

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

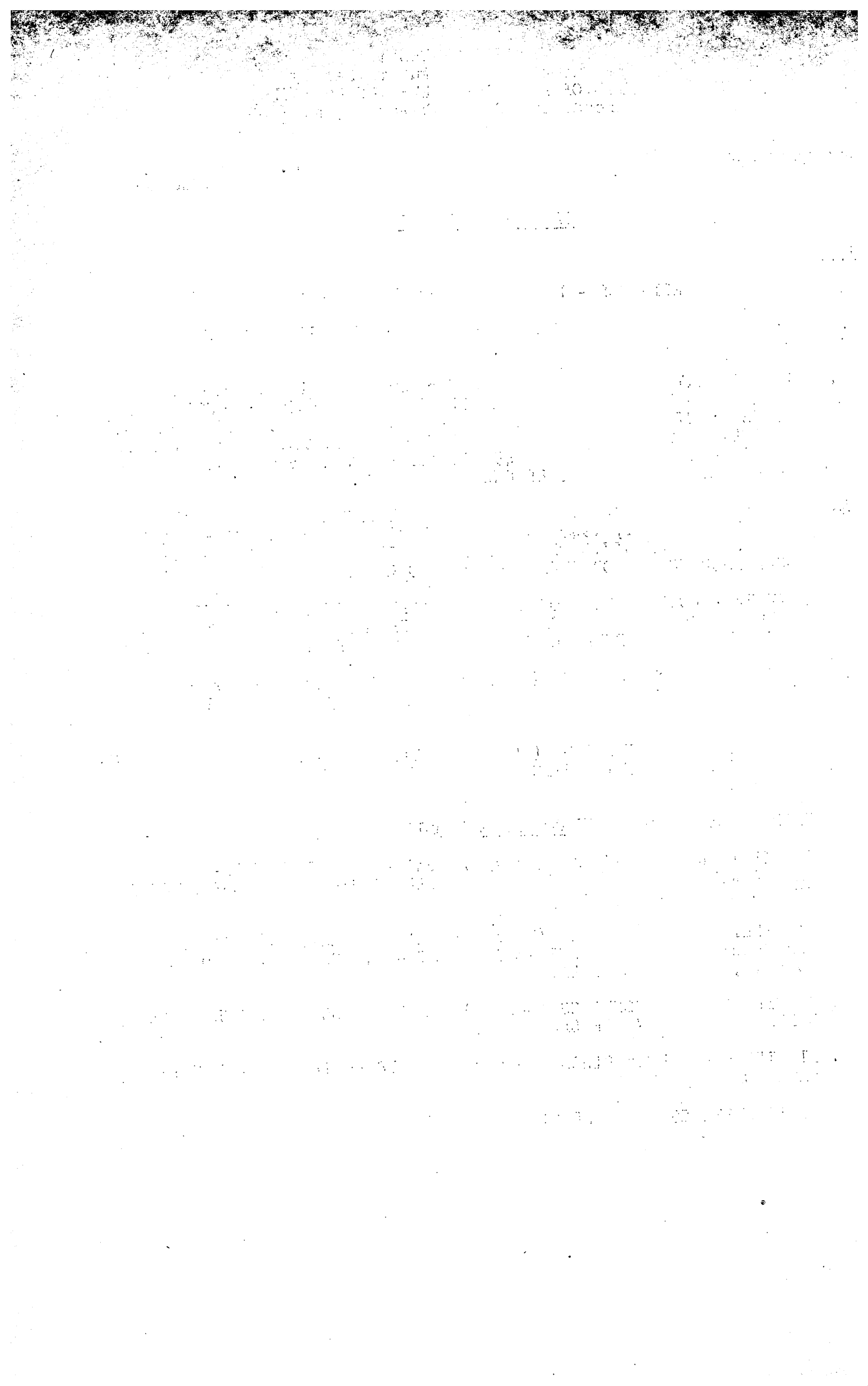
BULLETIN 859

NOVEMBER 15, 1949.

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BULLETIN 859

NOVEMBER 15, 1949.

1. APPELLATE DECISIONS - MONTCLAIR ATHLETIC CLUB v. MONTCLAIR.

MONTCLAIR ATHLETIC CLUB, )  
Appellant, )

.-vs-

BOARD OF COMMISSIONERS OF THE )  
TOWN OF MONTCLAIR, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

John J. Boylan, Esq., by Philip J. Miele, Esq., Attorney for  
Appellant.

John Ferguson, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the respondent's denial, on June 28, 1949, of the appellant's application for a renewal of its plenary retail consumption license for the current licensing year commencing July 1, 1949, for premises located at 201 Valley Road, Montclair, N. J.

The denial was predicated upon the respondent's determination that the appellant did not have requisite possession of the premises covered by its application. It is unnecessary, however, to decide whether the action taken by the respondent was proper, in view of the appellant's concession that, pending the instant appeal and prior to the date of the hearing herein, it had ceased to have any interest, possessory or otherwise, in the premises in question.

The Alcoholic Beverage Law provides that a separate license is required for each specific place of business and that the operation and effect of every license is confined to the licensed premises. R. S. 33:1-26. It is axiomatic that no license may issue for premises of which the applicant has neither possession nor a right to possession.

The very issue involved herein was decided in one of the earliest decisions rendered by former Commissioner Burnett in Procoli v. Trenton, Bulletin 28, Item 6, decided May 1934. He dismissed, as moot, an appeal from the denial of a license where the applicant had lost possession of the premises pending the appeal. This case has been consistently followed to date in many decisions rendered since that time.

The principle underlying these decisions is that an appellate tribunal will not determine an issue which has become abstract by reason of the inability of the appellate tribunal to grant the appellant any effective relief even were such issue to be decided in favor of the appellant. As was said in Re Braunstein, 105 N.J. Eq. 682, 684 (Ch. 1930):

"....To make an order would, therefore, be without effect, and the court will not do a vain thing. \* \* \*

"Numberless cases in other jurisdiction (sic) can be cited to the effect that it is the duty of an appellate court to dismiss an appeal and not to proceed to formal judgment if, pending the appeal, an event occurs, without any fault of the defendant, which renders impossible for the court, if it should decide the case in favor of the plaintiff, to grant any effectual relief."

To the same effect, where there has been a change in the law pending an appeal, see, e.g., Socony-Vacuum Oil Co., Inc. v. Mt. Holly Twp., 135 N.J.L. 112, 118 (Sup. Ct. 1947), 169 A.L.R. 579, where it was held:

"And just as a change in the law between a nisi prius and an appellate decision requires the appellate court to apply the changed law, so, by like token, a change of law pending an administrative hearing or act must be followed in relation, as here, to a permit for the doing of a future act. Otherwise the administrative body, here the building inspector whose acts are subject to appeal to or review by this court, would issue a permit contrary to the existing legislation. Cf. Ziffrin v. United States, 318 U.S. 73, 78; 87 L. Ed. 621, 625."

So here, in the event of a reversal, the only order that could be appropriately made is one directing the respondent to issue the license. See R.S. 33:1-38. In view of the fact that the respondent may not now issue the license as applied for, because of the appellant's loss of possession of the premises covered by its application, no such order may be entered.

The appeal must be dismissed.

Accordingly, it is, on this 31st day of October, 1949,

ORDERED that the appeal herein be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

2. APPELLATE DECISIONS - TATELMAN v. EGG HARBOR AND RUSSELL'S BAR AND RESTAURANT, INC.

MAX TATELMAN,

Appellant,

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP OF EGG HARBOR, and RUSSELL'S BAR AND RESTAURANT, INC.,

Respondents.

ON APPEAL  
O R D E R

Irving I. Jacobs, Esq., Attorney for Appellant.  
Harry Souchal, Esq., Attorney for Respondent Township Committee.  
Frank S. Farley, Esq., Attorney for Respondent Russell's Bar and Restaurant, Inc.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Township Committee whereby, after hearing, it dismissed a complaint filed by appellant with said Township Committee against respondent Russell's Bar and Restaurant, Inc.

On the date fixed for hearing herein, the attorney for appellant advised me by letter as follows:

"We now agree to dispose of the complaint by the terms of a formal written contract which provides that Russell's bar will erect barriers on its westerly wall, adjacent to Tatelman's property to prevent unnecessary noise."

In the same letter the attorney for appellant moved to dismiss the pending appeal.

No reason appearing to the contrary,

It is, on this 1st day of November, 1949,

ORDERED that the appeal herein be and the same is hereby dismissed.

ERWIN B. HOCK  
Director

- 3. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN APPLICATION FILED FOR TRANSFER OF LICENSE - RENEWAL GRANTED FOR PREMISES NOT PREVIOUSLY LICENSED - DEFECTS IN ADVERTISING NOTICE OF APPLICATION FOR TRANSFER AND RENEWAL - PROTRACTED NON-USER OF LICENSE - LICENSE FOR 1948-49 LICENSING YEAR, AS RENEWED FOR CURRENT LICENSING YEAR, REVOKED.

In the Matter of Disciplinary Proceedings against

SOUTH HACKENSACK BAR & GRILL, INC.  
218 State Highway 6  
South Hackensack, N. J.,

CONCLUSIONS  
AND ORDER

Holder of 1948-49 Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of South Hackensack.

-----  
Reuben H. Reiffin, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"In your application dated August 9, 1948, filed with the Township Committee of South Hackensack, upon which your current plenary retail consumption license was transferred to premises at 218 State Highway #6, South Hackensack, you falsely stated 'Stucco - Tavern' in answer to Question No. 6, which asks: 'Describe building containing licensed premises in detail -- type of construction -- for what purpose used', and you also falsely stated 'Sol Hak', in answer to Question No. 8(a), which asks: '--- from whom are the premises leased or rented', whereas, in truth and fact there was no building of any kind at premises known as 218 State Highway #6, South Hackensack and you had not leased or rented the premises from Sol Hak or anyone else and had no right to possession thereof; such false statements being in violation of R. S. 33:1-25."

By counsel's letter of June 8, 1949, and in connection with the non vult plea, defendant set forth that it "desires to state in mitigation of such charges that these statements were made partially as a result of stenographic errors and partially through misunderstanding in the drawing of the application, as the name of the former owner and a description of the previous building was used instead of the new construction and new location"; that the 1949-50 "renewal" application gives "the correct and proper description of the building and its location"; "that the applicant has not used the license since it was transferred and of course did not intend to operate under this license until the new structure has been erected and approved"; and that "the applicant has not taken advantage of the erroneous information and did not intend to do so."

Defendant was incorporated on November 18, 1947. On December 4, 1947, it obtained from the Township Committee a transfer of the plenary retail consumption license of John J. McDonald for premises at 525 Phillips Avenue. Defendant never operated at said premises, the building being purchased by one Sol Hak for use as a manufacturing establishment.

By letter of March 9, 1949 to this Division, defendant's President stated that:

On October 21, 1947, Sol Hak contracted to purchase the building located at 525 Phillips Avenue, that building being suitable to him as a location for his dress manufacturing business.

John J. McDonald, and his wife Mary, insisted that the tavern must be sold in the same transaction or there would be no deal.

Since McDonald was not operating the licensed business and since the fixtures "were not too good", a brother of defendant's President ("who was representing his friend Sol Hak in the negotiations") suggested that his brother (defendant's President) "buy the tavern and license transfer for \$2,000.00. This was agreed to by Mr. Hak and the contract was signed for the purchase of the real estate and business specifically providing that purchaser or his nominee was to get the business and license".

On December 9, 1947, Sol Hak took title to the real estate and by Bill of Sale executed on said date the tavern was sold to defendant corporation.

"This corporation is owned by Paul Dutko, Leonard Sweetman and myself. The tavern business and license cost us \$2,000.00 at the time of closing and \$600.00 was later expended for the renewal of license fee. These funds were loaned to us from companies in which we are officers."

"Sol Hak never had and now has no interest in said tavern and liquor license, except as explained above."

On August 19, 1948, the Township Committee granted defendant a 1948-49 "renewal" for the indicated premises at 525 Phillips Avenue, and simultaneously granted a transfer thereof to "218 State Highway #6".

On August 9, 1948, defendant had applied for a transfer to "218 State Highway #6". The buildings on the highway are not numbered. The file indicates that defendant had been negotiating with one Colucci regarding rental of certain premises which he occupied on State Highway 6 but that arrangements for such rental were never completed. It is apparent, in any event, that Sol Hak owned no property on State Highway 6 and that defendant had not, on or before August 9, 1948, leased or rented any premises on State Highway 6.

Defendant filed application for "renewal" for the license year commencing July 1, 1949. In this application the premises are described as "Northwest line of State Highway Route 6, 284.63 feet west from Phillips Ave. Property 50' front x 100' deep." The application states that the premises are of "Stucco" type of construction and that they are leased or rented from "Hyler Realty Corporation". No building had been erected at the indicated location. The application was accompanied by an architect's sketches of a front elevation

and "Main Floor Plan" of a building. The two sketches are artistic illustrations of an establishment to be called the "S. H. Club". They give no dimensions; and no specifications of any sort were filed.

By resolution dated June 16, 1949, the Township Committee granted the "renewal" subject to a special condition "that the license shall not be actually issued unless and until the premises as described in the plans and specifications (sic) prepared, submitted to, and found acceptable by this issuing authority shall first be completed".

From the date of the person-to-person transfer (December 4, 1947) to the present time the license was not used and no business whatsoever has been conducted thereunder. This protracted non-user does violence to the paramount principle underlying the issuance of licenses, to wit, that licenses shall be issued only in the interest of the public necessity and convenience. (Cf. Re S. Monte Smith, Bulletin 784, Item 5; Re Schenkel, Bulletin 699, Item 7.) Furthermore, the whole record supports substantial doubt of defendant's intention ever to engage in the alcoholic beverage business. It would appear that the license was merely an incidental concomitant to a real estate deal and was acquired and "renewed" for purposes of investment and resale.

It is doubtful that defendant ever had possession or legal right to possession of the premises at 525 Phillips Avenue and, thus, that the Township Committee had jurisdiction to transfer the McDonald license to defendant, for such premises. (See Procoli v. Trenton, Bulletin 28, Item 6; Re Giaconia, Aquino and Intelisano, Bulletin 717, Item 8.)

There was no jurisdiction to grant defendant's application for transfer to "premises located at 218 State Highway #6" or for the 1949-50 "renewal". As required by Rule 2 of State Regulations No. 2 and Rule 4 of State Regulations No. 6, where, as here, application is for a license for, or transfer to, premises not yet constructed, the Notices of Application must contain a statement that plans and specifications for building to be constructed may be examined at the office of the Municipal Clerk. Defendant's Notices of Application (published in the Bergen Evening Record on August 6 and 13, 1948) for the indicated transfer did not contain any such statement or indicate in any way that premises were unconstructed. The same is true as to the Notices of Application for 1949-1950 "renewal" (published in the Bergen Evening Record on June 3 and 10, 1949). (See Haines v. Pemberton Township, Bulletin 851, Item 10.)

Where application is for a license for, or transfer to, premises not yet constructed, the most an issuing authority may do is grant the application subject to an express special condition that the license shall not be issued, or the transfer endorsed and effective, unless and until the proposed premises are first completed in accordance with plans and specifications submitted to and found acceptable by the issuing authority. (Re Harris, Bulletin 183, Item 11; Re Salter, Bulletin 184, Item 8.) A "completion of premises" special condition was, as hereinabove pointed out, set forth in the resolution of June 16, 1949, granting the 1949-50 "renewal", but it appears that no such special condition was set forth in a resolution granting the purported transfer to "premises located at 218 State Highway #6".

As hereinabove indicated, the buildings on State Highway 6 are not numbered. There was a possibility that defendant might acquire

premises on the highway at some future date, but the "218" address was a phantom one.

As hereinabove stated, the 1949-50 "renewal" application was for premises at the "Northwest line of State Highway Route 6, 284.63 feet west from Phillips Ave. Property 50' front x 100' deep." The "renewal" application describes the type of building as "Stucco". It states that the premises are leased or rented from "Hyler Realty Corporation". Investigation by this Division reveals that the indicated Realty Corporation owns a large tract of land on State Highway Route 6, extending west from Phillips Avenue; but that defendant corporation does not lease or rent any premises at or in the vicinity of the location described in the application. Thus, there is no more substance in the "renewal" premises than in the "transferred" premises.

(Even assuming substance and actuality with respect to application for premises at "218 State Highway #6" and premises described in the 1949-50 "renewal" application, it would be difficult to demonstrate that the two premises were the same. In this connection, it is pertinent to remark that an application is not one for a renewal but for a new license if for premises other than those licensed at the end of the preceding license year. (R.S. 33:1-96.) And issuance of a new plenary retail consumption license in South Hackensack is prohibited by the State Limitation Law -- P.L. 1947, c. 94.)

The license to defendant has been of dubious validity since the very inception back in 1947. In any event, I am convinced, on the record and merits, that defendant held no valid license for 1948-49 and, accordingly, that there was legally no license to renew for 1949-50. Thus, I am constrained to revoke the 1948-49 license.

Although these proceedings were instituted during the 1948-49 licensing year, they do not abate but remain fully effective against a renewal license for 1949-50. (State Regulations No. 16.)

Accordingly, it is, on this 31st day of October, 1949,

ORDERED that 1948-49 Plenary Retail Consumption License C-1, issued, and transferred, by the South Hackensack Township Committee to South Hackensack Bar and Grill, Inc., and as conditionally renewed for the current license year, be and the same is hereby revoked, effective immediately.

ERWIN B. HOCK  
Director.

4. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1949 TO SEPTEMBER 30, 1949 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

C L A S S I F I C A T I O N O F L I C E N S E S

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Suren-dered Expired	Number Licen-ses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	487	\$ 203,050.00	69	25,950.00	16	1,549.18						572	\$ 230,549.18
Bergen	819	296,916.37	296	78,518.00	67	6,429.04	52	2,280.82	5	1,334.29		1239	385,478.50
Burlington	186	72,175.00	30	8,400.00	36	5,050.00	1	25.00				253	85,650.00
Camden	456	216,550.00	82	29,325.00	59	5,705.40			1	375.00		598	251,955.40
Cape May	133	65,750.00	11	4,150.00	15	1,583.29						159	71,483.29
Cumberland	79	33,550.00	14	3,650.00	29	3,910.00						122	41,110.00
Essex	1376	759,560.00	349	201,850.00	99	13,408.90	33	1,650.00				1857	976,468.90
Gloucester	107	33,450.00	13	2,950.00	14	1,400.00						134	37,800.00
Hudson	1562	677,347.24	298	117,810.00	75	9,202.74	72	3,075.00				2007	807,434.98
Hunterdon	79	24,075.00	6	1,787.50	5	600.00						90	26,462.50
Mercer	425	255,000.00	50	20,350.00	48	6,577.26			1	120.00		524	282,047.26
Middlesex	635	300,954.62	70	22,245.00	58	5,584.45	5	225.00				768	329,009.07
Monmouth	547	270,145.00	110	38,050.00	30	3,600.00	10	376.66	29	12,535.48		726	324,707.14
Morris	353	118,515.00	95	27,350.00	38	3,800.00	6	300.00	6	1,237.50		498	151,202.50
Ocean	185	104,830.52	45	19,050.00	11	1,200.00						241	125,080.52
Passaic	882	361,930.00	163	50,440.00	32	3,975.00	13	600.00				1090	416,945.00
Salem	50	18,900.00	7	1,300.00	10	925.00						67	21,125.00
Somerset	185	78,315.00	35	9,306.16	21	2,336.81						241	89,957.97
Sussex	171	44,755.00	16	3,104.45	6	360.00			1	225.00		194	48,444.45
Union	544	287,200.00	142	57,300.00	61	7,015.96	23	1,142.60				770	352,658.56
Warren	148	41,380.00	17	3,307.50	28	2,655.00			2	247.54		195	47,590.04
Totals	9409	\$4,264,348.75	1918	\$726,193.61	758	\$86,868.03	215	\$9,675.08	45	\$16,074.81		12345	\$5,103,160.28

ERWIN B. HOCK, Director.

Respectfully submitted

John H. Michelson, Deputy Director.

5. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL AND EQUIPMENT ORDERED FORFEITED - MOTOR VEHICLE ON PREMISES RETURNED TO INNOCENT OWNER - BUILDING WHERE STILL WAS SEIZED ORDERED PADLOCKED.

In the Matter of the Seizure on September 19, 1949, of a still, a quantity of alcohol, an International truck and other personal property, at premises occupied by Harry Bright, located on Ashland Avenue, in the Borough of Lawnside, County of Camden and State of New Jersey.

Case No. 7512

ON HEARING CONCLUSIONS AND ORDER

Thirget Corbin, Pro Se. Harry Castelbaum, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 2, Revised Statutes of New Jersey, to determine whether certain still parts, a quantity of alcoholic beverages and an International truck, and other personal property, itemized in a schedule attached hereto, seized on September 19, 1949 at premises owned and occupied by Harry Bright, located on Ashland Avenue, Lawnside, New Jersey, constitute unlawful property and should be forfeited, and further, to determine whether the premises should be padlocked.

It appears that ABC agents found a still being operated by one Thomas Burns in a small building located in the rear of the premises. The agents seized the still and its equipment, including a quantity of mash and alcohol and the International truck, which was on the premises. The agents ascertained that the electric current used in the operation of the still was furnished from Harry Bright's residence on the premises. The still was not registered with the Director of Alcoholic Beverage Control as required by R.S. 33:2-1.

When the matter came on for hearing pursuant to R.S. 33:2-4, Thirget Corbin appeared and sought return of the truck. No one appeared to contest forfeiture of the still and equipment, or to oppose padlocking.

Mr. Corbin produced a motor vehicle registration, issued by the State of Pennsylvania, evidencing his ownership of the truck. He testified that he operates a small meat market and purchased the truck in 1943 for use in his business; and that he has frequently loaned the truck to other persons for moving or hauling jobs, being compensated therefor on some occasions.

Corbin's background, according to his testimony, is that of an industrious person earning a meagre livelihood and without any criminal record. Independent check has confirmed that he has no such record.

Corbin says that he has known Burns for about ten months, having met him at a market where Corbin purchased supplies, and when he was at the market about once a week, he saw Burns working there. He says that he loaned his truck to Burns on eight or ten occasions and that Burns would keep the truck for four or five hours and told him that he was trucking vegetables. On September 19th he loaned the truck to Burns on his representation that he was going for a load of water-melons, and he did not have any reason to suspect that Burns intended to use the truck in connection with the operation of an illicit still. Burns' fingerprint records do not disclose any previous conviction of crime.

The evidence presented indicates that Thirget Corbin acted in good faith and that his truck was on the still premises without his knowledge. Accordingly, the International truck will be returned to him upon payment of the costs of its seizure and storage.

Accordingly, it is ORDERED that if on or before the 10th day of November, 1949, Thirget Corbin pays the costs incurred in the seizure and storage of the International truck, such truck will be returned to him, and it is further

DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:2-5 and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the State Director of the Division of Alcoholic Beverage Control; and it is further

ORDERED that the building in which the still was seized, on premises occupied by Harry Bright, located on Ashland Avenue, in the Borough of Lawnside, County of Camden and State of New Jersey, shall not be used or occupied for any purpose whatsoever for a period of six months commencing the 1st day of December, 1949.

ERWIN B. HOCK  
Director.

Dated: November 1, 1949.

SCHEDULE "A"

- 6 - 1-gallon jugs of alcohol
- 1 - copper preheater
- 1 - set of copper coils
- 1 - copper gooseneck
- 1 - water pump and motor
- 1 - water tank
- 4 - empty 5-gallon cans
- 23 - empty jugs
- 2 - funnels
- 8 - 50-gallon barrels of mash
- 4 - empty 50-gallon barrels
- 1 - stove base and pipes
- 1 - International truck,  
Engine No. HD 3 - 35830, 1949 Penn. Reg.  
T-29V2
- Miscellaneous personal property

6. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

WILLIAM H. KAHLERT )  
T/a HAZLET LUNCH )  
State Highway 35 )  
Raritan Township )  
P.O. Box 361, Keyport, N.J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Raritan. )

-----  
William H. Kahlert, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on October 14, 1949, he possessed a barrel of "Ballantine" beer, the contents of which were drawn through a tap bearing no label, in violation of Rule 1 of State Regulations No. 22.

Since the defendant has no previous adjudicated record, I shall suspend the license for a minimum of three days for a violation of this kind, less one day because of the plea entered herein, or a net suspension of two days. Cf. Fackenthal, Bulletin 824, Item 9.

Accordingly, it is, on this 1st day of November, 1949,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Raritan to William H. Kahlert, t/a Hazlet Lunch, State Highway 35, Raritan Township, be and the same is hereby suspended for a period of two (2) days, commencing at 2:00 a.m. November 9, 1949, and terminating at 2:00 a.m. November 11, 1949.

ERWIN B. HOCK  
Director.

7. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION DENYING CONVICTION OF CRIME - EMPLOYMENT PERMIT REVOKED.

In the Matter of Disciplinary Proceedings against LEONI DiGIACIMO, also known as "Leonard Ross", "Lenny Ross", "Lenni Ross" and "Leonard DelRossi", 1336 N. 29th Street Philadelphia, Pa.,

CONCLUSIONS AND ORDER

Holder of Employment Permit No. 2879, issued by the Director of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety.

William Cohen, Esq., Attorney for Defendant-permittee. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he falsified his application for a non-resident employment permit.

On June 23, 1949, defendant applied to the Division for an "Employment Permit". In making said application he falsely stated "No" in answer to Question 10 thereon which asks: "Have you ever been convicted of any crime?" The permit was issued on July 1, 1949 upon a report from the New Jersey State Bureau of Identification. On July 28, 1949, the Division received a report from the Federal Bureau of Investigation disclosing that defendant had been convicted in Pennsylvania, on or about January 30, 1948, of the crime of "giving and participating in a certain theatrical and vaudeville exhibition of a lascivious, sacrilegious, obscene, indecent and immoral nature and character and such as might tend to corrupt morals". Further investigation disclosed the following convictions of crime, also in Pennsylvania: September 1944, October 1944, January 1946 (two charges), May 1947. All convictions are for offenses similar to the conviction in January 1948.

Applicants for licenses or permits under the Alcoholic Beverage Control Law in this state must tell the full truth in answering questions in their applications.

In the instant case, I am of the opinion that the defendant has been convicted of crimes involving moral turpitude. Cf. Re Case No. 566, Bulletin 698, Item 4; Kravis v. Hock, 135 N.J.L. 259. He is therefore ineligible to hold any license or permit under the Alcoholic Beverage Control Law in this state or to be employed by the holder of such a license or permit. See R.S. 33:1-25, 26.

In any event, I shall revoke the present permit.

Accordingly, it is, on this 1st day of November, 1949,

ORDERED that Employment Permit No. 2879, issued by the Director of the Division of Alcoholic Beverage Control to Leoni DiGiacimo, also known as "Leonard Ross", "Lenny Ross", "Lenni Ross" and "Leonard DelRossi", 1336 N. 29th Street, Philadelphia, be and the same is hereby revoked, effective forthwith.

ERWIN B. HOCK Director.

8. FAIR TRADE - NOTICE OF COMPLETE PUBLICATION.

November 7, 1949

The next official publication of minimum resale prices pursuant to Fair Trade rules (Revised Regulations No. 30) will become effective on January 1, 1950. Prices to be listed must be filed with the office of this Division not later than November 20, 1949. The publication will be a complete pamphlet in accordance with Rule 3 of Regulations No. 30, providing for issuance of quarterly complete publications.

In submitting price listings it is important to note the following:

1. The importance of listing all brands of alcoholic beverages (including malt beverages) is emphasized in light of Rule 6 of Revised Regulations No. 30 which prohibits price advertising of any brand not listed in Fair Trade.
2. It is earnestly suggested that traditional and adequate markups should be maintained for the retailer.
3. Only manufacturers and wholesalers owning brands or wholesalers having specific written authorization of the owner of brands, may file price listings for publication in minimum resale price pamphlets.
4. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of \_\_\_\_\_% permitted on case lot purchases" should be used.
5. True copies of labels or photostats of labels of any brands not previously listed in Fair Trade must be submitted with the price listings.
6. Price listings may be submitted by letter in the same form as heretofore but must bear a statement certifying the existence of a Fair Trade contract between the manufacturer or wholesaler and a licensed New Jersey retailer. It is important to note that copies of such Fair Trade contracts need no longer be filed with the Division.

Notification of the proportionate share of aggregate expenses involved in the publication of the complete pamphlet will be made to participating companies as soon as the pamphlet is mailed to all retail licensees.

ERWIN B. HOCK  
Director.

- 9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

GLADYS HUHN )  
 T/a RED TOP BAR & LUNCH )  
 Cor. Ocean Ave. & Laird Street )  
 Long Branch, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-48, issued by the Board of Commissioners of the City of Long Branch. )

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

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that she sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Pfc. Lester ---, a minor, and allowed, permitted and suffered said minor to consume alcoholic beverages upon her licensed premises, in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20.

The file herein discloses that on September 29, 1949, at about 11:00 p.m., Pfc. Lester ----, twenty years of age, entered defendant's premises with another soldier who was over the age of 21 years. In statements given to ABC agents, both soldiers stated that they ordered a glass of beer which was served by Robert Rigby, the bartender, and that each of them consumed a glass of beer on the licensed premises.

Defendant alleges that the minor had in his possession an adult pass but the minor alleges that he was not questioned as to his age and that his pass indicated that he was a minor. In any event, defendant has not established that the minor falsely represented, in writing, that he was twenty-one years of age or over, as required by R.S. 33:1-77(a). See Bulletin 758, Item 2.

Defendant has a prior record. On September 19, 1944, the local issuing authority suspended her license for ten days after she was found guilty of selling alcoholic beverages during prohibited hours. However, because of the length of time which has elapsed since the prior dissimilar violation I shall not consider the prior record in fixing the period of suspension herein. I shall suspend defendant's license for ten days, less five for the plea, making a net suspension of five days.

Accordingly, it is, on this 7th day of November, 1949,

ORDERED that Plenary Retail Consumption License C-48, issued by the Board of Commissioners of the City of Long Branch to Gladys Huhn, t/a Red Top Bar & Lunch, for premises at the corner of Ocean Avenue & Laird Street, Long Branch, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. November 14, 1949, and terminating at 2:00 a.m. November 19, 1949.

ERWIN B. HOCK  
 Director.

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS BY DEFENDANT AND PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
FREDDIE'S TAVERN, INC.  
17-19 South Broadway  
Long Branch, N. J.,  
Holder of Plenary Retail Consumption License C-61, issued by the Board of Commissioners of the City of Long Branch.  
-----)

CONCLUSIONS AND ORDER

Defendant-licensee, by Alfred F. Monaco, President.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant-licensee has pleaded non vult to charges alleging that it and its predecessor in interest, Alfred F. Monaco, sold alcoholic beverages to, and permitted the consumption of alcoholic beverages on the licensed premises by, two minors, in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20.

The records of this Division show that Alfred F. Monaco held a plenary retail consumption license for the premises in question from 1936 until September 9, 1949, at which time the license was transferred to defendant Freddie's Tavern, Inc., of which corporation Alfred F. Monaco is President.

The file herein discloses that on August 31, 1949, Private William ----, nineteen years of age, purchased, from Alfred F. Monaco, whiskey and beer, which he consumed on the licensed premises. This young man stated that he previously had purchased whiskey and beer on the licensed premises. The file also discloses that on September 19, 1949, Private Wayne ---, nineteen years of age, purchased and consumed two glasses of beer on defendant's premises.

Rule 2 of State Regulations No. 16 provides:

"Any license or permit may be suspended or revoked for proper cause, notwithstanding that such cause arose prior to transfer or extension of the license, or during the term of a prior license held by the licensee or his predecessor in interest or during the term of a prior permit held by the permittee."

Under the circumstances, I find defendant guilty as charged.

Neither defendant nor Alfred F. Monaco has any prior adjudicated record. Under all of the circumstances, I shall suspend the license for a period of ten days. Five days will be remitted for the plea, leaving a net suspension of five days.

Accordingly, it is, on this 7th day of November, 1949,

ORDERED that Plenary Retail Consumption License C-61, issued by the Board of Commissioners of the City of Long Branch to Alfred F. Monaco and transferred to Freddie's Tavern, Inc., for premises 17-19 South Broadway, Long Branch, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. November 14, 1949, and terminating at 2:00 a.m. November 19, 1949.

ERWIN B. HOCK  
Director.

11. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED AFTER DENIAL OF STAY BY APPELLATE DIVISION.

In the Matter of Disciplinary Proceedings against

LLOYD'S MANOR  
42-48 Beacon Street  
Newark 3, N. J.,

Holder of Plenary Retail Consumption License C-966, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

O R D E R

BY THE DIRECTOR:

By order dated October 19, 1949, the defendant's license was suspended for a period of 30 days, after it was found guilty of permitting an immoral dance upon its licensed premises, in violation of Rule 5 of State Regulations No. 20. Bulletin 857, Item 9. On October 28, 1949, an order was entered herein, upon authorization of a Judge of the Superior Court, Appellate Division, staying the effect of the suspension pending the defendant's application for a further stay pending its appeal to that Court.

The aforesaid application was heard today by the Superior Court, Appellate Division, and the application for a pendente lite stay was denied. The suspension, therefore, will be now reimposed to become effective on Wednesday, November 9, 1949, at 2:00 a.m.

Accordingly, it is, on this 7th day of November, 1949,

ORDERED that the suspension for a period of thirty (30) days, heretofore imposed upon Plenary Retail Consumption License C-966, held by Lloyd's Manor, for premises 42-48 Beacon Street, Newark, is hereby reimposed to become effective at 2:00 a.m. November 9, 1949, and to terminate at 2:00 a.m. December 9, 1949.

ERWIN B. HOCK  
Director.

12. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against )  
 )  
 LLOYD'S MANOR ) ON PETITION  
 42-48 Beacon Street ) O R D E R  
 Newark 3, N. J., )  
 )  
 Holder of Plenary Retail Consumption License C-966, issued by the )  
 Municipal Board of Alcoholic Beverage Control of the City of )  
 Newark. )  
 - - - - - )  
 Furst & Kessler, Esqs., Attorneys for Petitioner-licensee.

BY THE DIRECTOR:

It appearing that, by order dated November 7, 1949, the petitioner's license was suspended for a period of thirty days, commencing at 2:00 a.m. November 9, 1949, and terminating at 2:00 a.m. December 9, 1949; and

It further appearing, from a verified petition submitted by the licensee, that several months prior to November 7, 1949, the licensee had made arrangements for two social affairs to be held at its licensed premises, one on November 11, 1949, and the other on November 12, 1949; and

It further appearing that several hundred innocent persons will suffer if said social affairs are not held as scheduled,

It is, on this 10th day of November, 1949,

ORDERED that the suspension for a period of thirty days, heretofore imposed in these proceedings and which commenced at 2:00 a.m. November 9, 1949, shall continue until 2:00 a.m. November 11, 1949; that thereafter said suspension shall be lifted until 2:00 a.m. November 13, 1949, when it shall again become effective and continue in effect until 2:00 a.m. December 11, 1949.

ERWIN B. HOCK  
Director.

13. STATE LICENSES - NEW APPLICATION FILED.

William Scott  
Amber St. & Delaware Ave.  
Beach Haven, N. J.

Application filed November 7, 1949 for transfer of State Beverage Distributor's License SBD-12 from Florence M. Smith.

*Erwin B. Hock*  
Director.