

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

BULLETIN 835

MARCH 7, 1949.

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - CHROMIAK v. CLIFTON.
2. DISCIPLINARY PROCEEDINGS (Jersey City) - ILLICIT LIQUOR -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Newark) - CLUB LICENSE - FALSE ANSWERS
IN LICENSE APPLICATION - AIDING AND ABETTING NON-LICENSEE TO
EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - PURCHASE
OF ALCOHOLIC BEVERAGES BY ONE RETAILER FROM ANOTHER RETAILER.

CANCELLATION PROCEEDINGS - CLUB LICENSEE DID NOT HAVE
EXCLUSIVE CONTINUOUS POSSESSION OF CLUB QUARTERS FOR THREE
YEARS PRIOR TO APPLICATION FOR LICENSE - LICENSE CANCELLED.
4. APPELLATE DECISIONS - BELMAR DELICATESSEN CO., INC. v.
ATLANTIC CITY.
5. DISCIPLINARY PROCEEDINGS (Newark) - FAILURE TO KEEP LICENSED,
PREMISES CLOSED IN VIOLATION OF LOCAL ORDINANCE - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
6. APPELLATE DECISIONS - ENGLANDER AND ESSEX COUNTY RETAIL LIQUOR
STORES ASSN. v. ORANGE AND GELLER AND ROSENTHAL.
7. DISCIPLINARY PROCEEDINGS (Palmyra) - TRANSPORTATION OF ALCOHOLIC
BEVERAGES IN VIOLATION OF RULE 3 OF STATE REGULATIONS NO. 17
REQUIRING INVOICE OR MANIFEST COVERING SHIPMENT - AGGRAVATED
CIRCUMSTANCES - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Bridgewater) - PERMITTING LEWDNESS
AND IMMORAL ACTIVITIES ON LICENSED PREMISES - RENTING ROOMS
FOR IMMORAL PURPOSES - CONDUCTING LICENSED PREMISES IN SUCH A
MANNER AS TO BECOME A NUISANCE - LICENSE SUSPENDED FOR BALANCE
OF TERM.
9. ACTIVITY REPORT FOR FEBRUARY 1949.
10. DISCIPLINARY PROCEEDINGS (Lakewood) - SALES TO MINORS -
AGGRAVATED CIRCUMSTANCES - PRIOR RECORD - LICENSE SUSPENDED
FOR 25 DAYS, LESS 5 FOR PLEA.
11. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 835

MARCH 7, 1949.

1. APPELLATE DECISIONS - CHROMIAK v. CLIFTON.

STEPHEN CHROMIAK, JR. and)	
ELIZABETH CHROMIAK,)	
)	
Appellants,)	ON APPEAL
)	CONCLUSIONS AND ORDER
v.)	
)	
MUNICIPAL COUNCIL OF THE CITY)	
OF CLIFTON,)	
)	
Respondent.)	

John D. Vasilyk, Esq., Attorney for Appellants.
John G. Dluhy, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's refusal, on December 21, 1948, to transfer appellants' plenary retail distribution license from 42 Getty Avenue to 151 Lakeview Avenue, Clifton.

Respondent denied the application to transfer upon the grounds, inter alia, "that there are sufficient plenary retail distribution and consumption licensed premises in the vicinity of the proposed location to serve the needs of the community." The Mayor and four members of the Council voted against the transfer of the license, and the other two Councilmen, although present at the meeting, did not vote in the matter.

Stephen Chromiak, Jr., an appellant in the instant case, testified that the distance between his present premises and the proposed premises on Lakeview Avenue is approximately eleven city blocks. Said appellant and Gabriel C. Vasilyk, a real estate operator produced as a witness for appellants, testified that there are located at present within a distance of one mile on Lakeview Avenue nine plenary retail consumption licensees and five plenary retail distribution licensees.

Mayor Walter F. Nutt testified that he voted against the transfer to the Lakeview Avenue site because he was of the opinion that there was a sufficient number of liquor establishments in that particular section of the community.

A petition containing the signatures of 105 persons in the community protesting the transfer of the license in question was filed with the respondent issuing authority.

The transfer of a liquor license to other persons or premises, or both, is not an inherent or automatic right. The issuing authority may grant or deny a transfer in the exercise of reasonable discretion. If denied on a reasonable ground, such action will be affirmed. Fafalak v. Bayonne, Bulletin 95, Item 5; Craig, Ltd. v. Orange, Bulletin 251, Item 4.

The testimony offered on behalf of appellants indicates that within one mile on Lakeview Avenue there are fourteen liquor licensees, all of whom have the privilege of selling alcoholic beverages in original containers for off-premises consumption. Despite the fact that Lakeview Avenue is a main business street, the number of licenses that shall be outstanding in such a neighborhood is primarily to be determined by the local issuing authority.

Cf. Schuler v. Roselle Park, Bulletin 509, Item 3. I am satisfied from the evidence that the action of respondent cannot be said to have been either arbitrary or unreasonable.

Under the circumstances, respondent's refusal to grant appellants' application to transfer to premises on Lakeview Avenue is affirmed.

Accordingly, it is, on this 21st day of February, 1949,

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

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary
Proceedings against

JOHN VENEZIA,
T/a VENEZIA'S TAVERN,
1045 West Side Avenue,
Jersey City 6, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-87, issued by the
Board of Commissioners of the City
of Jersey City.

John Venezia, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he possessed an illicit alcoholic beverage, namely, one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky", the contents of which were not genuine as labeled, in violation of R. S. 33:1-50.

On January 24, 1949, an inspector employed by the Alcohol Tax Unit, Internal Revenue Service, Treasury Department, examined twenty-three bottles of alcoholic beverages on defendant's premises and seized the bottle mentioned in the charge when it appeared to be not genuine as labeled. Subsequent analysis by a Federal chemist disclosed that the contents of the seized bottle were substantially lower in acids and higher in solids than the contents of a genuine sample of the same product. Defendant denies that he tampered with the contents of the seized bottle and alleges that the bottle was partially refilled with another whiskey by one of his employees. Nevertheless, a licensee is responsible for any "refills" found in his stock of liquor.

Defendant has no prior record. I shall suspend defendant's license for the minimum period of fifteen days, less five for the plea, leaving a net suspension of ten days. See Bulletin 829, Item 5.

Accordingly, it is, on this 21st day of February, 1949,

ORDERED that plenary retail consumption license C-87, issued by the Board of Commissioners of the City of Jersey City to John Venezia, t/a Venezia's Tavern, for premises 1045 West Side Avenue,

Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. February 28, 1949, and terminating at 2 a.m. March 10, 1949.

ERWIN B. HOCK
Director.

3. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - FALSE ANSWERS IN LICENSE APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - PURCHASE OF ALCOHOLIC BEVERAGES BY ONE RETAILER FROM ANOTHER RETAILER.

CANCELLATION PROCEEDINGS - CLUB LICENSEE DID NOT HAVE EXCLUSIVE CONTINUOUS POSSESSION OF CLUB QUARTERS FOR THREE YEARS PRIOR TO APPLICATION FOR LICENSE - LICENSE CANCELLED.

In the Matter of Disciplinary
Proceedings against

DUNBAR AID & SOCIAL CLUB,
52 West Street,
Newark 3, N. J.

CONCLUSIONS
AND ORDER

Holder of Club License CB-64, issued
by the Municipal Board of Alcoholic
Beverage Control of the City of Newark.

Parnell and Krueger, Esqs., by Reginald Parnell, Esq., Attorneys
for Defendant-licensee.
William F. Wood, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to charges alleging falsification of its application for license by (1) denying that any persons other than itself were interested in its license and licensed business, and (2) denying that it intended to permit retention of all profits from the licensed business by persons other than itself, in violation of R. S. 33:1-25, and (3) that it aided and abetted three individuals to exercise the rights and privileges of its license, in violation of R. S. 33:1-52. Defendant pleaded guilty to a fourth charge alleging that it purchased alcoholic beverages from a retail licensee for resale, in violation of Rule 15 of State Regulations No. 20.

Defendant was also required to show cause why its license should not be cancelled because of its improvident issuance in violation of Rule 4 of State Regulations No. 7 since it lacked requisite exclusive continuous possession of a clubhouse or club quarters for three years continuously immediately prior to submission of its application for license. Defendant opposed the rule to show cause.

The defendant club was incorporated in 1931 under the provisions of "An Act to incorporate associations not for pecuniary profit" as then in effect.

Apparently from the time of its origin until some time in 1948, as will hereafter appear, the Dunbar Aid & Social Club never had exclusive continuous possession of a clubhouse or club quarters, sub-leasing rooms in which to hold their rather irregular meetings, and social events. From 1943 and until early in 1948 these meetings were held at 139 Baldwin Street under an informal agreement pursuant to which the defendant club had the use of a meeting room or hall only for its meetings and its social events not oftener than one night each week. On other nights and in the daytime the rooms were used by the North Jersey Non-Partisan League.

On or about February 21, 1948, the defendant entered into a lease with the International Hod Carriers, Building & Common Laborers Union of America, Local 699, whereby it leased premises described in the lease as "Store premises, formerly used as a Tavern, together with the two cloak rooms in said premises and the storage room in the cellar, together with the privilege to use the fixtures and chattels presently in said premises located at No. 52 West Street, in the City of Newark, Essex County, New Jersey," for a period of three months at a total rental of \$300. Said lease contains an option to extend the lease for a period of three years at the annual rental of \$1500., payable in equal monthly installments in advance. The leased premises consist of a barroom about 18 x 24, a small back room and cloak and toilet rooms, and furnished with a bar, four tables and sixteen chairs, obviously not a clubroom, but a barroom. The club meetings, if and when held, are conducted in a large hall in the rear of the licensed premises leased especially for each meeting. The records, particularly the minutes of the meetings of the club, do not in any respect warrant the belief that they really represent what took place at the meetings. They apparently were prepared for the purposes of the application herein by a person who never heard of the club much before 1948, and some of the minutes, dated 1946 and 1947, were purportedly signed by a secretary who did not take office until 1948.

In march 1948, Julius Moby, John Brunson and Lemmie Sanders, respectively alleged president, secretary and treasurer of the club, advanced between \$2,000. and \$3,000. to rent and furnish the "quarters", secure the license, and stock the bar, in consideration of which the club allegedly gave Moby, Brunson and Sanders the privilege of operating the bar and retaining the profits therefrom until the "indebtedness" was paid.

From all of the foregoing, it is clear that the defendant is guilty on all charges. In view of the order entered herein, no suspension will be imposed.

Further, it is clear that the requisite exclusive continuous possession of a clubhouse or club quarters for at least three years continuously immediately prior to submission of the application for license is totally lacking. Cf. Re Thirteenth Ward Italian Democratic Club, Bulletin 791, Item 3; Gesang-Verein Boonton, Inc. v. Montville, Bulletin 453, Item 10; Re Club of Joy, Bulletin 816, Item 8. Dunbar Aid & Social Club is not eligible at the present time to hold a license.

Accordingly, it is, on this 23rd day of February, 1949,

ORDERED that Club License CB-64 for the fiscal year 1948-49, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Dunbar Aid & Social Club, for premises 52 West Street, Newark; be and the same is hereby cancelled, effective immediately.

ERWIN B. HOCK
Director.

4. APPELLATE DECISIONS - BELMAR DELICATESSEN CO., INC. v. ATLANTIC CITY.

BELMAR DELICATESSEN CO., INC.)
T/A SURF BAR & GRILLE,)

Appellant,)

v.)

ON APPEAL
CONCLUSIONS AND ORDER

BOARD OF COMMISSIONERS OF THE)
CITY OF ATLANTIC CITY,)

Respondent.)

William Charlton, Esq., Attorney for Appellant.
Daniel J. Dowling, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This appeal is from the respondent Board's ten-day suspension of the appellant's license imposed (1) for playing music and permitting loud music to be played in the licensed premises after 1:00 A. M. and permitting entertainment, musical and otherwise, in the licensed premises after 2:00 A. M.--(on August 1, 1948, and on divers days prior and subsequent thereto) in violation of an Atlantic City Ordinance #37, adopted June 22, 1920, as amended in its section concerning penalties of fine and imprisonment; and (2) for allowing, permitting and suffering (on August 1, 1948, and on divers days prior and subsequent thereto) disturbances and unnecessary noises in and upon the licensed premises and allowing, permitting and suffering the licensed place of business to be conducted in such manner as to become a nuisance--in violation of Rule 5 of State Regulations No. 20.

Upon the filing of the appeal an order was entered staying the suspension until further order, in accordance with the provisions of R. S. 33:1-31.

The Petition of Appeal alleges that the respondent's finding of guilt was contrary to the weight of the evidence and that the imposed penalty was excessive. Item 7 of the Petition reads: "7. The action of respondent, the City of Atlantic City, by the imposition of a penalty of a suspension of ten days was erroneous in that upon consideration of the evidence, no suspension should have been imposed, but the complaint dismissed, or in any event, the sentence should not have exceeded one or two days at maximum."

The Alcoholic Beverage Law (Revised Statutes, 33:1-31h) provides that a license may be suspended or revoked for violation of a municipal ordinance. The City ordinance in question, however, was adopted prior to the Alcoholic Beverage Control Act and therefore cannot be said to have been enacted pursuant thereto. It is my opinion that insofar as any application to alcoholic beverage licenses is concerned the ordinance became a nullity on December 6, 1933, because of the comprehensive scheme of control embodied in the Control Act. (See Re McNaughton, Bulletin 64, Item 3: Roche v. Jersey City, 40 N.J.L. 257--Sup. Ct. 1878). Hence, the respondent's finding of guilt as to the violation of the 1920 ordinance must be, and is, reversed.

This brings us to the respondent's finding of guilt under the second charge--for violation of Rule 5 of State Regulations No. 20.

At the hearing on appeal evidence on behalf of the respondent was adduced as follows:

The Chief of the City's Fire Department, who lives across the street from the appellant's premises, testified: "Before August 12th there was singing and very noisy music at night. In the morning, people were going to church and the doors were open and the juke box was going." In response to the question of how often the noise occurred during the period around August 1, 1948, the Chief answered "Most every night."

One witness testified that he heard loud singing--"a woman's voice if I am not mistaken", and also "music box" noises, emanating from the appellant's premises on numerous occasions around 3:30 A.M. and between 5:00 and 6:00 A.M.

Another witness, who owns a hotel across the street from the Surf Bar and Grille, testified that he heard music or singing coming from the Surf Bar "darn near every night."

One of the City's police officers testified that he heard "piano playing and girls singing and a juke box," all coming from the Surf Bar, "early and late in the morning. Anywhere from as late as five or six o'clock in the morning."

The following evidence, at the hearing on appeal, was presented by witnesses for the appellant:

A witness who had serviced the appellant's juke box testified that he had set the volume "at an audible level within the building, within the bar", and that "it wasn't a disturbing noise", but that he "didn't test it outside." With respect to his testing of one of the amplifiers, he testified: "When I raised it he (the appellant's president) came over and told me to cut it down."

A witness, who lived in the hotel above the Surf Bar, testified that he kept his room windows open but had never been disturbed by noise from the appellant's premises. He testified, further, that from the street outside the Surf Bar the noise can be heard "when the transom is open, but when the transom and doors are closed you can't hear it outside": and that the transom and doors are closed in the late evening.

A tailor, whose shop is located next door to the Surf Bar, testified that the music playing was not loud or objectionable to him. When asked "How would you compare the Surf Bar with other places for noise?", he replied, "Well, I don't know, so far as I have seen and heard other places, they keep them very, very fair, very nice. According to the other places, they keep them very nice. I think so."

Another witness, who lived in the hotel above the appellant's premises, testified that the noise from the Surf Bar was "nothing more unusual than any other bar": that the place was "as quiet as any bar could be."

A further witness testified, with respect to the Surf Bar, on direct-examination: "It's quieter than any of the other places. If it wasn't I wouldn't even bother to go in." When asked, on cross-examination whether he was a regular customer of the Surf Bar he replied: "No sir, not any more than any other place. I don't pick any one place."

The night manager of the Surf Hotel (the owner of which is the landlord of the Surf Bar) testified that his office adjoins the doorway (kept open in the summertime) between the hotel and the Surf Bar, and that "there's no objectionable noise": that "I take long distance calls, and I'm selling rooms, and everything all night, and it can't be disturbing very much."

The president and principal stockholder of the applicant, when asked on direct-examination whether he gave any instructions to the piano player and woman singer with respect to volume, replied, "Absolutely. From the first complaint I said 'We'll have to cut it down lower than what we have been.' And we tested it across the street on all sides, on New York Avenue, on all four sides, until we got it lower, until we had it just right that you wouldn't hear it across the street." When asked "Did you play any music after 2:00 A.M.?", he answered "No. They are through at two o'clock. The entertainment is through at two o'clock." When asked on cross-examination "Isn't it true that while you closed the New York Avenue door and the New York Avenue transom, you left open the corner door and transom?", he answered "It wasn't exactly left open. I couldn't close one of the transoms. It was warped, or the hinges were broken. I couldn't close that one transom in the center." When asked "And you say you never played your juke box after two o'clock, you never had your singer singing after two o'clock, and you never had your piano or solovox playing after two o'clock", he replied: "Well, I changed about fifteen bartenders since I have been there, and probably some of them took it on their own to have a guest artist go up there and play a number for free, or just because they asked to play; or probably they put the juke box on, on their own accord, because at times I can't be there night and day."

I find, in the record before me, a preponderance of the evidence sufficient to establish the fact of the appellant's violation of Rule 5 of State Regulations No. 20. (See Re Gahr, Bulletin 377, Item 7). Hence, the finding of guilt under the second charge must be, and is, affirmed.

The remaining point is the length of the suspension which the appellant argues is excessive. "The suspension imposed in a local disciplinary proceeding rests, in the first instance, within the sound discretion of the local issuing authority. The power of the Commissioner to reduce a suspension on appeal is confined to those cases where the suspension is manifestly unreasonable. Dzieman v. Paterson, Bulletin 233, Item 10." (Danker v. Scotch Plains, Bulletin 621, Item 6). I do not find, from the record before me, that the ten-day suspension, here appealed, was manifestly unreasonable and, therefore, I shall not reduce that penalty, despite my reversal of the respondent's finding of guilt on the first charge. In Ritter v. North Bergen (Cases Nos. 1 and 2), Bulletin 546, Item 2, and Alpine Village Tavern, Inc., v. Newark, Bulletin 629, Item 3, municipally imposed revocations were modified on appeal upon a reversal of the municipality's finding of guilt on one of the charges. There, however, the unsupported charge involved alleged acts different from those in connection with the remaining charge or charges whereas in the instant appeal the charges, though multiple, were brought and based upon the same acts or occurrences.

I have been advised in writing by the respondent's Inspector, in the Department of Revenue and Finance, that the appellant's license certificate was picked up by one of the City's investigators at midnight, September 10th, and returned at 2:00 P.M., September 13th, and that during this time the licensed premises were closed.

Accordingly, it is, on this 28th day of February, 1949,

ORDERED that the above appeal be and the same is hereby dismissed and it is further

ORDERED that the balance of the ten-day suspension by the respondent of the appellant's plenary retail consumption license C-235 for premises at 54 South New York Avenue and N.W. cor. New York and Pacific Avenues, which suspension was held in abeyance

pending disposition of the instant appeal, be and the same is hereby restored, to commence at 7:00 A.M., Monday March 7, 1949, and terminate at 5:00 P.M., Monday, March 14, 1949.

ERWIN B. HOCK
Director.

5. DISCIPLINARY PROCEEDINGS - FAILURE TO KEEP LICENSED PREMISES CLOSED IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

EUGENE F. JACKSON
263 Ogden Street
Newark 4, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-46, issued by the Municipal
Board of Alcoholic Beverage Control
of the City of Newark.

Eugene F. Jackson, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to a charge alleging that, on Friday, May 21, 1948, he failed to keep his licensed premises closed between 2:00 a.m. and 7:00 a.m., in violation of a local ordinance.

The file in the instant case discloses that after 2:00 a.m. on the morning of May 21, 1948, the defendant permitted several patrons to remain on the licensed premises.

Section 3 of the municipal regulation in question prohibits licensed premises from being open on weekdays during the hours of 2:00 a.m. and 7:00 a.m.

Defendant has no previous adjudicated record. I shall, therefore, suspend his license for a period of fifteen days. Cf. Re Palumbo, Bulletin 758, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

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

ORDERED that Plenary Retail Consumption License C-46, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Eugene F. Jackson, for premises 263 Ogden Street, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. March 7, 1949, and terminating at 2:00 a.m., March 17, 1949.

ERWIN B. HOCK
Director.

6. APPELLATE DECISIONS - ENGLANDER AND ESSEX COUNTY RETAIL LIQUOR STORES ASSN. v. ORANGE AND GELLER AND ROSENTHAL.

JULIA ENGLANDER and ESSEX COUNTY)
 RETAIL LIQUOR STORES ASSOCIATION,)

Appellants,)

v.)

ON APPEAL
 CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC BEVER-)
 AGE CONTROL OF THE CITY OF ORANGE,)
 and MARVIN W. GELLER AND HARRY)
 ROSENTHAL,)

Respondents.)

 Samuel Poleshuck, Esq., and Gerald T. Foley, Esq., Attorneys for)
 Appellants.

Edmond J. Dwyer, Esq., Attorney for Respondent Municipal Board.)
 Sidney Simandl, Esq., Attorney for Marvin W. Geller and Harry)
 Rosenthal.

BY THE DIRECTOR:

Appellants appeal from the action of respondent Municipal Board in "extending to the respondents Marvin W. Geller and Harry Rosenthal permission to operate a package department in a place other than the public barroom, contrary to the provisions of Chapter 98 of the Laws of the State of New Jersey, of 1948".

On March 12, 1948, respondents Geller and Rosenthal obtained from respondent Municipal Board a transfer of a plenary retail consumption license which had been issued for premises 404-406 Main Street, Orange. At that time the premises consisted of two stores, with an open archway between the stores in the rear thereof, so that the entire premises constituted a single place of business. The store known as 404 was and is the public barroom of the licensed premises, with a separate entrance from Main Street. The store known as 406 Main Street, which apparently was used at one time as a restaurant in connection with the licensed business, has a separate entrance from Main Street. When Geller and Rosenthal took over the license they did not conduct any restaurant business, and it seems to be clear from the testimony that, shortly thereafter, they planned to open a package goods department in the portion of their licensed premises known as 406 Main Street.

Edward A. Morrison, Building Inspector of the City of Orange, testified that on March 30, 1948, a building permit was issued to Geller and Rosenthal for an alteration to the store front at 406 Main Street. The Inspector testified that the alteration was commenced about April 8. Nicholas Sanatore, a carpenter, testified that he was employed by the licensees to do all the interior alterations, and that he started the job early in April. He stopped working there about April 15, and then began to make, at his own place of business, shelves that were to hold the liquor. This witness testified that on April 15, 1948, he removed an old refrigerator and a counter from 404 to 406 Main Street. The evidence given by the witnesses for appellant indicates that a new window was actually installed at 406 Main Street on May 24, 1948. It thus seems apparent to me that, while a complete package goods department had not been set up prior to May 28, 1948, respondents Geller and Rosenthal, prior to said date, had actually undertaken alteration of the licensed premises, intending and making provision thereon for the sale of alcoholic beverages in original containers for off-premises consumption from a portion of the premises other than the public barroom. Subsequently they fully completed the alteration, stocked the shelves, and opened the separate package goods department on June 11, 1948.

It appears from the evidence that on June 4, 1948, appellant, Julia Englander, filed a written objection with respondent Municipal Board to any change in the method of operation of the licensed premises at 404-406 Main Street. As a result, a lengthy hearing on said objections was held by said Municipal Board on June 30, at which all parties were given an opportunity to be heard, and thereafter the license held by respondents Geller and Rosenthal was renewed for the present fiscal year "with broad package privileges". Appellants in effect contend that the license should have been renewed without the broad package privileges and, hence, that the sales of alcoholic beverages in original containers for off-premises consumption should hereafter be restricted solely to the public barroom.

Appellants contend that the action of the Municipal Board was improper because respondents Geller and Rosenthal were not operating a separate "package goods" department prior to May 28, 1948. But Chapter 98 of the Laws of 1948 contains no such requirement. That Act does provide that:

"***where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license***upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal *** of the license ***, subject to rules and regulations to be promulgated by the commissioner."

On behalf of respondents, evidence was introduced that, prior to May 28, 1948, bottles of beer and whiskey were displayed in the refrigerator and counter which had been moved from 404 to 406, and also in the window of 406 Main Street; and that, prior to said date, sales of bottled goods for off-premises consumption were made in the portion of the premises known as 406 Main Street.

Rules 1 through 4 of State Regulations No. 32 set forth requirements regarding a retail consumption licensee's request for the broad package privilege under P.L. 1948, c. 98, and the procedures concerning such request and the granting thereof by the issuing authority. The record in this appeal shows that these requirements and procedures were duly complied with in the instant case.

From the full record before me, I find that the action of respondent Board was not contrary to the statute or the regulations promulgated thereunder.

Appellants also allege that respondent Board's action, appealed from, serves no public convenience and necessity and is not in the public interest. The point is not pertinent. The sole question here is whether the granting of the broad package privilege to the respondent licensees was proper within the provisions of P.L. 1948, c. 98, and the applicable regulations. Prior to the effective date of that Act and the promulgation of Regulations No. 32, retail consumption licensees were permitted to arrange the licensed premises as they saw fit and to sell alcoholic beverages in original containers for off-premises consumption from any part of the licensed premises. (See Re Lee, Bulletin 232, Item 8, and Bulletin Items cited therein; South Jersey Retail Liquor Dealers Assn. v. Burnett, 125 N.J.L. 105.) And, as hereinabove pointed out, P.L. 1948, c. 98, provides that where, prior to May 28, 1948, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the licensee upon a portion of the licensed premises other than the public barroom, such sale and display shall, subject to rules and regulations, "be permitted as heretofore".

For the reasons aforesaid, the action of respondent Board is affirmed.

Accordingly, it is, on this 2nd day of March, 1949,

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

ERWIN B. HOCK
Director.

7. DISCIPLINARY PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES IN VIOLATION OF RULE 3 OF STATE REGULATIONS NO. 17 REQUIRING INVOICE OR MANIFEST COVERING SHIPMENT - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

LEO C. MEISLER
T/a FAMILY LIQUOR STORE
523 W. Broad Street
Palmyra, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution
License D-1, issued by the Mayor and
Borough Council of the Borough of
Palmyra.

Leo C. Meisler, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charge alleging that he violated Rule 3 of State Regulations No. 17.

Defendant, on December 21, 1948, through his agents and servants, transported, with intent to deliver to a consumer, a quantity of alcoholic beverages in his licensed vehicle bearing transportation insignia. However, the driver of said vehicle did not have in his possession any invoice or manifest covering said shipment, as required by the provisions of Rule 3 of State Regulations No. 17.

It appears that defendant's violation was deliberate. It was occasioned by an attempt to sell and deliver a substantial quantity of liquor (some 102 4/5 quart bottles of assorted whiskeys) in a neighboring state apparently contrary to the laws of that state. It further appears that the New Jersey state transportation insignia affixed to his automobile was carefully covered upon entering the neighboring state, apparently to avoid drawing attention to the illegal transportation.

The circumstances surrounding the commission of the instant violation constitute aggravation. Considering that defendant has no previous adjudicated record, I shall suspend the license for fifteen days. Remitting five days of said suspension because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 2nd day of March, 1949,

ORDERED that Plenary Retail Distribution License D-1, issued by the Mayor and Borough Council of the Borough of Palmyra to Leo

C. Meisler, t/a Family Liquor Store, 523 W. Broad Street, Palmyra, be and the same is hereby suspended for a period of ten (10) days, commencing at 9 A.M., March 14, 1949, and terminating at 9 A.M., March 24, 1949.

ERWIN B. HOCK
DIRECTOR.

8. DISCIPLINARY PROCEEDINGS - PERMITTING LEWDNESS AND IMMORAL ACTIVITIES ON LICENSED PREMISES - RENTING ROOMS FOR IMMORAL PURPOSES - CONDUCTING LICENSED PREMISES IN SUCH A MANNER AS TO BECOME A NUISANCE - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary
Proceedings against

ALBERT DENTI
T/a COSMOPOLITAN HOUSE
Route 29 & North Bridge Street
Bridgewater Township
P.O. R.D. Somerville, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-19, issued by the Township
Committee of the Township of
Bridgewater.

Albert Denti, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

- "1. On or about Wednesday night and early Thursday morning, September 29 and 30, 1948, and on divers dates prior thereto, you allowed, permitted and suffered lewdness and immoral activities in and upon your licensed premises, in that you rented rooms for immoral purposes and as places of assignation; in violation of Rule 5 of State Regulations No. 20.
- "2. On or about the dates aforesaid, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, in that you conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

The defendant conducts a hotel, there being a barroom and several sitting-rooms on the first floor and eight rooms on the second floor. Three of these rooms on the second floor are occupied by defendant's family and he rents out the other five. The entire building is licensed. Since at least 1946 the defendant has kept a register of guests who have rented these rooms, but he admits the he did not require friends or persons whom he knew to register.

On September 23, 1948, two ABC agents visited the defendant's barroom. Because of suspicion that the rooms upstairs were being used for immoral purposes, the agents asked the defendant whether they could rent two rooms from him for "a couple of hours" on the evening of September 29, 1948, so that they could bring two women there for immoral purposes. The licensee readily agreed to rent two rooms to them for this purpose for the evening in

question at a rental of \$3.00 per room.

Accordingly, on September 23, 1948, the agents returned to the licensed premises at about 11:30 p.m. and told the licensee that they expected the girls to arrive in about an hour. The licensee accepted \$6.00 in payment for the rooms and, at his request, each agent signed the register as "Mr. and Mrs. ..." After waiting until about 1 a.m., the agents identified themselves and, with the consent of the licensee, they inspected the five rooms on the upper floor. Although these rooms were then unoccupied, there was evidence that some of them had just been used.

It is clear that the defendant knew of the ostensibly unlawful purpose for which the rooms were hired by the agents and, in renting the rooms with such knowledge, the licensee was, ipso facto, guilty of permitting immoral activities on his licensed premises within the meaning of the State Regulations in question. The fact that the agents were not accompanied by any women at the time, and that the alleged women never appeared, is immaterial on the question of the licensee's guilt. The offense was complete when the licensee rented the rooms in contemplation of the fact that they were to be used for immoral purposes. Re Grassot and Oveckas, Bulletin 757, Item 1.

Liquor licenses are not to become servants for vice or immoral activities. By its very nature this case calls for stern penalty, and outright revocation of the license might perhaps well be in order. Cf. Re King, Bulletin 725, Item 3; Re Grassot and Oveckas, supra; Re Kaiman, Bulletin 791, Item 4; Re Flax Bulletin 791, Item 5; Re Pierce, Bulletin 797, Item 1; Re Bell Hotel, Inc., Bulletin 830, Item 9.

However, I am mindful of the fact that there is nothing which shows that the defendant's establishment is a place where men could pick up or make arrangements for procuring women, or that it is a place to which women or prostitutes repaired after having picked up men elsewhere. The gist of the case is that the defendant readily rented rooms to the agents notwithstanding the guilty belief that they were expecting two female companions, not their wives, to show up and occupy the rooms with them. There is permissible inference in the case that the defendant may have similarly rented rooms on other occasions.

The defendant has held a license for these premises since 1939, and this is his first adjudicated record. When the agents identified themselves in the present case, he voluntarily admitted having rented the rooms to the agents in the manner described and, by his plea of non vult, he has frankly admitted that he has no defense to the present charges.

Under all the circumstances I shall suspend the defendant's current license for the full balance of the term (i.e., through June 30, 1949). Should he apply for renewal for the term beginning July 1, 1949, it is for the local issuing authority to determine, in its sound discretion, whether such renewal should be granted.

Accordingly, it is, on this 4th day of March, 1949,

ORDERED that plenary retail consumption license C-19, issued by the Township Committee of the Township of Bridgewater to Albert Denti, t/a Cosmopolitan House, Route 29 & North Bridge Street, Bridgewater Township, be and the same is hereby suspended for the balance of its term, effective at 2 a.m. March 8, 1949.

ERWIN B. HOCK
Director.

March 2, 1949

9. ACTIVITY REPORT FOR FEBRUARY 1949

ARRESTS:

Total number of persons arrested	15
Licensees and employees	5
Bootleggers	10

SEIZURES:

Stillis - 50 gallons or under	2
Mash - gallons	500.25
Distilled alcoholic beverages - gallons	2.50
Wine - gallons	150.64
Brewed malt alcoholic beverages - gallons	18.76

RETAIL LICENSEES:

Premises inspected	761
Premises where alcoholic beverages were gauged	888
Bottles gauged	14,817
Premises where violations were found	33
Violations found	57
Type of violations found:	
Unqualified employees	29
Other mercantile business	4
Gambling devices	3
Reg. #38 sign not posted	3
Probable fronts	2
Disposal permit necessary	2
Other violations	14

STATE LICENSEES:

Premises inspected	32
License applications investigated	12

COMPLAINTS:

Complaints assigned for investigation	302
Investigations completed	275
Investigations pending	143

LABORATORY:

Analyses made	126
"Shake-up" cases (alcohol, water and artificial color) - bottles	7
Liquor found to be not genuine as labeled - bottles	15

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	10
Persons fingerprinted for non-criminal purposes	154
Identification contacts made with other enforcement agencies	132
Motor vehicle identifications via N.J. State Police Teletype	12

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	6
Violations involved:	
Sale during prohibited hours	2
Sale to minors	2
Permitting bookmaking on premises	1
Permitting slot machines on premises	1
Cases instituted at Division	8
Violations involved:	
Delivery without accompanying invoice	3
Sale to minors	2
Possessing illicit liquor	2
Sale during prohibited hours	1
Cases brought by municipalities on own initiative and reported to Division	1
Violations involved:	
Sale to minors	1
Conviction of crime involving moral turpitude	1

HEARINGS HELD AT DIVISION:

Total number of hearings held	28
Appeals	3
Disciplinary proceedings	13
Eligibility	6
Seizures	2
Tax revocation	2
Application for license	2

PERMITS ISSUED:

Total number of permits issued	744
Employment	105
Solicitors	102
Disposal of alcoholic beverages	83
Social affairs	381
Special wine	8
Miscellaneous	65

10. DISCIPLINARY PROCEEDINGS -- SALES TO MINORS - AGGRAVATED CIRCUMSTANCES - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ROBERT ARTHUR HIGGINS, JR.)
T/a BOB HIGGINS BAR)
100 - 2nd Street,)
Lakewood, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-8, issued by the Township)
Committee of the Township of Lakewood.)

Robert Arthur Higgins, Jr., 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 that he (1) sold alcoholic beverages to minors, in violation of R.S. 33:1-77; and (2) sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to said minors, and allowed, permitted and suffered the consumption thereof by said minors upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

On December 4, 1948, two members of the enlisted personnel of the United States Navy, stationed at the United States Naval Air Station, Lakehurst, N. J., entered the licensed premises of defendant at about 1:00 p.m. A third sailor entered said tavern at about 4:00 p.m. The three sailors were eighteen years of age and were served alcoholic beverages, i.e., beer and highballs, by the two bartenders employed by defendant until they left the licensed premises at about 7:00 p.m..

The minors were sold and permitted to consume quite a large amount of alcoholic beverages. One had some fifteen beers; one about twelve beers and four whiskey highballs; and the third about six beers. Shortly after leaving the tavern, in the immediate vicinity thereof, they became involved in a fight and were arrested by local police.

Defendant has a prior record. In 1945 his license was suspended for twenty days after a conviction by the local issuing authority of a charge of sale to intoxicated persons and permitting a brawl. In view of the past record, and the amount of alcoholic beverages sold to the minors, I shall suspend his license for twenty-five days. Remitting five days of said suspension because of the plea will leave a net suspension of twenty days.

Accordingly, it is, on this 4th day of March, 1949,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Lakewood to Robert Arthur Higgins, Jr., t/a Bob Higgins Bar, for premises 100 - 2nd Street, Lakewood, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m., March 11, 1949, and terminating at 2:00 a.m., March 31, 1949.

ERWIN B. HOCK
Director.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Canadian Cartage & Warehousing, Inc.
801 Greenwich St.,
New York, New York

Application for Transportation License filed March 1, 1949.

Victor Lynn Lines, Inc.
St. Paul and James Aves.,
Jersey City, N. J.

Application for Transportation License filed March 2, 1949.

Parkway Beverages, Inc.
83-89 Albert St.,
Woodbridge, N. J.

Application filed March 2, 1949 for transfer of State Beverage
Distributor's License SBD-28 from Frank G. Bucko and Thomas W.
Handlon.

Italian-American Winery Co.; Inc.
33 Aspen St.,
Passaic, N. J.

Application filed March 4, 1949 for transfer of Plenary Winery
License V-39 (with retail privileges) from Carmelo Cannizzaro.

Ernest S. Hock

Director.