

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

BULLETIN 920

NOVEMBER 13, 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 920

NOVEMBER 13, 1951.

ACTIVITY REPORT FOR OCTOBER 1951

1. ARRESTS:		
Total number of persons arrested	-----	8
Licensees and employees	----- 2	
Bootleggers	----- 6	
SEIZURES:		
Stills - over 50 gallons	-----	3
Mash - gallons	-----	1,560
Distilled alcoholic beverages - gallons	-----	15.7
Wine - gallons	-----	.4
Brewed malt alcoholic beverages - gallons	-----	9.97
RETAIL LICENSEES:		
Premises inspected	-----	452
Premises where alcoholic beverages were gauged	-----	993
Bottles gauged	-----	15,211
Premises where violations were found	-----	142
Violations found	-----	207
Type of violations found:		
Unqualified employees	----- 66	Probable fronts ----- 2
Reg. #38 sign not posted	----- 3	Improper beer taps ----- 1
Other mercantile business	----- 2	Other violations ----- 133
STATE LICENSEES:		
Premises inspected	-----	35
License applications investigated	-----	8
COMPLAINTS:		
Complaints assigned for investigation	-----	413
Investigations completed	-----	419
Investigations pending	-----	144
LABORATORY:		
Analyses made	-----	123
Refills (from licensed premises) - bottles	-----	3
Bottles from unlicensed premises	-----	43
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	7
Persons fingerprinted for non-criminal purposes	-----	232
Identification contacts made with other enforcement agencies	-----	174
Motor vehicle identifications via N. J. State Police Teletype	-----	8
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	18
Violations involved:		
Sale during prohibited hours	----- 11	Failure to afford view into premises
Sale to minors	----- 5	during prohibited hours ----- 3
Permitting hostesses on premises	----- 4	Sale to non-members by club ----- 1
Permitting brawls on premises	----- 1	Unqualified employee ----- 1
Cases instituted at Division	-----	27*
Violations involved:		
Permitting immoral activity on premises	----- 3	Permitting hostesses on premises ----- 1
Possessing illicit liquor	----- 3	Sale below minimum resale price ----- 1
Delivery without bona fide invoices	----- 2	Sale during prohibited hours ----- 1
Permitting brawls on premises	----- 2	Sale outside scope of license ----- 1
Sale to minors	----- 2	Sale to non-members by club ----- 1
Fraud and front	----- 1	Sale to intoxicated persons ----- 1
Permitting gambling (caros) on premises	----- 1	Storage off licensed premises ----- 1
		Unauthorized transportation ----- 1
*1 includes cancellation proceedings (limited distribution premises not operated as a bona fide food store)		
Cases brought by municipalities on own initiative and reported to Division		16
Violations involved:		
Sale to minors	----- 6	Employee working while drunk ----- 1
Permitting brawls on premises	----- 4	Fraud and front ----- 1
Sale during prohibited hours	----- 3	Hindering investigation ----- 1
Sale to intoxicated persons	----- 3	Permitting bookmaking on premises ----- 1
Conducting business as a nuisance	----- 2	Permitting immoral activity on premises ----- 1
CANCELLATION PROCEEDINGS instituted at Division		12
Violations involved: limited distribution premises not operated as bona fide food stores		
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	28
Appeals	----- 2	Eligibility ----- 6
Disciplinary proceedings	----- 11	Seizures ----- 9
PERMITS ISSUED:		
Total number of permits issued	-----	1,317
Employment	----- 167	Social affairs ----- 399
Solicitors	----- 85	Special wine ----- 421
Disposal of alcoholic beverages	----- 91	Miscellaneous ----- 154

Dated: November 1, 1951.

ERWIN B. HOCK, DIRECTOR

\$70,000.00 cash on or before delivery of the bill of sale. Appellant testified that he planned to invest \$30,000.00 of his own funds and to borrow a total of \$30,000.00 from Francis Jacobs and Elsie Jacobs, who are, respectively, uncle and aunt of appellant's wife. These loans were to be unsecured and to be repaid over a period of ten years. Appellant also planned to borrow \$15,000.00 from a bank on a note endorsed by Francis Jacobs. At said hearing appellant testified that no person, other than himself, would have an interest in the business. Francis Jacobs and Elsie Jacobs corroborated appellant's testimony. After said hearing respondent denied the first application substantially on the ground that "the business and license in fact will be that of Francis Jacobs, owned and operated by him through Buttell, acting as a straw man".

Assuming, as all the evidence indicates to be a fact, that appellant had originally arranged to obtain unsecured loans from Mr. and Mrs. Jacobs, that fact, standing alone, would not give the latter any interest, directly or indirectly, in the license or business conducted thereunder. Cf. Re Kelly, Bulletin 627, Item 2. Hence, I conclude, on the evidence presented, that the answer to Question 30 in the first application was not false. When the application herein was considered by respondent, it was clear that appellant planned to invest the sum of \$30,000.00 as he originally planned, but that he no longer intended to borrow any money from Mr. and Mrs. Jacobs because the sellers had agreed to take back a chattel mortgage to secure the balance of the purchase price.

After considering all the evidence, I conclude that appellant did not make a false statement under oath in the prior application and, since no other reason appears for denial, the action of respondent was unreasonable and must be reversed.

Accordingly, it is, on this 24th day of October, 1951,

ORDERED that the action of respondent be and the same is hereby reversed, and respondent is directed to transfer the license in accordance with the application made by appellant.

ERWIN B. HOCK
DIRECTOR.

3. APPELLATE DECISIONS - THE 655 CLUB v. TRENTON.

THE 655 CLUB,)	
Appellant,)	
-vs-)	ON APPEAL
BOARD OF COMMISSIONERS OF THE)	CONCLUSIONS AND ORDER
CITY OF TRENTON,)	
Respondent.)	

John A. Brieger, Esq., Attorney for Respondent.
Sidney Simandl, Esq., Attorney for Trenton Licensed Beverage Ass'n and United Licensed Beverage Ass'n, Objectors.

BY THE DIRECTOR:

This is an appeal from respondent Board's action denying appellant's application for a club license for premises at 87 Tremont Street, Trenton. The application, filed on July 9, 1951, was denied by respondent Board's Resolution A-408, adopted July 26, 1951, for the stated reasons:

"that the applicant's premises are located within 500 feet of the premises of an existing licensee and it therefore would be in violation of Section 41 (sic) of the Alcoholic Beverage Ordinance of the city which prohibits the granting of any license within 500 feet of an existing licensed premises. Also, that it fails to qualify for a new Club license due to the decision rendered by Director Erwin B. Hock, dated February 19, 1951, wherein in reversing the action of the Board of Commissioners in the granting of a Club license (to The 655 Club) for the year of 1949-1950 he stated that 'It is my finding that respondent Board had no jurisdiction to grant the 1949-1950 license to respondent Club and, therefore, that such license was void and that the 1950-1951 renewal based thereupon must be declared void.'"

Trenton's distance-between-premises regulation is set forth not in Section 41 but in Section 51 which was added to the city's 1936 ordinance by a supplementary ordinance adopted June 6, 1940 and which, as last amended by an ordinance adopted June 1, 1950, provides (with certain exceptions not here material) that:

"No license for the sale and consumption of alcoholic beverages whatsoever *** shall be granted for any licensed premises within five hundred feet of an existing licensed premises of any kind or description."

It is established that appellant's premises are located within 500 feet of a number of plenary retail consumption and plenary retail distribution licensed premises.

Trenton's numerical limitation of club licenses (Paragraph 3, Section 46 of an ordinance adopted June 23, 1936, by the City Council, then the local governing body) provides:

"The number of club licenses issued and outstanding in the City of Trenton at the same time shall not exceed 31, provided, however, that this limitation shall not prevent the issuance of renewals of club licenses to clubs holding such licenses at the time this regulation was adopted, and further provided that this limitation shall not prevent the transfer of licenses according to law. No new club license shall be issued to any club *** unless and until the number issued and outstanding shall be reduced ***** to less than 31."

In Trenton United Lic. Bev. Assn. et al. v. Trenton and The 655 Club, Bulletin 899, Item 2, my reversal of respondent Board's granting of a 1949-1950 club license to appellant herein was based upon the fact that the ordinance quota of 31 club licenses was already filled and upon the jurisdictional point that the Board's issuance of the license was in contravention of the operative numerical limitation ordinance. In a companion decision on appeal (Local #2111, United Steelworkers of America, C.I.O. v. Trenton, Bulletin 899, Item 3), I affirmed, on the same jurisdictional point, the Board's denial of an additional club license.

When appellant's application herein was denied, 32 club licenses were outstanding in the City of Trenton, and 32 such licenses are now outstanding there.

I find, on this appeal, that respondent Board's granting of appellant's application would have been in contravention of the operative numerical limitation ordinance and of the operative distance-between-premises ordinance and, thus, that respondent Board had no jurisdiction to grant the application. The Board's action will, therefore, be affirmed.

The fact that a thirty-second club license has been issued to another club does not entitle appellant to a license. Issues relative to the license of the other club are not properly before me. Such other club is not a party to the instant appeal, and no appeal was taken from the original issuance of license to such club or from renewal thereto.

Accordingly, it is, on this 26th day of October, 1951,

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

ERWIN B. HOCK
Director.

4. ORDER TO REOPEN HEARING FOR TAKING OF FURTHER TESTIMONY - HUDSON BERGEN COUNTY RETAIL LIQUOR STORES ASSN. ET AL. v. JERSEY CITY AND GREENSPAN.

HUDSON BERGEN COUNTY RETAIL LIQUOR STORES ASSN., a New Jersey Corporation, and JERSEY CITY RETAIL LIQUOR DEALERS ASSN., a New Jersey Corporation,
Appellants,

-vs-

ON APPEAL
O R D E R

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF JERSEY CITY, IRVING and AARON GREENSPAN, and GEORGE L. PARIS, Receiver for Empire Restaurant, Inc.,
Respondents.

-----)
Samuel Moskowitz, Esq., Attorney for Appellant Hudson Bergen County Retail Liquor Stores Assn.
Sidney Simandl, Esq., Attorney for Appellant Jersey City Retail Liquor Dealers Assn.
John B. Graf, Esq., by Jacob J. Levey, Esq., Attorney for Respondent Municipal Board of Alcoholic Beverage Control.
Raymond Chasan, Esq., Attorney for Respondents Irving and Aaron Greenspan.
No appearance for Respondent George L. Paris, Receiver for Empire Restaurant, Inc.

BY THE DIRECTOR:

This matter coming on to be heard on October 17, 1951, pursuant to an Order to Show Cause, dated September 24, 1951, and the parties hereto, except George L. Paris, Receiver for Empire Restaurant, Inc., having appeared and offered argument as ordered in said Order to Show Cause; and it appearing that the additional evidence discovered by appellants herein subsequent to the hearing herein may be helpful to me in my endeavor to properly and completely determine the pertinent issues; and upon the statement by Mr. Raymond Chasan, attorney for respondents Irving Greenspan and Aaron Greenspan, during the argument that "...we leave it entirely to your Honor. We interpose no objection";

It is, on this 26th day of October, 1951,

ORDERED that further testimony, as proposed in the petition filed and the argument made herein, be taken in the above matter; that the hearing be reopened and continue for that purpose; that full opportunity be afforded all of the parties hereto to present such

pertinent testimony as they consider will be helpful in developing the true facts and circumstances of the matter in controversy; that the right to except to any testimony on any proper ground be and hereby is reserved to each party; and it is further

ORDERED that said hearing be at 11:30 a.m., on Wednesday, November 14, 1951, at the offices of the State Division of Alcoholic Beverage Control, 1060 Broad Street, Newark, and continue from time to time as may be necessary to permit a full presentation of the facts pertinent to the controversy herein.

ERWIN B. HOCK
Director.

5. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT SONGS AND LANGUAGE) - PRIOR RECORD - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
ARTHUR CITARELLI
T/a SCOOPS RUSTIC LODGE
Route 35, Ocean Township (Monmouth Co.)
RFD 1, Asbury Park, N. J.,
Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Ocean (Monmouth County).

CONCLUSIONS
AND ORDER

Eugene Capibianco, 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 the following charge:

"On Friday night, August 10th and early Saturday morning, August 11, 1951, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that a female entertainer sang songs and interspersed such songs with side-remarks, all having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulations No. 20."

The recital of the above charge, to which the defendant has entered a plea in these proceedings tantamount to an admission of guilt, is sufficient in itself to warrant the imposition of stern punishment. In addition thereto, defendant's license was suspended for fifteen days, effective January 15, 1951, for sale to minors and on a charge similar to that under consideration. Bulletin 894, Item 7.

The file herein discloses that, when the ABC agents identified themselves to the defendant and reminded him of his previous suspension as aforementioned, the defendant remarked, "That's the only way I can get a crowd into the place -- otherwise I would starve." Such defiant attitude on the part of a liquor licensee will not be tolerated.

Under the circumstances I shall suspend defendant's license for forty-five days, less five days' remission for the plea, leaving a net suspension of forty days.

Accordingly, it is, on this 30th day of October, 1951,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Ocean (Monmouth County) to Arthur Citarelli, t/a Scoops Rustic Lodge, Route 35, Ocean Township (Monmouth County), be and the same is hereby suspended for forty (40) days, commencing at 3:00 a.m. November 5, 1951, and terminating at 3:00 a.m. December 15, 1951.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against

SAMUEL BLUME
T/a CANARY COTTAGE
Ridgedale Avenue
Florham Park
P.O. Madison, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Florham Park.

Franklin W. Kielb, 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 the following charge:

"On Friday night, August 17, 1951, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that female entertainers performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20."

On the evening of August 17, 1951, County Detectives attached to the Office of the Prosecutor of Morris County and members of the New Jersey State Police interrupted an entertainment being held in the dining room of defendant's premises and arrested two female performers and the licensee on charges of violating a local ordinance.

From the reports of the police officials it appears that, during the performance, one female entertainer told "dirty jokes and stories" and the other female entertainer performed a dance during which she exposed her breasts.

The licensee alleges that on the evening in question he had arranged to serve a dinner to the members of a reputable organization and that the entertainment had been arranged by the officers of the organization. He also alleges that during the evening he had looked into the dining room from time to time and had seen nothing objectionable. Nevertheless, a licensee is responsible whenever he "allows, permits or suffers" such entertainment on his licensed premises. Guastamachio v. Brennan, 128 Conn. 356, 23 A. 2nd 140 (Sup. Ct. of Err. Conn. 1941); Greenbrier Inc. v. Hock, 14 N. J. Super. 39, and cases therein cited.

Defendant has no prior record. I shall suspend defendant's license for a period of thirty days, less five days for the plea,

leaving a net suspension of twenty-five days. Re Corma, Bulletin 913, Item 4; Re Primiceri, Bulletin 916, Item 3.

Accordingly, it is, on this 5th day of November, 1951,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Florham Park to Samuel Blume, t/a Canary Cottage, for premises on Ridgedale Avenue, Florham Park, be and the same is hereby suspended for twenty-five (25) days, commencing at 1:00 a.m. November 12, 1951, and terminating at 2:00 a.m. December 7, 1951.

ERWIN B. HOCK
Director.

7. MINIMUM CONSUMER RESALE PRICE - EFFECT OF NEW FEDERAL TAXES STARTING NOVEMBER 1, 1951 (SEE FOLLOWING ITEM).

TO ALL PLENARY RETAIL CONSUMPTION, PLENARY RETAIL DISTRIBUTION AND SEASONAL RETAIL CONSUMPTION LICENSEES:

Until publication of a new Minimum Consumer Resale Price List, prices of alcoholic beverages listed in the October 1, 1951 Minimum Consumer Resale Price List will be increased, starting November 1, 1951, by the amount of the new Federal tax applicable to the particular item. Such increased prices will thereupon become the official minimum consumer resale prices of the items pursuant and subject to State Regulations No. 30.

Retail licensees MUST add the Federal tax to the current minimum resale price starting November 1, 1951.

A complete new Minimum Consumer Resale Price List will be published on the earliest date possible.

ERWIN B. HOCK
Director.

Dated: October 26, 1951.

8. AMENDED WHOLESALE AND MINIMUM CONSUMER RESALE PRICE SCHEDULES - NOTICE OF FILING.

TO ALL MANUFACTURERS AND WHOLESALERS:

The following telegrams have been directed to manufacturers and wholesalers with respect to filing amended schedules of wholesale and minimum resale prices in order to reflect, at the option of the listers, the Federal tax increase and OPS markups on the tax when permitted:

"Superseding my notice of October 23, 1951, you are directed to file, not later than 4:00 p.m. Wednesday, October 31, 1951, a complete new master schedule of wholesale prices to be effective from November 1, 1951 until January 1, 1952 reflecting, at your option, amendments to your listings in the October 1, 1951 Wholesale Price Pamphlet caused by increase in Federal tax and OPS markup on the tax when permitted. New items not previously listed may be included in your new master schedule provided that a listing for the items is presently effective in the October 1, 1951 Minimum Consumer Resale Price Pamphlet."

"Because of Federal tax increase and OPS markup on the tax when permitted, schedules of minimum consumer resale prices currently filed may be amended by submission not later than

4:00 p.m. Friday, November 2, 1951, of a listing of changes caused by such increase and markup. Schedules must be arranged in order of type classification and alphabetically by brand within each type as presently appearing in October 1, 1951 Minimum Consumer Resale Price Pamphlet. Amended Minimum Consumer Resale Price Pamphlet, to be effective until January 1, 1952, will be published as soon as practicable."

Manufacturers and wholesalers are placed on notice that, while their amended schedules of wholesale prices to be filed on or before October 31, 1951 to become effective November 1, 1951 will not be published in pamphlet form, the schedules of amended minimum consumer resale prices to be filed on or before November 2, 1951 will be published in a pamphlet to become effective as soon as practicable and the cost of publishing and mailing such Minimum Consumer Resale Price Pamphlets will be apportioned among all listers.

ERWIN B. HOCK
Director.

Dated: October 29, 1951.

9. MINIMUM CONSUMER RESALE PRICE PAMPHLET - NOTICE OF PUBLICATION.

The next complete and official publication of minimum consumer resale prices pursuant to Regulations No. 30 will become effective on January 1, 1952. Prices to be listed must be filed with the office of this Division not later than 4:00 p.m. of November 20, 1951. It is extremely important to note the following:

1. A listing of minimum consumer resale prices covering every brand and item sold to retailers in this state must be made either by the manufacturer or wholesaler who owns the brands; or a wholesaler who sells the brands and has written authorization from the owner of the brands to file price listings; or by any wholesaler who sells a brand whose owner does not file or is unable to file a schedule or designate an agent for such purposes, provided my approval is obtained for such filing. Note particularly that every wholesaler is not required to file minimum consumer prices.
2. Manufacturers or wholesalers are not required to file a schedule of minimum consumer resale prices for any brand sold exclusively to one New Jersey retailer.
3. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of _____% permitted on case lot purchases" should be used.
4. True copies of labels or photostats of labels of brands to be listed in the Minimum Consumer Resale Price Pamphlet must be submitted with the schedule of price listings, if such labels have not been previously submitted. (A separate label for each type listed under a brand name and each label must be attached to a separate letterhead.)
5. Price listings may be submitted by letter in the same form as heretofore.

NOTE OF CAUTION AND WARNING: ANY BRAND OF ALCOHOLIC BEVERAGE NOT LISTED IN THE MINIMUM CONSUMER RESALE PRICE PAMPHLET TO BECOME EFFECTIVE JANUARY 1, 1952 MAY NOT BE SOLD TO A NEW JERSEY RETAILER BY ANY MANUFACTURER OR WHOLESALER ON AND AFTER JANUARY 1, 1952.

Notification of the proportionate share of aggregate expenses involved in the publication of the new complete Minimum Consumer Resale Price Pamphlet will be made to participating listers as soon as the pamphlet is mailed to all retail licensees.

ERWIN B. HOCK

10. DISCIPLINARY PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES WITHOUT BONA FIDE INVOICES OR MANIFESTS - STORAGE OF ALCOHOLIC BEVERAGES AT OTHER THAN LICENSED PREMISES - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MICHAEL GELLES)
T/a JAY KAY BEV.)
323 Maple Avenue)
Linden, N. J.,)

CONCLUSIONS AND ORDER

Holder of Limited Retail Distribution License DL-1, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.)

-----)
Michael Gelles, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging (1) that on divers days during the month of July 1951, he transported alcoholic beverages in his licensed vehicle, bearing transportation insignia, without accompanying bona fide delivery slips or invoices disclosing the names and addresses of customers, in violation of Rule 3 of State Regulations No. 17; and (2) that on August 14, 1951 he stored alcoholic beverages on premises other than his licensed premises or a licensed public warehouse, without special permit, in violation of Rule 25 of State Regulations No. 20.

As to charge (1), it appears that defendant, when making deliveries of malt alcoholic beverages to consumers in his licensed vehicle, failed to disclose the names and addresses of the customers on the invoices. Such invoices failed to carry the full information as required by Rule 3 of State Regulations No. 17.

As to charge (2), defendant stored malt alcoholic beverages in a garage located at the rear of his licensed premises. It appears that defendant operates a grocery store, and for lack of space in said licensed premises used the garage for the storage of a quantity of malt alcoholic beverages. Said storage in the garage was improper since the privileges granted to defendant under the license are confined to the store and cellar only.

Under the circumstances and in view of the fact that defendant has no prior adjudicated record, I shall suspend the license for a period of fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days. Re Krouk, Bulletin 880, Item 8.

Accordingly, it is, on this 18th day of October, 1951,

ORDERED that Limited Retail Distribution License DL-1, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Michael Gelles, t/a Jay Kay Bev., 323 Maple Avenue, Linden, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. October 23, 1951, and terminating at 9:00 a.m. November 2, 1951.

ERWIN B. HOCK
Director.

11. AUTOMATIC SUSPENSION - SALE TO MINORS - LICENSE PREVIOUSLY SUSPENDED BY DIRECTOR FOR 15 DAYS - APPLICATION TO LIFT GRANTED.

In the Matter of Disciplinary Proceedings against)
)
 PATSY MONTAGNA)
 T/a PADDY'S BAR & GRILL) ON PETITION
 507 Valleybrook Avenue)
 Lyndhurst, N. J.,) O R D E R

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

-----)
 Dante DePamphilis, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from the petition filed herein that on October 17, 1951, petitioner was convicted in the Criminal Judicial District Court of the County of Bergen on a charge of selling alcoholic beverages to minors and was sentenced to pay a fine of \$100.00, which fine has been paid.

It appears from the records of the Division of Alcoholic Beverage Control that on October 2, 1951, I suspended petitioner's license for a period of fifteen days, commencing at 2:00 a.m. October 9, 1951, and terminating at 2:00 a.m. October 24, 1951, after finding petitioner guilty in disciplinary proceedings on charges alleging that he had sold alcoholic beverages to minors and allowed, permitted and suffered the consumption of alcoholic beverages on his licensed premises by said minors. Re Montagna, Bulletin 918, Item 8.

The indictment in the criminal proceedings and the charges in the disciplinary proceedings were based upon the same facts. The conviction of petitioner in the criminal proceedings has resulted in the automatic suspension of his license for the balance of its term. R. S. 33:1-31.1. The petition herein prays that the automatic suspension of the license may be lifted.

Under the circumstances, the suspension heretofore imposed by me is adequate. Hence, the relief sought herein will be granted.

Accordingly, it is, on this 23rd day of October, 1951,

ORDERED that the automatic suspension of License C-35 now held by Patsy Montagna, t/a Paddy's Bar & Grill, for premises at 507 Valleybrook Avenue, Lyndhurst, be lifted and said license restored to full force and operation effective at 2:00 a.m. October 24, 1951.

ERWIN B. HOCK
 Director.

12. DISCIPLINARY PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES IN VIOLATION OF RULES 2 AND 3 OF STATE REGULATIONS NO. 17 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against STANLEY LIQUORS CORP. 131 North 11th Street Camden, N. J., Holder of Plenary Retail Consumption License C-127, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS AND ORDER

Leo J. Berg, 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 (1) it delivered alcoholic beverages in a vehicle without accompanying invoice or manifest, in violation of Rule 3 of State Regulations No. 17; and (2) it transported alcoholic beverages in a vehicle having no transportation insignia affixed thereto, in violation of Rule 2 of State Regulations No. 17.

An examination of the file in the instant case discloses that on September 25, 1951, an employee of defendant transported a case of beer to a customer without having in his possession an invoice or manifest containing the information required by Rule 3 of State Regulations No. 17. Furthermore, the motor vehicle in which the alcoholic beverage was transported bore no transit insignia required by Rule 2 of State Regulations No. 17.

Defendant has no previous adjudicated record. I shall suspend defendant's license on charge (1) for ten days (Re Benash et al., Bulletin 891, Item 7); and on charge (2) an additional five days (Re Colonna Park Inc., Bulletin 875, Item 4), making a total suspension of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 29th day of October, 1951,

ORDERED that Plenary Retail Consumption License C-127, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Stanley Liquors Corp., 131 North 11th Street, Camden, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. November 5, 1951, and terminating at 7:00 a.m. November 15, 1951.

ERWIN B. HOCK Director.

13. CANCELLATION PROCEEDINGS - CHARGE ALLEGING THAT LICENSE HAD BEEN IMPROVIDENTLY ISSUED IN VIOLATION OF P. L. 1947, CH. 94, DISMISSED.

In the Matter of Cancellation)
 Proceedings against)
 ANNA HERSKOWITZ)
 T/a HIRSCH'S HOTEL)
 Eppinger Avenue)
 Pittsgrove Township)
 P.O. Norma, N. J.,)
 Holder of Seasonal Retail Consump-)
 tion License "C"-5, issued by the)
 Pittsgrove Township Committee.)

CONCLUSIONS AND ORDER.

 Moe A. Joseph, Esq. and Leo J. Berg, Esq., Attorneys for Licensee.
 William F. Wood, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

The above named licensee was required to show cause why her license should not be cancelled upon the ground that it had been improvidently issued in violation of R. S. 33:1-12.14 (P. L. 1947, ch. 94).

The license in question was issued for the summer season beginning May 1, 1951, and ending November 1, 1951. It was a new license and, since the total number of plenary retail and seasonal retail consumption licenses issued in the Township of Pittsgrove was greater than one per each thousand of the population as shown by the then last preceding Federal census, the issuance of said license was improper unless the licensee operates a hotel containing fifty sleeping rooms. See Section 8, P.L. 1947, ch. 94.

The evidence discloses that on August 15, 1951, a Division agent visited the premises (which appears to be operated as a hotel) for the purpose of checking the number of sleeping rooms contained therein. He contacted David Herskowitz, son of the licensee, who was then in charge. The latter, in response to the agent's request to be shown all of the sleeping rooms, pointed out only 47. However, at the hearing, Meyer Herskowitz, another son, who is employed by the licensee as manager, testified that David was not wholly familiar with the premises and, hence, had failed to call the agent's attention to three of the rooms. Meyer further testified that, when the current license application was filed, as well as at the present time, the hotel contained 50 rooms which are used for sleeping purposes by guests. The report of a subsequent investigation by the Division agent, which was made a part of the record in this case by stipulation, corroborates this testimony. I am satisfied, therefore, that in fact the hotel contains 50 sleeping rooms.

Under the circumstances, the order to show cause will be dismissed.

Accordingly, it is, on this 30th day of October, 1951,

ORDERED that the order to show cause herein be and the same is hereby dismissed.

ERWIN B. HOCK
Director.

14. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AT LESS THAN PRICE LISTED IN MINIMUM RESALE PRICE LIST - PRIOR RECORD OF PREDECESSOR-IN-INTEREST NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 5 DAYS.

In the Matter of Disciplinary Proceedings against WILSON'S LIQUOR STORE INC. 119 Lakeview Avenue Clifton, N. J., Holder of Plenary Retail Distribution License D-7, issued by the Municipal Council of the City of Clifton.

CONCLUSIONS AND ORDER

Wilson's Liquor Store, Inc., Defendant-licensee, by Harry Wilson, Secretary. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold an alcoholic beverage at retail at less than its price, as listed in the Minimum Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

On September 25, 1951, an ABC agent purchased from Harry Wilson, secretary of said corporation defendant and then employed as a clerk on said defendant's licensed premises, two 4/5 quart bottles of Four Roses Blended Whiskey for the total price of \$8.70. The minimum price for this whiskey, as listed in the then current "Complete List of New Jersey Minimum Resale Prices of Alcoholic Beverages" was \$4.39 per 4/5 quart bottle, or \$8.78 for the two bottles.

Defendant has no prior adjudicated record. However, its license was secured by transfer from an individual, now a stockholder in and president of defendant corporation, on June 14, 1947. The license when held by the individual, and in 1940, was suspended for five days on a similar charge. Ordinarily, such record is considered in aggravation of any violation by a successor licensee when there is continuity of interest as here. However, in view of the length of time elapsed since the prior suspension, such record in the instant case will not be so considered. Cf. Re Block, Bulletin 916, Item 6.

Accordingly, it is, on this 30th day of October, 1951,

ORDERED that Plenary Retail Distribution License D-7, issued by the Municipal Council of the City of Clifton to Wilson's Liquor Store, Inc., 119 Lakeview Avenue, Clifton, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. November 5, 1951, and terminating at 9:00 a.m. November 10, 1951.

ERWIN B. HOCK Director.

15. DISCIPLINARY PROCEEDINGS - AUTOMATIC SUSPENSION - EFFECT THEREOF STAYED BY DIRECTOR TO PERMIT LOCAL ISSUING AUTHORITY TO INSTITUTE AND DISPOSE OF DISCIPLINARY PROCEEDINGS.

In the Matter of a Petition to Lift the Statutory Automatic Suspension of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Riverdale (Morris County) to ON PETITION ORDER

HENRIETTA FAESSLER T/a HENRIETTA'S RIVERDALE MANOR Hamburg Turnpike Riverdale (Morris County), N.J.

David Young, 3rd, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

The petition herein discloses that on October 22, 1951, petitioner pleaded guilty in the Morris County Court to three indictments charging sale of alcoholic beverages to minors. Such conviction resulted in the automatic suspension of her license under R. S. 33:1-31.1. Accordingly, her license was picked up by ABC agents on October 31, 1951, and turned over to the Borough Clerk of the Borough of Riverdale.

The petition filed herein requests in effect that the automatic suspension be lifted until a decision be rendered in the disciplinary proceedings which have been heretofore referred to the local issuing authority.

The purpose of the automatic suspension is to ensure that, when a licensee is convicted in criminal court for violating the Alcoholic Beverage Law, there is swift and sure penalty against the license. See Re Panasevitz, Bulletin 485, Item 3.

In the present case I am informed that, through some misunderstanding, the local issuing authority has not yet instituted disciplinary proceedings but that it intends to institute such proceedings promptly. Under the circumstances I shall stay said suspension until Monday, November 19, 1951, at 7:00 a.m., so that the local issuing authority may have an opportunity to hear and decide the disciplinary proceedings. See R. S. 33:1-31.1 which provides, in part, that the suspension "shall continue for the balance of the term of the license unless the commissioner, in his discretion and for good cause shown, shall otherwise order".

A supplementary petition to lift the automatic suspension may be filed with me by petitioner after the local issuing authority has decided the pending disciplinary proceedings. In fairness to petitioner, I conclude that, at this time, the effect of the automatic suspension should be temporarily stayed. Cf. Re Pinto, Bulletin 486, Item 8.

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

ORDERED that the aforesaid automatic suspension be stayed until 7:00 a.m. November 19, 1951, at which time it shall again become effective pending further order to be entered by the Director.

ERWIN B. HOCK Director.

16. CANCELLATION PROCEEDINGS - CHARGE ALLEGING THAT LICENSE HAD BEEN IMPROVIDENTLY ISSUED IN VIOLATION OF P.L. 1951, CH. 163, DISMISSED UPON SURRENDER OF LICENSE.

In the Matter of Cancellation)
Proceedings against)

DAVID SLUTZKY)
Old Bloomfield Avenue, about)
1000' e. of Edwards Road,)
Rockaway Neck)
Parsippany-Troy Hills Township)
P.O. R.D. 1, Parsippany, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Limited Retail Distribu-)
tion License DL-9, issued by the)
Township Committee of the Township)
of Parsippany-Troy Hills.)
- - - - -)

David Slutzky, Licensee, Pro Se.
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee was ordered to show cause why his limited retail distribution license should not be suspended, revoked or cancelled and declared null and void for the reason that said license was improvidently issued in violation of R. S. 33:1-12(3)b (as amended by P.L. 1951, ch. 163).

Prior to the return day of the order to show cause, licensee advised me in writing that he had surrendered his license to the local issuing authority. The Township Clerk of the Township of Parsippany-Troy Hills confirmed the fact that the license has been surrendered. Under the circumstances, the order to show cause will be discharged.

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

ORDERED that the order to show cause herein be and the same is hereby discharged.

ERWIN B. HOCK
Director.

17. STATE LICENSES - NEW APPLICATIONS FILED.

Ruth Orris, t/a Wine Specialists Co.
100 Belmont Avenue, Newark, N. J.
Application filed October 26, 1951 for Transfer of Wine Wholesale License from 426 Morris Avenue, Newark, N.J.

New York Terminal Warehouse Co., Incorporated
1429 Absecon Boulevard
Atlantic City, N. J.
Application filed November 2, 1951 for transfer of Public Warehouse License from 29 North Virginia Avenue, Atlantic City, N.J.

Monarch Motor Freight Lines, Inc.
225 Parkhurst St., Newark, N. J.
Application filed November 8, 1951 for Transportation License.

John Sacca, t/a Palmyra Beer Distributors
Broad and Walnut Streets, Palmyra, N. J.
Application filed November 8, 1951 for additional warehouse at 1250 Cedar Lane, Trenton, N. J.

Erwin B. Hock