

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1005

MARCH 16, 1954.

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THE UNIVERSITY OF CHICAGO LIBRARY

1000 S. EAST ASIAN LIBRARY

CHICAGO, ILL. 60607

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STATE OF NEW JERSEY
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1060 Broad Street Newark 2, N. J.

BULLETIN 1005

MARCH 16, 1954.

1. SPECIAL PERMITS - EFFECTIVE MAY 1, 1954, ISSUANCE OF SPECIAL TO, TP AND TR PERMITS DISCONTINUED - IN LIEU THEREOF, APPLICANTS FOR PRIVILEGES PREVIOUSLY GRANTED BY SAID PERMITS MUST APPLY FOR SPECIAL TL PERMITS - HEREIN OF DISTINCTION BETWEEN PRIVILEGES AFFORDED BY SPECIAL TL PERMITS AND TRANSPORTATION LICENSES.

TO HOLDERS OF SPECIAL TO, TP AND TR PERMITS EXPIRING APRIL 30, 1954:

IMPORTANT NOTICE WITH RESPECT TO DISCONTINUING SPECIAL TO, TP AND TR PERMITS AND COMBINING THE PRIVILEGES THEREOF INTO NEW SPECIAL TL PERMITS TO BECOME EFFECTIVE MAY 1, 1954.

All special permits presently designated as Special TO, TP and TR Permits will expire at midnight on April 30, 1954 and the privileges theretofore conferred upon the holders of such permits will terminate at that time.

Practical and administrative experience has shown that confusion has arisen in many instances after issuance of these respective permits for a number of reasons, including the failure of many applicants and permittees to familiarize themselves with the limited privileges afforded by each type of such permit. By way of example, the holder of a Special TO Permit which privileged him to pick up alcoholic beverages only at the licensed premises of a New Jersey manufacturer, wholesaler or public warehouse, would attempt to pick up alcoholic beverages at piers of import within this State, a privilege conferred only upon the holder of a TP permit; conversely, the holder of a Special TP Permit which authorized pick ups at piers in this State for immediate transportation to points outside of this State would attempt to pick up alcoholic beverages at the licensed premises of a New Jersey manufacturer, wholesaler or public warehouse. This failure by holders of TO, TP and TR permits to distinguish the difference in the terms of these permits has resulted in many instances of improper and illegal transportation of alcoholic beverages.

Accordingly, I deem it advisable that the privileges heretofore conferred by the separate types of Special TO, TP and TR Permits shall be combined into one permit to be designated as a Special TL Permit which will authorize its holder to exercise any and all of the privileges heretofore conferred by the foregoing individual permits, namely:

(1) To transport alcoholic beverages from the licensed premises, warehouse or salesroom of a New Jersey licensed manufacturer or wholesaler or from a licensed public warehouse directly to points outside New Jersey;

(2) To transport alcoholic beverages between piers of import and export in the State of New Jersey; to transport alcoholic beverages from points outside New Jersey directly to piers of export within this State and to transport alcoholic beverages from piers of import within New Jersey directly to points outside of this State; and

(3) To transport, on return shipment, alcoholic beverages originally withdrawn from New Jersey by the permittee.

The fee for the permit combining the foregoing privileges shall be \$25.00 and shall accompany the prescribed application (form enclosed) in cash, money order or certified check drawn to the order of Division of Alcoholic Beverage Control.

Each vehicle used in the transportation of alcoholic beverages pursuant to the terms of the foregoing TL Permit must carry with it a transportation certificate. The fee for each transportation certificate is \$2.00 and must likewise accompany the application for such transportation certificate (form enclosed) in cash, money order or certified check drawn to the order of Division of Alcoholic Beverage Control.

The fiscal year for the Special TL Permit shall be from May 1st until April 30th following the date of issuance of the permit.

Before the special permit may be issued, a proper bond must be filed with the Division of Taxation, Beverage Tax Bureau, Room 316, 1060 Broad Street, Newark 2, New Jersey, and for information concerning the form and amount of such bond, inquiry should be made directly to that agency. Particular care should be taken to insure that the bond refers to the type of permit as being a Special TL Permit and not a Special TO, TP or TR Permit as heretofore.

It should be borne in mind that the Special TL Permit does not authorize deliveries of alcoholic beverages to the New Jersey premises of any manufacturer, wholesaler, public warehouse, except return shipments as indicated above, and does not allow pick ups from or deliveries to the New Jersey terminals of connecting transporters. These privileges are available only to holders of transportation licenses (issued pursuant to R. S. 33:1-13) as distinguished from transportation permits.

Dated: March 10, 1954.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - MARKET LIQUOR STORE CORP. v. NEWARK.

MARKET LIQUOR STORE CORP.,)

Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)

Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

Richard F. Burnett, Esq., Attorney for Appellant.

Horace S. Bellfatto, Esq., by George B. Astley, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the denial of appellant's application to transfer its plenary retail distribution license from 44 Market Street to 79 Avon Avenue, Newark.

Pursuant to the provisions of Rule 8 of State Regulations No. 15, this appeal was presented upon the stenographic transcript of the hearing below and additional testimony given at the hearing of the appeal.

Appellant has conducted its business at 44 Market Street since December 1933. The testimony indicates that its business is local in character and that it has no regular delivery service. At the hearing herein Millicent Kaplan, Treasurer of appellant corporation, testified that, when the business was established, there was a residential area and a shopping area in that neighborhood but that recently many of the residential buildings have been demolished and numerous business places have ceased to exist. This witness also testified that parking is now

prohibited in the vicinity of the licensed premises between 7:00 a.m. and 11:00 a.m. and between 4:00 p.m. and 6:30 p.m. It is also apparent from her testimony that the rent to be paid at 79 Avon Avenue would be much smaller than the rent now paid at 44 Market Street.

The evidence taken at the hearing below shows that the premises known as 79 Avon Avenue consist of a small store which is one of a row of eight stores located in a business zone. Doctors Hospital is located at 59-65 Avon Avenue. There are many residences on the opposite side of Avon Avenue and the side streets are residential in character.

At the hearing below Doctor Irving E. Fink, Director of the Hospital, testified that he was opposed to the granting of the transfer "because on occasion we have had to stop the help and the visitors from bringing in liquor into the hospital." Mr. Henry C. Collins, Chairman of the Board of Trustees of St. James A. M. Church testified that he opposed the transfer because 79 Avon Avenue is located in the Third Ward and "the Third Ward has a reputation of being a place which is seething with crime, with juvenile delinquency." Three persons residing on the opposite side of Avon Avenue and four persons residing on Hillside Place appeared at the hearing to oppose the transfer.

An ordinance of the City of Newark prohibits the transfer of a plenary retail distribution license within 750 feet of an existing place of business similarly licensed. The ordinance would not prevent the transfer herein because the nearest place similarly licensed is 769.53 feet from 79 Avon Avenue. Nevertheless, the evidence indicates that three plenary retail distribution licenses and four plenary retail consumption licenses have been issued for premises within 1,000 feet (measured by walking distance) of 79 Avon Avenue.

At the close of the hearing below Commissioner D'Alessio stated:

"I believe that I could say without contradiction that there are more liquor outlets, both retail consumption and retail distribution licenses, in the third ward in proportion to the population and relation to the size of the ward in general than in any other locality in the city of Newark. As one of the spokesmen for the objectors said, we are confronted with conditions in that ward, and in a good many spots in that ward, which are not pleasant, and they are very difficult to cope with.

"This Board does not feel that this location of another liquor outlet anywhere in that section will do anything to help the neighborhood in any way. We have a number of people here who have bought homes, who own property and who probably bought in that particular section because they felt it was a little better, cleaner than in other sections in the third ward where they may live. The Board does not feel that these people should have their properties hurt in any way or that their right to live quietly and peacefully disturbed in any manner whatsoever.

"We do not think there is a necessity for another liquor outlet in that section of the City. We don't think the applicant has proved the necessity for it or has he proved in any way that it will benefit the neighborhood or the people in the neighborhood, and for that reason the Board will disapprove of the application for a transfer."

The transfer of a liquor license is not a right inherent in the license but is, rather, a privilege which the issuing authority may grant or deny in the exercise of a reasonable discretion. VanSchoick v. Howell, Bulletin 120, Item 6. The question whether a license should be transferred to a particular location is a matter confided to the sound discretion of the issuing authority. The burden of showing that the issuing authority abused its discretion rests with appellant. Segal v. Clifton, Bulletin 732, Item 5; Minsky v. Woodbridge, Bulletin 897, Item 3.

After considering the evidence herein I conclude that appellant has not sustained the burden of proof in showing that the action of respondent was erroneous. Rule 6 of State Regulations No. 15. Hence the action of respondent will be affirmed.

Accordingly, it is, on this 1st day of March, 1954,

ORDERED that the action of respondent be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
 Director.

3. APPELLATE DECISIONS - EANA, INC. v. PLEASANTVILLE.

EANA, INC.,)

Appellant,)

-vs-)

COMMON COUNCIL OF THE CITY)
 OF PLEASANTVILLE,)

Respondent.)

ON APPEAL
 CONCLUSIONS AND ORDER

 Isaac C. Ginsburg, Esq., Attorney for Appellant.
 Louis D. Champion, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This appeal is from the action of respondent in denying a person-to-person transfer of a plenary retail consumption license from Walter Lash to appellant, for premises 323 South Main Street, Pleasantville.

An application for transfer of the license in question was denied by respondent on November 16, 1953. Four of the seven members of the Council voted against the transfer, one member voted in favor thereof and two members were not present at the meeting. The attorneys for the parties to the instant appeal have stipulated, on behalf of their respective clients, that all statutory and formal requirements with reference to the application and filing thereof have been fully complied with.

The appellant contends that the action of the respondent in denying the transfer should be reversed upon the following grounds:

"The action of the City of Pleasantville is erroneous in that no hearing was granted to the appellant on said application for transfer; in that no reason was assigned for the refusal of said transfer; and that the governing body of the City of Pleasantville abused its discretion in the refusal of said transfer, if in fact it had any discretion in the premises; and said action was arbitrary and without legal justification."

The respondent avers that its action was fully justified and that there was no abuse of discretion and sets forth the following reasons:

"The appellant entered a plea of non vult to charges preferred against it before the Township Committee of Egg Harbor Township that on December 7, 1951 and December 28, 1951 it did sell, service and deliver and allow, permit and suffer the service and delivery of alcoholic beverages directly, or indirectly, to persons under the age of twenty-one years and did allow, permit and suffer the consumption of alcoholic beverages by such persons upon the licensed premises, all in violation of Rule 1 of State Regulations No. 20, as the result whereof its license was suspended by the said Township of Egg Harbor for the period of ten

days effective February 18, 1952 at midnight, Eastern Standard Time. This respondent therefore charges that by reason of the conviction of the said appellant for said two offenses, as stated, the said Eana, Inc. is barred and prohibited from having any license of any class issued to it under the provisions of Section 33:1-25 of the Revised Statutes of New Jersey, providing:

'No license of any class shall be issued to any individual who is an alien; to any person under the age of twenty-one years; to any person who has been convicted of a crime involving moral turpitude; or to any person who has been twice convicted in a court of criminal jurisdiction of violation of this chapter.'

"Said plea of non vult is tantamount to a conviction and the appellant was, therefore guilty of the crime of the sales of alcoholic beverages to minors and permitting the consumption of such alcoholic beverages upon the licensed premises by said minors and was convicted of two violations of said cited statute.

"Council exercised its discretion and denied the said application for transfer in the interest of the citizens and residents of the City of Pleasantville.

"The said appellant in its conduct of the Turkey Ranch in Egg Harbor Township during the years 1950-51-52 and part of 1953 did not conduct, operate and control the sale of intoxicating liquors and the consumption thereof in the said Turkey Ranch in such manner as to be conducive to the welfare of the citizens and residents of Egg Harbor Township."

The parties hereto have filed an "Agreed Statement of Facts" included in which is the following:

"Charges were preferred before the Township Committee of Egg Harbor Township charging Eana, Inc., trading as Turkey Ranch Cafe, Fire and Delilah Roads, Farmington, Egg Harbor Township, the holder of Plenary Retail Consumption License No. C-9 issued to it by the Township of Egg Harbor with the sale, service and delivery and allowing, permitting and offering the service and delivery of alcoholic beverages directly or indirectly to persons under the age of twenty-one years and allowing, permitting and offering for consumption, alcoholic beverages by such persons upon the licensed premises on or about December 7, 1951 and December 28, 1951 in violation of Rule 1 of State Regulations No. 20; that at a hearing duly held upon said charges on the 18th day of February, 1952, the said Eana, Inc., trading as Turkey Ranch Cafe, entered a plea of non vult to said charges whereupon the Township Committee of Egg Harbor Township resolved and ordered 'That plenary retail consumption license No. C-9 heretofore issued by the Township of Egg Harbor to Eana, Inc., trading as Turkey Ranch Cafe, for premises Fire and Delilah Road, Egg Harbor Township, be suspended for a period of ten (10) days effective February 18, 1952 at midnight, Eastern Standard Time.'"

Henry M. Warke, Chairman of the Egg Harbor Township Committee, testified that during the years 1951, 1952 and 1953 appellant held a liquor license in Egg Harbor Township; that, before issuance of said license to appellant or granting renewals thereof, an investigation was conducted which disclosed nothing objectionable in the manner in which the licensed premises were operated; that the appellant was charged by

the issuing authority of Egg Harbor Township on one occasion of sale of alcoholic beverages to a minor, as a result of which its license was suspended for a period of ten days; that he did not recall the other charge in the same proceeding of sale of beer to a minor; that, during the period the appellant operated the premises in Egg Harbor Township, Samuel Barshady (President of appellant corporation) made two separate complaints before the local municipal Magistrate against a person in each case for acting in a disorderly manner on the appellant's licensed premises.

Four character witnesses were produced by the appellant who testified that at various times they visited appellant's licensed premises in Egg Harbor Township and from their observation it was conducted in a respectable manner.

Samuel Barshady, President of appellant corporation and owner of 98 of the 100 shares of its outstanding capital stock, testified that the premises formerly operated by appellant in Egg Harbor Township were conducted in an orderly fashion.

The respondent produced no witnesses on the date of the hearing herein.

Respondent's attorney, in support of the respondent's action, argues that, because of appellant's past record for sale of alcoholic beverages to minors and permitting the consumption thereof by said minors upon its licensed premises, under the provisions of R. S. 33:1-25 it is forever barred and prohibited from having any license of any class issued to it. This contention is unsound.

It is apparent that appellant was not convicted in a court of criminal jurisdiction of violating the provisions of the Alcoholic Beverage Law but was found guilty in disciplinary proceedings. The former are criminal in nature and are aimed at the offending licensee. The latter are civil in nature (Re Gahr, Bulletin 377, Item 7) and are directed mainly against the privilege or license. Re Messina and Ruisi, Bulletin 392, Item 12. In view of the fact that respondent's action was based primarily upon a misunderstanding or misconception of the law in this regard, the matter of the granting or denying of the application for transfer of license will be remanded to respondent for its proper action to be taken after necessary consideration of the merits and with no expression of opinion herein as to whether the pending application should be granted or denied. See Paterson Grill Owners Assoc. v. Paterson, Glazer and Speshock, and White v. Paterson, Glazer and Speshock, Bulletin 545, Item 1; The Great Atlantic & Pacific Tea Co. v. Newark, Bulletin 691, Item 10. Cf. Dromsky v. Pennsauken, Bulletin 524, Item 12; Kuremsky v. Trenton, Bulletin 623, Item 11. Cf. also, Monesson v. Lakewood, Bulletin 847, Item 6; Fedder v. Asbury Park, Bulletin 875, Item 7.

Accordingly, it is, on this 4th day of March, 1954,

ORDERED that the proceedings herein be and the same are hereby remanded to respondent for its further consideration consistent with law and this opinion.

WILLIAM HOWE DAVIS
Director.

4. ACTIVITY REPORT FOR FEBRUARY 1954

ARRESTS:

Total number of persons arrested	36
Licensees and employees	-11
Bootleggers	-25

SEIZURES:

Motor vehicles - cars	8
Stillts - over 50 gallons	1
- 50 gallons or under	3
Alcohol - gallons	30.00
Mash - gallons	6,950.00
Distilled alcoholic beverages - gallons	79.78
Wine - gallons	3.71
Brewed malt alcoholic beverages - gallons	10.41

RETAIL LICENSEES:

Premises inspected	1,068
Premises where alcoholic beverages were gauged	597
Bottles gauged	11,090
Premises where violations were found	105
Violations found	165
Type of violations found:	
Unqualified employees	-66
Reg. #38 sign not posted	-7
Disposal permit necessary	-5
Prohibited signs	-2
Other mercantile business	-2
Gambling devices	-1
Other violations	-82

STATE LICENSEES:

Premises inspected	6
License applications investigated	9

COMPLAINTS:

Complaints assigned for investigation	403
Investigations completed	360
Investigations pending	149

LABORATORY:

Analyses made	106
Bottles from unlicensed premises	25

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	19
Persons fingerprinted for non-criminal purposes	144
Identification contacts made with other enforcement agencies	142
Motor vehicle identifications via N. J. State Police teletype	3

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	9
Violations involved:	
Sale to minors	5
Sale during prohibited hours	3
Permitting brawl on premises	1
Cases instituted at Division	15
Violations involved:	
Sale to minors	5
Sale during prohibited hours	4
Permitting immoral activity on premises	3
Fraud and front	2
Sale below minimum resale price	2
Permitting brawl on premises	1
Conducting business as a nuisance	1
Cases brought by municipalities on own initiative and reported to Division	11
Violations involved:	
Permitting brawls on premises	3
Sale during prohibited hours	2
Sale to minors	2
Permitting bookmaking on premises	1
Permitting lottery activity on premises	1
Unqualified employee	1
Permitting females at bar (local reg.)	1
Permitting foul language on premises	1
Possessing contraceptives on premises	1
Failure to close premises during prohibited hours	1
Solicitor furnishing prohibited equipment & gifts to retailer	1
Sale to intoxicated persons	1
Permitting immoral activity on premises	1
Sale to non-members by club	1
Permitting persons of ill repute on premises	1

HEARINGS HELD AT DIVISION:

Total number of hearings held	46
Appeals	8
Disciplinary proceedings	-24
Eligibility	-11
Seizures	1
Tax revocations	1
Applications for license	1

PERMITS ISSUED:

Total number of permits issued	742
Employment	102
Solicitors	89
Disposal of alcoholic beverages	51
Social affairs	404
Special wine	2
Miscellaneous	94

William Howe Davis
Director.

Dated: March 1, 1954.

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against

SANTI L. CUCCI
T/a MAPLE GROVE
Maple Rd. at Birch Lane
P. O. Box 48
Lincoln Park, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Lincoln Park.

Young and Sears, Esqs., by David Young, 3rd, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

A copy of the following charges was duly served upon defendant:

"1. On Friday night, November 27, 1953 and on Friday night, December 4, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Donald B. ---, Richard T. ---, and Robert T. ---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20.

"2. On Friday night, December 4, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Edward ---, a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20.

"3. On Friday night, December 11, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to F/1c Martin C. ---, U. S. Coast Guard, Robert A. ---, and Elizabeth ---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

Defendant originally entered a plea of not guilty to all charges. However, at the hearing, but prior to the taking of testimony, he withdrew his plea of not guilty to charge (3) and entered a plea of non vult thereto. After five witnesses testified on behalf of the Division, the defendant withdrew his plea of not guilty to charges (1) and (2) and entered a plea of non vult to said charges.

The file in the instant case discloses that on November 27, 1953 and on December 4, 1953 a female employee of defendant sold and served alcoholic beverages to three minors, aged 15, 16 and 17 years, respectively. Also, on December 4, 1953, a male employee of defendant sold and served alcoholic beverages to the three minors aforementioned, and to another minor who was 15 years of age. Again, on December 11, 1953, a male employee and a female employee of defendant sold and served alcoholic beverages to three minors, two of whom were 19 years of age and one of whom was 16 years of age.

No reasonable or justifiable excuse may be accepted for the sale and service of alcoholic beverages to minors, especially the two 15, the 16 and 17-year-old boys.

Defendant has no prior adjudicated record. In view of the ages of four of the minors and the number of minors involved, I shall suspend defendant's license for a period of sixty days. Since the confessional plea on charge (3) was not entered until the day of the within hearing and the confessional pleas on charges (1) and (2) were not entered until after the Division had presented the greater part of its case, I will deny any remission of the penalty because of said pleas. Licensees have every opportunity and sufficient time to determine whether or not they have a defense to the Division's charges. They cannot be permitted to gamble on the strength of the Division's case and then, finding it too strong to controvert, change their plea. Cf. Re Orlando, Bulletin 863, Item 8.

Accordingly, it is, on this 19th day of February, 1954,

ORDERED that Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Lincoln Park to Santi L. Cucci, t/a Maple Grove, Maple Road at Birch Lane, Lincoln Park, be and the same is hereby suspended for a period of sixty (60) days, commencing at 2:00 a.m. March 1, 1954, and terminating at 2:00 a.m. April 30, 1954.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SOLICITOR'S PERMIT - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER - FURNISHING GIFTS - PERMIT SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
MAX HOCHMAN)	CONCLUSIONS
555 South 17th Street)	AND ORDER
Newark 3, N. J.,)	
)	
Holder of Solicitor's Permit #2979, issued by the Director of Alcoholic Beverage Control.)	
-----)	
Max Hochman, Defendant-permittee, Pro Se.)	
David S. Piltzer, Esq., appearing for)	Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On divers days during October 1953, you, the holder of a solicitor's permit, engaged in conduct prohibited to your employer, Charles Jacquin Et Cie, Inc., holder of a New Jersey plenary whole-sale license for premises 2633 Trenton Avenue, Philadelphia 25, Pa., by regulations adopted under the Alcoholic Beverage Law, as follows:

(a) You, directly and indirectly, furnished by sale, loan, gift and otherwise, and delivered equipment, signs and advertising matter, viz., thermometers advertising your employer's alcoholic beverages, to various New Jersey retail licensees and their licensed premises, which conduct was prohibited to your employer by Rule 1 of State Regulations No. 21; and

(b) You gave samples of alcoholic beverages other than malt alcoholic beverages, viz., 1/10 pint bottles of Jacquin's Anisette, Blackberry and Rock and Rye cordials to various New Jersey retail licensees, which conduct was prohibited to your employer by Rule 10 of State Regulations No. 34; and

(c) You sold and delivered to various New Jersey retail licensees bottles of alcoholic beverages, viz., 1/10 pint bottles of Jacquin's Anisette, Blackberry and Rock and Rye cordials, of less than the minimum standard fill of 1/2 pint as prescribed by Rule 1 of State Regulations No. 23, which conduct was prohibited to your employer by Rule 3 of State Regulations No. 23;

all of which conduct by you was in violation of Rule 12 of State Regulations No. 14.

"2. On divers days during October 1953, you, the holder of a solicitor's permit employed by a wholesaler of alcoholic beverages other than malt alcoholic beverages, furnished, directly and indirectly, to various New Jersey retail licensees gifts, things of value (by sale, loan, gift and otherwise) and inducements, viz., advertising thermometers and 1/10 pint bottles of Jacquin's Anisette, Blackberry and Rock and Rye cordials and grenadine syrup (a non-alcoholic beverage); in violation of Rule 3 of State Regulations No. 35."

The file herein discloses that defendant is employed as a missionary man in New Jersey by Charles Jacquin Et Cie, Inc. During the month of October 1953 defendant obtained at his employer's warehouse in Philadelphia twenty-four thermometers (bearing the name of his employer) and two dozen assorted miniature bottles each containing 1/10 pint of Jacquin's cordials and non-alcoholic grenadine. While visiting the licensed premises of various retail licensees in New Jersey defendant gave to various retailers about fifteen of the thermometers and ten or twelve of the miniatures. Apparently this distribution was not authorized by defendant's employer.

Defendant has no prior record as the holder of a solicitor's permit. He obtained his permit on September 25, 1953. The records of this Division show that, after making distribution of the above items, defendant called at the offices of this Division; that he was then advised that the distribution of said items was not permissible in New Jersey, and that he thereafter attempted to recover the items from the various retailers. Under all the circumstances I shall suspend defendant's permit for a period of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 24th day of February, 1954,

ORDERED that Solicitor's Permit #2979, issued by the Director of Alcoholic Beverage Control to Max Hochman, 555 South 17th Street, Newark, N. J., be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. March 8, 1954, and terminating at 9:00 a.m. March 23, 1954.

WILLIAM HOWE DAVIS
Director.

7. STATE BEVERAGE DISTRIBUTOR LICENSE - OBJECTIONS TO TRANSFER OF LICENSE HELD TO BE WITHOUT MERIT.

In the Matter of Objections to an
Application for Transfer of State
Beverage Distributor's License
SBD-28 from Parkway Beverages, Inc.,
562 Washington Avenue, Belleville,
to

CONCLUSIONS

RAYMOND EDWARD TAG
809 Bayway Avenue
Elizabeth, N. J.

-----)
Alec T. Pecoretti, Esq., Attorney for Applicant, Raymond Edward Tag.
Julius R. Pollatschek, Esq., Attorney for Union County Retail Liquor
Stores Association, Objector.

BY THE DIRECTOR

Written objections to the granting of the application for transfer of the license having been filed, a hearing was held on February 3, 1954.

At the hearing the attorney who appeared for one of the objectors alleged that, because of the large number of retail licenses issued in Elizabeth and because numerous State Beverage Distributors service that City and surrounding communities, there is no need for an additional license to service that area.

From the testimony it appears that Parkway Beverages, Inc. has held a State Beverage Distributor's license since July 1946. While its principal office is located at 562 Washington Avenue, Belleville, it has an additional warehouse at 83-89 Albert Street, Woodbridge. Thomas W. Handlon, Secretary and Treasurer of Parkway Beverages, Inc., testified that about forty per cent. of its business is conducted from its Belleville office, and sixty per cent. of its business consists of sales to consumers in the same area in which applicant intends to operate, namely, Clark Township, Woodbridge, part of Rahway, and part of Linden. He further testified that Parkway has approximately 180 customers in that area.

The applicant and his father held a plenary retail distribution license for premises at 642 Pearl Street, Elizabeth, until November 1953 when the partnership was dissolved. Applicant testified that he now has no interest in said license; that he is presently employed by his father at a salary, and that he intends to discontinue said employment if the pending application is granted.

The Secretary of the Municipal Board of Alcoholic Beverage Control sent to the Division a letter, dated January 7, 1954, wherein he advised that the Board objected to the granting of the transfer herein because "there are already a sufficient number of alcoholic beverage distributors in our city." However, the Board was not represented at the hearing. Municipal consent is not a statutory prerequisite to the issuance of a State license. The reason stated in the Secretary's letter is substantially the same as that stated by the attorney who appeared for the other objector. Re Vigor Beverages Co., Inc., Bulletin 941, Item 9.

Admittedly there are a large number of retail licenses in Elizabeth and a number of State Beverage Distributor licensees operate in and near that City. If this were an application for a new license, it might well be that, under the circumstances, no need for an additional license would appear. However, this is an application for a transfer of an existing

license and the applicant intends to service a large percentage of the customers of the existing licensee. Hence I conclude that the objections to the transfer are without merit. Re Sachs, Bulletin 926, Item 10.

The application for transfer will be granted if and when said application is in proper form.

WILLIAM HOWE DAVIS
Director.

Dated: February 23, 1954.

8. DISQUALIFICATION - PRIOR APPLICATION DENIED - FIVE YEARS' GOOD CONDUCT - APPLICATION TO LIFT GRANTED.

In the Matter of an Application)
to Remove Disqualification because
of a Conviction, Pursuant to R. S.)
33:1-31.2.

CONCLUSIONS
AND ORDER

Case No. 1117.
-----)

BY THE DIRECTOR:

Petitioner renews his application for relief, pursuant to the terms of an Order, dated November 18, 1953, denying a prior petition with leave to file a new petition after January 15, 1954. Case No. 1099, Bulletin 992, Item 8.

Petitioner testified that since November 4, 1953, the date of the hearing in the prior proceeding, he has been employed in another state as a driver and helper by a brewery; furthermore, that his record has been clear during that time.

At the hearing herein, three witnesses (a guard, a house doorman, and an elevator operator) testified that they have known petitioner fifteen or more years and that he bears a reputation for being a law-abiding person in the community in which he lives.

The Police Department of the municipality wherein petitioner resides has advised that no complaint or investigation is presently pending involving the petitioner.

From the evidence, I conclude that petitioner has conducted himself in a law-abiding manner during the five years last past and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 23rd day of February, 1954,

ORDERED that petitioner's statutory disqualification because of his convictions of crime, be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

AMBROSE DELL'ORTO
442 - 10th Avenue
Paterson 4, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-108, issued by the
Board of Alcoholic Beverage Control
of the City of Paterson.

Ambrose Dell'Orto, Defendant-licensee, Pro Se.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that he (1) sold, served and delivered alcoholic beverages and permitted the consumption thereof on his licensed premises during prohibited hours and (2) failed to have his licensed premises closed during said prohibited hours, both in violation of a local ordinance.

An ordinance of the City of Paterson prohibits the sale, service and delivery of alcoholic beverages on Sundays between the hours of 3:00 a.m. and 1:00 p.m., and requires that licensed premises shall be closed between said hours.

The file herein discloses that at 11:00 a.m., on Sunday, January 24, 1954, two ABC agents arrived in the vicinity of defendant's licensed premises. One of the agents proceeded to the front of the building and, through a glass window in the front door, observed a man behind the bar and three men with glasses in front of them at the bar. One of the agents walked to the rear door and, upon finding it open, entered the building and proceeded to the barroom. The three men previously observed through the window were still at the bar. The agent ordered and was served a glass of beer by the man behind the bar. Immediately after he was served the other agent came into the barroom from the rear entrance and then both agents made their identity known to the bartender. The bartender admitted the sale of alcoholic beverages to the three patrons who were seated at the bar when the agent entered.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of fifteen days. Re Feola, Bulletin 988, Item 3. Re Mace, Inc., Bulletin 999, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 23rd day of February, 1954,

ORDERED that Plenary Retail Consumption License C-108, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Ambrose Dell'Orto, 442 - 10th Avenue, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. March 2, 1954, and terminating at 3:00 a.m. March 12, 1954.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - TRANSPORTATION WITHOUT REQUISITE INVOICE IN VIOLATION OF RULE 3 OF STATE REGULATIONS NO. 17 - TRANSPORTATION IN VEHICLE NOT BEARING INSIGNIA IN VIOLATION OF RULE 2 OF STATE REGULATIONS NO. 17 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

RED CIRCLE LIQUOR INC.
T/a RED CIRCLE LIQUOR
2301 Federal Street
Camden, N. J.,

CONCLUSIONS
AND ORDERS

Holder of Plenary Retail Distri-
bution License D-11, issued by the
Municipal Board of Alcoholic
Beverage Control of the City of
Camden.

Malandra & Tomaselli, Esqs., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On December 7, 1953 you transported alcoholic beverages from your licensed premises in Camden, New Jersey, into the State of Pennsylvania in a vehicle without the driver thereof having in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating the bona fide name and address of the purchaser or consignee, and the brand name or size of the container and quantity of each item of alcoholic beverages being transported; in violation of Rule 3 of State Regulations No. 17.

"2. On December 7, 1953 you transported alcoholic beverages from your licensed premises in Camden, New Jersey, into the State of Pennsylvania in a vehicle having no transportation insignia affixed to it; in violation of Rule 2 of State Regulations No. 17."

The file discloses that on December 7, 1953, agents of the Pennsylvania Liquor Control Board found sixty 4/5 quart bottles of whiskey and twelve 4/5 quart bottles of wine in an automobile which stopped at Water and Chestnut Streets, Philadelphia, Pa. Their investigation disclosed that the automobile was owned and driven by Charles K. Bennett, Jr., a stockholder and employee of defendant corporation. Bennett admitted that he was delivering the alcoholic beverages from defendant's licensed premises to customers in Philadelphia. His car did not bear transportation insignia and he did not have in his possession any documents required by Rule 3 of State Regulations No. 17.

Defendant has no prior record. I shall suspend defendant's license for fifteen days. Re Weitzman, Bulletin 935, Item 9; Re Spinelli, Bulletin 948, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of March, 1954,

ORDERED that Plenary Retail Distribution License D-11, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Red Circle Liquor Inc., t/a Red Circle Liquor, for premises 2301 Federal Street, Camden, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. March 8, 1954, and terminating at 9:00 a.m. March 18, 1954.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE, INDECENT SONGS, INDECENT LANGUAGE) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

LITTLE COTTON CLUB INC.

35 Salem Avenue

Carteret, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-16, issued by the
Borough Council of the Borough of
Carteret.

Defendant-licensee, by Neil Zullo, President.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it allowed, permitted and suffered lewdness and immoral activity (an indecent performance by a female entertainer, and the singing of songs and use of words which were indecent, filthy and disgusting by another female entertainer) on its licensed premises, in violation of Rule 5 of State Regulations No. 20.

On January 23, 1954, at about 11:00 p.m., two ABC agents were in defendant's licensed premises. At the start of the floor show the master of ceremonies announced that "we are going to have a real hot show." A female entertainer, wearing only a bra and panties, performed a dance which included "bumps and grinds" and the movement of her body, while reclining on the floor, in such manner as to simulate sexual intercourse. Earlier, another female entertainer sang songs which were indecent, filthy and disgusting. Such "shows" have no place on licensed premises. Re Bajewicz, Bulletin 902, Item 4.

The President of defendant corporation alleges that the show in question was purchased as a "package" and that he had been assured by the master of ceremonies that nothing indecent was contained in the show. Nevertheless, a licensee is fully responsible for the conduct of entertainers upon his licensed premises. Re Primiceri, Bulletin 916, Item 3.

Defendant has no prior record. I shall suspend defendant's license for a period of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days. Re Primiceri supra; Re Seidler's Beach, Bulletin 959, Item 5.

Accordingly, it is, on this 4th day of March, 1954,

ORDERED that Plenary Retail Consumption License C-16, issued by the Borough Council of the Borough of Carteret to Little Cotton Club Inc., for premises 35 Salem Avenue, Carteret, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. March 15, 1954, and terminating at 2:00 a.m. April 9, 1954.

WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD & LICENSE
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

CHRISTIAN ADOLF BACKHAUS
T/a LAKE END INN
West Shore Road
Roxbury Township
P.O. Landing, N. J.,

Holder of Plenary Retail Consump-
tion License C-6, issued by the
Township Committee of the Township
of Roxbury.

CONCLUSIONS
AND ORDER

Eugene F. Hillery, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that he sold,
served and delivered alcoholic beverages to a minor, in violation of
Rule 1 of State Regulations No. 20.

The file herein discloses that, during the course of an investi-
gation by ABC agents, four minors gave statements in which they allege
that on the evening of January 25, 1954, they drove to defendant's prem-
ises and that one of the minors, Gordon ---, 18 years of age, entered
the premises about 8:00 p.m. while the other three remained in the car.
In the statement given by Gordon --- he alleges that, after he entered,
he purchased from defendant four quart-bottles of beer "to take out."
Defendant verbally admitted to the agents that he had made the sale.

Defendant has a prior record. Effective May 3, 1950, his license
was suspended by the Director for a period of twenty days after he had
pleaded non vult to charges alleging that he sold alcoholic beverages to
minors and sold said beverages below the minimum consumer price.
Re Backhaus, Bulletin 874, Item 7. Since this is a second similar vio-
lation within the past five years, I shall double the minimum ten-day
penalty for sale to a minor over the age of 18 years and suspend defend-
ant's license for a period of twenty days. Re Foster's Tavern, Inc.,
Bulletin 961, Item 8. Five days will be remitted for the plea entered
herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 4th day of March, 1954,

ORDERED that Plenary Retail Consumption License C-6, issued by
the Township Committee of the Township of Roxbury to Christian Adolf
Backhaus, t/a Lake End Inn, for premises on West Shore Road, Roxbury
Township, be and the same is hereby suspended for fifteen (15) days,
commencing at 2:00 a.m. March 15, 1954, and terminating at 2:00 a. m.
March 30, 1954.

WILLIAM HOWE DAVIS
Director.

13. STATE LICENSES - NEW APPLICATION FILED.

Imperial Distributing Co.
715 S. East Boulevard, Vineland, N. J.
Application filed March 12, 1954 for transfer of State Beverage
Distributor's License SBD-64 from Michael A. Buglio, Jr., t/a
Imperial Distributing Co.

New Jersey State Library

William Howe Davis
Director.