STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 Commerce Drive Cranford, N.J. 07016

BULLETIN 2167 December 18, 1974

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ITEM

STATE OF NEW JERSEY
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1. APPELLATE DECISIONS - REHLING v. SOUTH ORANGE AND SETON HALL UNIVERSITY STUDENT GOVERNMENT. - ORDER.

Edward A. Rehling, Appellant, v. Board of Trustees of the Village of South Orange, and Student Government of Seton Hall University, Respondents.	)	On Appeal O R D E R

No Appearance on Behalf of Appellant Edward A. Rehling
Adams, Adubato & Tafro, Esqs., by Maurice H. Connelly, Esq., Attorneys for Respondent Board of Trustees
Whiting, Moore, Hunoval & Herman, Esqs., by Rodman C. Herman, Esq., Attorneys for Respondent Student Government

BY THE DIRECTOR:

Appellant appeals from the action of respondent Village of South Orange, whereby it granted the application of respondent Student Government of Seton Hall University, for the renewal of its Club License CB-6 for the license year 1974-75, for premises located at 400 South Orange Avenue, South Orange.

Upon filing of the appeal a Notice of Hearing was sent to appellant and to the respective attorneys for the respondents, which informed them that this matter was set down for hearing by the Director of the Division of Alcoholic Beverage Control on September 4, 1974 at nine-thirty o'clock in the forenoon, at the offices of the Division in Cranford; and

It appears that appellant failed to enter an appearance on that day and that, at approximately 10:06 a.m. Daniel M. Figurelli, Chief Hearer of this Division who was assigned to hear the appeal filed herein, informed the attorneys for respondents that on September 3, 1974 the Division was in receipt of a telegram sent by appellant wherein he requested an adjournment of the hearing scheduled for September 4, 1974. A telegram in immediate response thereto, was sent by the Director of this Division informing appellant that his request for an adjournment of the said hearing was denied because it was based on reasons which were insubstantial, was not timely made and no notice thereof was given to the attorneys for respondents.

Rodman C. Herman, Esq., appearing for Whiting, Moore, Hunoval & Herman, Esqs., and Maurice H. Connelly, Esq., appearing

for Adams, Adubato & Tafro, Esqs., the attorneys for the respective respondents have joined in a motion to dismiss the appeal. Good cause appearing, I shall grant the said motion and dismiss the appeal.

Accordingly, it is, on this 5th day of September 1974,

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

LEONARD D. RONCO
DIRECTOR

2. APPELLATE DECISIONS - REHLING v. SOUTH ORANGE AND SETON HALL UNIVERSITY STUDENT GOVERNMENT.

Edward A. Rehling, Appellant,	)	On Appeal
v.	)	CONCLUSIONS and ORDER
Board of Trustees of the Village of South Orange, and Student Government of Seton Hall University, Respondents.	)	

Edward A. Rehling, Appellant, Pro se
Adams, Adubato & Tafro, Esqs., by Maurice H. Connelly, Esq., Attorneys for Respondent Village of South Orange
Whiting, Moore, Hunoval & Herman, Esqs., by Rodman C. Herman, Esq., Attorneys for Respondent Student Government.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

The respondent Board of Trustees of the Village of South Orange (hereinafter Board), by resolution dated April 13, 1972 and amended May 22, 1972, granted a club license to respondent Student Government of Seton Hall University (hereinafter Student Government) to operate a pub at the Bishop Dougherty Student Center, which is located within the campus of Seton Hall University at 400 South Orange Avenue, South Orange.

On appeal, the Director, on April 25, 1973, affirmed the action of the Board. Cf. Rehling v. South Orange, Bulletin 2104, Item 1.

Thereafter, the Student Government applied to the Board for a place-to-place transfer of the said club license to include space adjacent to the present pub premises located in the said Bishop Dougherty Student Center, thus enabling it to enlarge its present facility.

In his petition of appeal from the said grant, appellant contends that the action of the Board was erroneous for the following stated reasons:

"(a) The Student Government of Seton Hall University is not an association that meets the test of the intent of State Regulation No. 7 and is therefore not a bona fide Club within the intent of the Alcoholic Beverage Control Regulations.

(b) The licensee allows, permits, and suffers the licensed premises to be accessible to premises upon which illegal activity is carried on.

(c) The licensed premises are used in the furtherance or aid of, or accessible to illegal activity.

(d) Improper notice of impending action was allowed in that the County of Essex upon whose thoroughfare the licensed premises is situated was never notified of the proposed chage. Waivers by County Counsel McQuade are in conflict of interest due to his close association and employment by the university.

(e) There still is no evidence that the Respondent applicant has any legal tenancy to the present or to the proposed increased premises.

(f) The issuance of the subject license was a gross injustice to the legitimate licensees of the Village who are forced to compete for the same customers but must pay $40,000.00 for their initial license and $1,200.00 per year for renewals whereas this licensee need only pay $150.00 for each. In allowing this expansion the local Board completely disregarded the effect this additional unfair competition would have upon the Village businessmen.

(g) The original license was granted to a group whose membership was entirely different than the membership that requested the expansion. The membership is so different that there should have been a legal request to transfer the license to the new group before this application of a Place to Place to Change was considered.

(h) The Respondent No. 1 was erroneously advised by a member of their body that the objectors nor their attorney were entitled to examine the veracity or the ulterior motives of witnesses for Respondent No. 2. In this decision the Board was prevented from considering facts such as dual membership in two licenses on the same premises, additional licensed premises constructed at the same address with actual license application waiting for clearance on this subject ex-

pansion, and knowledge of illegal activity operating in or near the present and proposed premises.

(i) Legal advisor for Respondent No. 1, William Furst, outlined his own sad experiences with alcohol as a basis for his comparative expertise and ability to judge the merits of this application. His testimony on behalf of the application was a conflict of his position as a member of an Alcoholic Beverage CONTROL Board and should have been totally disregarded by his cohorts on the Board.

(j) The Student Government of Seton Hall University and the officers and members of the applicant are effectively two separate groups and therefore the group that made this place to place transfer has no legal position on this license.

(k) The Respondent applicant has not presented any evidence that the owner of the secondary educational institution for minors waived the 200 foot rule.

(l) Witnesses for the applicant were allowed to make statements to the Village Trustees on the merits of the application without being placed under oath or to submit to cross examination.

(m) Subject organization is unincorporated and has no legal responsibility to the community. Should any member or employee cause to have a member or guest imbibe beyond sensible or sober quantities, and such person in a state of inebriation causes personal or property harm there is little recourse to the injured party. Neither the Student Governing Body which is uninsured nor the University which has no legal standing as the licensee can be held accountable.

(n) We dispute the material facts and agree to no statement of facts."

In their answers, the respondents deny the substantive allegations contained in the petition of appeal and affirmatively allege that the action of the Board was reasonable; and, further, that the principle of stare decisis applied to several of the issues raised in appellant's petition of appeal.

Called by the appellant, W. Edward Pilot, Building Inspector for the Village of South Orange, testified that he had inspected the pub premises, and that the premises fully complied with the applicable statutes, ordinances and regulations. He testified to that effect at the hearing before the Board on this application.

Maurice J. Kilcommon, chief of police of the Village testified that he has no reports of drug activities pertaining to the subject premises, and he has no records of immoral activities conducted therein. It was his opinion that the proposed premises enlargement would have no adverse effect upon the incidence of crime and would not place an added burden upon the police force.

Theodore J. Langan asserted that he was opposed to the grant of the application for the premises enlargement because the student group that originally applied for the club license is not a validly constituted body or identity within the intendment of the Alcoholic Beverage Law and the rules and regulations; that the creation and the enlargement of the pub would encourage and promote the consumption of alcoholic beverages to the detriment of the students; that the grant of the transfer would not be in the best interests of the public or of the students; and that the grant thereof would encourage the applicant to apply in the future for a transfer to permit an additional premises enlargement.

The appellant, Edward A. Rehling, in opposing the subject application emphasized that drinking by young people in a campus pub without the supervision of professional bartenders could lead to excesses in drinking, and result in an increase in serious or fatal accidents. He asserted that there is no proof that those in control of the University gave permission for the facility to exist or are aware of its existence. There was no need shown for the pub in the first instance. The pub competes unfairly with the other liquor licensees in the area. The grant of the application would not serve the best interests of the University or the community.

Four newspaper articles stressing the evils connected with consumption of alcohol by minors were received in evidence.

In behalf of respondents, Leon Piechta, a student at the University and president of its Student Government, testified that the Student Government was impelled to apply for the premises-enlargement from its present seating capacity of eighty-four to premises which would double the capacity due to the fact that its present capacity was inadequate to meet the reasonable needs of the student population.

Piechta felt that it would be more beneficial for the students to remain on campus to drink beer and have entertainment in a monitored area than to subject them to the hazards of off-campus driving.

Paula M. Browne, a student at the University and a member of its pub control board favored the grant of the application for reasons similar to those expressed by Piechta.

Anthony M. Massi, a student at the University, who is presently treasurer of its Student Government, testified that he is in favor of the grant of the premises enlargement application not only because of the present over-crowded condition at the pub but also because it now provides an adequate place for social and recreational activity. He con-

siders such a facility as much a part of the educational process, as a gymnasium or a study room.

William Milianes, manager of the pub, expressed agreement with the views articulated by the previous witnesses favorable to the grant of the application.

Several exhibits which were considered by the Board in its deliberations were received in evidence. Among these were the application for the transfer; the constitution of the Student Government; a letter by Monsignor Thomas G. Fahy, president of the University addressed to the Village Board of Trustees stating that the nearest entrance of the Bishop Dougherty Student Center or of the pub is not within two-hundred feet of the nearest entrance of any church or school building; the letter also contains a waiver of the two-hundred foot rule if the same was considered necessary; a list of members of the Student Government (which is in excess of 4,000 students); and a statement that the Student Government has been in exclusive and continuous possession and use of the premises for at least three years prior to the submission of the application. Also received was a copy of the resolution appealed from and adopted by the Board on January 21, 1974 which, in its relevant part, sets forth:

> "WHEREAS, Student Government of Seton Hall University has made application for a transfer of Club License #CB-6 located in the Bishop Dougherty Student Center, 400 South Orange Avenue, South Orange, New Jersey, because it wishes to enlarge the licensed premises; and
>
> WHEREAS, the Board of Trustees of The Village of South Orange held a Hearing on said application on Monday, January 14, 1974 at which time there appeared only one objector to the application and the Board based upon the application filed and upon the evidence presented at the Hearing is of the opinion that the application should be approved; now, therefore be it
>
> RESOLVED, that the application for transfer of Club License #CB-6 be and hereby is granted to the Student Government of Seton Hall University, located in the Bishop Dougherty Student Center, 400 South Orange Avenue, South Orange, New Jersey, to enlarge its premises in accordance with the application submitted;"

I

During the course of the hearing, a motion was made by the attorney for the respondent, Seton Hall, to quash a subpoena <u>duces tecum</u> served upon Archbishop Thomas Boland requiring him to:

'...and bring with you and produce at the same time and place aforesaid: any correspondence and/or records of/or authorization by 'The Board of Trustees of Seton Hall University' authorizing the use of the Educational Institution or any part of 400 South Orange Avenue, South Orange, N.J. as a regular dispenser of alcoholic beverages. Also bring with you any documentation wherein 'The Board of Trustees of Seton Hall University' accepts liability and responsibility for the dispensing of alcoholic beverages on the college campus.'

The appellant maintained that the subpoena was valid because the University is owned and controlled by the Board of Trustees of which the Archbishop is chairman. He argued that there was no evidence presented that the Board of Trustees had authorized the Student Government to apply for the subject transfer.

In the motion to quash, it was contended that there was no showing that any evidence that might be adduced by the Archbishop's appearance would be material or relevant to the within proceeding and that the subpoena is oppressive.

Considering that Monsignor Fahy, in his aforementioned letter to the Village Board of Trustees, asserted that he was authorized, by virtue of his office as president of the University, and also specifically by the University Board of Trustees to act therein, it is my view and I find that the testimony of Monsignor Fahy would be the best evidence, and the testimony and evidence sought by this subpoena would be cumulative. I, therefore, recommend that the subpoena be quashed.

II

The crucial issue herein is whether the (Board) acted reasonably and in the best interests of the community.

In Fanwood v. Rocco, 59 N.J. Super. 306,320 (App. Div. 1960), affd. 33 N.J. 404 (1960) the court articulated the principle, that the Legislature has entrusted to municipal issuing authorities the initial authority to approve or disapprove place-to-place transfers. The action of the Council in either approving or denying an application for such transfer may not be reversed by the Director unless he finds "the act of the Board was clearly against the logic and effect of the presented facts."

See also Hudson Bergen County Retail Liquor Stores Ass'n v. Hoboken, 135 N.J.L. 502 (E. & A. 1947).

As was stated in Ward v. Scott, 16 N.J. 16,23 (1954):

> "Local officials who are thoroughly familiar with their community's characteristics and interests and are the proper representatives of its people, are undoubtedly the best equipped to pass initially on such applications..... And their determinations should not be approached with a general feeling of suspicion, for as Justice Holmes has properly admonished; 'Universal distrust creates universal incompetence.' Graham v. United States, 231 U.S. 474,480, 34 S. Ct. 148, 151, 58 L.Ed. 319,324 (1913)."

In the recent case of Lyons Farms Tavern, Inc. v. Newark, 55 N.J. 292,303 (1970), the court stated:

> "The conclusion is inescapable that if the legislative purpose is to be effectuated the Director and the courts must place much reliance upon local action. Once the municipal board has decided to grant or withold approval of a premises-enlargement application of the type involved here, its exercise of discretion ought to be accepted on review in the absence of a clear abuse or unreasonable or arbitrary exercise of its discretion. Although the Dirctor conducts a de novo hearing in the event of an appeal, the rule has long been established that he will not and should not substitute his judgment for that of the local board or reverse the ruling if reasonable support for it can be found in the record."

I find a close parallel between the issues raised herein and those considered in Rehling v. South Orange, Bulletin 2104, Item 1. In that case, the Division affirmed the action of the Board of Trustees of the Village of South Orange whereby it granted a club license to the Student Government of Seton Hall University.

I find no factual support for the allegations set forth in the present petition of appeal.

It appears that the basic differences are philosophical. The appellant and Langan ably articulated their objections to the original issuance of the club license, as well as to the present application for the premises enlargement.

However, substantially similar questions were raised and disposed of in Rehling v. South Orange and, from the proofs adduced at this hearing, I find that appellant has not sustained his burden of establishing that the action of the Board was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15.

I, therefore, recommend that an order be entered affirming the action of the Board and dismissing the appeal.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record, including the transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings of the Hearer and adopt his recommendations.

Accordingly, it is, on this 10th day of September 1974,

ORDERED that the action of the respondent Board of Trustees of the Village of South Orange be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed.

LEONARD D. RONCO
DIRECTOR

3. APPLICATION FOR SPECIAL PERMIT - OBJECTIONS THERETO - RE GLASSBORO STATE COLLEGE.

In the Matter of Objections to the Application for a Special Permit under N.J.S.A. 33:1-74 to Sell and Serve Light Wines and Beer in Premises Situated in a Building designated as Student Center of Glassboro State College Cooperative Association Glassboro State College Glassboro, N.J.	)	CONCLUSIONS and ORDER

Hyland, Davis & Reberkenny, Esqs., by John S. Fields, Esq.
Attorneys for Applicant

BY THE DIRECTOR:

On August 2, 1974 applicant, Glassboro State College Cooperative Association, Inc., filed an application for a special permit, under N.J.S.A. 33:1-74, authorizing it to sell alcoholic beverages for immediate on-premises consumption within the premises known as The Student Center at the Glassboro State College, Glassboro.

A written objection to the grant of the said application was filed by a resident of Glassboro, in consequence of which this matter was set down for hearing in this Division.

At the date and time of the hearing no one appeared to enter any objections, nor were any objections asserted at that time.

The applicant introduced into evidence exhibit A-1, which included the following:

1. The application for a special permit signed by its president, and duly notarized;

2. Certified check made payable to the Order of the Division in the sum of $300.00;

3. Proof of Publication of the said application for a special permit and published in the Woodbury Times, a newspaper which circulates within the Borough of Glassboro;

4. A copy of the applicant's original Certificate of Incorporation, which at the time, was under the designation of "Student Faculty Cooperative Association, Inc.";

5. A Certificate of Name Change of the applicant to the "Glassboro State College of Cooperative Association, Inc.";

6. A copy of the Constitution and By-laws of the applicant, which contains a statement of the organization's objectives and purpose, which are to operate and maintain the said Student Center;

7. A copy of an appropriate resolution by the Glassboro State College approving the action of the applicant in processing this application;

8. A copy of the club license application, originally submitted to the Borough of Glassboro;

9. A copy of the resolution of the Borough granting the applicant's request for a club license; and

10. A summary of the applicant's proposal for the operation of the Rathskeller and formal dining room operations with respect to which this permit is sought to authorize the sale of beer and wine therein.

It should be noted that the applicant originally made application to the Director for a waiver under N.J.S.A. 33:1-42 in order to authorize the issuance of a club license to it by the local issuing authority of the Borough of Glassboro, for premises located on the campus of Glassboro State College.

After hearing thereon, it was determined that since Glassboro State College is a public institution of higher education and as such, a State agency, the Student Center is located on the said campus, which is owned and operated by and under the control of the State of New Jersey. Therefore, the local issuing authority was not authorized to issue a club license until and unless a waiver was granted by the Director. The Director, in his discretion, determined that he would not grant a waiver because of a well established and consistent policy to the effect that only wine and beer (and not liquor) may be sold in State-owned or controlled college facilities. Re Glassboro State College Cooperative Association Inc., Bulletin 2151, Item 2.

Although, as mentioned hereinabove, no one appeared to testify under oath and support on the written objection, made to this application, I have nevertheless, examined the said objection and the reasons set forth therein and find them devoid of merit.

Testimony was received at this ex parte hearing of witnesses appearing on behalf of the applicant in support of the grant of this special permit. After careful consideration of the record herein, I am persuaded that the grant of this applicant will not present any security or policing problems; would serve the best interests of the college community; apparently has the approval of the issuing authority of the Borough of Glassboro; and, in all other respects meets the statutory requirements. I shall, therefore, grant the application for the issuance of this special permit.

Accordingly, it is, on this 20th day of September 1974,

ORDERED that the application herein for the issuance of a special permit under N.J.S.A. 33:1-74, be and the same is hereby approved, and a permit shall be issued forthwith.

Leonard D. Ronco
Director

4. APPELLATE DECISIONS - CAMTON, INC. v. NUTLEY - ORDER.

Camton, Inc. t/a Camelot Pub, Appellant,	)	On Appeal
v.	)	O R D E R
Board of Commissioners of the Town of Nutley, Respondent.	)	

Raymond F. Reed, Esq., Attorney for Appellant
James P. Piro, Esq., Attorney for Respondent

BY THE DIRECTOR:

On September 13, 1974, Conclusions and Order were entered herein affirming the action of the respondent and reimposing a suspension of license for twenty days heretofore imposed by the said respondent. On September 24, 1974, I entered an Order herein staying the said suspension pending my consideration of appellant's application for the payment of a fine, in compromise, in lieu of suspension pursuant to the provisions of Chapter 9 of the Laws of 1971.

In accordance with the usual procedure in these matters, I requested an expression from the respondent of its position with respect to the said application. By letter dated September 25, 1974 the Clerk of the respondent Board advises that the respondent unanimously adopted a motion to the effect that "...in view of the past record of this licensee, and in view of the circumstances surrounding the violation under appeal, the Board is of the opinion that the 20-day suspension should be sustained."

I have carefully reviewed the facts and circumstances herein, and have determined to deny appellant's application for the payment of a fine in lieu of suspension, and to reimpose the aforementioned suspension.

Accordingly, it is, on this 30th day of September 1974,

ORDERED that my order dated September 24, 1974 staying the suspension heretofore imposed in this matter be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-11, issued by the Board of Commissioners of the Town of Nutley to Camton, Inc., t/a The Camelot Pub for premises 378 Centre Street, Nutley, be and the same is hereby suspended for twenty (20) days, commencing 2:00 a.m. Friday, October 11, 1974 and terminating at 2:00 a.m. Thursday, October 31, 1974.

LEONARD D. RONCO
DIRECTOR

In the Matter of Disciplinary Proceedings against

Steve's Inc.
840 Newark Avenue
Jersey City, N.J.,

Holder of Plenary Retail Consumption License C-300, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS and ORDER

No Appearance on behalf of Licensee
Carl A. Wyhopen, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to a charge alleging that on February 1, 1974 it possessed and allowed possession of gambling paraphenalia, i.e., "numbers game" material, in the licensed premises, in violation of Rule 6 of State Regulation No. 20.

Notice was taken at the hearing held at this Division that counsel for the licensee had requested that the matter be adjourned until criminal proceedings against one of the principals of the corporate licensee arising from the same incident upon which the charges herein were to be preferred, were completed. He contended that to require testimony of such person would give rise to double jeopardy and thus prevent a proper defense to the charge.

The licensee and counsel were notified of the day and hour of the hearing and counsel was advised of his right to formally move for adjournment based upon these and such other grounds as would then be offered. Neither the licensee nor counsel appeared at the hearing.

Despite the absence, the Division had previously acknowledged receipt of letter from licensee's counsel which in part contained the following request: "However, I request that any hearing be carried until final disposition of the criminal charges preferred by the Hudson County Prosecutor's Office. The reason for this request is that a serious Fifth Amendment question would arise should your hearing be conducted prior to completion of the criminal charges aforesaid."

Such request is without merit. It has long been established that "a corporation cannot assert the personal privilege of its officers against self-crimination". Baltimore & O.R. Co. v. Interstate Commerce Commission, 221 U.S. 612 (1911). The licensee in the instant matter is a corporation and the above rule applies.

Additionally it is noted that "It is well settled that the Legislature has the constitutional power to impose both a criminal and civil or administrative sanction in respect to the same act or omission...The double jeopardy clause merely prohibits attempting a second time to punish criminally for the same offense. ...The proceedings before the Director (Motor Vehicles)...are administrative and not criminal even though they arise out of the commission of an offense punishable by the Courts." Atkinson v. Parsekian, 37 N.J. 143, 154 (1962).

The hearing in this Division proceeded ex parte with testimony introduced of two detectives assigned to the Office of the Prosecutor of Hudson County.

Joseph Nisivoccia, an Investigator with that Office, testified that on January 28, 1974 he had a known gambling suspect under surveillance, whom he observed take apparent "numbers" bets from individuals and, thereupon, promptly repair to the subject licensed premises. Following that suspect, he observed the said suspect enter with a white slip in hand and immediately depart; during his momentary presence a white slip was handed to a bartender named "Mike" (later identified as Michael Malfitano).

On January 31, 1974 the witness entered the licensed premises and saw Mike sitting on a stool at the end of the bar. Shortly thereafter, a man entered, handed Mike a white slip of paper, whereupon Mike got up from the stool and descended a stairway toward the cellar of the licensed premises.

Shortly afterwards, this same action was repeated when another man entered. Later a known "bookie" Dennis Amejka entered, approached Mike to whom he gave a slip of paper and again Mike went downstairs. The witness concluded that Mike was engaged in receiving "numbers bets".

Supervisor of the County Prosecutor's gambling squad, Richard Zmijewski, testified that the licensed premises were under surveillance by him and members of his gambling squad on January 29, 1974. He then observed the aforesaid known gambler, Dennis Amejka, enter and leave that premises without pause. Another male also visited the premises and left almost shortly after entering. Satisfied that the licensed premises were the scene of gambling activity, a search warrant was procured.

On February 1, 1974, the witness and several other law enforcement officers conducted a "raid" in the licensed premises.

He entered and immediately descended the stairway leading to the basement where Malfitano a principal owner of the corporate stock of the licensee corporation was found cutting up paper boxes. He searched the cellar area, which is designated in the license application as part of the licensed premises, and discovered, under various cases and cartons, numerous slips containing "numbers bets". One of the slips had been copied (the originals of all of them being a potential exhibit for prospective use in the pending criminal trial) and was offered into evidence.

The witness stated that, as the result of his many years of training and experience in several hundred gambling matters, he could confirm that this slip was, in fact, a "numbers" slip. Upon his re-entry into the barroom, he found that his fellow officers had conducted a search of patrons present, and one of the patrons was found to have lottery slips in his possession.

Thus, I find that the Division has established the truth of the charge by a fair preponderance of the believable evidence, indeed, by substantial evidence, and I recommend that the licensee be found guilty as charged.

Absent prior record, it is recommended that the license be suspended on the charge herein for ninety days (Re Perk's Tavern, Inc., Bulletin 2121, Item 3).

Conclusions and Order

No exceptions to the Hearer's Report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein including the transcript of the testimony, the exhibits and the Hearer's Report I concur in the findings and conclusions of the Hearer and adopt his recommendations as my conclusions herein.

Accordingly, it is, on this 1st day of October 1974,

ORDERED that Plenary Retail Consumption License C-300 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Steve's Inc. for premises 840 Newark Avenue, Jersey City, be and the same is hereby suspended for ninety (90) days, commencing at 2:00 a.m. Thursday, October 10, 1974 and terminating at 2:00 a.m. Wednesday, January 8, 1975.

Leonard D. Ronco
Director

5. STATE LICENSES - NEW APPLICATIONS FILED.

Midland Beverage, A New Jersey Corporation
546 Midland Avenue
Saddle Brook, New Jersey
Application filed November 27, 1974
for person-to-person transfer of
State Beverage Distributor's License
SBD-101 from William C. Smith, t/a
Beverage Center.

The Buckingham Wine Corporation
333 Sylvan Avenue
Englewood Cliffs, New Jersey
Application filed December 5, 1974
for place-to-place transfer of
Wine Wholesale License WW-17 from
Gateway 1, Suite 1500, Newark, New Jersey.

The Buckingham Corporation
333 Sylvan Avenue
Englewood Cliffs, New Jersey
Application filed December 5, 1974
for place-to-place transfer of
Plenary Wholesale License W-53 from
Gateway 1, Suite 1500, Newark, New Jersey.

Monsieur Henri Wines, Ltd.
200 Riser Road
Little Ferry, New Jersey
Application filed December 9, 1974
for plenary wholesale license.

Guild Wineries & Distilleries
t/a B. Cribari & Sons, Guild
Wine Co., Roma Wine Co.
Lodi, California
Application filed November 21, 1974
for place-to-place transfer of its
licensed warehouse from 15 E. Union
Avenue, East Rutherford, New Jersey,
to 501 Schuyler Avenue, Lyndhurst,
New Jersey, under Wine Wholesale
License WW-32.

Leonard D. Ronco
Director