STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1959 March 22, 1971

TABLE OF CONTENTS

ITEM

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1959 March 22, 1971

1. APPELLATE DECISIONS - SPAR ENTERPRISES, INC. v. SOMERS POINT AND CARLSON INVESTMENT COMPANY.

Spar Enterprises, Inc., Appellant,	)	On Appeal
v.	)	CONCLUSIONS and ORDER
Common Council of the City of Somers Point, and Carlson Investment Company, Respondents.	)	

Edwin H. Helfant, Esq., Attorney for Appellant
Blatt, Blatt & Mairone, Esqs., by Robert V. Mairone, Esq., Attorneys for Respondent Common Council
Horn and Weinstein, Esqs., by Charles R. Previti, Esq., Attorneys for Respondent Carlson Investment Company

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This appeal addresses itself to the action of respondent Common Council of the City of Somers Point (hereinafter Council) which on April 29, 1970 approved the transfer of a plenary retail consumption license from Schiavone Enterprises to respondent Carlson Investment Company for premises located at 5 Broadway, Somers Point.

Appellant alleges that the action of Council was erroneous and an abuse of its discretion because the Mayor (a member of the Council) "had a personal interest and a financial gain to be derived from the transfer of said license."

The answer of respondent Carlson Investment Company admits the jurisdictional allegations of the petition and denies its substantive allegations. It defends that "there has been no allegation that the transferee, Carlson Investment Company, is not qualified to own the liquor license."

The answer of respondent Council is to the same effect. It adds further that the premises were the same premises used as a liquor license location for a number of years; that the transfer is "not against the public interest"; that it determined that the transferee "was qualified".

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15. Although the stenographic transcript of the hearing below was not admitted into evidence at this de novo hearing because of appellant's failure to comply with

the provisions of Rule 8 of State Regulation No. 15, it was at my request forwarded to me thereafter and made part of the record in order to assure a determination on all of the facts.

At this plenary de novo hearing the following facts were established either by stipulation or through testimony: Council consists of Mayor George F. Roberts and seven councilmen. According to the minutes of the meeting held on April 29, 1970, when the public hearing was held on objections to the application for transfer of the license from Schiavone Enterprises to respondent Carlson Investment Company, Mayor Roberts stated that he would take no part in the hearing or vote on the same because, in the Mayor's words, "I repeat my statement of last week that I again refrain from any public discussion or any vote on this matter since I am the broker involved...."

It appears from the record herein, and corroborated by the Mayor's testimony at the hearing below, that Mayor Roberts, a realtor, negotiated the agreement dated December 10, 1969, between Schiavone Enterprises and Sarle H. Cohen for the sale of real estate, equipment and chattels and the subject liquor license (Carlson was thereafter substituted as a buyer for Cohen). The agreement provided that, in consideration for the said sale, a commission of $10,000 shall be paid to the Roberts Agency, Inc. as broker. The Roberts Agency is owned by Mayor Roberts. The agreement further provided that Roberts shall be paid $5,000 "for services rendered up to and including the signing of this agreement of sale and shall be retained by Roberts Agency, Inc., regardless of whether or not a default occurs or title is transferred...." However, it further provided that the balance of the $5,000 commission shall be made at settlement, "contingent, however, upon settlement actually being completed in accordance with this agreement." Therefore, the commission to be paid to Mayor Roberts was entirely contingent upon the favorable action by the Council in approving the said transfer. Accordingly, the Mayor did not vote nor did Joseph D'Orio (president of the Council) who participated in the caucus preceding the meeting but refrained from voting because "as a holder of a liquor license I do not wish to enter a conflict as far as the voting is concerned."

I

I shall first consider appellant's contention that Councilman D'Orio's participation at the hearing before the Council herein nullifies the said action.

D'Orio (president of the Council) is a liquor licensee. Notwithstanding that fact, however, he participated in the deliberations of the Council on the application for transfer although he abstained from voting. As he expressed it, "I have abstained from the vote, not the discussions...." And, further, "But I have never said that I would abstain from any discussions, and I do not choose to do so. This is my choosing. If you desire a caucus or a recess, fine, if you choose to have one, but I intend to be in there." He did in fact preside at the hearing and participate in the caucus.

It has been long established that a councilman who holds an alcoholic beverage license, or has an interest in same, is disqualified from participating in any way in

alcoholic beverage matters coming before the Council. As the then Director Driscoll stated in Re Gersh, Bulletin 615, Item 7:

> "Such participation, if permitted, would result in a serious conflict between private interest and public duty. Numerous previous rulings on the subject are collected and discussed in Re Kerner, Bulletin 298, Item 9. It has been ruled, as far back as 1935, that disqualified members may not satisfy the requirements merely by refraining from voting on the issue presented. They must withdraw entirely from the proceedings for otherwise the essential purpose of the disqualification would in large part be nullified. Re Siracusa, Bulletin 89, Item 9; Re Mohr, Bulletin 557, Item 1."

As more definitively expressed in Stevens v. Haussermann, 172 Atl. 738 (Sup. Ct. 1934):

> "It is supported by a twofold reason, viz.: First the participation of the disqualified member in the discussion may have influenced the opinion of the other members; and, secondly, such participation may cast suspicion on the impartiality of the decision. It being impossible to determine whether the virus of self-interest affected the result, it must needs be assumed that it dominated the body's deliberations and that the judgment was its product."

The court accordingly held that the concurrence of an interested member in the action taken by the body taints it with illegality, and that it is immaterial that the result reached was not produced by the vote of the disqualified member. Clemencich v. Manalapan et al., Bulletin 1419, Item 1; Rosenfeld and Zaberer v. North Wildwood, et al., Bulletin 1526, Item 2.

As the court emphasized in McNamara v. Saddle River Borough, 64 N.J. Super. 426, at p. 429:

> "... If there is 'interest', there is disqualification automatically, entirely without regard to actual motive, as the purpose of the rule is prophylactic, that is, to prevent the possibility of an official in a position of self-interest being influenced thereby to deviate from his sworn duty to be guided only by the public interest...."

I therefore conclude that the participation of Council President D'Orio tainted the action of the Council with illegality, and renders its action null and void.

II

Although my conclusion hereinabove with respect to D'Orio is dispositive of this matter, I shall examine the principal allegation of appellant with respect to Mayor Roberts because of the significant principles involved.

Appellant contends that the action of the Council should be reversed and the transaction be declared null and void because of the "participation" of Mayor Roberts who appellant alleges had a disqualifying interest. The Mayor

frankly admitted that his interest is disqualifying since he was going to obtain a pecuniary profit from the action of the Council, but he denies that he participated in this matter. Thus, the matter of the Mayor's alleged actual participation was in sharp conflict. Appellant contends that the Mayor attended the meeting at which this matter was considered, spoke to members of the Council, participated in the caucus and generally influenced the members who ultimately voted unanimously to approve the application for transfer.

Mayor Roberts voluntarily testified before the local Council and frankly admitted that his commission of $10,000 was contingent upon the approval of the said application for transfer. He was then asked:

"Q Now, on April 23rd, one week from tomorrow night, as you did this evening, you said that you would sustain or refrain from taking part in the discussions about this license, is that correct?
A I did publicly.
Q Did you or did you not take part in the caucus during a recess in that evening?
A Nothing other than to advise the president of council that he was in the same category that I was, since he is the holder of a license. He actually, in my judgment, has no right to comment on the transfer, nor does he have a right to sit here and preside tonight.

* * * *

Q How about the caucus or workshop meeting the night before?
A I don't think that is any of your business.
Q So you refuse to answer that?
A I do not think it is any of your business.
Q In other words, you feel you don't have to answer that?
A I certainly do.
Q Can you tell us whether or not you had any discussions with any members of this council pertaining to this license transfer prior to this evening?
A No, I had discussions with them relative to the telephone calls that you made to several councilmen and that the president of council made to several councilmen because it was brought to my attention.
Q Mr. Roberts, let's not confuse the issue. I am asking you if you did or did not discuss the proposed transfer with any members of this council? Now, that can be yes or no.
A I refuse to answer your question."

The position of the respondents is that, since the Mayor did not vote and did not participate in the deliberations of the body, the action of the respondent Council must be sustained.

There is no doubt, and the rule is clear, that a quasi-judicial action of a municipal body is rendered voidable by the participation of a member thereof who is at the time subject to a direct or indirect private interest which is at variance with the impartial performance of his public duty. Aldom v. Roseland, 42 N.J. Super. 495, 501. This common law doctrine found its genesis in a necessary and compelling public

policy. Ames v. Board of Education of Montclair, 97 N.J. Eq. 60; People ex rel. Schenectady Illuminating Co. v. Board of Sup'rs, 166 App. Div. 758, 151 N.Y.S. 1012 (App. Div. 1915). See also Zell v. Borough of Roseland, 42 N.J. Super. 75 (App. Div. 1956); Hochberg v. Borough of Freehold, 40 N.J. Super. 276 (App. Div. 1956).

In Aldom the court defined a disqualifying interest:

"The interest which disqualifies is not necessarily a direct pecuniary one, nor is the amount of such an interest of paramount importance. It may be indirect; it is such an interest as is covered by the moral rule: no man can serve two masters whose interests conflict. Basically the question is whether the officer, by reason of a personal interest in the matter, is placed in a situation of temptation to serve his own purposes to the prejudice of those for whom the law authorizes him to act as a public official. And in the determination of the issue, too much refinement should not be engaged in by the courts in an effort to uphold the municipal action on the ground that his interest is so little or so indirect. Such an approach gives recognition to the moral philosophy that next in importance to the duty of the officer to render a righteous judgment is that of doing it in such a manner as will beget no suspicion of the pureness and integrity of his action. People ex rel. Schenectady Illuminating Co. v. Board of Sup'rs, 88 Misc. 226, 151 N.Y.S. 830 (Sup. Ct. 1914), affirmed 166 App. Div. 758, 151 N.Y.S. 1012 (App. Div. 1915); Tuscan v. Smith, 130 Me. 36, 153 A. 289, 73 A.L.R. 1344 (Sup. Jud. Ct. 1931); In re Conant, 102 Me. 477, 67 A. 564 (Sup. Jud. Ct. 1907); 43 Am. Jur., Public Officers, § 266 (1942). More specifically, it has been said in connection with the making of a municipal contract:

'If his interest in the contract [here, sheet metal foreman of the proposed corporate contractor] is such as would tend in any degree to influence him in making the contract, then the instrument is void because contrary to public policy, the policy of the law being that a public officer in the discharge of his duties as such should be absolutely free from any influence other than that which may directly grow out of the obligations that he owes to the public at large.' Stockton Plumbing & Supply Co. v. Wheeler, 68 Cal. App. 592, 229 P. 1020, 1024 (App. Ct. 1924). (Insertion ours)"

In most of the New Jersey cases which considered the issue of participation, the factual complex involved a voting member. However, in the case of S & L Associates, Inc. v. Washington Twp., 61 N.J. Super. 312 (App. Div. 1960) the appellant contested the validity of a town zoning ordinance and the question of the participation of a member of the Board was at issue. The court held that any participation on the part of a public officer who has a self-interest taints the action of the body. The court stated at p. 329:

"A public officer has the duty of serving the public with undivided loyalty, uninfluenced in his

> official actions by any private interest or motive whatsoever. Driscoll v. Burlington-Bristol Bridge Co., 8 N.J. 433, 474-5 (1952), certiorari denied 344 U.S. 838....."

From my examination and assessment of the entire record herein, I am persuaded that, although Mayor Roberts did not vote on this application, his participation in the proceedings was sufficient to infect the action of the respondent Council. He was present at the meeting at which this matter was discussed; he conveyed to the members of the Council the fact that his $10,000 fee (or at least $5,000 of that fee) was contingent upon their favorable action; he admitted speaking to the members of the Council during the caucus recess although he claims it was to refute certain telephone calls that the attorney for the appellant and D'Orio made to several of the councilmen. These facts would indicate that his fine hand was evident at these hearings and deliberations. I further believe that, as a member of the Council and as Mayor of the community, there was a subtle psychological influence upon the members which would have been very difficult to resist. It would certainly be hard put for these members to vote against this application in the presence of the Mayor, and I feel that they thereby were definitely influenced to vote as they did.

From the reading of the controlling cases in New Jersey I find that any participation by a member who has a disqualifying interest voids the action of the Council. A member who has a disqualifying interest must withdraw entirely from the case. Re Siracusa, supra. To "withdraw entirely" means precisely that. See Highlands Tavern Owners Association et als. v. Highlands and Cohen, Bulletin 868, Item 11.

The applicable rule, as stated in 63 C.J.S. Municipal Corporations, sec. 990, at p. 553, goes much further. It states:

> "The general rule as to the invalidity of a municipal contract in which an officer of the municipality is personally interested is of general application and is so inflexible that no inquiry into the good or bad intention of the officer or as to the fairness or unfairness of the contract is permitted. The rule applies whether the officer acted alone on behalf of the municipality or as a member of the Council or a board; and, in the absence of a statute providing otherwise, it applies even though the officer took no active part in negotiating or voting for the contract, or procuring others to vote for it, or received no benefit therefrom, and even though he voted against the contract, and it was more advantageous to the city than contracts proposed by other bidders...."

In the matter sub judice there is no question regarding the qualifications of the transferee to hold a license and this was readily admitted by the attorney for appellant. However, the actions of the disqualified councilman render that consideration irrelevant.

Courts in other States have even gone further with respect to the disqualification. They have said in effect

that the mere membership on a council by a person who has a private interest which conflicts with the public interest is sufficient to void the action of the Council. In City of Bristol v. Dominion National Bank et al., 140 S.E. 632 (Sup. Ct. of App. of Va. 1929) a contract was made for the city by a member of the council. The court there held that such contract, in which the councilman had a personal interest, was against public policy because of the temptation to profit by double-dealing notwithstanding the fact that the councilman failed to vote on the question of the approval of the contract. The court applied a principle set forth in Beebe v. Supervisors of Sullivan County, 19 N.Y.S. 629, aff'd 142 N.Y. 631, 37 N.E. 566, where the court stated the following:

> "It is said in the case before us that the supervisor who was employed did not vote on the question of his own employment, or upon the audit of his bill. That does not cure the evil. The influence upon (his) fellow members is the same. His constituents are entitled to his judgment in making contracts, to his scrutiny in passing upon accounts, and to his unbiased and disinterested efforts in both; and he cannot make the violation a neglect of the duties he owes to his constituents the means of validating an otherwise illegal act. He cannot put on and off the garb of a public official, and discharge or refuse to discharge the duties of his trust at will, and as best subserves his private interests. He is a part of the board of supervisors. Its act is his act; and he cannot as a supervisor, make a contract with himself as a private citizen." Bay v. Davidson, 111 N.W. 25, 9 LRA (N.S.) 1014. See also City of Ensley v. Hollingsworth, 170 Ala. 396, 54 So. 95.

The court added that the city was entitled to the unbiased judgment of every member of its council. It is the relation that the court condemns, not the results. The court further quotes Judge Dillon in his work on "Municipal Corporations", sec. 444:

> "It is a well established and salutary rule in equity that he who is entrusted with the business of others cannot be allowed to make such business an object of pecuniary profit to himself. This rule does not depend upon reason technical in character, and is not local in application. It is based upon principles of reason, of morality and of public policy....." (111 N.W. at p. 26, and cases cited therein.)

Thus these cases reason that it is not a sufficient answer that a member who has a private interest in the subject matter merely refrains from voting or actively participating. The member who has accepted the public office owes an obligation to participate, to lend his experience and judgment and objectivity without the interference of personal influence.

In the recent case of Newton v. Demas, 107 N.J. Super. 346, 349, the court seemed to recognize this obligation. Said the court:

> "The courts of this State are committed to the principle that public officials hold positions of

> public trust; they are under an inescapable obligation to serve the public with the highest fidelity, good faith, and intergrity. Driscoll v. Burlington-Bristol Bridge Co., 8 N.J. 433, 474 (1952), cert. den. 344 U.S. 838, 73 S. Ct. 25, 97 L. Ed. 652 (1952). Such required conduct demands undivided loyalty and compels public officers to refrain from outside activities which interfere with proper discharge of their duties, or which may expose them to the temptation of acting in any manner other than in the best interests of the public."

In that case the plaintiff argued that the condemnation of the contract would in effect deprive a municipal engineer of the opportunity of performing engineering work for third parties in the municipality where he holds public office. Said the court at p. 350:

> "... We disagree. We have merely disapproved the practice of a municipal engineer accepting private conflicting employment when he knows, or should know, that it will require the exercise of direct or indirect action on his part on behalf of the municipality."

In the matter before us, the Mayor takes the position that, as a realtor, he should not be denied the opportunity of engaging in real estate matters even though they may require approval by the Council of which he is a member. We merely hold that the Mayor is not deprived of his right to engage in his normal business, which is real estate and insurance, so long as it does not relate to a matter which may require the approval of the Council of which he is a member. When the Mayor entered into public office he understood, or should have realized, that his private interest must not inerfere with his actions as a public official. This same argument was considered in Aldom, supra, where the court said at p. 508:

> "It was argued that establishment of the principle we are announcing would disserve the public interest because it might operate to influence substantial and civic-minded citizens, who have outside business connections, against membership in elective or appointive public agencies. That result is extremely doubtful. The rule disqualifies only where personal and public loyalties come into conflict. In those rare instances such high-minded persons undoubtedly will welcome the disqualification."

In summary, courts in other States have adopted the rule that the mere membership on the council of one who has a personal interest in the matter to be judicially determined by the said council infects the action and spreads that infection to the whole body. New Jersey courts have not gone that far in determining the validity of such contracts or the legality or illegality of the Council's actions.

After careful consideration and assessment of the record herein, I conclude that there was sufficient participation and influence used by Mayor Roberts herein to fatally infect the action of the Council.

Accordingly, I find that the appellant has sustained the burden of establishing that the action of the Council was erroneous and should be reversed. It is therefore recommended that an order be entered reversing the action of the Council.

Conclusions and Order

Exceptions to the Hearer's report and written argument in support thereof were filed by respondent Common Council. Answering argument was filed by appellant.

The Council argues that I should hear and decide this case as an original application rather than an appellate review, because of the conflict-of-interest issue raised by appellant. In this connection Council points out that, while the application was pending before the Council, it requested that I assume jurisdiction of the matter in view of the conflict issue, but that I declined to do so. Since the Hearer has recommended a finding of nullification of the Council's action because of the participation therein by two of its members who were disqualified from such participation by reason of personal interest, the Council contends that I should now change my position with respect to the assumption of original jurisdiction. Appellant, however, argues that there should be a "straight" reversal of the Council's action, as recommended by the Hearer.

R.S. 33:1-20 of the State Alcoholic Beverage Law in pertinent part provides:

> "No license other than a club license shall be issued under this chapter by any issuing authority to any member thereof or to any corporation, organization or association in which any member thereof is interested directly or indirectly; but in any such case application for such license may be made by such member, corporation, organization or association directly to the director who is hereby authorized to issue such license, subject to rules and regulations, upon the same terms and conditions and for the same fee as other licenses of the same class are issued or are issuable by the said governing board or body..."

This statute gives to me original jurisdiction to entertain an application by a corporation for retail license otherwise issuable by a municipal license issuing authority only if a member of such authority is interested directly or indirectly in such corporation. (See also Rule 1 of State Regulation No. 4 relative to this point.) The statute is not applicable to situations in which a member of the municipal issuing authority is interested in the outcome of the application, rather than in the applicant itself. In such situations the member of the municipal issuing authority must abstain from any participation in the application proceeding and, if he does not, the proceeding is voidable on review. See Pyatt v. Mayor and Council of Dunellen, 9 N.J. 548, 555 (1952).

It was these legal considerations which precluded me from assuming original jurisdiction in this case. However, once the case has been appealed to me, under certain circumstances I may mold the appeal as if it were a direct application for license and decide it as an original proposition. Blanck v. Mayor and Borough Council of Magnolia, 38 N.J. 484, 494-495 (1962); South Jersey Retail Liquor Stores Association et als. v. Haddon and Dustar, Inc., Bulletin 1836, Item 1.

I have carefully considered the entire record herein and, as a result, I agree with the Hearer that both Council President D'Orio and Mayor Roberts were disqualified from participating in any way in the Council's consideration of the application in question by reason of their personal involvement in the outcome of the proceeding. I further agree that both of these officials did in fact participate in the matter so as to render the Council's action voidable. Non-participation means complete withdrawal, not merely abstinance from voting or expressing an opinion on the merits of the application. Council President D'Orio participated to a prohibited degree by merely presiding at the Council meeting or by merely being present at the caucus meeting during which the Council considered the merits of the application, while Mayor Roberts likewise did so by being present at such meeting.

However, the Council's action in approving the license application is voidable, not void. Under the circumstances herein, and particularly since the only issue raised by appellant is the conflicts one, none of the parties, including the appellant, has raised any question with respect to the qualifications or fitness of respondent licensee to hold this license. (In fact appellant has affirmatively conceded that the licensee is fully qualified in such respect.) I shall, in order to grant appropriate relief herein, mold this appeal as if it were a direct, original application before me under R.S. 33:1-20, rather than an appellate action calling for the review of the exercise of discretionary power by a municipal issuing authority. Cf. South Jersey Retail Liquor Stores Association et als. v. Haddon and Dustar, Inc., supra.

This is a case involving only a person-to-person license transfer application. The location of the licensed premises will remain the same. I have examined the transfer application and find it to be in order. I find nothing in the record adverse to the corporate applicant or its principals. In this posture I will approve the application.

Accordingly, it is, on this 19th day of January 1971,

ORDERED that the action of the respondent Common Council of the City of Somers Point be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

RICHARD C. McDONOUGH
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - HOSTESS ACTIVITY, AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
Joseph T. Burke t/a Joe Burke's Bar 2228-2230 Atlantic Avenue Atlantic City, N. J.	)	CONCLUSIONS and ORDER
Holder of Plenary Retail Consumption License C-158, issued by the Board of Commissioners of the City of Atlantic City.	)	

- - - - - - - - - - - - - - - - - - - -

Edwin H. Helfant, Esq., Attorney for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 7, 1970, he permitted females employed on the licensed premises to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20.

Reports of investigation disclose that, at the expense of male patrons, female entertainers were serve champagne cocktails (small quantity of domestic champagne on ice) at a cost of $2.50 each and splits (6.4 ounces) of a domestic champagne retailing for approximately 69 cents, at a charge of $7.00 each.

Absent prior record but deeming the violation aggravated on the facts, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Sabar, Inc., Bulletin 1729, Item 3.

Accordingly, it is, on this 22nd day of January 1971,

ORDERED that Plenary Retail Consumption License C-158, issued by the Board of Commissioners of the City of Atlantic City to Joseph T. Burke, t/a Joe Burke's Bar, for premises 2228-2230 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for twenty-five (25) days, commencing at 7:00 a.m. Monday, February 8, 1971, and terminating at 7:00 a.m. Friday, March 5, 1971.

RICHARD C. McDONOUGH
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF LOCAL ORDINANCE - HOURS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
Salvatore Pintozzi 88 Garden Street Hoboken, N. J.	)	CONCLUSIONS and ORDER
Holder of Plenary Retail Consumption License C-101, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.	)	

- -

Licensee, Pro se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on Saturday, October 24, 1970, between 3:00 a.m. and 3:30 a.m., he (1) sold drinks of alcoholic beverages, (2) failed to have the licensed premises closed, and (3) failed to afford interior view of the licensed premises, all in violation of local regulation.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Higgins, Bulletin 1598, Item 9.

Accordingly, it is, on this 22nd day of January 1971,

ORDERED that Plenary Retail Consumption License C-101, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Salvatore Pintozzi, for premises 88 Garden Street, Hoboken, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Monday, February 8, 1971, and terminating at 2:00 a.m. Tuesday, February 23, 1971.

RICHARD C. McDONOUGH
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
Le Seul, Inc. t/a Le Seul, Inc. 925 Springfield Avenue Irvington, N. J.	)	CONCLUSIONS AND ORDER
Holder of Plenary Retail Consumption License C-69, issued by the Municipal Council of the Town of Irvington.	)	

- - - - - - - - - - - - - - - - - - - -

Hannoch, Weisman, Stern & Besser, Esqs., by Joseph S. Seidel, Esq., Attorneys for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 5, 1970, it possessed alcoholic beverages in two bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Emjam, Inc., Bulletin 1935, Item 4.

Accordingly, it is, on this 22nd day of January 1971,

ORDERED that Plenary Retail Consumption License C-69, issued by the Municipal Council of the Town of Irvington to Le Seul, Inc., t/a Le Seul, Inc., for premises 925 Springfield Avenue, Irvington, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, February 1, 1971, and terminating at 2:00 a.m. Thursday, February 11, 1971.

RICHARD C. McDONOUGH
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
2016 Atlantic Avenue Corporation t/a Kelly's Korner 2016 Atlantic Avenue Atlantic City, N. J.	)	CONCLUSIONS and ORDER
Holder of Plenary Retail Consumption License C-161, issued by the Board of Commissioners of the City of Atlantic City.	)	

- -

Licensee, by John J. Kelly, Sr., President, Pro se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 22, 1970, it possessed alcoholic beverages in two bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Emjam, Inc., Bulletin 1935, Item 4.

Accordingly, it is, on this 22nd day of January 1971,

ORDERED that Plenary Retail Consumption License C-161, issued by the Board of Commissioners of the City of Atlantic City to 2016 Atlantic Avenue Corporation, t/a Kelly's Korner, for premises 2016 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m. Monday, February 8, 1971, and terminating at 7:00 a.m. Thursday, February 18, 1971.

RICHARD C. McDONOUGH
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - FAILURE TO KEEP PROPER RECORDS - CONDITION RECTIFIED DURING PENDENCY OF PROCEEDINGS HEREIN - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
Julia Ryans t/a The Jolly Club 226 - 12th Avenue Newark, N. J.	)	CONCLUSIONS and ORDER
Holder of Plenary Retail Consumption License C-26, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.	)	

- - - - - - - - - - - - - - - - - - - -

Waldor and Hochberg, Esqs., by Milton A. Waldor, Esq., Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to the following charge:

"From July 1, 1967 to date, you failed to have and keep a true book or books of account wherein were entered a record of all monies received and a record of the source of all monies received other than in the ordinary course of business, and also a record of all monies expended from such receipts and the names of persons receiving such monies and the purpose for which such expenditures were made; in violation of Rule 36 of State Regulation No. 20."

Reports of investigation by Division agents disclose that during pendency of these proceedings the books and records were completed and that an examination of such books and records by the agents did not reveal any irregular activities in the conduct of the business or any evidence of any proprietary interest in the license or the business conducted thereunder by any person or persons not disclosed in the license application.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re O.K. Corral, Inc., Bulletin 1832, Item 6.

Accordingly, it is, on this 22nd day of January 1971,

ORDERED that Plenary Retail Consumption License C-26, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Julia Ryans, t/a The Jolly Club, for premises 226 - 12th Avenue, Newark, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday, February 8, 1971, and terminating at 2 a.m. Saturday, February 13, 1971.

RICHARD C. McDONOUGH
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Jodi Inn, Inc. t/a Bill's Tavern 241 White Horse Pike Barrington, N. J.) CONCLUSIONS AND ORDER

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

- - - - - - - - - - - - - - - - - - - -

Licensee, by William F. Jenkins, President, Pro se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on December 11, 1970, it sold drinks of beer to two minors, both age 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Vincitore, Bulletin 1824, Item 11.

Accordingly, it is, on this 22nd day of January, 1971,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Barrington to Jodi Inn, Inc., t/a Bill's Tavern, for premises 241 White Horse Pike, Barrington, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, February 1, 1971, and terminating at 2:00 a.m. Thursday, February 11, 1971.

Richard C. McDonough
Director