super. 388, 394 (Law Div. 1951) and Harvey v. Essex County Board of Freeholders, 30 N.J. 381, 391 (1959) in support of its contention.

From the authorities cited by both parties, it is clear that the word "shall" as contained in the ordinance while a mandatory waiver of the 1,000 feet distance between premises requirement, cannot and does not supercede the duty and obligation of the local issuing authority under N.J.S.A. 33:1-26. The ordinance must be considered for interpretive purposes to comport with the general objectives, provisions and purposes of the Alcoholic Beverage Law, N.J.S.A. 33:1-1 et seq., as a whole.

Thus, I find this contention of appellant to be without foundation and devoid of force and effect.

Accordingly, it is recommended that the action of the Board be affirmed, and the appeal herein be dismissed.

Conclusions and Order

Written Exceptions to the Hearer's Report were filed by the appellant, pursuant to Rule 14 of State Regulation No. 15.

In its exceptions, the appellant asserts, without any legal or factual development or support, that the findings of the Hearer are not warranted. I find these exceptions to be without merit.

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

Accordingly, it is, on this 25th day of October, 1977,

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

Joseph H. Lerner  
Director

2. DISCIPLINARY PROCEEDINGS - HOURS VIOLATION - IMPROPER SALE FOR OFF-PREMISES CONSUMPTION - HINDERED INVESTIGATION - PERMITTED FOUL LANGUAGE WITHIN PREMISES - FAILURE TO HAVE EMPLOYEES LIST AVAILABLE - CHANGE OF PLEA TO NON VULT BY TRANSFEREE - FINE ACCEPTED IN LIEU OF SUSPENSION OF LICENSE FOR 25 DAYS.

In the Matter of Disciplinary  
Proceedings against

John A. Tersigni  
t/a Oakhurst Cafe  
Hutchinson Station at  
Delaware River  
Harmony Township  
P.O. Phillipsburg, N.J. 08865

S-11,070

subsequently transferred to:

Would's, Inc.  
t/a Oakhurst Cafe  
Hutchinson Station  
Harmony Township  
R.D. 2  
P.O. Phillipsburg, N.J. 08865

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Con-  
sumption License C-3, issued by  
the Township Committee of  
Harmony Township.

-----  
John J. Coyle, Jr., Esq., Attorney for Licensee.  
Mart Vaarsi, Deputy Attorney General, Appearing for Division.

BY THE DIRECTOR:

Licensee pleaded not guilty to charges alleging that, on October 2, 1976, at about 3:25 a.m., he: (1) allowed the consumption of alcoholic beverages on his licensed premises after permissible hours; in violation of a municipal ordinance; (2) allowed the sale and delivery of an alcoholic beverage, viz., six twelve ounce cans of Schmidt's Beer, at retail, in its original container for off-premises consumption; in violation of Rule 1 of State Regulation No. 38; (3) failed to facilitate, and hindered and delayed an investigation; in violation of Rule 35 of State Regulation No. 20; (4) allowed, permitted and suffered foul and obscene language on his licensed premises; in violation of Rule 5 of State Regulation No. 20; and (5) failed to have the employee's list on the licensed premises; in violation of Rule 16(c) of State Regulation No. 20.

An extensive hearing was held in this Division pursuant to Rule 6 of State Regulation No. 16, with full opportunity afforded the parties to introduce evidence and cross-examine witnesses.



Prior to the filing of the Hearer's Report, the licensee advised, by letter dated July 5, 1977, that he has agreed to change his plea from "not guilty" to "guilty" to the first and fifth charges aforesaid, and requests that he be permitted to pay a fine, in compromise, in lieu of suspension of license, since the licensed premises are to be transferred to new owners.

The Deputy Attorney General representing the Division consents to the aforesaid and moves for the dismissal of the second, third and fourth charges, aforesaid. Good cause appearing, I shall grant the motion for dismissal of the second, third and fourth charges; accept the licensee's change of plea to "guilty" to the first and fifth charges; and impose a suspension of license for twenty-five (25) days.

In consideration of the imminent sale of the licensed premises, I have favorably considered the licensee's application to the Director for the imposition of a fine, in compromise, in lieu of suspension, in accordance with the provisions of N.J.S.A. 33:1-31. I shall enter an order consistent herein and approve licensee's application to pay a fine of \$3,500.00, in compromise, in lieu of suspension of license.

Accordingly, it is, on this 7th day of October, 1977,

ORDERED that the licensee's change of plea to "guilty" to the first and fifth charges, alleging inter alia, an after-hours sale of alcoholic beverages and failure to maintain on the licensed premises an employee's list, be and the same is hereby accepted; and it is further

ORDERED that the second, third and fourth charges be and the same are hereby dismissed; and it is further

ORDERED that the payment of \$3,500.00 fine by the licensee be and the same is hereby accepted in lieu of a suspension of license for twenty-five (25) days.

Joseph H. Lerner  
Director

3. DISCIPLINARY PROCEEDINGS - LEWDNESS - INDECENT ENTERTAINMENT - CHARGES  
UNPROVEN - DISMISSED.

In the Matter of Disciplinary  
Proceedings against

103-105 Jefferson Avenue  
Corporation,  
t/a The Garage  
103-105 Jefferson Avenue  
Elizabeth, N.J. 07201

Holder of Plenary Retail Con-  
sumption License C-228, issued  
by the City Council of the  
City of Elizabeth.

CONCLUSIONS  
AND  
ORDER

-----  
Spagnoli and Thuring, Esqs., by James V. Spagnoli, Esq.,  
Attorneys for Licensee.  
Mart Vaarsi, Deputy Attorney General, Appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

Licensee pleaded not guilty to the following charges:

On Friday, February 11, 1977, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you allowed, permitted and suffered a female person to perform on your licensed premises for the entertainment of your customers and patrons in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20.

In support of the charge, the Division presented the testimony of two A.B.C. agents.

A.B.C. Agent De. testified that, accompanied by Agent Mc., he entered the licensed premises on February 11, 1977, at approximately 1:30 p.m. They positioned themselves at the bar, which was horseshoe in shape, approximately two feet from the stage where go-go dancers perform. A bar-maid identified as Dora, was tending bar. Anthony Lombardi, sole stockholder of corporate licensee, was on the premises and spent most of his time seated at the bar near the stage.

Agent De. described the performance of the go-go

dancer, Sandra Schwartz, in detail. He stated that, during the first set, she exposed her vaginal lips, deliberately moved the costume material away from her body, thereby briefly exposing her breasts, and made lewd and suggestive gestures with her hands and body. She repeated these activities during the second set. The third set was characterized as inoffensive in style.

A.B.C. Agent Mc. testified that he saw no exposure of breast or vaginal lips during the first set. During the second set he observed what he felt was a deliberate momentary exposure of the breast, but no vaginal exposure. It was during the third (last) set when he noted that she exposed the right breast and vaginal lips.

Both agents testified that several members of the audience shouted encouragement, requested that she strip, applauded and whistled. They acknowledged that they participated in some degree to the encouragement of the dancer.

In defense of the charge, the current and prior owners of the licensed premises and two patrons gave testimony at the de novo hearing.

Chester Kobylakiewicz, an accountant and division finance officer of a large, well-known supermarket chain, stated that he saw no exposed breasts or vaginal lips as described by the agents. He acknowledged hearing comments, shouts and applause that day, but observed that they emanated from the area which the agents and two other gentlemen occupied. Their behavior was noteworthy because the general tone of the tavern is subdued and non-demonstrative.

Gerald Thomas Quinn, District Manager for a trucking firm, also gave evidence on behalf of the licensee, in which he corroborated the testimony of Kobylakiewicz. When queried about patron behavior he stated "...that bar is normally very quiet. Normally there is no comment with the go-go girls that I have observed. As a matter of fact, I think if there's applause in that place, it startles everybody. Most of them just don't pay that much attention to it." He too took note of the agents because of their loud and obvious behavior that day.

Lastly, the current and prior licensees, who were present that day, testified that there was no indecent exposure of private parts, either accidental or deliberate, by the dancer.

It is apparent that a purely factual question has been presented for determination.

Preliminarily, I observe that, in evaluating the testimony and its legal impact, we are guided by the firmly es-

established principle that disciplinary proceedings against liquor licensees are civil in nature and, thus, require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

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 common experience and observations of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954). The finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042. "Every fact or circumstance tending to show the jury the witness' relation to the case or the parties is admissible to the end of determining the weight to be given to his evidence." State v. Spruill, 16 N.J. 73, 78 (1954). It is fundamental that the interest or bias of a witness is relevant in evaluating his testimony. In re Hamilton State Bank, 106 N.J. Super. 285 (App. Div. 1969).

I was impressed with the credibility of the licensee's two patrons who testified on its behalf. They are substantial members of the local business community who have nothing to gain from the outcome of this hearing, and who took valuable time from important work to come to Division headquarters to give testimony.

I cannot overlook the inconsistency within the agents' testimony. Coupled with the credibility ascribed by me to the licensee's two witnesses, I find that the Division has failed to establish the guilt of the licensee by a preponderance of the believable evidence.

I recommend that the corporate licensee be adjudged not guilty of the charge herein.

#### CONCLUSIONS AND ORDER

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

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 the recommendations of the Hearer, and adopt them as my conclusions herein.

Accordingly, it is, on this 25th day of October, 1977,

ORDERED that the charge against the licensee, herein, alleging violation of Rule 5 of State Regulation No. 20, and the same is hereby dismissed.

JOSEPH H. LERNER  
DIRECTOR

4. APPLICATION FOR SPECIAL PERMIT EXTENSION - COLLEGE CENTER - RUTGERS UNIVERSITY - APPLICATION GRANTED.

In the Matter of the  
Application of

Cook-Douglass Tavern  
Association  
George & Nichol Streets  
College Center  
Rutgers University  
New Brunswick, N.J. 08903

On Application  
for Extension of  
State License

ORDER

for Extension of Special Permit  
No. SM 12658, issued by the  
Director of the Division of  
Alcoholic Beverage Control.

-----  
Janet Yocum, Association Treasurer, Nycha Schlegel, Director  
of Douglass College Center, and Fernando Casanova, President  
of Board of Trustees of Association, Appearing for Applicant.

BY THE DIRECTOR:

The Cook-Douglass Tavern Association of Rutgers University, New Brunswick, holder of Special Permit No. SM 12658, applied to the Director of this Division for an extension of its permit to expand the area for permissible dispensing and consumption of alcoholic beverages.

A review of existing permit privileges indicates that the applicant initially obtained a permit for the licensing period 1974-75 to allow the sale and consumption of alcoholic beverages within part of the College Center building, to wit, Rooms 005, 108 and 109, located at the intersection of George and Nichol Streets on the campus of Rutgers University in New Brunswick. An extension of its permit is now desired to encompass rooms 107, 110 and 115.

The applicant obtained consent of the Trustees and Officers of the University, through the approval of the New Brunswick Space Allocation Committee, of its proposed plans.

In consequence of such approval, an application was presented to the Director of this Division requesting an extension of its permit to include those newly designated areas. The application notes that the expansion area is adjacent to

the areas covered by the existing permit, and the said application includes building floor plans which clearly define the existing and proposed licensed areas.

Notice of the subject application was duly published in THE HOME NEWS, a local paper, by which notice objectors were afforded an opportunity to register objections with the Director of this Division. No objections were filed with respect thereto.

A hearing was held in this Division upon the application, at which the President and Treasurer of the Association and the Director of the Douglass College Center testified in support of the application.

Their testimony, in sum, disclosed that the licensed area is very popular for socializing and is overcrowded. The licensed facilities are solely limited to card-holding members and their guests. There are no exterior signs indicating the presence of a licensed establishment within the building; and indeed, the building is located in an area that would not, in the normal course, attract the general public.

Inasmuch as the sale of alcoholic beverages is limited to members and guests, the physical expansion of the premises will not necessarily result in an increase in the sale of said beverages. A substantial number of students will be attracted by comradeship and the desire to socialize on weekends, when campus activity virtually ceases, than by the desire to consume wine and beer.

A review of the records of this Division concerning the conduct of applicant establishes that no disciplinary proceedings were instituted against the applicant which came to the attention of the Director of this Division. It must, then, be assumed that the said premises are being properly operated, particularly in light of the absence of any objections to the subject application.

I find that the application is motivated by a desire to provide a safe, secure meeting place where students may gather and socialize; and as expanded, adequate in size to realistically meet the needs of the University, rather than to merely encourage increased consumption of alcoholic beverages. Hence, the grant of the requested extension would not be contrary to the public interest.

I further find that the application is in proper order and in compliance with the applicable statutes, N.J.S.A. 33:1-74, 42.

Accordingly, it is, on this 17th day of October, 1977,

ORDERED that Special Permit No. SM 12658, issued to Cook-Douglass Tavern Association the applicant herein, be and the same is hereby extended to include the additional area described in its application filed therefor, to wit, Rooms known and designated as numbers 107, 110 and 115; and it is further

ORDERED that the approval of such extension of the aforesaid Special Permit No. SM 12658 be and is hereby subject to the same conditions as are presently in effect on the existing permit.

Joseph H. Lerner  
Director

5. DISCIPLINARY PROCEEDINGS - CLUB LICENSE NOT IN BONA FIDE HANDS IN VIOLATION OF STATE REGULATION NO. 7 and N.J.S.A. 33:1-12(5) - HINDERING INVESTIGATION - PRIOR DISSIMILAR RECORD - 65 DAYS SUSPENSION LESS 13 DAYS FOR PLEA.

In the Matter of Disciplinary :  
Proceedings against :

Rolling Hills Country Club :  
Club House Road :  
Englewood, N.J. 07631 :

Holder of Club License CB-7, :  
issued by the Common Council :  
of the City of Englewood. :

CONCLUSIONS  
and  
ORDER

-----  
Joseph M. Clark, Esq., Attorney for Licensee.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that:  
(1) it failed to operate as a bona fide club by reason of the management of the said club was not in the control of its members but in the exclusive hands of its officers not duly elected by the general membership, and for the personal pecuniary interests of several of its officers; in violation of Rules 1 and 2 of State Regulation No. 7, and N.J.S.A. 33:1-12(5); and (2) it hindered and delayed an investigation of its licensed business by personnel of this Division, in violation of Rule 35 of State Regulation No. 20.

The license would normally be cancelled or revoked. However, it appears that the management of the Club is now in the control of the general membership and its duly elected officers; and that the licensee's present management is now in compliance with both the Alcoholic Beverage Law and the Constitution and By-Laws of the said licensee.

Having considered these circumstances, and the fact that the alleged violations have been corrected, I have determined to suspend the license for fifty-five days on the charges herein, to which will be added ten days by reason of a prior record of payment of a fine on December 14, 1976 for sale of alcoholic beverages to non-members, and payment of fine on January 26, 1976 for possession of alcoholic beverages not truly labeled; with remission of thirteen days for the plea entered, leaving a net suspension of fifty-two days.

Accordingly, it is, on this 7th day of October 1977,

ORDERED that Club License CB-7 issued by the Common Council of the City of Englewood to Rolling Hills Country Club



for premises Club House Road, Englewood, New Jersey be and the same is hereby suspended for fifty-two (52) days commencing 2:00 a.m. on Friday, October 21, 1977 and terminating 2:00 a.m. on Monday, December 12, 1977.

JOSEPH H. LERNER  
DIRECTOR

6. STATE LICENSES - NEW APPLICATIONS FILED.

Vincove Wines & Liquor, Inc.

675 River Street

Paterson, New Jersey

Application filed February 17, 1978

for person-to-person transfer of

Plenary Wholesale License W-72 from

Vincove Winery.

Dalt International, Inc.

t/a Dalt Wine Division

360 Sylvan Avenue

Englewood Cliffs, New Jersey

Application filed February 16, 1978

for wine wholesale license.

Schenley Affiliated Brands Corp.

22 Law Drive

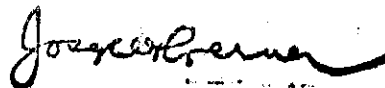
Fairfield, New Jersey

Application filed February 27, 1978

for place-to-place transfer of Plenary

Wholesale License W-41 from 20 Sand Park

Road, Cedar Grove, New Jersey.



Joseph H. Lerner  
Director