

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

BULLETIN 918

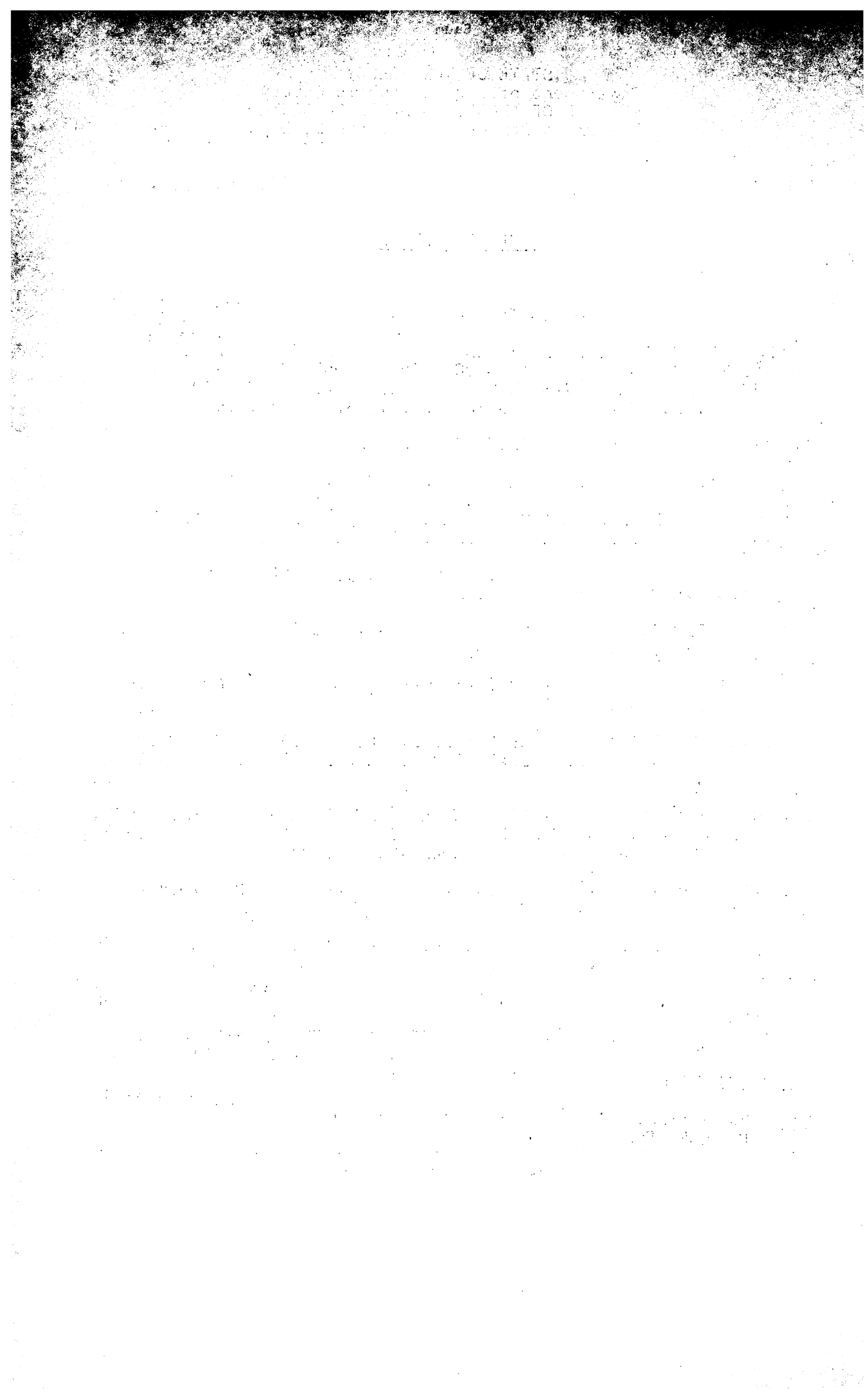
OCTOBER 15, 1951.

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

BULLETIN 918

OCTOBER 15, 1951.

1. ACTIVITY REPORT FOR SEPTEMBER 1951

ARRESTS:		
Total number of persons arrested	-----	28
Licensees and employees	5	
Bootleggers	23	
SEIZURES:		
Motor vehicles - cars	-----	2
- trucks	-----	1
Stills - over 50 gallons	-----	1
- 50-gallons or under	-----	2
Alcohol - gallons	-----	129.00
Mash - gallons	-----	18,802.64
Distilled alcoholic beverages - gallons	-----	5.28
Wine - gallons	-----	157.81
Brewed malt alcoholic beverages - gallons	-----	111.70
RETAIL LICENSEES:		
Premises inspected	-----	486
Premises where alcoholic beverages were gauged	-----	770
Bottles gauged	-----	12,862
Premises where violations were found	-----	303
Violations found	-----	310
Type of violations found:		
Unqualified employees	10	Improper beer taps
Probable fronts	2	Other violations
		297
STATE LICENSEES:		
Premises inspected	-----	41
License applications investigated	-----	18
COMPLAINTS:		
Complaints assigned for investigation	-----	363
Investigations completed	-----	383
Investigations pending	-----	178
LABORATORY:		
Analyses made	-----	105
Refills (from licensed premises) bottles	-----	4
Bottles from unlicensed premises	-----	20
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	19
Persons fingerprinted for non-criminal purposes	-----	183
Identification contacts made with other enforcement agencies	-----	113
Motor vehicle identifications via N. J. State Police Teletype	-----	7
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	11
Violations involved:		
Sale during prohibited hours	4	Permitting bookmaking on premises
Sale to minors	3	Permitting lottery activity
Possessing chilled beer (DL Licensee)	3	
Cases instituted at Division	-----	9
Violations involved:		
Possessing illicit liquor	2	Hindering investigation
Unauthorized transportation	1	Permitting immoral activity on premises
Sale to minors	1	Hostess activity on premises
Fraud and front	1	Employing unqualified person
Sale during prohibited hours	1	Failure to report retailer in default
Failure to afford view into premises during prohibited hours	1	
Cases brought by municipalities on own initiative and reported to Division	-----	7
Violations involved:		
Sale to minors	7	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	26
Appeals	6	Seizures
Disciplinary proceedings	10	Applications for license
Eligibility	6	Miscellaneous
PERMITS ISSUED:		
Total number of permits issued	-----	968
Employment	159	Social affairs
Solicitors	102	Special wine
Disposal of alcoholic beverages	103	Miscellaneous
		167

Dated: October 1, 1951.

ERWIN B. HOCK, DIRECTOR

2. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1951 TO OCTOBER 1, 1951 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 Surrendered Expired	Number Licenses 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	488	\$ 204,000.00	70	\$ 25,150.00	18	\$ 1,674.73						576	\$ 230,824.7
Bergen	828	310,720.00	281	74,627.00	73	7,045.55	49	\$ 2,214.38	4	\$ 1,056.38		1235	395,663.3
Burlington	186	72,275.00	30	8,850.00	36	5,150.00	1	25.00				253	86,300.0
Camden	456	218,500.00	82	31,425.00	66	8,286.09			1	375.00		605	259,586.0
Cape May	133	65,750.00	11	3,700.00	16	1,700.00						160	71,150.0
Cumberland	81	34,800.00	13	3,500.00	30	4,060.00						124	42,360.0
Essex	1376	758,985.00	349	203,500.00	96	12,912.96	33	1,650.00				1854	977,047.9
Gloucester	107	33,700.00	13	2,950.00	14	1,397.40						134	38,047.4
Hudson	1557	675,054.00	299	118,310.00	73	8,974.67	68	2,925.00			1	1996	805,263.6
Hunterdon	76	25,100.00	6	1,787.50	6	700.00						88	27,587.5
Mercer	425	257,400.00	51	20,800.00	53	7,449.18						529	285,649.1
Middlesex	633	300,095.00	72	21,820.00	70	6,673.08	5	250.00			1	779	328,838.0
Monmouth	543	278,331.19	116	39,800.00	30	3,573.36	8	335.00	28	12,321.79		725	334,411.3
Morris	352	121,615.00	96	29,715.00	42	4,133.33	13	946.71	6	1,229.40		509	157,639.4
Ocean	178	99,030.64	44	17,835.00	15	1,909.16						237	118,834.8
Passaic	876	353,890.00	166	51,030.00	35	4,314.80	10	475.00				1087	414,709.8
Salem	50	19,000.00	7	1,300.00	14	1,150.00			1	262.50		72	21,712.5
Somerset	185	75,140.00	37	9,960.00	19	2,399.46						244	87,499.4
Sussex	170	45,137.88	19	3,355.00	9	532.00						198	49,024.8
Union	545	287,350.00	142	57,150.00	63	7,090.68	29	1,475.00				779	353,065.6
Warren	148	41,905.00	18	3,257.50	30	2,941.92	2	257.60				198	48,362.0
Totals	9393	\$4,282,888.71	1922	\$729,822.00	808	\$94,068.37	218	\$10,553.69	40	\$15,245.07	2	12379	\$5,132,577.8

ERWIN B. HOCK
Director

Respectfully submitted,
John H. Michelson
Deputy Director

3. APPELLATE DECISIONS - JACKSON v. NEWARK.

JOHN J. JACKSON, JR., and)
MARY JACKSON,)
Appellants,)

-vs-

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

ON APPEAL
CONCLUSIONS AND ORDER

-----)
Max Schomer, Esq. and William Osterweil, Esq., Attorneys for)
Appellants.)

Charles Handler, Esq., by George B. Astley, Esq., Attorney for)
Respondent.)

BY THE DIRECTOR:

Appellants appeal from the action of respondent in finding them guilty, after trial, of a charge preferred by said Board alleging that appellants had allowed, permitted and suffered a brawl or disturbance upon their licensed premises, in violation of Rule 5 of State Regulations No. 20, and also from the resulting ten-day suspension of the license then held by them. Upon the filing of the appeal, the suspension was stayed pending the outcome thereof and the final Order of the Director. R. S. 33:1-31.

The appeal was submitted by agreement of the parties, under Rule 8 of State Regulations No. 15, upon the stenographic transcript of the testimony given by all the witnesses below, plus the testimony of one additional witness not produced at the original trial.

The petition of appeal sets forth three reasons for reversal, viz., (a) the decision was contrary to the weight of the evidence, (b) no such brawl or disturbance was suffered or permitted by appellants on their licensed premises, and (c) that if such action occurred, the appellants acted reasonably under the circumstances to prevent, avert and terminate any such brawl or disturbance.

The evidence indicates that Bernard Neuhaus, ex-husband of Mrs. Jackson (one of the licensees herein) entered appellants' licensed premises at approximately 11:00 p.m. on the night of March 16, 1951, in response to a telephone call from Mrs. Jackson concerning their son. When he first entered the premises Mrs. Jackson was seated at the bar engaged in conversation with an unidentified patron but shortly thereafter disappeared into another room from which she apparently did not emerge until after the incident in which Neuhaus was injured, as hereinafter related. Meanwhile Neuhaus remained at the bar and consumed a number of drinks (according to his testimony four or five) for approximately an hour or an hour and a half, at the end of which time John J. Jackson, Jr., the other licensee herein, and present husband of Mrs. Jackson, entered the premises.

From the testimony of nearly all of the witnesses, it appears that Neuhaus became involved in an argument with another patron named Stoke, during the course of which Neuhaus is alleged to have challenged Stoke to a fight and to have removed his coat in preparation therefor. Several of the witnesses, including Jackson, testified that Jackson then approached Neuhaus and remonstrated with him. Jackson himself admits that he charged Neuhaus with always giving him a "hard time", (It was later explained that in two or three other licensed premises where Jackson had been tending bar, he and Neuhaus had engaged in arguments.) As to the incident between

Neuhaus and Stoke, the bartender, Joseph Rommer, states that, when Neuhaus took his coat off, several of the patrons tried to separate Neuhaus and Stoke. Another witness, James J. Walsh, a patron who had been seated next to Neuhaus, testified that they had a number of drinks together and that the argument between Neuhaus and Stoke was getting "a little hot" when Jackson entered the premises and remonstrated with Neuhaus. Apparently Jackson was successful in having Stoke leave the premises but he claims that, although he also asked Neuhaus to leave, the latter declined to do so saying that he was there "to cause trouble". When asked what he thought Neuhaus meant by "trouble", Jackson claimed that he thought that Neuhaus meant that he was there to cause a "family argument".

There seems to have followed a brief period of relative quiet after which Neuhaus and Jackson engaged in an argument concerning "domestic affairs" during the course of which each made various charges and counter-charges against the other. For instance, the testimony shows that Jackson charged Neuhaus with failure to meet his obligations (imposed by the Court) for the support of his son and that, in consequence, he (Jackson) had to support the boy and that the boy was "not good". Neuhaus is said to have retorted that it was his money that put Jackson in business. In addition, the testimony shows that the husband and ex-husband debated the question of whether or not Mrs. Jackson should remain with her present husband or return to Neuhaus, all in a manner most uncomplimentary to Mrs. Jackson.

The ultimate consequence of this controversy was that, some time after 1:00 a.m. on March 17, 1951, Neuhaus received injuries in and about the head which caused him to bleed profusely and necessitated medical attention. Although Neuhaus is somewhat vague as to how he was injured, claiming merely that he was hit and knocked down and that Jackson was in front of him when it happened, Jackson admits that he pushed Neuhaus (allegedly in self-defense) and that, when he did, Neuhaus hit his head on the table. The other witnesses also testified that Neuhaus was injured when he went down after contact with Jackson.

It is significant that, to Jackson's personal knowledge, Neuhaus had been engaged in at least two arguments before the violence occurred, once with Stoke and later with Jackson. The former incident, of undetermined duration, was described by Walsh as "getting a little hot", and was sufficient to cause other patrons to try to "separate" the participants and to cause Jackson to admonish Neuhaus and request Stoke to leave the premises. The second incident was described by the participants as "arguing back and forth" and "one thing got into another" and, from the number and variety of matters debated, must certainly have been more than the exchange of a few words in friendly discussion. On the contrary, Neuhaus claims that Jackson called him some names. Indeed, it takes no great stretch of the imagination to arrive at the conclusion that, in view of the "triangular" relationship of the two men and the highly personal subject matter under discussion, the argument was undoubtedly neither temperate nor well modulated. In this connection it is most significant that the argument between Neuhaus and Jackson was loud enough to be heard by the bartender, who claimed that he was "busy at the bar" and by the patron, Walsh, who not only heard the argument but was able to repeat some of it on the witness stand.

Another noteworthy factor is the fact that Jackson departed the premises immediately after Neuhaus was injured and did not return that night. The same is true of the bartender Rommer, who walked several blocks where he reported the matter to a police officer but did not return to the licensed premises with him. Meanwhile, at the licensed premises, only the injured man, Neuhaus, gave any thought to telephoning the police.

At the hearing Jackson repeatedly admitted that at no time during his difficulties with Neuhaus did he call the police, finally admitting, in answer to a question by one of the members of the Board as to why he didn't call the police when Neuhaus said he was at the licensed premises for "trouble", "perhaps I should have; I didn't because that was a family trouble and I didn't want to bring in personalities".

It is highly significant that, after the completion of the testimony before the local Board, counsel for the licensees argued that this was not "a regular ordinary brawl" stressing the fact that the Jacksons were "trying to pacify an unpleasant triangle", to which one of the Board members replied that, because of the unusual circumstances, Jackson should have taken steps to prevent the situation which occurred and that he should have "known better" since "the reason this man was there -- was to give him trouble. He should have called the police the first time". When counsel for the licensees then argued that Jackson was endeavoring to maintain a harmonious relationship between the parties the same Board member answered "we are concerned with the police and the investigation of this matter and not so much with the marital situation". I agree with this view. A licensee and his employees are necessary preservers of the peace at the licensed premises. Re Polster, Bulletin 388, Item 10; Re Esposito, Bulletin 461, Item 5; and Re McLean, Bulletin 556, Item 1. Marital or other family difficulties cannot excuse or justify the failure of a licensee to carry out this important responsibility.

Under all of the circumstances I find that, not only did the licensees and the bartender fail to take any effective steps to quell a disturbance upon the licensed premises on the night in question but, in addition, one of the licensees actually participated therein under circumstances which constitute "allowing, permitting and suffering" a brawl upon the licensed premises within the meaning of the Regulation.

Under the rules relating to appeals, the burden of establishing that the action of the Board (respondent) was erroneous and should be reversed rests with the appellants. Rule 6 of State Regulations No. 15. They have failed to carry such burden.

The action of the respondent will be affirmed.

The suspension to be reimposed herein will operate against the renewal license issued to appellants for the 1951-52 licensing year. State Regulations No. 16.

Accordingly, it is, on this 20th day of September, 1951,

ORDERED that the action of respondent be and the same is hereby affirmed; and it is further

ORDERED that the ten-day suspension of appellants' plenary retail consumption license for premises 47-53 Branford Place, Newark (which suspension was held in abeyance by my Order dated May 14, 1951), be and the same is hereby restored to commence at 2:00 a.m. September 25, 1951, and to terminate at 2:00 a.m. October 5, 1951.

ERWIN B. HOCK
Director.

4. APPELLATE DECISIONS - GADEK v. ELIZABETH.

JOSEPH A. GADEK, JR.,)
Appellant,)

-vs-

ON APPEAL
O R D E R

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

Respondent.)

Nathan Reibel, Esq., Attorney for Appellant.
Louis P. Longobardi, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby it suspended appellant's license for a period of thirty days. The suspension was imposed on September 21, 1951, effective at 2:00 a.m. September 22, 1951. Upon the filing of this appeal I entered an order, dated September 24, 1951, staying the effect of respondent's order of suspension pending a scheduled hearing and until further order. The premises in question are located at 232 Front Street, Elizabeth.

Petition of appeal alleges, in substance, that appellant was not granted a proper hearing prior to the suspension of his license.

Prior to the date fixed for hearing herein, the attorneys for the respective parties have consented, in writing, to the entry of an order herein remanding the matter to respondent for a hearing and determination on the merits of the case, at a hearing to be held at 8:00 p.m. on October 16, 1951, at the City Council Chambers, City Hall, Elizabeth.

No reason appearing to the contrary,

It is, on this 1st day of October, 1951,

ORDERED that the matter be remanded to respondent for a hearing and determination in accordance with the terms of the written consent; and it is further

ORDERED that the stay of respondent's original order of suspension shall continue in effect until the entry of a further order by respondent.

ERWIN B. HOCK
Director.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

WARWICK RESTAURANT CORPORATION OF NEW JERSEY T/a WARWICK RESTAURANT 101 S. Raleigh Avenue Atlantic City, N. J.,

Holder of Plenary Retail Consumption License C-204, issued by the Board of Commissioners of the City of Atlantic City.

Warwick Restaurant Corporation of New Jersey, Defendant-licensee, by Adolph Marks, President. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulations No. 20.

On August 14, 1951, an ABC agent in the course of a routine inspection of defendant's licensed premises seized one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky 90.4 Proof" when his field tests disclosed a variance between the label thereon and the contents thereof. Subsequent analysis by the Division chemist disclosed facts which lead me to conclude that said bottle bore a label which did not truly describe its contents.

Defendant has no previous adjudicated record.

Finding no aggravating circumstances, I shall suspend the license for fifteen days, the minimum suspension in such cases. Re Rudolph, Bulletin 680, Item 1. Remitting five days because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 21st day of September, 1951,

ORDERED that Plenary Retail Consumption License C-204, issued by the Board of Commissioners of the City of Atlantic City to Warwick Restaurant Corporation of New Jersey, t/a Warwick Restaurant, for premises 101 S. Raleigh Avenue, Atlantic City, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. October 1, 1951, and terminating at 7:00 a.m. October 11, 1951.

ERWIN B. HOCK Director.

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

In the Matter of Disciplinary Proceedings against)
 WARWICK RESTAURANT CORPORATION)
 OF NEW JERSEY)
 T/a WARWICK RESTAURANT)
 101 S. Raleigh Avenue)
 Atlantic City, N. J.,)
 Holder of Plenary Retail Consumption License C-204, issued by the Board of Commissioners of the City of Atlantic City.)
 -----)

ON PETITION
O R D E R

An Order having been entered herein on the 21st day of September, 1951, suspending defendant's license for a period of ten days, commencing at 7:00 a.m. October 1, 1951, and terminating at 7:00 a.m. October 11, 1951; and

It appearing, from a petition filed herein for the postponement of the effective dates of said suspension, that October 1, 1951, is "the first day of Rosh Hashona"; that "eighty per cent. of our clientele are of the Jewish faith" and that these customers "would like to have a drink with their food during this holiday"; and

It thus appearing that numerous innocent persons would be inconvenienced by suspension of defendant's license for the period commencing October 1, 1951 (cf. Re Russian American Club, Bulletin 743, Item 8);

It is, on this 25th day of September, 1951,

ORDERED that the suspension of ten days imposed in this proceeding, instead of commencing at 7:00 a.m. October 1, 1951, shall, in lieu thereof, commence at 7:00 a.m. October 15, 1951, and terminate at 7:00 a.m. October 25, 1951.

ERWIN B. HOCK
Director.

By: Edward J. Dorton
Deputy Director.

7. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THEODORE J. SZEKERES)
T/a ASHMORE TAVERN)
160 Ashmore Avenue)
Trenton 10, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Trenton.)
-----)

Theodore J. Szekeres, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulations No. 20.

On August 16, 1951, an ABC agent in the course of a routine inspection of defendant's licensed premises seized one 4/5 quart bottle labeled "Calvert Reserve Blended Whiskey 86.8 Proof" when his field tests disclosed a variance between the label thereon and the contents thereof. Defendant, on the same day, admitted in a sworn statement that he had refilled the said bottle with another whiskey.

Defendant has no prior adjudicated record.

Finding no aggravating circumstances, I shall suspend the license for fifteen days. Re Rudolph, Bulletin 680, Item 1. Remitting five days for the plea will leave a net suspension of ten days.

Accordingly, it is, on this 25th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Trenton to Theodore J. Szekeres, t/a Ashmore Tavern, 160 Ashmore Avenue, Trenton, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. October 2, 1951, and terminating at 2:00 a.m. October 12, 1951.

ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary)
Proceedings against)

PATSY MONTAGNA)
T/a PADDY'S BAR & GRILL)
507 Valleybrook Avenue)
Lyndhurst, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-35, issued by the)
Board of Commissioners of the)
Township of Lyndhurst.)
- - - - -)

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

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that he sold, served and delivered alcoholic beverages at his licensed premises to minors, and allowed, permitted and suffered the consumption thereof by said minors upon his said premises, in violation of Rule 1 of State Regulations No. 20.

At the hearing herein one Arthur J. --- testified that he was born on August 28, 1933; and that on Wednesday, July 11, 1951, at about 1:30 p.m., he and a companion, one John M. --- (whom the witness believed to be "about 19") entered defendant's premises. He further testified that they stayed in the tavern for approximately three hours and that defendant served to each of them "about 15 beers and two Tom Collins" which they consumed. Two sworn statements made on July 13, 1951 by John M. --- were offered in evidence, because John M. --- was out of the state, and admitted upon specific "no objection" of defendant's attorney. Cf. Re Petagno, 24 N. J. Mis. 279; 104 A.L.R. 1130. These statements substantially corroborate the testimony given by Arthur and give John's --- age as 19 years.

Defendant's only defense was his own testimony that neither of the boys was in his premises on July 11, 1951 and that he didn't open the tavern that day until 2:20 p.m. No corroborative testimony was offered. Defendant's offer to secure testimony from other witnesses to so corroborate his testimony, if the hearing were continued to a subsequent day, was denied because of defendant's statement as to the nature of said alleged corroborative testimony, from which it appeared that said witnesses could only testify that they did not see defendant at his licensed premises until some time after 2:30 p.m. on the day in question. Such negative testimony is of little value.

I find defendant guilty as charged.

Considering the age of one of the minors and the amount of alcoholic beverages sold and consumed, together with the fact that defendant has no prior record, I shall suspend the license for fifteen days. Cf. Re Panetta, Bulletin 852, Item 3.

Accordingly, it is, on this 2nd day of October, 1951,

ORDERED that Plenary Retail Consumption License C-35, issued by the Board of Commissioners of the Township of Lyndhurst to Patsy Montagna, t/a Paddy's Bar & Grill, for premises 507 Valleybrook Avenue,

Lyndhurst, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. October 9, 1951, and terminating at 2:00 a.m. October 24, 1951.

ERWIN B. HOCK
Director.

9. STATE-WIDE LIMITATION OF RETAIL LICENSES - EFFECT OF OFFICIAL FINAL FIGURES ON MUNICIPAL POPULATION UNDER THE 1950 FEDERAL CENSUS.

TO ALL MUNICIPAL ISSUING AUTHORITIES:

Section 2 of the State Limitation Law (P. L. 1947, c. 94) prohibits issuance of new retail consumption licenses (plenary and seasonal being limited in the aggregate) unless and until the number of such licenses existing in the municipality is fewer than one for each 1,000 of the municipality's population as shown by the latest Federal census. The Limitation Law's ratio as to plenary retail distribution licenses is one for each 3,000 of a municipality's population as shown by the latest Federal census.

Obviously and necessarily the latest final census figures control within the operation of our State Limitation Law. The municipal population figures for 1950 released some months ago by the Census Bureau were preliminary only. The official final figures of municipal population under the 1950 Federal census have now been released. In some New Jersey municipalities the populational gain since 1940 will permit issuance of one or more new licenses in so far as the State Limitation Law is concerned, but that will not mean that an application for new license must be granted. The Limitation Law merely fixes an overall maximum. Of course, no retail license may be issued in a municipality which is dry by referendum; nor may a license be issued in a municipality in which issuance of any license of the type sought is prohibited by ordinance; nor may a new license be issued where the municipal ordinance fixes a quota which is already filled; nor may a license be issued in the absence of an ordinance fixing the fee for the particular type of license. And where issuance of a new retail license is permitted by both State law and local regulation, the determination to grant or deny an application therefor rests, subject to appeal to the State Director, in the sound discretion of the municipal issuing authority. (Revised Statutes, 33:1-19; 33:1-22.)

ERWIN B. HOCK
Director.

Dated: October 4, 1951.

10. DISCIPLINARY PROCEEDINGS - STATE BEVERAGE DISTRIBUTOR LICENSEE - VIOLATION OF RULE 5(b) OF STATE REGULATIONS NO. 39 - PRIOR RECORD - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against)

UNION BEVERAGES, INC.)
S/W Cor. Union Avenue & John St.)
Linden, N. J.,)

CONCLUSIONS AND ORDER

Holder of State Beverage Distributor's License SBD-116, issued by the Director of the Division of Alcoholic Beverage Control.)

Samuel S. Saiber, Esq., Attorney for Defendant-licensee.
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on 13 different occasions between September 7, 1949 and October 24, 1950, it failed to notify the Director that a retail licensee-customer became in default under Rule 2(a) of State Regulations No. 39, in violation of Rule 5(b) of State Regulations No. 39.

Defendant seeks to blame the neglect of his bookkeeper, who apparently did not check the few "beer accounts" as closely as he should to catch the defaults. This is, of course, no excuse.

Defendant was afforded an opportunity of obtaining a special permit. See Bulletin 849, Items 1 and 3. Having failed to do so, the present proceedings were instituted.

Defendant has a prior adjudicated record. Effective October 4, 1950, its license was suspended for twenty days for violations of State Regulations 12, 14 and 17 and the statute, R. S. 33:1-2. Re Union Beverages, Inc., Bulletin 886, Item 5. Considering all the circumstances, including the prior record and the plea, I shall suspend defendant's license for ten days. Cf. Re National Soda Bottling Works, Inc., Bulletin 865, Item 2.

Accordingly, it is, on this 2nd day of October, 1951,

ORDERED that State Beverage Distributor's License SBD-116, issued by the Director of the Division of Alcoholic Beverage Control to Union Beverages, Inc., s/w Cor. Union Avenue & John Street, Linden, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. October 9, 1951, and terminating at 9:00 a.m. October 19, 1951.

ERWIN B. HOCK
Director.

11. MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

September 25, 1951.

Re: Case No. 629

Applicant seeks a determination as to whether or not he is ineligible for employment by the holder of a liquor license in New Jersey by reason of his conviction of crime.

Applicant, on June 28, 1949, was found guilty by a jury after indictment for "Bookmaking", in violation of R. S. 2:135-3. He was sentenced to one to two years in State Prison. Received in prison on September 16, 1949, he was paroled at the expiration of his minimum sentence, less time off for good behavior, on June 23, 1950, and has since been discharged from parole.

Applicant was arrested while employed as a bartender by a private golf club in Essex County. A number of betting "slips" containing memoranda of bets on horse races, together with some \$1,282.87, mostly cash, on applicant's person was seized. The money and one check were seized by the arresting officers, apparently on the theory that said moneys were connected with and were an integral part of a gambling operation.

Petitioner admits that when arrested he told the arresting officers that he was "making book". He was indicted for violation of R. S. 2:135-3 as a "bookmaker". This term has been defined by our court to mean "One who makes a book on a race or other doubtful event; a professional betting man", State v. Morano, 134 N.J.L. 295, and connotes more than a passing interest in a bet merely made for one's personal "pleasure" or "profit".

Commercialized gambling may or may not involve moral turpitude. Re Case No. 239, Bulletin 305, Item 9. The factual background and the severe sentence imposed leads me to the conclusion that the instant conviction was the conviction of a crime involving moral turpitude. Re Case No. 626, Bulletin 892, Item 9.

This decision is reached regardless of the fact that thereafter applicant and another started suit in the Superior Court of New Jersey, Law Division, Essex County, seeking the return of said seized money. On December 12, 1950, after trial by the Court without a jury, judgment was entered in the cause, directing that defendant therein return said money and property.

This finding by a civil court can have no effect upon the conviction in the Criminal Court.

At the hearing herein, applicant testified that this money was not part of any gambling operation; that he was holding the money (half of which belonged to another person) to purchase a car; that the slips were memoranda of bets he himself made with a bookmaker by telephone; that he did not accept bets from anyone and received no percentage for any services rendered to any bookmaker.

I cannot accept applicant's statement that the bets represented by the "slips" found in his possession merely represented memoranda of his own bets with his own "bookie" especially when we consider that to warrant the conviction as aforesaid the jury clearly must have found otherwise.

I recommend that applicant be advised that, in the opinion of the Director, the aforesaid conviction is the conviction of a crime involving moral turpitude. Accordingly, applicant is disqualified under the statute from holding a liquor license in this state and from being employed by the holder of such a license. R.S. 33:1-25, 26.

Edward F. Hodges
Attorney.

APPROVED:
ERWIN B. HOCK
Director.

12. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING BUSINESS.

In the Matter of Disciplinary)
Proceedings against)

LOUIS KELMAN)
T/a FAIRMONT LODGE)
319 Fifth Street)
Lakewood, N. J.,)

O R D E R

Holder of Plenary Retail Consump-)
tion License C-24 (for the 1950-51)
licensing year), issued by the)
Township Committee of the Township)
of Lakewood.)

BY THE DIRECTOR:

It appearing that by Order dated May 9, 1951, the license then held by the above named defendant was suspended for fifty days, and that subsequent order was to be entered fixing the suspension period after defendant reopened for business under a renewal of his license for the 1951-52 licensing year (Re Kelman, Bulletin 906, Item 6), and

It further appearing that the Township Committee of the Township of Lakewood has issued to defendant License C-21 for the 1951-52 licensing year in renewal of his license held for the previous licensing year, and that defendant's premises have now been reopened for business;

It is, on this 25th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-21, for the 1951-52 licensing year, issued by the Township Committee of the Township of Lakewood to Louis Kelman, t/a Fairmont Lodge, for premises 319 Fifth Street, Lakewood, be and the same is hereby suspended for a period of fifty (50) days, commencing at 2:00 a.m. October 1, 1951, and terminating at 2:00 a.m. November 20, 1951.

ERWIN B. HOCK
Director.

13. MORAL TURPITUDE - ROBBERY.

DISQUALIFICATION - APPLICATION TO LIFT - TWO ARRESTS WITHIN PAST FIVE YEARS, IN ONE OF WHICH CASES THE MATTER IS PENDING BEFORE GRAND JURY - PETITION DENIED.

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. 923.
-----)

BY THE DIRECTOR:

On May 24, 1934, petitioner was sentenced to an indeterminate term in the New Jersey Reformatory at Rahway, after a conviction for the crime of robbery. Such conviction is the conviction of a crime involving moral turpitude. Re Case No. 588, Bulletin 777, Item 3. Hence, petitioner is disqualified under R. S. 33:1-25, 26 from holding a liquor license in this state and from being employed by the holder of such a license.

In November 1950, petitioner was arrested on a gaming charge; held for action of the Grand Jury, his case has not yet been acted upon by the said Grand Jury.

In December 1950, after an arrest for violating a city ordinance (disorderly person -- inmate of a gambling house), he was fined \$25.00.

Obviously, petitioner has presently failed to establish that he has conducted himself in a law-abiding manner during the last five years. The burden of so establishing is on petitioner. Re Case No. 207, Bulletin 519, Item 2. I cannot grant the relief sought.

Accordingly, it is, on this 3rd day of October, 1951,

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

ERWIN B. HOCK
Director.

14. STATE LICENSES - NEW APPLICATIONS FILED.

Raymond D. Wright, t/a Wright's Beverages
7 Hutton Street, Jersey City, N. J.
Application filed September 21, 1951 for transfer of State Beverage Distributor's License from 529 - 5th St., Union City, N. J.

Long Transportation Company
Ft. of Doremus Avenue, Port Newark, Newark, N. J.
Application filed September 24, 1951 for transfer of Transportation License T-76 from Building #9, Tidewater Terminal Warehouse, Port Newark, Newark, New Jersey, and to warehouse at 400 Grace Street, Secaucus, N. J.

Seaboard Terminal and Refrigeration Company
215 Coles Street, Jersey City 2, N. J.
Application filed October 1, 1951 for Public Warehouse License.

Silvio Ferretti, t/a Ferretti Wines & Best Wines
8023 Bergenline Ave., North Bergen, N. J.
Application filed October 10, 1951 for transfer of premises from 510 - 81st St., North Bergen, N. J.

ERWIN B. HOCK
Director.

15. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FIRESIDE TAVERN, INC.)
22 Hamilton Street)
Paterson 1, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-190, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

Irving I. Rubin, 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 a charge alleging that it sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages at its licensed premises to a minor, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on the evening of August 30, 1951, an employee of defendant-licensee served three glasses of beer to a girl nineteen years of age.

Since no aggravating circumstances appear, and the defendant has no previous record, I shall impose the minimum ten-day suspension, less five days' remission for the plea entered herein, leaving a net suspension of five days. Re McDonough, Bulletin 874, Item 12.

Accordingly, it is, on this 1st day of October, 1951,

ORDERED that Plenary Retail Consumption License C-190, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Fireside Tavern, Inc., 22 Hamilton Street, Paterson, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. October 8, 1951, and terminating at 3:00 a.m. October 13, 1951.

William E. Hoek
Director.