

RECEIVED

2020 APR -6 P 6:57



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

STATE OF NEW JERSEY
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087
TRENTON, NJ 08625-0087
PHONE: (609) 984-2830 FAX: (609) 633-6078
WWW.NJ.GOV/OAG/ABC

GURBIR S. GREWAL
Attorney General

JAMES B. GRAZIANO
Acting Director

April 6, 2020

Direct Dial: (609) 376-9691

James B. Graziano, Acting Director
Division of Alcoholic Beverage Control
P.O. Box 087
Trenton, New Jersey 08625-0087

Re: Division of Alcoholic Beverage Control
v. Billings, Inc., t/a Post Time Pub
Holder of Plenary Retail Consumption License No. 2104-33-003-006
Agency Nos. S-20-38972; H2020-50316

Dear Acting Director Graziano:

The Enforcement Bureau of the Division of Alcoholic Beverage Control ("Enforcement Bureau" or "ABC") hereby moves for the issuance of an order requiring Billings, Inc., t/a Post Time Pub ("Post Time Pub"), to show cause why its license should not be suspended pendente lite. As explained in more detail below, the authority to issue such relief lies in Your Honor's plenary power over the alcoholic beverage industry to protect the public health, safety and welfare. See, N.J.A.C. 13:2-19.4.



PRELIMINARY STATEMENT

This matter arises during the State of Emergency caused by the spread of Coronavirus disease 2019 (“COVID-19”) and Post Time Pub’s repeated violations of the spirit and substance of Executive Orders 103, 104 and 107 issued on March 9, 16 and 21, 2020, respectively, by Governor Philip D. Murphy. As of April 5, 2020, 304,826 Americans have tested positive for COVID-19, of which 7,616 have died. Centers for Disease Control and Prevention, Cases in U.S., updated April 5, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>. Similarly, 37,505 New Jersey residents have tested positive for COVID-19 and 917 residents have died from COVID-19. Communicable Disease Service, New Jersey COVID-19 Dashboard, updated April 5, 2020, https://nj.gov/health/cd/topics/covid2019_dashboard.shtml.

Governor Murphy issued the Executive Orders, in part, to slow the spread of COVID-19. Pertinent here, these Orders limited New Jersey consumption licensees to take-out food and non-alcoholic beverages and alcohol beverages in original containers for off-premise consumption. Executive Order 104 at ¶9; Executive Order 107 at ¶8. Moreover, the Governor prohibited on-premises consumption of alcohol. Executive Order 107 at ¶8. The practical effect of the Executive Orders is that consumption licensed premises are temporarily no longer places for patrons to congregate and converse, even if they are not consuming alcohol. Thus, they are now little more than take-out “counters” where patrons can pay for and pick-up food and package goods. Patrons may not linger.

On March 27 and April 2, 2020, Blairstown Police Officer Joseph Beach observed patrons at Post Time Pub drinking what he believed were alcoholic beverages and conversing while they lingered at this licensed premises. The owner acknowledged Officer Beach’s observation, but tried to explain it away by saying she thought she could have up to five patrons at a time. Even if

the drinks were non-alcoholic, Post Time Pub violated the Executive Order 107 by allowing its premises to be a gathering spot for its patrons. Notably, in spite of Police Officer Beach's warning to owner Joyce Billings on March 28, 2020, she, and thereby Post Time Pub, committed the same violation a few days later on April 2, 2020, and did so with knowledge aforethought ignoring the risks she posed to her patrons and the community at large.

The Division need not prove that any of the patrons contracted COVID-19 while at Post Time Pub. It is sufficient that those whom Ms. Billings served were on the premises at her invitation and they congregated and consumed food and/or beverages with her permission, as though the COVID-19 State of Emergency did not exist and these were normal times. The licensee clearly violated the Executive Orders. Given the potential life and death consequences of its conduct, Post Time Pub's license must be suspended pendente lite until the conclusion of a hearing on the merits. Because its on-premise consumption privilege was already suspended by Executive Order 107, the pendente lite relief sought here affects only the licensee's ancillary privilege to sell package goods. The incremental financial cost to the licensee caused by suspension of its package goods sales is minimal compared to the potential harm its continued operation poses to the public. In light of the State of Emergency, Post Time Pub's license must be suspended now, and revoked later if the Enforcement Bureau sustains the alleged violations.

PROCEDURAL HISTORY

This matter proceeds pursuant to an Amended Notice of Charges issued on April 6, 2020, Exhibit D, which supersedes a Notice of Charges issued earlier that day. Exhibit A. The Amended Notice of Charges alleges that Post Time Pub committed multiple violations of the Alcoholic Beverage Control Act, N.J.S.A. 33:1-1, et seq., and its regulations (the "ABC Act") and Executive

Orders 103, 104 and/or 107 by allowing, permitting or suffering its patrons to consume food and/or beverages on its licensed premises. Because these activities pose an imminent threat to the public health, safety and welfare, the Enforcement Bureau seeks revocation of the Post Time Pub's license.

STATEMENT OF FACTS

This matter arises during the on-going State of Emergency arising from the spread of COVID-19, "a contagious, and at times fatal, respiratory disease ..." Executive Order 103 at 1. "[T]he spread of COVID-19 within New Jersey constitutes an imminent public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of ... the State." Id. at 4.

"COVID-19 spreads most frequently through person-to-person contact when individuals are within six-feet or less of one another." Id. at 3. Thus, Governor Murphy ordered that, "When in public, individuals must practice social distancing and stay six feet apart whenever practicable ... to prevent community spread of the virus." Id. at 5, ¶3. Governor Murphy recognized that on-premise consumption of food and beverage needed to be curtailed in order to prevent individuals from gathering in "close proximity, making adherence to social distancing protocols impossible or impracticable." Executive Order 104 at 4. Therefore, on March 16, 2020, Governor Murphy placed limitations on food, non-alcoholic beverages and alcoholic beverage sales to original containers for off-premise consumption because "take-out and delivery services do not pose the same danger of widespread person-to-person contact" Id. at 4 and ¶9.

Notwithstanding, on March 20, 2020, Post Time Pub published this on its Facebook page:

Here's the best part while you wait for your food to go **grab yourself a cocktail, beer or a wine in a Togo cup with a lid and enjoy it on our porch.** [Exhibit C (emphasis added)].

Effective on March 21, 2020, at 9:00 p.m., Governor Murphy ordered that,

... holders of a liquor license with retail consumption privileges, are permitted to operate their normal business hours, but are limited to offering only food delivery and/or take-out services in accordance with their existing liquor licenses. If alcoholic beverages are to be sold from a restaurant, dining establishment or bar with a liquor license, such sales shall be limited to original containers sold from the principal public barroom. **The on-premises consumption of alcohol is prohibited.** [Executive Order 107 at ¶8 (emphasis added)].

Thus, no licensee may allow on-premise consumption of food and drink, nor may it have customers on the premises except to pick up food or alcohol in original containers for off-premises consumption. (Licensees may also deliver food and alcohol in properly licensed vehicles.)

In support of this application for preliminary injunctive relief, the Enforcement Bureau relies upon the report of Police Officer Joseph Beach as follows:

On March 27, 2020 at approximately 2012 hours, I went to Post Time Pub and observed a patron outside, on the patio, holding a suspected opened alcoholic beverage. I suspected that this was an alcoholic beverage because it was in an aluminum can resembling that of a "White Claw" beverage or similar type of product.

I went inside the establishment and observed the owner, Joyce Billings, behind the bar attending to patrons by standing in front of the patrons and moving objects from underneath the bar. I observed that in the speed rack and/or behind the bar there was open stock of distilled spirits. I observed a male and female patron with a bag of food sitting at the bar. I also observed a female sitting at the bar with a full glass containing suspected alcohol. I believed the glass contained an alcoholic beverage because it was in a glass commonly used for wine with a whiteish yellow liquid resembling wine.

Based on my observations it appeared that Joyce was operating the bar as normal going against EO 107. I inquired if Joyce was aware that she was not allowed to have patrons and she stated, "Yes, but [she] thought that she was only allowed to have five people inside the establishment." I advised all patrons to leave the establishment and Joyce that it was takeout only. ...

At approximately 2115 hours I checked the establishment again and observed it to be closed. ... On March 28, 2020, I made contact with Joyce via phone at 1800 hours to advise her of the charge and pending court date. I also advised Joyce that if she continue to go against EO 107 again that the penalties would become more severe. [Exhibit B, Certification of Officer Joseph Beach at ¶¶2, 3, 3 and 5].¹

Joyce Billings was criminally charged with a violation of N.J.S.A. 2C:29-1A (Obstructing administration of law or other governmental function). Id. at ¶4.²

Notwithstanding this incident, Post Time Pub again violated Executive Order 107 just a few days later. Officer Beach certified:

On April 2, 2020 at approximately 1822 hours I was dispatched to Post Time Pub for a report of patrons inside the bar. Upon arrival I observed the owner, Joyce Billings, behind the bar attending to patrons. I observed that in the speed rack and/or behind the bar there was open stock of distilled spirits. I observed two males sitting at the bar at opposite corners. The closest male had an opened glass bottle suspected of being alcohol and a takeout food container. I believed the glass bottle contained an alcoholic beverage because it was in a dark colored glass bottle with a red label resembling that of "Budweiser". The other male had a takeout food container. While speaking to Joyce another male patron was attempting to enter the establishment. Based on my observation it appeared that Joyce was operating the bar as normal going against EO 107 again. I charged Joyce with violating N.J.S.A. 2C:40-18C (Violation of law intended to protect public health and safety). [Exhibit B at ¶7].

Based on these facts, preliminary relief should be granted.

¹ The Certification inadvertently contains two paragraph 3s.

² The Division need not wait until the outcome of the criminal charges to proceed. Butler Oak Tavern v. Div. of A.B.C., 20 N.J. 373, 378 (1956) ("Proceedings taken pursuant to R.S. 33:1-31, N.J.S.A., to revoke or suspend an alcoholic beverage license are civil and disciplinary in nature, ... and the provisions concerning the criminal law are inapplicable.") (citations omitted).

LEGAL ARGUMENT

POINT I

THE DIRECTOR MAY ISSUE RESTRAINTS PENDENTE LITE IN ORDER TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

Certain circumstances require the Division to be proactive and temporarily suspend the privilege to sell alcohol in order to prevent harm to the public health, safety and welfare. Because Post Time Pub “presents a danger which is an immediate threat to the public health, safety or welfare and contrary to the interest of the community, the Director may ... issue an Order for Emergent Hearing.” N.J.A.C. 13:2-19.4(a). The Director may also impose pendente lite relief. N.J.A.C. 13:2-19.4(c) (“If the sole purpose of the emergent hearing is to address the imposition of pendente lite conditions,”)

It has been the Division’s long-standing “policy and practice to nip reasonably apprehended evils while they are in the bud,” 279 Club v. Mun. Bd. of A.B.C. of Newark, 73 N.J. Super. 15, 20 (App. Div. 1962), “not to withhold disciplinary action until the actual consummation of the apprehended evil.” In re Schneider, 12 N.J. Super. 449, 458 (App. Div. 1951). Similarly, N.J.S.A. App. A:9-34 (Emergency powers of Governor) “does not require [the Governor] await such dreadful events; it delegates the authority to ‘utilize and employ all the available resources of the State Government and of each and every political subdivision of this State ... necessary to avoid or protect against any emergency’” Worthington v. Fauver, 180 N.J. Super. 368, 380 (App. Div. 1981), *aff’d*, 88 N.J. 183 (1982). See also, Executive Order 103 at 4.

The general authority of administrative agencies to issue pendente lite restraints to protect the public requires immediate cessation of activities was recognized in Bechler v. Parsekian, 36 N.J. 242, 257 (1961). See also, Trap Rock Indus., Inc. v. Kohl, 59 N.J. 471, 489 (1971), *cert. den.*,

405 U.S. 1065 (1972). “An agency charged with implementation of a statutory program to assure the health and safety of the public ... [has] the ability to achieve the statutory purpose, even when there is no express grant of power.” In re Barnert Mem. Hosp. Rates, 92 N.J. 31, 39 (1983) (referring to the Hospital Rate Setting Commission). Hence, “courts should readily imply such incidental powers as are necessary to effectuate fully the legislative intent.” Ibid. Thus, “**with respect to licenses to engage in a business or activity, it is generally said to be implicit that a suspension may be ordered pending investigation when the public interest so requires.**” Trap Rock Industries v. Kohl, 59 N.J. at 489 (emphasis added).

The State Supreme Court has encouraged administrators and courts to take proactive steps to prevent activities proscribed by the ABC Act. The Court has stated:

Administrators and courts cannot close their eyes to what all others sense, see and understand. It is no answer to say that the tavern is and will continue to be well conducted or that patrons who show that they have had enough or too much to drink will be denied further service or be asked to leave the premises. [Lyons Farm Tavern, Inc. v. Mun. Bd. of A.B.C. of Newark, 55 N.J. 292, 304-05 (1970)].

Even when constitutional rights are affected, temporary and interlocutory relief may be imposed based upon evidence presented during an order to show cause hearing without conducting a full plenary hearing with the opportunity to confront and cross-examine witnesses. Options v. Lawson, 287 N.J. Super. 209, 220-222 (App. Div. 1996). In Options, an abortion facility sought temporary and permanent injunctions against abortion opponents restricting their protest activities near the facility. The trial court entered temporary and interlocutory injunctions. The abortion opponents sought a plenary hearing prior to the entry of a preliminary injunction, which the court denied. The Appellate Division held that “in light of the health and safety interests involved, there was sufficient reason to issue and continue, pending plenary hearing, temporary and interlocutory

injunctions ...” Id. at 217. However, in light of the constitutional protections afforded by the First Amendment, abortion opponents were entitled to a plenary hearing before a permanent injunction could be issued. Id. at 218. Unlike the constitutionally protected rights at stake in Options, this case involves the exercise of a temporary permit or privilege to pursue an occupation which is otherwise illegal.” In re Club D Lane, Inc., 112 N.J. Super. 577, 579 (App. Div. 1971); Butler Oak Tavern, 20 N.J. at 381 (1956); N.J.S.A. 33:1-3.1b(5). In this petition, the Enforcement Bureau seeks a temporary suspension of the privilege to sell alcoholic beverage pendente lite, and not permanent relief. Hence, this application may be decided in the absence of a full plenary hearing.

As a result of Executive Order 107, Post Time Pub, like all consumption licensees, is limited to food, non-alcoholic beverages and alcoholic beverages in original containers for off-premise consumption for take-out and delivery. However, Post Time Pub ignored the restrictions contained in the Executive Order and allowed patrons to gather and consume alcoholic beverage at its premises. The preliminary restraints sought by the Enforcement Bureau affect only the Licensee’s ability to sell package goods. The financial impact of these restraints is minimal and is narrowly tailored because it “promotes a substantial government interest [during the State of Emergency] that would be achieved less effectively” in its absence.” Horizon Health Ctr. v. Felicissimo, 135 N.J. 126, 148 (1994). Thus, the Director has authority to impose the requested restriction pendente lite because it is necessary to protect the health, safety and welfare of the public. In re Barnert Mem. Hosp. Rates, 92 N.J. at 39; N.J.S.A. 33:1-31 and -39.

A situation similar to the one presented in this matter was addressed in SEC v. Chenery Corp., 332 U.S. 194 (1946). The United State Supreme Court explained:

To hold that the Commission had no alternative in this proceeding

but to approve the proposed transaction, while formulating any general rules ... for use in future cases of this nature, would be to stultify the administrative process. That we refuse to do. Since the Commission, unlike a court, does have the ability to make new law prospectively through the exercise of its rule making powers, it has less reason to rely upon ad hoc adjudication to formulate new standards of conduct. ... The function of filling in the interstices of the Act should be performed, as much as possible, through this quasi legislative promulgation of rules to be applied in the future. But any rigid requirement to that effect would make the administrative process inflexible and incapable of dealing with many of the specialized problems which arise. [Id. at 202].

Thus, it is clear that not only is the Director is authorized to impose pendente lite relief by operation of these N.J.A.C. 13:2-19.4, but also that the facts of this matter require nothing less.

POINT II

Pendente Lite Relief Should be Issued Because All of the Requisites are Satisfied.

The principles governing the issuance of preliminary relief are well-established. In order to justify the exercise of an interim restraint, the party seeking such relief must demonstrate the existence of the following four conditions:

1. there is a clear probability that the moving party will prevail on the merits of the underlying controversy;
2. in the absence of such a stay, the movant will suffer irreparable injury;
3. the probability of harm to other persons will not be greater than the harm the appellant will suffer in the absence of such a stay; and
4. the public interest will not be adversely affected by the requested relief. [Crowe v. DeGioia, 90 N.J. 126, 132-134 (1982)].

A. **The Enforcement Bureau has a Clear Probability of Success on the Merits.**

The facts are compelling and law is clear -- the Enforcement Bureau will ultimately prevail in this matter. Even after being placed on notice on March 27, 2020, that it could neither serve alcohol for on-premise consumption nor allow patrons to congregate on its premises, Post Time Pub violated Executive Order 107 again on April 2, 2020. The dangers of transmission of COVID-19 are a matter of public record and need not be repeated here. It is clear that nothing short of curtailment of all alcoholic beverage activity at Post Time Pub will suffice.

Analogous to his matter is Greenbrier, Inc. v. Hock, 14 N.J. Super. 39 (App. Div.), certif. den. 7 N.J. 581 (1951). In that case, the Director found the licensee guilty of, among other things, local ordinances by (1) allowing, permitting or suffering the sale and service of alcoholic beverages on its licensed premises during prohibited hours and (2) during the prohibited hours it failed to have its entire licensed premises closed, and permitted persons other than the licensee and its employees to remain thereon. On appeal, the licensee argued that there were no violations even though William Berry, who resided next door to the licensed premises, gained access to the tavern for himself and others, by the use of a key given to him by the president of the corporate licensee.

Id. at 42. The court held that,

The licensee gave [Berry] the means of access and authority to occupy the premises. When a privilege to enter is given, whether general, conditional or restricted, the licensee has the duty of taking such measures as the circumstances of the particular case require to prevent prohibited conduct on the licensed premises arising out of the grant of the privilege. This licensee cannot avoid this duty on the technical argument that William Berry was a trespasser on the particular occasion because he entered the premises for a purpose other than the authorized purpose. [Id. at 43].

Here, Post Time Pub was open for business as usual and its owner, Ms. Billings, served the patrons (invitees) that were on the premises. They congregated and consumed food and/or beverages on the premises with her permission. The licensee clearly violated Executive Order 107.

The laws regulating licensee conduct impose strict standards on those who are permitted to sell alcoholic beverages. Post Time Pub, like all other liquor licensees, has the “responsibility, at the peril of its license ... for conducting its establishment in a lawful and orderly fashion.” One Eleven Wines & Liquors v. Div. of A.B.C., 50 N.J. 329, 340 (1970).

Particularly relevant here is N.J.A.C. 13:2-23.3 which provides:

No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, at retail, or allow, permit or suffer the consumption of any alcoholic beverage on the licensed premises, or allow, permit or suffer the retail licensed premises to be open, during any period for which any duly constituted State ... law enforcement authority, because of a public emergency ... has ordered the licensed premises to be closed, unless excepted by such authority to permit continuing conduct of business other than the sale of alcoholic beverages.

The ability of the Governor to entirely close consumption licensed premises during a State of Emergency includes the ability to impose conditions that are less than entire closure, which he did by issuing Executive Order 107.

Post Time Pub violated Executive Order 107, which limits consumption licensees to selling take-out (or delivered) food, non-alcoholic beverages and alcoholic beverages in original containers for off-premise consumption. Executive Order 107 has the force of law. Cf., O’Shea v. Twp. of W. Milford, 410 N.J. Super. 371, 382 (App. Div. 2009) (holding that “the Attorney General’s ‘Use of Force Policy’ ... has the force of law for police entities.”). These violations arose from the Licensee’s own conduct. Liquor licensees are “strictly and vicariously liable for any transactions on its licensed premises involving its employees ...” In re Maynards, Inc., 192

N.J. 158, 181 (2007). Further, it is no defense that some of the alcohol it sold may have been consumed outside of its building. Post Time Pub “is responsible to maintain control of its patrons and its licensed and surrounding premises.” Antoine Serv., Inc. v. Linden, 97 N.J.A.R.2d 9, 13 (ABC 1997); IMO Nathan’s Realty, Inc., 96 N.J.A.R.2d 25, 29 (ABC 1996); Queen City Lounge, Inc. v. Plainfield, 2 N.J.A.R. 238, 243 (1979); Capri v. East Newark, A.B.C. Bull. 1853, Item 3 (1964).

In this case, Police Officer Beach twice observed patrons congregating and lingering on its licensed premises. On March 27, 2020, he observed “the owner, Joyce Billings, behind the bar attending to patrons.” Exhibit B at ¶¶3-4. He made the same observation on April 2, 2020. Id. at ¶7. Even if the patrons were not consuming alcoholic beverages, the licensee still violated Executive Order 107 and N.J.A.C. 13:2-23.3.

“Knowledge [i]s unnecessary and that the mere fact of a violation ... is sufficient.” Mazza v. Cavicchia, 15 N.J. 498, 508 (1954). However, on March 28, 2020, Officer Beach telephoned Ms. Billings and advised her of the charge, pending court date and that if she continued to violate Executive Order 107 the penalties would become more severe. Exhibit B at ¶5. Thus, Ms. Billings committed the violation on April 2, 2020, with full knowledge of the ramifications. Aggravating circumstances are present. Pursuant to N.J.A.C. 13:2-19.11(e), “the Director may, in the Director’s sole discretion, consider aggravating or mitigating circumstances in determining the penalty for each violation.”); N.J.A.C. 13:2-19.11(g) (penalties may be aggravate “if the licensee has been notified of the prior violation ... by [any] reasonable form of notice.”)

Under Mazza, supra, the Enforcement Bureau need shown no more. Therefore, the Enforcement Bureau has established a probability of success on the merits warranting preliminary relief.

B. It is Manifest that the Public Will continue to be harmed if Preliminary Relief is Not Granted.

Preliminary restraints should be issued when necessary to prevent irreparable harm. Crowe, 90 N.J. at 132. After the March 27, 2020 incident, Police Officer Beach warned Joyce Billings on March 28, 2020, that “if she continued to go against EO 107 again that the penalties would become more severe.” Exhibit B at ¶5. Notwithstanding, Ms. Billings again on April 2, 2020, served patrons inside the Post Time Pub. The facts of this matter clearly demonstrate that Post Time Pub licensee refuses to comply with Executive Order 107 and will continue to cause irreparable harm to the public unless its license is suspended pendente lite. Post Time Pub has created a situation that fosters transmission of COVID-19, either to its patrons or persons that may come in contact with its patrons. In light of Post Time Pub’s recalcitrance, the threat to the public health, safety and welfare will not be abated unless its license is suspended pendente lite.

C. The Balance of the Relative Hardships to the Parties Weighs in Favor of Protecting the Public by the Issuance of Pendente Lite relief.

The last test in considering the granting of preliminary relief is balancing the relative hardship to the parties. Crowe, 90 N.J. at 134. “[T]he spread of COVID-19 within New Jersey constitutes an imminent public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of ... the State.” Executive Order 103 at 4. “COVID-19 spreads most frequently through person-to-person contact when individuals are within six-feet or less of one another.” Id. at 3. The lost profits that Post Time Pub will suffer by losing its ability to sell package goods is not a sufficient predicate for the denial of preliminary relief. See, N.J. Assoc. of Health Care Facilities v. Gibbs, 838 F. Supp. 881 (D. N.J. 1993), aff’d 14 F.3d 48 (3d Cir. 1993), citing A.O. Smith Corp. v. FTC, 530 F.2d 515, 527 (3d Cir. 1976). Accordingly, the balance of

the relative hardships clearly compels the issuance of the preliminary relief sought in this matter.

CONCLUSION

For all of the foregoing reasons, it is respectfully requested that Your Honor conduct an expedited hearing and suspend Post Time Pub's license pendente lite.

Respectfully submitted,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: *Km Schatz*
Kevin Marc Schatz
Senior Deputy Attorney General
Chief, Enforcement Bureau

c: Joyce Billings, Billings, Inc. t/a Post Time Pub – via overnight mail

EXHIBIT A



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA OLIVER
Lt. Governor

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

P.O. BOX 087
TRENTON, NJ 08625-0087
Phone: (609) 984-2830 Fax: (609) 633-6078
HTTP://WWW.NJ.GOV/LPS/ABC

GURBIR S. GREWAL
Attorney General

JAMES B. GRAZIANO
Acting Director

April 6, 2020

Billings Inc
t/a Post Time Pub
25 Main St
Blairstown, NJ 07825

LICENSE NO.: 2104-33-003-006
AGENCY DKT. NO.: S-20-38972, H-2020-50316;
ISSUED BY: Township Committee of Blairstown
Township, Warren County

Attached hereto is a copy of the Notice of Charges wherein the Division of Alcoholic Beverage Control ("Division") has alleged that the holder of this license has committed the violations set forth therein and is seeking to revoke your license. Upon receipt of this letter you must enter either a guilty, non-vult or not guilty plea to these charges within 30 days. Failure to enter a plea within the 30-day period shall be deemed to be a statement that you do not contest the charges, which are the subject of this matter. Consequently, if a plea is not entered within the 30-day period, a non-vult plea will be entered on your behalf unless the plea period has been extended by the Division. The Director upon certification from the Division may suspend or revoke your license without further opportunity for you to oppose the charges.

Before entering a plea you may request a copy of the Report of Investigation on which the charges were based and request an additional 14 days to examine the report before you enter a plea. As set forth on the "plea" page, the cost for the report is \$4.00. To receive such reports send a money order or check made payable to the New Jersey Division of Alcoholic Beverage Control. Send your request to Senior Deputy Attorney General, Kevin Marc Schatz and include the license number and "S" number on all letters and forms of payment.

You are entitled to have an attorney advise you. However, consultation with an attorney will not toll or stop the time of the 30 days for you to enter your plea.

Please be advised if there is a determination of guilt to the charges, the Enforcement Bureau pursuant to N.J.S.A. 33:1-31 will revoke and will also seek the forfeiture and disposal of any cash, evidence, alcoholic beverages (or other prima facie contraband nature) seized in connection with these charges.



If you enter a plea of guilty or non-vult (not contesting the charges) you have informed the Division that you do not dispute the charges in this matter and will accept the penalty as set forth. You do have the right to submit in writing mitigating circumstances and requesting the charges be reduced in penalty. In cases in which ABC seeks suspension, the Director may also consider reduction of the penalty by 20% in consideration of your guilty or non-vult plea. In cases in which ABC seeks revocation, the Director may accept a monetary offer and/or suspension in lieu of revocation.

In addition, you have the right to make application to the Director that he accept a monetary compromise offer in lieu of the days suspended pursuant to N.J.A.C. 13:2-19.12.

If you plead not guilty, this case will be sent to the Office of Administrative Law or be retained to be heard before the Director. You or your attorney will receive the necessary notice that the case has been forwarded and the time and place of the hearing.

To assist you in responding to the Division, you may use the "plea" page to advise us of your decision in this matter. If you do utilize this form, after you fill it out we suggest you make a copy and keep it for your records. Please send this reply to SDAG Kevin Marc Schatz.

Very truly yours,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: *Km Schatz*
Kevin Marc Schatz
SENIOR DEPUTY ATTORNEY GENERAL

Attachment



STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

LIC. NO.: 2104-33-003-006
AGENCY NO.: S-20-38972, H-2020-50316;

DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)
)
Petitioner,)
)
v.)
)
Billings Inc,)
)
Respondent.)
)

NOTICE OF CHARGES
SEEKING REVOCATION

Take Notice that under the authority of the Director, as set forth in Alcoholic Beverage Control Act, N.J.S.A. 33:1-1, et seq.; and the regulations promulgated pursuant thereto, the New Jersey Division of Alcoholic Beverage Control ("Division") will seek to revoke plenary retail license 2104-33-003-006 held by Billings Inc, t/a Post Time Pub, issued by Township Committee of Blairstown Township, Warren County, for premises located at 25 Main St, Blairstown, NJ 07825, for violation of the aforementioned statute and/or regulations. The Division hereby prefers the following charges and will seek the noted penalty to wit:

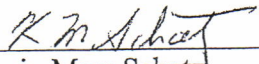
<u>CHARGE</u>	<u>PRESUMPTIVE PENALTY</u>
1. On 4/2/20, you aided and abetted, violated Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises, to exercise the rights and privileges of your license; in violation of N.J.S.A. 33:1-25, -26, and -31a.	20-day suspension
2. On 3/27/20, you aided and abetted, violated Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises, to exercise the rights and privileges of your license; in violation of N.J.S.A. 33:1-25, -26, and -31a.	10-day suspension
3. On 4/2/20, you violated N.J.A.C. 13:2-23.3 by violating Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises.	Revocation
4. On 3/27/20, you violated N.J.A.C. 13:2-23.3 by violating Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises.	Revocation

5. On 4/2/20, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages, viz., violated Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises, beyond the scope of your license, i.e., in an area which was not designated or described by you in your license application as a place to be licensed for the said sale, service or delivery of alcoholic beverages; in violation of N.J.S.A. 33:1-12. 20-day suspension
6. On 3/27/20, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages, viz., violated Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises, beyond the scope of your license, i.e., in an area which was not designated or described by you in your license application as a place to be licensed for the said sale, service or delivery of alcoholic beverages; in violation of N.J.S.A. 33:1-12. 10-day suspension
7. On 4/2/20, you engaged in, allowed, permitted or suffered the violation of an order issued by the Director, Division of Alcoholic Beverage Control, or the issuing authority, viz., Violated Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises; in violation of N.J.S.A. 33:1-31. 20-day suspension
8. On 3/27/20, you engaged in, allowed, permitted or suffered the violation of an order issued by the Director, Division of Alcoholic Beverage Control, or the issuing authority, viz., Violated Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises; in violation of N.J.S.A. 33:1-31. 10-day suspension
9. On 4/2/20, you allowed, permitted or suffered your license, licensed business and/or licensed premises to be used in furtherance of or in aid of or accessible to an illegal activity or enterprise, viz., Violated Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises; in violation of N.J.A.C. 13:2-23.5(c). 60-day suspension
10. On 03/27/20, you allowed, permitted or suffered your license, licensed business and/or licensed premises to be used in furtherance of or in aid of or accessible to an illegal activity or enterprise, viz., Violated Executive Order 107 during State of Emergency by allowing patrons to eat and/or drink on licensed premises; in violation of N.J.A.C. 13:2-23.5(c). 30-day suspension

However due to the aggravating circumstances in this case, the Division will seek revocation of the license based upon the total circumstances.

The licensee must enter a plea to the charges within 30 days of its receipt. Failure to do so will result, pursuant to N.J.A.C. 13:2-19.3(c), in the entry of a non-vult plea on your behalf and the Director upon certification by the Division may impose the penalty stated in this Notice of Charges without further notice.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
Kevin Marc Schatz
SENIOR DEPUTY ATTORNEY GENERAL

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL

LIC. NO.: 2104-33-003-006

AGENCY NO.: S-20-38972, H-2020-50316;

DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)

Petitioner,)

v.)

PLEA

Billings Inc,)

Respondent.)

TO: Kevin Marc Schatz
SENIOR DEPUTY ATTORNEY GENERAL
ENFORCEMENT BUREAU

CIRCLE THE APPROPRIATE TERM CONTAINED IN THE PARENTHESES "()"

I am the (owner) (partner) (member) (president/vice-president) (attorney) of this license duly authorized to enter the decision(s) in this matter as checked below:

- ___ 1. Please send me a copy of the Report of Investigation issued in this matter. I request you to extend my time to enter a plea by 14 days. Therefore, I enclose a money order or check in the amount of \$4.00 to cover the cost of the report.
- ___ 2. (For cases in which license suspension is sought and suspension is accepted by licensee): I am pleading non-vult to all of the charges listed in the Notice of Charges and accept the suspension of the subject license to be imposed thereon. I understand that by doing so I will not formally contest the charges and that they will be administratively concluded without a hearing. I am giving up my rights to a hearing and/or to repossess or have returned any cash, evidence, alcoholic beverages, or other property seized in connection with these proceedings. I request that the Director reduce the proposed suspension by 20% in consideration of my plea. I request that the Division consider the following mitigation prior to determining the ultimate penalty. (You may write on the back of this page or use additional separate pages, if necessary.)
- ___ 3. (For cases in which license suspension is sought and licensee requests to make a monetary compromise in lieu of suspension): I am pleading non-vult to all of the charges listed in the Notice of Charges.

I understand that by doing so I will not formally contest the charges and that they will be administratively concluded without a hearing. I am giving up my rights to a hearing and/or to repossess or have returned any cash, evidence, alcoholic beverages, or other property seized in connection with these proceedings. I request that the Director reduce the proposed penalty by 20% in consideration of my plea. Additionally, I petition the Director, pursuant to N.J.A.C.13:2-19.12, to accept a monetary compromise offer in lieu of suspension. I am enclosing the licensee's Federal Tax Return for the most recent year and/or a letter from the licensee's accountant showing the total sales of alcohol and the total costs of alcohol in the most recent year. I request the opportunity to offer a monetary penalty in lieu of having my license suspended. I understand that if the Director grants my request, the Division will compute the penalty amount which must be offered and provide me with a petition to sign and return for the Director's consideration. I request that the Division consider the following mitigation prior to determining the ultimate penalty. (You may write on the back of this page or use additional separate pages, if necessary.)

- ___ 4. (For cases in which license revocation is sought): I am pleading non-vult to all the charges listed in the Notice of Charges. I request the opportunity to divest the license in lieu of revocation. Therefore, I am requesting that the Division contact me to schedule a conference to discuss the options for settlement. In the event that no settlement is reached, I understand that I must surrender my license to the issuing authority.
- ___ 5. I wish to plead not guilty to all of the charges listed in the Notice of Charges and request that this matter be forwarded for a hearing.
- ___ a. I am requesting a hearing.
- ___ b. I am requesting a meeting to discuss settlement. If no settlement is reached, I request the matter be forwarded for a hearing.

LICENSEE'S SIGNATURE

TYPED OR PRINTED NAME

DATED:

EXHIBIT B

GURBIR S. GREWAL
Attorney General of New Jersey
Attorney for the New Jersey Division of Alcoholic Beverage Control
140 East Front Street
P.O. Box 087
Trenton, New Jersey 08625-0087

By: Kevin Marc Schatz
Senior Deputy Attorney General
(609) 376-9691

STATE OF NEW JERSEY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
AGENCY DOCKET NO.

IN THE MATTER OF	:	CERTIFICATION OF
POST TIME PUB	:	JOSEPH BEACH IN SUPPORT OF
	:	ORDER TO SHOW CAUSE

I, Joseph Beach, of full age, hereby certify and say:

1. I am employed as a police officer by the Blairstown Police Department. I make this certification based on my personal knowledge in support of the Petition for an Order to Show Cause filed by the Division of Alcoholic Beverage Control's Enforcement Bureau in the above-referenced matter.

2. On March 27, 2020 at approximately 2012 hours, I went to Post Time Pub and observed a patron outside, on the patio, holding a suspected opened alcoholic beverage. I suspected that this was an alcoholic beverage because it was in an aluminum can resembling that of a "White Claw" beverage or similar type of product.

3. I went inside the establishment and observed the owner, Joyce Billings, behind the bar attending to patrons by standing in front of the patrons and moving objects from underneath the bar. I observed that in the speed rack and/or behind the bar there was open stock of distilled

spirits. I observed a male and female patron with a bag of food sitting at the bar. I also observed a female sitting at the bar with a full glass containing suspected alcohol. I believed the glass contained an alcoholic beverage because it was in a glass commonly used for wine with a whiteish yellow liquid resembling wine.

3. Based on my observations it appeared that Joyce was operating the bar as normal going against EO 107. I inquired if Joyce was aware that she was not allowed to have patrons and she stated, "yes, but [she] thought that she was only allowed to have five people inside the establishment." I advised all patrons to leave the establishment and Joyce that it was takeout only.

4. I charged Joyce Billings with a violation of N.J.S.A. 2C:29-1A (Obstructing administration of law or other governmental function).

5. At approximately 2115 hours I checked the establishment again and observed it to be closed. On March 28, 2020, I made contact with Joyce via phone at 1800 hours to advise her of the charge and pending court date. I also advised Joyce that if she continue to go against EO 107 again that the penalties would become more severe.

6. I prepared Blairstown Police Department Investigation Report, Department Case Number 2020-003832 (April 1, 2020) and submitted it to Sergeant Jonathan Bee, who signed. A true copy of this report is attached hereto as Exhibit A.

7. On April 2, 2020 at approximately 1822 hours I was dispatched to Post Time Pub for a report of patrons inside the bar. Upon arrival I observed the owner, Joyce Billings, behind the bar attending to patrons. I observed that in the speed rack and/or behind the bar there was open stock of distilled spirits. I observed two males sitting at the bar at opposite corners. The closest male had an opened glass bottle suspected of being alcohol and a takeout food container. I believed the glass bottle contained an alcoholic beverage because it was in a dark colored glass bottle with

a red label resembling that of "Budweiser". The other male had a takeout food container. While speaking to Joyce another male patron was attempting to enter the establishment. Based on my observation it appeared that Joyce was operating the bar as normal going against EO 107 again. I charged Joyce with violating N.J.S.A. 2C:40-18C (Violation of law intended to protect public health and safety).

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: April 6th, 2020

Joseph Beach
Joseph Beach

EXHIBIT A



BLAIRSTOWN POLICE DEPARTMENT INVESTIGATION REPORT

1. Department BLAIRSTOWN POLICE DEPARTMENT		2. Mun. Code 2104	3. Phone Number 908-362-8266	4. CAD Incident#	5. Other Agency Case # CASE MANAGEMENT #	6. Department Case Number 2020-003832
7. Crime / Incident OBSTRUCT ADMINISTRATION OF LAW			8. NJS 2C:29-1A		9. Victim/s	
					10. SSN	
11. Age			12. DOB		13. Sex	14. Race
15. Eth						
DATE	16. Between <input type="checkbox"/>	17. Hour 20:12	18. Day FRI	19. Mo. 03	20. Date 27	21. Yr. 2020
AND						
TIME						
24. Crime/Incident Location POST TIME PUB				25. Victim's Employer		26. Phone #
27. Municipality BLAIRSTOWN TWP		28. County WARREN	29. Code 2104	30. Person Reporting Crime/Incident POLICE OFFICER JOSEPH BEACH		31. Date and Time 03/27/2020 20:12
32. Type of Premises		33. Weapons / Tools		34. Address BLAIRSTOWN POLICE DEPARTMENT 106 NJ-94, BLAIRSTOWN, NJ 07825		35. Home Phone / Cellular 908-362-8266 /
36. Modus Operandi						
37. Vehicle		38. Year	39. Make	40. Model	41. Body Type	
42. Color		43. Registered Number & State		44. Serial Number or Identification		45. Towing Company
Value of Stolen/Recovered Property	46. Currency	47. Jewellery	48. Furs	49. Clothing	50. Auto	51. Misc.
52. Total Value Stolen	53. Total Value Recovered		54. Teletype Alarm	55. Technical Services		56. Technician-Agency
57. Weather		58. NIC		59. Assisting Agencies		
60. No. of Accused 1	61. Adult 1	62. Juvenile 0	63. Status Crime	64. Status Case	65. UCR Status Month Yr.	66. Date Cleared
67. Code 68. Name 69. Address 70. Age 71. Sex 72. Race 73. Eth 74. DOB 75. HM 76. WK 77. C [DEFENDANT] BILLINGS, JOYCE E - PO BOX 148, COLUMBIA, NJ 07832-0148 - 59 - F - W - N - 11/22/1960 - - - -						

78. Narrative

On 3/26/20 Blairstown PD received a complaint regarding Post Time Pub still maintaining their business and the calling party advising they observed about 10 patrons inside the establishment.

On 3/27/20 at approximately 2012 hours I went to Post Time Pub and observed a patron outside, on the patio, holding a suspected opened alcoholic beverage. I went inside the establishment and observed the owner, Joyce Billings, behind the bar attending to patrons. I observed a male and female patron with a bag of food sitting at the bar. I also observed a female sitting at the bar with a full glass containing suspected alcohol. Based on my current observations it appeared Joyce was operating the bar as normal going against EO 107. I inquired if Joyce was aware that she was not allowed to have patrons and she stated yes but thought she was only allowed to have five people inside the establishment. I advised all patrons to leave the establishment and Joyce that it was takeout only. I left the establishment at this time and contacted AP Brotzman at 2025 hours. AP Brotzman advised to charge Joyce with a 2C:29-1 a disorderly persons offense. At approximately 2115 hours I checked the establishment again and observed it to be closed.

I sent a notification via email to AP Brotzman and DSFC Smith of the violation. The complaint will be sent via certified mail.

On 3/28/20 I made contact with Joyce via phone at 1800 hours to advise her of the charge and pending court date. I also advised Joyce that if she continued to go against EO 107 again that the penalties would become more severe. N further action by patrol at this time.

Print Rank/OFC Name POLICE OFFICER JOSEPH BEACH	Badge No. 59	Page No. 1 Of 1	Report Date 04/01/2020	Reviewed By: SGT. JONATHAN BEE
Signature <i>pu Billings</i>				Supervisor Signature <i>JPB #44</i>

EXHIBIT C

5:33

LTE



The Post Time Pub's Post



The Post Time Pub

March 20 at 11:14 AM · 🌐



Hi folks!

Well today is a beautiful day and we have a wonderful porch we would like the community to utilize! ☀️ 🍷 🍹 🍷

Tonight we will be serving to go orders in containers through our porch window starting at 5 pm

Here's the best part while you wait for your food to go grab yourself a cocktail, beer or a wine in a Togo cup with a lid and enjoy it on our porch BUT we do ask you to not sit too close to your company we have a very large porch so let's keep our distance.

WE SELL PACKAGE GOODS: if you are passing through or just want to do one stop shopping you can purchase beer or wine For your home your can also purchase your package goods through our window.

We at post time pub promise you, our community we are taking every single percussion with cleanliness, using the proper hand washing techniques, and importantly using the proper cleaning products to ensure our customers and staff are safe at this time.

If you would like to call ahead please do so:
9083620007

👍❤️ 19

7 Comments 12 Shares

👍 Like

💬 Comment

➦ Share



EXHIBIT D



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA OLIVER
Lt. Governor

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087
TRENTON, NJ 08625-0087
Phone: (609) 984-2830 Fax: (609) 633-6078
HTTP://WWW.NJ.GOV/LPS/ABC

GURBIR S. GREWAL
Attorney General

JAMES B. GRAZIANO
Acting Director

AMENDED NOTICE OF CHARGES

April 6, 2020

Billings Inc
t/a Post Time Pub
25 Main St
Blairstown, NJ 07825

LICENSE NO.: 2104-33-003-006
AGENCY DKT. NO.: S-20-38972, H-2020-50316;
ISSUED BY: Township Committee of Blairstown
Township, Warren County

Attached hereto is a copy of the **Amended** Notice of Charges wherein the Division of Alcoholic Beverage Control ("Division") has alleged that the holder of this license has committed the violations set forth therein and is seeking to revoke your license. Upon receipt of this letter you must enter either a guilty, non-vult or not guilty plea to these charges within 30 days. Failure to enter a plea within the 30-day period shall be deemed to be a statement that you do not contest the charges, which are the subject of this matter. Consequently, if a plea is not entered within the 30-day period, a non-vult plea will be entered on your behalf unless the plea period has been extended by the Division. The Director upon certification from the Division may suspend or revoke your license without further opportunity for you to oppose the charges.

Before entering a plea you may request a copy of the Report of Investigation on which the charges were based and request an additional 14 days to examine the report before you enter a plea. As set forth on the "plea" page, the cost for the report is \$4.00. To receive such reports send a money order or check made payable to the New Jersey Division of Alcoholic Beverage Control. Send your request to Senior Deputy Attorney General, Kevin Marc Schatz and include the license number and "S" number on all letters and forms of payment.

You are entitled to have an attorney advise you. However, consultation with an attorney will not toll or stop the time of the 30 days for you to enter your plea.

Please be advised if there is a determination of guilt to the charges, the Enforcement Bureau pursuant to N.J.S.A. 33:1-31 will seek revocation and will also seek the forfeiture



and disposal of any cash, evidence, alcoholic beverages (or other prima facie contraband nature) seized in connection with these charges.

If you enter a plea of guilty or non-vult (not contesting the charges) you have informed the Division that you do not dispute the charges in this matter and will accept the penalty as set forth. You do have the right to submit in writing mitigating circumstances and requesting the charges be reduced in penalty. In cases in which ABC seeks suspension, the Director may also consider reduction of the penalty by 20% in consideration of your guilty or non-vult plea. In cases in which ABC seeks revocation, the Director may accept a monetary offer and/or suspension in lieu of revocation.

In addition, you have the right to make application to the Director that he accept a monetary compromise offer in lieu of the days suspended pursuant to N.J.A.C. 13:2-19.12.

If you plead not guilty, this case will be sent to the Office of Administrative Law or be retained to be heard before the Director. You or your attorney will receive the necessary notice that the case has been forwarded and the time and place of the hearing.

To assist you in responding to the Division, you may use the "plea" page to advise us of your decision in this matter. If you do utilize this form, after you fill it out we suggest you make a copy and keep it for your records. Please send this reply to SDAG Kevin Marc Schatz.

Very truly yours,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: KM Schatz
Kevin Marc Schatz
SENIOR DEPUTY ATTORNEY GENERAL

Attachment



**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

LIC. NO.: 2104-33-003-006
AGENCY NO.: S-20-38972, H-2020-50316;

DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)
)
 Petitioner,)
)
 v.)
)
Billings Inc,)
)
 Respondent.)
_____)

**AMENDED
NOTICE OF CHARGES
SEEKING REVOCATION**

Take Notice that under the authority of the Director, as set forth in Alcoholic Beverage Control Act, N.J.S.A. 33:1-1, et seq.; and the regulations promulgated pursuant thereto, the New Jersey Division of Alcoholic Beverage Control ("Division") will seek to revoke plenary retail license 2104-33-003-006 held by Billings Inc, t/a Post Time Pub, issued by Township Committee of Blairstown Township, Warren County, for premises located at 25 Main St, Blairstown, NJ 07825, for violation of the aforementioned statute and/or regulations. The Division hereby prefers the following charges and will seek the noted penalty to wit:

<u>CHARGE</u>	<u>PRESUMPTIVE PENALTY</u>
1. On or about March 27, 2020 and/or April 2, 2020, you engaged in, allowed, permitted or suffered the violation of Executive Orders 103, 104 and/or 107 issued by Governor Philip D. Murphy by allowing patrons to eat and/or drink at your licensed premise.	Revocation
2. On March 27, 2020 and/or April 2, 2020, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages, viz., beyond the scope of your license, as restricted by Executive Orders 103, 104 and/or 107, by allowing patrons to eat and/or drink at your licensed premises.	10-day suspension
3. On March 27, 2020 and/or April 2, 2020, you violated N.J.A.C. 13:2-23.3 by violating Executive Orders 103, 104 and/or 107 by allowing patrons to eat and/or drink at your licensed premises during a State of Emergency.	Revocation

- | | | |
|----|---|-------------------|
| 4. | On or about March 27, 2020 and/or April 2, 2020, you allowed, permitted or suffered your licensed premises to be used in furtherance of or in aid of or accessible to an illegal activity or enterprise, viz., by allowing patrons to eat and/or drink on the licensed premises; in violation of Executive Orders 103,104 and/or107 and/or N.J.A.C. 13:2-23.5(c). | 30-day suspension |
| 5. | On or about March 20, 2020, you advertised or offered the sale of alcoholic beverages at your licensed premises contrary to the provisions of Executive Orders 103 and/or 104; in violation of N.J.A.C. 13:2-24.10(a)7. | 5-day suspension |
| 6. | On March 27, 2020 and/or April 2, 2020, you knowing aided and abetted violation(s) of Executive Orders 103, 104 and/or 107 by allowing patrons to eat and/or drink on the licensed premises; in violation of N.J.S.A. 33:1-52 or N.J.S.A. 33:1-31. | 10-day suspension |

However, due to the aggravating circumstances in this case, the Division will seek revocation of the license based upon the total circumstances.

The licensee must enter a plea to the charges within 30 days of its receipt. Failure to do so will result, pursuant to N.J.A.C. 13:2-19.3(c), in the entry of a non-vult plea on your behalf and the Director upon certification by the Division may impose the penalty stated in this Notice of Charges without further notice.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
Kevin Marc Schatz
SENIOR DEPUTY ATTORNEY GENERAL

**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

LIC. NO.: 2104-33-003-006

AGENCY NO.: S-20-38972, H-2020-50316;

DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)

Petitioner,)

v.)

PLEA

Billings Inc,)

Respondent.)

TO: Kevin Marc Schatz
SENIOR DEPUTY ATTORNEY GENERAL
ENFORCEMENT BUREAU

CIRCLE THE APPROPRIATE TERM CONTAINED IN THE PARENTHESES "()"

I am the (owner) (partner) (member) (president/vice-president) (attorney) of this license duly authorized to enter the decision(s) in this matter as checked below:

- ___ 1. Please send me a copy of the Report of Investigation issued in this matter. I request you to extend my time to enter a plea by 14 days. Therefore, I enclose a money order or check in the amount of \$4.00 to cover the cost of the report.
- ___ 2. (For cases in which license suspension is sought and suspension is accepted by licensee): I am pleading non-vult to all of the charges listed in the Notice of Charges and accept the suspension of the subject license to be imposed thereon. I understand that by doing so I will not formally contest the charges and that they will be administratively concluded without a hearing. I am giving up my rights to a hearing and/or to repossess or have returned any cash, evidence, alcoholic beverages, or other property seized in connection with these proceedings. I request that the Director reduce the proposed suspension by 20% in consideration of my plea. I request that the Division consider the following mitigation prior to determining the ultimate penalty. (You may write on the back of this page or use additional separate pages, if necessary.)
- ___ 3. (For cases in which license suspension is sought and licensee requests to make a monetary compromise in lieu of suspension): I am pleading non-vult to all of the charges listed in the Notice of Charges.

I understand that by doing so I will not formally contest the charges and that they will be administratively concluded without a hearing. I am giving up my rights to a hearing and/or to repossess or have returned any cash, evidence, alcoholic beverages, or other property seized in connection with these proceedings. I request that the Director reduce the proposed penalty by 20% in consideration of my plea. Additionally, I petition the Director, pursuant to N.J.A.C.13:2-19.12, to accept a monetary compromise offer in lieu of suspension. I am enclosing the licensee's Federal Tax Return for the most recent year and/or a letter from the licensee's accountant showing the total sales of alcohol and the total costs of alcohol in the most recent year. I request the opportunity to offer a monetary penalty in lieu of having my license suspended. I understand that if the Director grants my request, the Division will compute the penalty amount which must be offered and provide me with a petition to sign and return for the Director's consideration. I request that the Division consider the following mitigation prior to determining the ultimate penalty. (You may write on the back of this page or use additional separate pages, if necessary.)

- ___ 4. (For cases in which license revocation is sought): I am pleading non-vult to all the charges listed in the Notice of Charges. I request the opportunity to divest the license in lieu of revocation. Therefore, I am requesting that the Division contact me to schedule a conference to discuss the options for settlement. In the event that no settlement is reached, I understand that I must surrender my license to the issuing authority.
- ___ 5. I wish to plead not guilty to all of the charges listed in the Notice of Charges and request that this matter be forwarded for a hearing.
- ___ a. I am requesting a hearing.
- ___ b. I am requesting a meeting to discuss settlement. If no settlement is reached, I request the matter be forwarded for a hearing.

LICENSEE'S SIGNATURE

TYPED OR PRINTED NAME

DATED: