

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

BULLETIN 1891

December 30, 1969

TABLE OF CONTENTSITEM

1. APPELLATE DECISIONS - LAM TAVERN, INC. v. NEWARK.
2. DISCIPLINARY PROCEEDINGS - (Jersey City) SALE DURING PROHIBITED HOURS - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS.
3. DISCIPLINARY PROCEEDINGS - (East Newark) LEWDNESS AND IMMORAL ACTIVITY (SOLICITATION FOR PROSTITUTION AND INDECENT PERFORMANCE) - AGGRAVATED CIRCUMSTANCES - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 180 DAYS, WITHOUT REMISSION FOR PLEA ENTERED AFTER PARTIAL HEARING.
4. ACTIVITY REPORT FOR OCTOBER 1969.
5. DISQUALIFICATION REMOVAL PROCEEDINGS - FALSE INCOME TAX RETURNS - ORDER REMOVING DISQUALIFICATION.
6. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JULY 1, 1969 THROUGH SEPTEMBER 30, 1969.
7. DISCIPLINARY PROCEEDINGS - (Newark) ORDER REIMPOSING SUSPENSION.
8. DISCIPLINARY PROCEEDINGS - (Bloomfield) SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 DAYS FOR PLEA.
9. STATE LICENSES - NEW APPLICATION FILED.

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

BULLETIN 1891

December 30, 1969

1. APPELLATE DECISIONS - LAM TAVERN, INC. v. NEWARK.

Lam Tavern, Inc.,)
Appellant,)
v.)
Municipal Board of Alcoholic)
Beverage Control of the City)
of Newark,)
Respondent.)

On Appeal

CONCLUSIONS
AND ORDER

William Osterweil, Esq., Attorney for Appellant
No appearance for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant appeals from the action of respondent (hereinafter Board) whereby the members thereof unanimously voted to deny the application for renewal of appellant's plenary retail consumption license for 1969-70 for premises 368 Hawthorne Avenue, Newark. The resolution denying renewal, dated June 26, 1969, contains no statement of reasons for the Board's action, required by Rule 8 of State Regulation No. 2.

Upon the filing of the appeal, an order dated June 27, 1969 was entered by the Director extending the term of appellant's 1968-69 license until further order herein.

Appellant's petition of appeal, in substance, alleges that the action of the Board was erroneous because it was arbitrary, capricious, unreasonable and unjust, constituted an abuse of discretion, and was contrary to law.

No answer was filed on behalf of the Board.

The appeal was heard de novo, pursuant to Rule 6 of State Regulation No. 15. The stenographic transcript of the hearing below was submitted, in accordance with Rule 8 of State Regulation No. 15, and was supplemented at the Division hearing by testimony of other witnesses.

Apparently, five persons voiced their objections at the hearing before the Board, one of whom was the councilman of the ward wherein the licensed premises is located and the other four represented various civic associations. In addition, petitions containing many names and addresses, in objection to the license renewal, were considered by the Board.

Rev. Horace Sharper, the councilman aforementioned, testified that although he does not live near appellant's premises, he spoke as a councilman receiving complaints from his constituents. The complaints were to the effect that patrons of appellant's tavern congregated outside the tavern and insulted passersby by using profane language and uttering obscene remarks.

Joseph Jones testified that he is a member of the Weequahic Community Council and resides on Schuyler Avenue to the rear of the tavern. All during the summer, disturbances, noise and foul language emanate from the establishment and loiterers

constantly stand in front of the premises some as early as 7:30 a. m. Children passing the premises to attend school "have been spat upon by patrons of this tavern." On May 30, 1969, a neighbor's daughter was shot and killed while passing the tavern.

Hubert Williams, a police sergeant in the department's Community Relations Bureau, testified that he resides a block away from appellant's tavern. Speaking as president of the Goodwin Avenue Block Association, he stated that he has seen many people congregating outside the tavern who not only annoy passersby but make obscene remarks, as a result of which people are afraid to pass appellant's premises. He was contacted by neighbors when the child was killed and he knows of his own knowledge that the man who perpetrated the crime had been a patron of appellant's tavern. Sergeant Williams also said he spoke to David Aront, the manager of the licensed premises, on various occasions in an effort to ameliorate existing conditions. In his opinion, most of those who congregate outside the tavern were wine consumers, but Mr. Aront had assured him that the sale of wine for off-premises consumption had been discontinued. Thereafter, conditions improved to some extent.

John Hicks testified that he lives approximately four blocks away from appellant's tavern and is a community organizer for the United Community Corporation. The organization he represented is opposed to appellant's "allowing its patrons to intimidate, use foul language and congest on the sidewalk where you pass, and even so much as school kids when they're going through have to walk in the street on some occasions."

John Rice, president of the Weequahic Community Council, testified that he lives on Lehigh Avenue and was speaking as a representative of three of the block associations encompassed by said council. It was the feeling of the members of the block associations that "this tavern should be removed."

Willie Hardy, appearing on behalf of Area Board No. 3 of the United Community Corporation, testified that he lives "at 162 Mapes Avenue, which is a distance away from the area" and that it was the opinion of the area board that this tavern should be closed.

Dorothy Harris, who lives on Schuyler Avenue in the immediate vicinity of appellant's premises, testified that when she has occasion to pass the tavern, "I don't care if they're sitting in the bar or on the stool drinking, once they see a woman walk by, they come out the tavern to look at you and harass you and go back in when you pass." She crosses the street when she has business on Hawthorne Avenue and thus is "inconvenienced because of this tavern. I live there." The witness has observed "people loitering outside the bar, drinking and carrying on, and this is outside of the bar."

Joseph Scrimmager, who resides approximately a block and a half away from appellant's licensed premises, and Benjamin Brame, who stated he is a district leader in the area, both testified that their principal objection to the tavern was the patrons' loitering in front of it.

James W. Barnes testified that he resides about a mile away from appellant's licensed premises but has occasion to be in that area; that from his observation, the tavern creates an undesirable condition and that there is "loud noise, abusive language, loitering in front of the establishment." Barnes further stated that two taverns are located a short distance from appellant's prem-

ises near Hawthorne Avenue School but that he received no complaints directly from any of the block associations with reference thereto.

David Aront testified that he is president and principal stockholder of the appellant corporation and has been operating the licensed business at the location in question for "about six years." He has never had any difficulty or been in any trouble in so far as the respondent Board is concerned. When complaints came from the Board of Health, "I cleaned up to their satisfaction, did everything that was supposed to be done." Moreover, when members of the Newark Police Department checked the licensed premises, everything appeared to be in order. At the hearing before the Board on appellant's application for renewal of its license, he heard the complaints about loiterers outside the licensed premises and he had called this condition to the attention of Sergeant Williams, who endeavored to have them leave.

Aront was aware of the fact that a girl had been shot outside the tavern and by a person who patronized his place of business; but the tavern was in no way implicated in the tragic occurrence.

Frank Kaiser testified that he lives on Goodwin Avenue approximately twenty feet from the licensed premises and from time to time patronized the establishment. He heard of the complaints against appellant concerning loitering and the place being dirty on the outside, but knew from his own knowledge that the condition had been remedied. In his opinion, the tavern is not detrimental or harmful to the neighborhood.

Lovell Stanley stated that she lives on Goodwin Avenue about three blocks from the licensed premises and occasionally frequents the establishment. At no time had she been abused or insulted in the tavern, nor were her six children ever abused or insulted when they passed the place.

Charlotte Ward testified that she lives on Renner Avenue and for almost four years has operated a business not too far from appellant's licensed premises. She has never known her son or any child to be insulted by patrons when passing the tavern.

An examination of the petitions filed with the Board discloses that many addresses were in the area of the licensed premises and that they also contained names of persons with addresses in other parts of the city. The caption of the petition refers to the young girl being shot and killed by a patron of appellant's tavern, which, no doubt, induced many of the persons to sign. However, there is no evidence whatsoever to implicate appellant with the tragedy.

I was impressed with the testimony of Sergeant Williams wherein he stated his opinion that "where a large amount of wine is sold you get more congregation on the outside of the tavern, more loitering, and it causes the police more problems." He also felt that the discontinuance of wine sales has had some effect. It also appears from the record herein that pursuant to a suggestion made by one of the objectors, a gate was installed in the alleyway between the licensed premises and the next building. Although the gate had apparently been broken down, I am satisfied that those in charge of appellant's business had been making an effort to prevent people congregating in the alley and consuming alcoholic beverages there.

The case under consideration discloses the evidence to be somewhat similar to that in Freeland v. Roselle, Bulletin 352, Item 5; Vasto v. Atlantic Highlands, Bulletin 622, Item 4; Monesson v. Lakewood, Bulletin 657, Item 1; Salmanowitz v. Hightstown, Bulletin 807, Item 2; Seidel v. Upper Freehold, Bulletin 1246, Item 1; Galasso v. Bloomfield, Bulletin 1387, Item 1. Also cf. Leedie v. Trenton et al., Bulletin 863, Item 4, in all of which the denial was reversed.

Additionally, in the case of B & L Tavern, Inc. v. Bayonne, Bulletin 1459, Item 1, conditions similar to those complained about by the objectors apparently existed outside the licensed premises. The then Director, considering the entire situation, was of the opinion that the alleged events should not cause a denial of renewal of the license in question. An appeal from the Director's determination was taken to the Superior Court and the Director was affirmed by the Court. Bayonne v. B & L Tavern, Inc. and Division of Alcoholic Beverage Control (App. Div. 1963), not officially reported, reprinted in Bulletin 1509, Item 1.

It might be well to repeat here what was said by Judge Kilkenny in that case:

"We do not condone the manner in which this tavern was conducted... If the tavern was as bad as the City now says it is, it should have instituted disciplinary proceedings long ago. Had it done so, or had it even warned tavern owners generally, or the B & L Tavern specifically, that the policy of benevolent blindness was a thing of the past, we are certain that the Director would have sustained the refusal to renew. That is not to say that prior warning is necessary in every case. There may be conduct so indisputably bad that a single instance would warrant revocation or the refusal to renew, but this is not such a case."

On appeal taken by the municipality to the Supreme Court of New Jersey, the decision of the Appellate Division aforementioned was affirmed. Bayonne v. B & L Tavern, Inc. and Division of Alcoholic Beverage Control, 42 N.J. 131 (1964).

Appellant has the responsibility to conduct its licensed premises pursuant to the law and regulations, especially with reference to the rights of persons residing in the area. Assuredly, some of the noise and other trouble was created by appellant's patrons, thus interfering with the quiet enjoyment of the residents in the vicinity. However, there was some testimony that several other liquor establishments are located in the area. Appellant is now put on notice that a resumption of any annoyance to the neighbors by its patrons may result in suspension or revocation of its license or denial of renewal thereof.

It is elementary that the holder of a license or privilege acquires through his investment an interest which is entitled to some measure of protection in connection with a transfer. Lakewood v. Brandt, 38 N.J. Super. 462 (App. Div. 1955). This also applies to a licensee seeking renewal of the license. Furthermore, in the Brandt case, it was ruled that under the law, a case is heard de novo by the Director (Cino v. Driscoll, 130 N.J.L. 535 (Sup. Ct. 1943)) and he may properly rely on additional evidence brought out in the Division. See Florence Methodist Church v. Tp. Committee, Florence Tp., 38 N.J. Super. 85 (App. Div. 1955).

In the instant case, the evidence discloses that the complaints advanced with reference to appellant's license are based on happenings outside the licensed premises. It might be reiterated that a licensee, or anyone in charge of licensed premises, must keep the premises and the patronage under strict control because of the licensee's responsibility for conditions both inside and outside the licensed premises. Galasso v. Bloomfield, supra.

Appellant has no adjudicated record of suspension of its license. It is recommended that appellant be given the opportunity to demonstrate its worthiness to hold a liquor license. If future conditions warrant, the Board should not hesitate to institute disciplinary proceedings or to deny appellant's application for renewal of its license for the succeeding licensing term. Thus, it is further recommended that the action of the Board be reversed and that the Board be directed to grant the license to appellant for the 1969-70 licensing period, in accordance with the application filed therefor.

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 herein, including the transcripts of testimony and the Hearer's report, I concur in the conclusions and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 5th day of November, 1969,

ORDERED that the action of respondent be and the same is hereby reversed, and that respondent is hereby directed to renew appellant's plenary retail consumption license for the 1969-70 licensing period in accordance with the application filed therefor.

Joseph M. Keegan
Director

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against Bernard Flaherty & Evelyn Flaherty t/a Flaherty's 130 West Side Avenue Jersey City, New Jersey
Holdere's of Plenary Retail Consumption License C-7 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City

CONCLUSIONS AND ORDER

Levy, Lemken & Margulies, Esqs., by John J. Lemken, Esq.,
Attorneys for licensees
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensees plead not guilty to the following charges:

"1. On Saturday, June 21, 1969, between 2:00 A.M. and 2:25 A.M., you conducted your licensed business in violation of Section (4) of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950 as amended by Ordinance adopted by the Municipal Council of the City of Jersey City on June 4, 1968.

"2. On Saturday, June 21, 1969, between 2:00 A.M. and 2:25 A.M., you suffered and permitted persons except yourself and your actual employees and agents in and upon your licensed premises; in violation of Section (4) of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950 as amended by Ordinance adopted by the Municipal Council of the City of Jersey City on June 4, 1968."

The testimony of Agent V discloses that at 1:40 a.m. on June 21, he and Agent G entered the licensees' tavern and took seats at the bar. He identified Bernard Flaherty, one of the licensees, as the bartender at the time and observed "about 12 people in the place." He consumed one glass of beer served by Flaherty but, before he could finish a second glass, Flaherty "extinguished the outside lights, just left an overhead light on and back bar light on. At 2:05 he said, 'Time to go.'" Before the agents left the premises, Agent V saw "Mr. Flaherty speaking to one of the male patrons" who followed him and Agent G to their car and "I noticed him taking our license plate number down." After driving around the block and as they came to the licensees' tavern, Agent V saw the said patron enter the premises. At 2:25 a.m. Agent V looked through a small window on the front door and "saw Mr. Flaherty pouring drinks." He tried the front door, which was open, and "walked in and identified myself to Mr. Flaherty, and I told him, 'It is 2:25 a.m.'" In response thereto, Flaherty said, "Yes, I know. It is late." In answer to Agent V's question concerning the drinks he had seen Flaherty pour, the latter told him that "one was a screw driver and one scotch and water." The two drinks in question, in front of the patrons, were seized by the agent and submitted to the Division chemist whose analysis of the same disclosed each to be an alcoholic beverage.

During cross examination, Agent V testified that Agent G's car was parked on the opposite side of West Side Avenue approximately two blocks south of the licensees' tavern. When questioned concerning the man who had followed them and taken down the car license number, the agent stated that when he and Agent G returned to the licensed premises, Flaherty picked up a piece of paper from underneath the bar and said, "Here is your license plate number."

It was stipulated that the testimony of Agent G on direct examination, with the exception that he had not looked through the small window in the door, would be substantially similar to that given by Agent V. On cross examination, Agent G fully corroborated Agent V's testimony as to what occurred in the licensees' tavern on the date in question.

Bernard Flaherty testified that he did not sell or serve alcoholic beverages to patrons after 2:00 a. m. on the morning of June 21 but did say to Agent V that one of the glasses confiscated probably contained a screw driver and the other probably scotch because that was the kind of drinks two people had been drinking. "They were the only ones with anything in them, and they were in front of me." He recalled Officer Mullin and another individual

in the premises when the agents returned to the tavern, but denied showing a paper to Agent V.

Police Officer Robert Mullin testified that he was in the licensees' premises at 2:20 or 2:25 a. m. when the agents returned as he "was going to ride Barney home." On cross examination, he said there could have been five persons in the premises when the agents returned.

Inasmuch as this proceeding presents a factual question, I have set forth in detail some of the material testimony adduced herein in order to arrive at a proper determination. We are dealing with a purely disciplinary action and such action is civil in nature and not criminal. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). Thus, the proof must be supported by a fair preponderance of the credible evidence. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956).

Since this is strictly a factual situation, the credibility of witnesses must be weighed. Evidence to be believed must not only proceed from the mouths of credible witnesses but must be credible in itself and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961).

I have had an opportunity to observe the demeanor of the witnesses as they testified and have made a careful analysis and evaluation of their testimony. I am satisfied that the agents' testimony was accurate and truthful as to what occurred, both inside and outside the licensed premises, on the early morning in question. I am not impressed with the testimony of Bernard Flaherty in any manner whatsoever. The recollection of Officer Mullin as to what occurred at the time in question was merely conjectural and far from positive in any way. Flaherty's testimony, in essence, constituted a denial on the part of the licensees and such may not be permitted to overcome clear and logical evidence to the contrary.

Therefore, I am of the opinion that a full consideration of the record herein can lead to but one conclusion: that the evidence of the agents preponderates in favor of a finding of guilt. I find as a fact that the licensees are guilty of the charges preferred herein.

Licensees have a previous record of suspension of license by the Director for fifty-five days effective September 19, 1968, for permitting gambling activity on their licensed premises. Re Flaherty, Bulletin 1821, Item 3.

It is recommended that the license be suspended for fifteen days (Re Samuel T. Lambert Post #3020, V.F.W., Bulletin 1869, Item 7) and that there be added five days by reason of the record of suspension for dissimilar violation within the past five years (Re Mugil, Bulletin 1867, Item 5), or a total of twenty days.

Conclusions and Order

Written exceptions to the Hearer's report and argument thereto were filed by the licensee's attorneys pursuant to Rule 6 of State Regulation No. 16.

I find that the matters contained in the exceptions have either been considered in detail by the Hearer in his report or are without merit.

Consequently, having considered the entire record herein, including the transcript of the testimony, the Hearer's report and the exceptions thereto, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 5th day of November, 1969,

ORDERED that Plenary Retail Consumption License C-7, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City of Bernard Flaherty and Evelyn Flaherty, t/a Flaherty's, for premises 130 West Side Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Wednesday, November 12, 1969, and terminating at 2:00 a. m. Tuesday, December 2, 1969.

Joseph M. Keegan
Director.

- 3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (SOLITITATION FOR PROSTITUTION AND INDECENT PERFORMANCE) - AGGRAVATED CIRCUMSTANCES - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 180 DAYS, WITHOUT REMISSION FOR PLEA ENTERED AFTER PATRIAL HEARING.

In the Matter of Disciplinary Proceedings against)

Charlie's Capri, Inc.)
t/a Capri)
423 No. 3rd Street)
East Newark, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Borough Council of the Borough of East Newark.)

Lewis Stein, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

After partial hearing (263 pages of transcript), licensee pleaded non vult to a charge as follows:

"On Thursday night January 9 into early morning hours of Friday, January 10, during the early morning hours of Friday, January 24, and on Tuesday night, January 28, 1969, you allowed, permitted and suffered, in and upon your licensed premises, lewdness, immoral activity and foul, filthy, indecent and obscene language and conduct, viz., on the aforesaid occasions of Thursday night January 9 into early morning hours of Friday January 10 and Friday night January 24, 1969, a female person to perform on your licensed premises for the entertainment of your customers and patrons in a lewd, indecent and immoral manner and to otherwise engage in foul, filthy, indecent and obscene language and conduct, and on the aforesaid occasion of Tuesday night, January 28, 1969, the aforementioned female person to solicit male customers and patrons for prostitution and to make overtures to and arrangements with male customers and patrons for acts of illicit sexual intercourse and/or acts of perverted sexual relations with them; in violation of Rule 5 of State Regulation No. 20."

Reports of investigation and testimony taken disclose that on the dates alleged a female (ostensibly a patron) was permitted to perform as an entertainer of the go-go type in a suggestive and grossly indecent manner, including the baring of her breasts and private parts, and the engagement on the dancing platform and the bar top in movements and gestures simulating sexual intercourse and acts of sexual perversion. In addition, as alleged, she thereafter solicited male patrons for prostitution. All of this with the permission and apparent approval of Charles P. Augustine, president and principal stockholder of the licensee corporation, who was present on the licensed premises on all of the dates alleged while these activities were occurring.

Licensee has a previous record of suspension of license by the Director for ten days effective December 1, 1964 for sale to minors (Re Charlie's Capri, Inc., Bulletin 1595, Item 5) and by the municipal issuing authority for fifteen days effective November 1, 1968, affirmed on appeal to the Director and penalty reimposed effective March 18, 1969 (Charlie's Capri, Inc. v. East Newark, Bulletin 1853, Item 3), appealed to the Appellate Division and stayed until the determination of the appeal, presently still pending and undetermined.

Under all of the circumstances, and particularly in view of the aggravated nature of the violations alleged, the license will be suspended for one hundred eighty days (cf. Re Canterbury Caterer's, Inc., Bulletin 1863, Item 3; Re Totem Pole Enterprises, Inc., Bulletin 1838, Item 2), without remission for the confessional plea untimely entered after partial hearing (Re Tom Russell, Inc., Bulletin 1784, Item 7).

Accordingly, it is, on this 13th day of November 1969,

ORDERED that Plenary Retail Consumption License C-13, issued by the Borough Council of the Borough of East Newark to Charlie's Capri, Inc., t/a Capri, for premises 423 No. 3rd Street, East Newark, be and the same is hereby suspended for one hundred eighty (180) days, commencing * at 2 a. m. Thursday, November 20, 1969, and terminating at 2 a. m. Tuesday, May 19, 1970.

Joseph M. Keegan,
Director.

* By order dated November 19, 1969, the suspension was deferred to commence at 2 a. m. Friday, November 28, 1969, and to terminate at 2 a. m. Wednesday, May 27, 1970.

4.

ACTIVITY REPORT FOR OCTOBER 1969

ARRESTS:		
Total number of persons arrested	-----	16
Licenses and employees	----- 10	
Bootleggers	----- 6	
SEIZURES:		
Distilled alcoholic beverages - gallons	-----	2.87
Wine - gallons	-----	,66
Brewed malt alcoholic beverages - gallons	-----	16.03
RETAIL LICENSEES:		
Premises inspected	-----	749
Premises where alcoholic beverages were gauged	-----	606
Bottles gauged	-----	9,793
Premises where violations were found	-----	198
Violations found	-----	295
No Form E-141-A on premises	----- 86	No disposal permit ----- 4
Unqualified employees	----- 57	Prohibited signs & practice ----- 1
Form E-141-A incomplete	----- 45	Other violations ----- 73
Application copy not available	----- 29	
STATE LICENSEES:		
Premises inspected	-----	20
License applications investigated	-----	2
COMPLAINTS:		
Complaints assigned for investigation	-----	465
Investigations completed	-----	485
Investigations pending	-----	222
LABORATORY:		
Analyses made	-----	83
Refills from licensed premises - bottles	-----	48
Bottles from unlicensed premises	-----	22
IDENTIFICATION:		
Criminal fingerprint identifications made	-----	8
Persons fingerprinted for non-criminal purposes	-----	405
Identification contacts made with other enforcement agencies	-----	247
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	7
Violations involved	-----	7
Sale to minors	----- 4	
Sale during prohibited hours	----- 3	
Cases instituted at Division	-----	31
Violations involved	-----	38
Beverage Tax Law non-compliance	----- 7	Sale to non-members by club ----- 1
Sale during prohibited hours	----- 7	Storage off licensed premises ----- 1
Sale to minors	----- 5	Hindering investigation ----- 1
Permitting lottery acty. on premises	----- 3	Possessing indecent matter ----- 1
Perm. immoral activity on premises	----- 2	Possessing contraceptives on prem. ----- 1
Permitting hostesses on premises	----- 2	Fraud in application ----- 1
Possessing liquor not truly labeled	----- 2	Fail. to close prem. during prohibited hours ----- 1
Perm. bookmaking on premises	----- 1	Filing false tax reports ----- 1
Perm. lottery, bookmaking & misc. gambling on premises	----- 1	
Cases brought by municipalities on own initiative and reported to Division	-----	15
Violations involved	-----	20
Sale to minors	----- 3	Possessing narcotics on premises ----- 1
Hindering investigation	----- 2	Act of violence ----- 1
Permitting misc. gambling on prem.	----- 2	Sale during prohibited hours ----- 1
Permitting brawl on premises	----- 2	Employment w/o ID card (local reg.) ----- 1
Fail. to close prem. during prohibited hours	----- 2	Permitting immoral acty. on prem. ----- 2
Conducting business as a nuisance	----- 2	Perm. premises to be used for illegal activity ----- 1
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	50
Appeals	----- 15	Seizures ----- 1
Disciplinary proceedings	----- 22	Tax revocations ----- 1
Eligibility	----- 11	
STATE LICENSES AND PERMITS:		
Total number issued	-----	2,118
Licenses	----- 2	Wine permits ----- 433
Solicitors' permits	----- 34	Miscellaneous permits ----- 246
Employment permits	----- 332	Transit insignia ----- 305
Disposal permits	----- 83	Transit certificates ----- 150
Social affair permits	----- 533	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Enforcement files established	----- 10	

Dated: November 13, 1969

JOSEPH M. KEEGAN
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

5. DISQUALIFICATION REMOVAL PROCEEDINGS - FALSE INCOME TAX RETURNS - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application to)
 Remove Disqualification because of)
 a Conviction, Pursuant to R.S. 33:)
 1-31.2)
 Case No. 2344)

CONCLUSIONS
 AND ORDER

 Saul C. Schutzman, Esq., Attorney for Petitioner

BY THE DIRECTOR:

Petitioner's criminal record discloses that on March 24, 1958, he was convicted in a federal court of knowingly and willfully attempting to defeat and evade income taxes (two charges) and, as a result thereof, the court suspended the imposition of any jail sentence on counts 1 and 2, fined the petitioner \$250 on each count, and remitted the payment of the fine on count 2 and ordered petitioner to stand committed until the fine is paid, gave petitioner one week to pay the fine and placed him on probation for one day on each count to run concurrently.

Count 1 is based on an allegation that petitioner filed a false return on behalf of himself and his wife, stating the amount of tax due for the year 1953 was \$74.09, whereas the true amount due was \$707.92. In count 2, petitioner's return sets forth the tax due for 1954 was \$164.96, whereas the true amount of his tax was \$895.94.

Since the crimes of which petitioner was convicted involve the element of moral turpitude (Re Case No. 2116, Bulletin 1737, Item 6), he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25,26.

At the hearing held herein, petitioner (53 years old) testified that he is married and living with his wife and minor child; that for the past twelve years, he has resided at his present address in a neighboring state; that between 1959 and 1966 he had been employed as a head waiter in a nationally known hotel in New York and for a period of six months he worked in the same capacity in a nationally known hotel in Washington, D.C.; that since 1967, he has been employed as assistant manager and manager of a country club, a New Jersey licensee; that until recently, when notified by a member of my staff of his ineligibility for such employment, he had no knowledge of the same.

Petitioner further testified that on July 10, 1969, he obtained an employment permit from this Division based on an application in which he denied that he was ever convicted of crime; that such denial was not made with the intention of concealing his conviction or perpetrating any fraud on the Division or for fear it would militate against his chances of continuing in his present employment; that he honestly believed he had not been convicted of any crime because he was given a suspended sentence; that at the time, he did not know he was eligible to file a petition for removal of his disqualification and that he would never have denied his conviction if he believed he had been convicted of any crime.

Petitioner further testified that he is asking for the removal of his disqualification to be free to continue his present employment and that, ever since his conviction in 1958, he has not been convicted of any crime or arrested.

Petitioner produced three character witnesses (the president of a wholesale food business, the owner of a dress shop and a wholesale meat dealer) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against petitioner.

The only reservations I have in granting the relief sought herein are based on the facts that petitioner, although disqualified, worked in licensed premises in this State and his false statement in the aforesaid application.

Ordinarily I would defer the relief sought in this case for at least thirty days. Re Case No. 1713, Bulletin 1480, Item 9. In the instant case, however, I am of the opinion that the requested relief should be granted without deferment for the following reasons: (1) the petitioner's criminal record shows only one conviction of crime which took place over eleven years ago, (2) the testimony of his character witnesses; (3) his record of employment; (4) his sworn testimony that he honestly believed that he had not been convicted of crime; (5) that it was not his intention to conceal his conviction; and (6) that he was unaware of his ineligibility to be engaged in the liquor industry in this State. Moreover, knowledge of the law is not a prerequisite to removal of disqualification in these proceedings. Re Case No. 1738, Bulletin 1510, Item 7.

I shall resolve the doubts in my mind in favor of petitioner and remove his disqualification, assuming that petitioner acted in good faith when he filed the aforesaid application and when he worked in licensed premises; that he was unaware of his ineligibility to be engaged in the alcoholic beverage industry in this State and that he is now, and will continue to be, a law-abiding person.

I shall extend to petitioner a chance to prove his worthiness to be associated with the alcoholic beverage industry in this state. I conclude that such association will not be contrary to the public interest.

Accordingly, it is, on this 13th day of November, 1969,

ORDERED that petitioner's statutory disqualification because of the convictions described herein be and the same is hereby removed, in accordance with the provisions of R.S. 33:1-31.2.

Joseph M. Keegan
Director

6. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JULY 1, 1969 THROUGH SEPTEMBER 30, 1969

	<u>JULY</u>	<u>AUGUST</u>	<u>SEPTEMBER</u>	<u>TOTAL</u>
ARRESTS:				
Total number of persons arrested	15	21	19	55
Licensees and employees	4	7	8	19
Bootleggers	11	14	11	36
SEIZURES:				
Stillis - 50 gallons or under	-	1	1	2
Alcohol - gallons	.80	2.06	.25	3.11
Mash - gallons	-	50	54	104
Distilled alcoholic beverages - gallons	45.58	2.76	2.40	50.74
Wine - gallons	99.89	1.33	1.44	102.66
Brewed malt alcoholic beverages - gallons	34.55	26.99	16.96	78.50
RETAIL LICENSEES:				
Premises inspected	381	504	436	1,321
Premises where alcoholic beverages were gauged	332	420	374	1,126
Bottles gauged	5,746	6,826	5,438	18,010
Premises where violations were found	139	156	108	403
Violations found	239	238	182	659
No Form E-141-A on premises	87	98	66	251
Unqualified employees	82	65	34	181
Form E-141-A incomplete	16	20	21	57
Application copy not available	21	19	16	56
Disposal permit necessary	3	4	-	7
Other mercantile business	-	4	4	8
Prohibited signs and practice	2	1	2	5
Other violations	28	27	39	94
STATE LICENSEES:				
Premises inspected	8	12	2	22
License applications investigated	13	11	8	32
COMPLAINTS:				
Complaints assigned for investigation	489	358	402	1,249
Investigations completed	448	423	395	1,266
Investigations pending	328	259	191	(191)
LABORATORY:				
Analyses made	69	87	75	231
Refills from licensed premises - bottles	56	28	19	103
Bottles from unlicensed premises	8	35	30	73
IDENTIFICATION:				
Criminal fingerprint identifications made	9	13	10	32
Persons fingerprinted for non-criminal purposes	654	430	433	1,517
Ident. contacts made with other enforcement agencies	482	288	309	1,079
Motor vehicle identifications via NJ State Police teletype	-	-	4	4
DISCIPLINARY PROCEEDINGS:				
Cases transmitted to municipalities	3	2	2	7
Violations involved	3	3	3	9
Sale during prohibited hours	2	2	2	6
Failure to close premises during prohibited hours	-	1	1	2
Sale to minors	1	-	-	1
Cases instituted at Division	19	20	31	70
Violations involved	28	26	36	90
Purchase from improper source	2	3	7	12
Sale during prohibited hours	3	4	4	11
Possessing liquor not truly labeled	-	7	4	11
Sale to minors	2	3	4	9
Permitting immoral activity on premises	4	1	1	6
Hindering investigation	1	1	3	5
Permitting lottery activity on premises	2	-	3	5
Sale below filed price	3	1	-	4
Permitting female impersonators on premises	4	-	-	4
Filing false tax reports	2	1	1	4
Fraud in application	1	2	1	4
Failure to close premises during prohibited hours	2	-	1	3
Retailer-to-retailer sales	-	-	2	2
Permitting lottery & bookmaking on premises	-	-	2	2
Permitting bookmaking on premises	1	-	1	2
Unauthorized transportation	-	1	1	2
Failure to keep true books of account	-	1	-	1
Purchase from wholesaler while on Non-Delivery List	-	1	-	1
Fraud and front	-	-	1	1
Cases brought by municipalities on own initiative and reported to Division	18	10	33	61
Violations involved	24	13	43	80
Sale to minors	7	2	19	28
Sale during prohibited hours	4	2	6	12
Conducting business as a nuisance	2	2	2	6
Permitting brawl on premises	2	-	4	6
Failure to close premises during prohibited hours	2	-	2	4
Permitting gambling on premises	1	3	-	4
Act of violence	3	-	-	3
Permitting prem. to be used in furtherance of illegal activity	1	1	1	3
Employing female bartender (local reg.)	1	-	1	2

	<u>JULY</u>	<u>AUGUST</u>	<u>SEPTEMBER</u>	<u>TOTAL</u>
DISCIPLINARY PROCEEDINGS: (CONTINUED)				
Cases brought by municipalities on own initiative and reported to Division (Continued)				
Employee without I.D. card (local reg.)	-	1	1	2
Hindering investigation	-	1	1	2
Permitting immoral activity on premises	-	-	2	2
Failure to afford view into prem. during prohibited hours	-	-	2	2
Employing unlicensed bartender (local reg.)	-	1	-	1
Licensee working while intoxicated	-	-	1	1
Failure to display copy of license certificate	-	-	1	1
Unqualified employees	1	-	-	1
HEARINGS HELD AT DIVISION:				
Total number of hearings held	37	33	65	135
Appeals	6	4	12	22
Disciplinary proceedings	22	16	37	75
Eligibility	7	13	12	32
Seizures	-	-	4	4
Application for license	1	-	-	1
On Petition	1	-	-	1
STATE LICENSES AND PERMITS ISSUED:				
Total number issued	2,914	1,474	1,699	6,087
Licenses	614	9	7	630
Solicitors' permits	44	38	41	123
Employment permits	738	415	385	1,538
Disposal permits	102	63	60	225
Social affair permits	326	452	542	1,320
Miscellaneous permits	489	226	289	1,004
Wine permits	8	22	27	57
Transit insignia	513	205	225	943
Transit certificates	80	44	123	247
OFFICE OF AMUSEMENT GAMES CONTROL:				
Licenses issued	8	1	-	9
State Fair licenses issued	26	77	51	154
Premises inspected	509	487	56	1,052
Premises where violations were found	28	28	4	60
Number of violations found	42	32	8	82
Enforcement files established	25	34	16	75

Dated: November 10, 1969

JOSEPH M. KEEGAN
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

7. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION

In the Matter of Disciplinary Proceedings against

Carl Johnson
73 South Street
Newark, N.J.,

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-73, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Walter S. Pryga, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

On September 4, 1969 I entered an order herein suspending the license for twenty days effective September 11, 1969, upon recitation of the licensee's (then appearing pro se) plea of non vult to charges of purchase of alcoholic beverages from other retailers and filing of false Beverage Tax Bureau reports. Re Johnson, Bulletin 1880 Item 10.

On September 10, 1969, on claim that the plea was entered in error, I entered an amended order permitting withdrawal of the plea to afford the licensee a hearing on the charges and vacating the order of suspension pending further determination. Re Johnson, Bulletin 1882, Item 7.

Licensee has now pleaded guilty to the charges, thus in effect restoring the matter to its original status. Hence the twenty-day suspension, vacated by the order of September 10, 1969, will be reimposed.

Accordingly, it is, on this 29th day of October 1969,

ORDERED that Plenary Retail Consumption License C-73, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Carl Johnson, for premises 73 South Street, Newark, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Wednesday, November 5, 1969, and terminating at 2 a. m. Tuesday, November 25, 1969.

Joseph M. Keegan,
Director

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

In the Matter of Disciplinary Proceedings against)

Frank Bowlby's Wines & Liquors, Inc.,)
453 Broad Street)
Bloomfield, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Town Council of the Town of Bloomfield.)
-----)

Licensee, by Frank V. Bowlby, President, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 27, 1969 it sold four quart bottles of beer to a minor, 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 Bromiley, Bulletin 1879, Item 8.

Accordingly, it is, on this 31st day of October 1969,

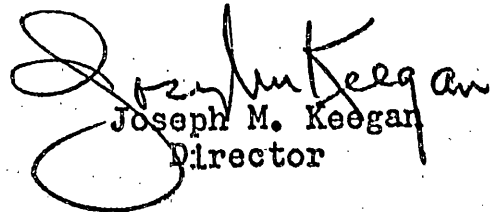
ORDERED that Plenary Retail Distribution License D-1, issued by the Town Council of the Town of Bloomfield to Frank Bowlby's Wines & Liquors, Inc., for premises 453 Broad Street, Bloomfield, be and the same is hereby suspended for ten (10) days, commencing at 9 a. m. Monday, November 10, 1969, and terminating at 9 a. m. Thursday, November 20, 1969.

JOSEPH M. KEEGAN
DIRECTOR

9. STATE LICENSES - NEW APPLICATION FILED.

Kern Distributing Co. Inc.
303-309 Manchester Avenue
North Haledon, New Jersey

Application filed December 24, 1969 for person-to-person transfer of Limited Wholesale License WL-45 from Otto Kern, t/a Kern Distributing Co.


Joseph M. Keegan
Director