

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

BULLETIN 1728

May 2, 1967

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

BULLETIN 1728

May 2, 1967

1. APPELLATE DECISIONS - SHOP-RITE OF MONMOUTH, INC. v. MIDDLETOWN.

Shop-Rite of Monmouth, Inc.,)
Appellant,)
v.) On Appeal
Township Committee of the) CONCLUSIONS AND ORDER
Township of Middletown,)
Respondent.)

David C. Furman, Esq., by Jerry J. Massell, Esq., Attorney for Appellant
Whitney Crowell, Esq., by Robert H. Otten, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent whereby it unanimously denied appellant's application for person-to-person and place-to-place transfer of a limited retail distribution license from Richard P. LaMonte, t/a Highway Food Market, to Shop-Rite of Monmouth, Inc., and from premises at Highway #36 and Avenue C to premises 1200 Highway #35, Township of Middletown.

Appellant's petition of appeal alleges that the action of the respondent was erroneous and should be reversed for the following reasons:

- "a. The proposed transfer would be a great convenience to the public; will be likely to promote temperance and, if anything, help eliminate the racketeer and bootlegger;
- "b. The denial preserved a competitive advantage to competing licensed premises and food marketing areas;
- "c. There are no distribution licenses in the shopping area where appellant's premises are located, the nearest distribution license being approximately 4000 feet and four red lights away on a heavily traveled state highway.
- "d. A place-to-place transfer to other premises is required by reason of the licensed premises having been taken for public use, wherein there is no compensation paid by the public for the license.
- "e. Transferees for the license are limited for the reason that the license must be located in a food market, since it produces insufficient income to sustain an independent business location;

"f. The respondent members of the issuing authority were unduly motivated by competing licensees in the area of the proposed licensed premises."

The answer of respondent denies the aforesaid allegations in the petition of appeal and contends that "after full and public hearing the Township Committee of the Township of Middletown denied the transfer on the ground that it had not been proven there was public need for the same."

The appeal herein was heard de novo, with full opportunity for the attorneys for the respective parties to present testimony and cross-examine witnesses.

Bernard Codner testified that he is employed by appellant as a controller and that his duties are to "determine sales, control expenses, gross profits, maintain statistical records, and arrive at net profit, and determine expansion factors for the company itself;" that, by reason of the sales at appellant's supermarket, he estimated that fifteen thousand customers visit the establishment each week, ninety percent of whom are housewives and, from the figures available, two thousand of said customers would purchase beer. Mr. Codner further testified that his office is located "in the back of the store upstairs;" that most of the time he walks through the store and that the majority who had occasion to inquire about the purchase of beer are women; that there is a large paved parking area provided at appellant's supermarket; that right across Highway #35 is Louis' Bar which he visited on several occasions, and that the said licensed premises consists of one large room with a bar and shelves erected on a side and a rear wall which have liquor on display.

Matthew J. Gill, a real estate broker, testified that he is acting as broker with reference to the license in question; that the Food Circus is located a mile distant from appellant's place of business and has a "warm beer license", and close by that licensed premises is another building with a "retail consumption license with the broad package privilege;" that Louis' Bar, which "is nothing but a men's bar, where there is always a good chance of profanity", is "a couple hundred feet" from appellant's premises; that the Paradise Bar is "about half a mile" from appellant's premises and the Middletown Lanes is "about eight hundred feet" away. Mr. Gill further stated that the premises for which the license had been issued is "about three to four miles" away from the proposed site. Mr. Gill, in response to a question as a result of his study and investigation whether appellant's premises was the best available location for the license in question, stated that in his opinion "it doesn't seem to be any question in my mind because of the density of people coming in and out of there, and I think the public is best to be served, and it seems this is the type of operation this type of license should go in. When you have fifteen thousand people going in and out of the market, whatever it is, there is an awful lot of people in that amount of people."

Committeeman Edward P. Makely testified that he voted to deny the transfer of the said license because it was not proven to his satisfaction that a need for such license existed at the proposed location. He further said that the members of the respondent were "concerned with added traffic in that particular location because it is quite congested now, and I am talking about the Shop-Rite corner with the new facility and new bank there

would be more crowded." Committeeman Makely also said that he hasn't heard that anyone experienced difficulty in purchasing warm or cold beer in the Township.

In order that appellant be successful in this appeal it is necessary for it to show that respondent has abused its discretion in denying the application for transfer. In order to meet this burden appellant must present proof of manifest error and abuse of discretion on the part of the respondent. Nordco, Inc. v. State, 43 N.J. Super. 277 (App. Div. 1957); Rajah Liquors v. Div. of Alcoholic Bev. Control, 33 N.J. Super. 598 (App. Div. 1955).

It has been consistently ruled that a transfer of a liquor license to other premises 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 reasonable grounds, such action will be affirmed. Gentes v. Middletown, Bulletin 1327, Item 1; Biscamp and Hess v. Teaneck, Bulletin 821, Item 8. Also Biscamp v. Twp. Council of the Twp. of Teaneck, 5 N.J. Super. 172 (App. Div. 1949) where, as in the present case, the issuing authority denied the transfer of a liquor license because it was of the opinion that there was no need or necessity for another liquor outlet in that particular location in the community.

Moreover, it has been established that whether or not a license should be permitted in a particular location is strictly within the sound discretion of the issuing authority, and that the Director's function on appeal is not to substitute his opinion for that of the issuing authority but, rather, to determine whether cause exists for its opinion and, if so, to affirm. Larijon, Inc. v. Atlantic City, Bulletin 1306, Item 1; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1.

Although appellant in essence contends that it has been discriminated against by the denial of this transfer to other premises, there is nothing in the record which indicates or even suggests that the decisions given by respective members of respondent were inspired in any manner by improper motives. In Fanwood v. Rocco and Div. of Alcoholic Beverage Control, 59 N.J. Super. 306 (App. Div. 1960), aff'd 33 N.J. 404 (1960), Judge Gaulkin, among other things, stated (at p. 323):

"The Director may not compel a municipality to transfer licensed premises to an area in which the municipality does not want them, because there more people would be able to buy liquor more easily. Such 'convenience' may in a proper case be a reason for a municipality's granting a transfer but it is rarely, if ever, a valid basis upon which the Director may compel the municipality to do so."

Moreover, it was stated in Fanwood that "No person is entitled to [the transfer] of a license as a matter of law," and "If the motive of the governing body is pure, its reasons, whether based on morals, economics, or aesthetics, are immaterial."

It is apparent that the denial of the transfer in question was predicated upon the particular location which was objectionable to the respondent. The evidence disclosed that

there is a licensed premises directly across the highway which sells alcoholic beverages in original containers for off-premises consumption. The contention of appellant that it is unreasonable to compel persons to patronize taverns to purchase bottled alcoholic beverages for off-premises consumption has been rejected time and again. Boody v. Gloucester, Bulletin 300, Item 11; Thompson v. Mount Olive, Bulletin 986, Item 1; Hyman v. Howell, Bulletin 1039, Item 3, cited with approval in Moschera v. Plumsted, Bulletin 1075, Item 8. In addition to the licensed premises located across from appellant's establishment there has been also evidence produced of other liquor outlets which are not too distant from appellant's premises. One such establishment has a similar license as that sought by the appellant herein. Moreover, there is a plenary retail consumption license with broad package privileges which specializes in the sale of alcoholic beverages in original containers for off-premises consumption.

As Commissioner Burnett said in Franklin Stores Co. v. Belleville, Bulletin 102, Item 2:

"Appellant claims, however, that consumption places do not cater to the package trade and that women desiring to make such purchases would prefer to enter stores dealing only with package goods. Quite true. But they already have in the municipality three such stores. With present-day telephone and transportation facilities such stores can properly service large areas."

There are four other facilities, including the license in question, selling warm beer and also seven plenary retail distribution licenses in the municipality.

After careful review of the facts in this case, including the arguments advanced in summation by the respective attorneys for the parties herein, I find that there is sufficient evidence to support respondent's findings that the area to which appellant sought to transfer the license has sufficient liquor establishments to meet its needs. I further find that respondent's unanimous action was neither arbitrary, capricious, unreasonable or an abuse of discretion, nor that the respondent was in any manner improperly motivated.

After careful examination of the reasons advanced by the appellant in the instant appeal, I am satisfied that appellant has failed to establish that the respondent's action was erroneous, and I recommend that an order be entered affirming respondent's action and dismissing the appeal herein.

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 record herein, including the exhibits and argument of the attorneys for the respective parties, the written memorandum submitted on behalf of appellant, the Hearer's report and the Hearer's recommendations, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 28th day of February 1967,

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

JOSEPH P. LORDI
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS - NO REMISSION FOR PLEA ENTERED AFTER PARTIAL HEARING.

In the Matter of Disciplinary Proceedings against
Samjac, Inc.
t/a Belmont Bar
169 Monticello Avenue
Jersey City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-182, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Edward F. Zampella, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

After partial hearing, licensee pleaded non vult to charges (1) and (2) alleging that on March 29, April 4, 11 and 28, 1966, it permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days (Re Ward, Bulletin 1701, Item 7) without remission for the plea entered after partial hearing (Re Blue Fountain, Inc., Bulletin 1647, Item 4).

Accordingly, it is, on this 27th day of February, 1967,

ORDERED that Plenary Retail Consumption License C-182, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Samjac, Inc., t/a Belmont Bar, for premises 169 Monticello Avenue, Jersey City, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Monday, March 6, 1967, and terminating at 2:00 a.m. Friday, May 5, 1967.

JOSEPH P. LORDI
DIRECTOR

3. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN CLUB - DEPOSIT POSTED IN LIEU OF RETAIL VALUE OF FIXTURES AND EQUIPMENT, COMMINGLED CASH AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on :
 October 2, 1966 of a quantity of :
 alcoholic beverages, \$78.15 in : Case No. 11,787
 cash, various fixtures, furnishings :
 and equipment in the club room of : On Hearing
 the Veterans of Foreign Wars, :
 Post 4914, located at Creek View : CONCLUSIONS AND ORDER
 Road, in Willingboro Township, :
 County of Burlington and State of :
 New Jersey. :

.....
 Parker, McCay and Criscuolo, Esqs., by Barry T. Parker, Esq.,
 appearing for claimant.
 I. Edward Amada, Esq., appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to R.S. 33:1-66 and State Regulation No. 28, and, further, pursuant to a stipulation dated October 26, 1966, signed by James H. Barth to determine whether seven containers of alcoholic beverages, \$78.15 in cash, fixtures, furnishings and equipment, more particularly set forth in an inventory attached hereto, made part hereof, and marked Schedule "A", seized on October 2, 1966 in the club quarters of the Veterans of Foreign Wars, Post 4914, located at Creek View Road, in Willingboro Township, New Jersey, constitute unlawful property and should be forfeited; and, further, to determine whether the sum of \$700.00, representing the retail value of the various fixtures, furnishings and equipment, exclusive of the seized alcoholic beverages and \$78.15 in cash, paid under protest by James H. Barth should be forfeited or returned to him.

The seizure was made by ABC agents because of alleged unlawful sales of alcoholic beverages at the said premises.

When the matter came on for hearing pursuant to R.S. 33:1-66, James H. Barth, the Commander of Post 4914, Veterans of Foreign Wars, represented by counsel, appeared and sought the return of the sum of \$700.00, deposited by him on its behalf under the stipulation as aforesaid.

The file of this Division was admitted into evidence by stipulation of the said claimant, and contained the affidavit of mailing, affidavit of publication, notice of hearing, Division's chemist report, the cash receipt, the original stipulation, the inventory, the "marked" three one-dollar bills and the one five-dollar bill.

The said file established the following facts: Pursuant to a continuing investigation of alleged unlawful sales of alcoholic beverages at the unlicensed premises hereinabove described, ABC Agent G, in possession of "marked" money, entered the premises in question through a side door on Sunday, October 2, 1966

at about 1:30 P.M. Upon taking his place at a bar he observed Arthur J. Mele acting as bartender and serving alcoholic beverages to four male patrons.

At about 1:40 P.M. Mele served this agent a shot of Seagram's Whiskey and a beer, in payment for which the agent gave Mele one "marked" dollar bill and received 40¢ in change. Thereafter, the agent made additional purchases of alcoholic beverages and paid for the same with two "marked" one-dollar bills and a five-dollar bill. Between 1:40 P.M. and 3:00 P.M. several other patrons entered and were sold and served drinks of alcoholic beverages by Mele. At about 3:00 P.M. Agent G ordered and was served a pitcher of beer in payment for which he handed Mele a "marked" five-dollar bill and received four single dollars as change.

At about 3:05 P.M. two other agents, accompanied by local police officers, entered the premises. When Mele observed these officers, the patrons at his request, removed their money from the bar. Agent G identified Mele as the person who sold the drinks to him and to the other patrons. The agents then identified themselves to Mele, informed him of the violation and placed him under arrest, charged with the sale and possession of alcoholic beverages without a license contrary to R.S. 33:1-2, in violation of R.S. 33:1-50.

The agents thereupon seized the alcoholic beverages, \$78.15 in cash, (which included three "marked" one-dollar bills and the "marked" five-dollar bill), the goods and chattels as set forth in Schedule "A".

Barth, the Post Commander, appeared at the premises and posted the sum of \$700.00 in lieu of the removal of the various fixtures, furnishings and equipment. Barth orally admitted that he approved the sale by Mele to Agent G of alcoholic beverages; "that he thought Agent G...was somebody else".

The records of this Division do not disclose any license or permit authorizing the sale of alcoholic beverages to Arthur J. Mele, James H. Barth, Veterans of Foreign Wars, Post 4914 or for the premises where the violation took place.

At the hearing herein counsel admitted that there were sales of alcoholic beverages without a license to the ABC agent and others.

The report of the chemical analysis of one six-ounce bottle of beer shows that it is an alcoholic beverage fit for beverage purposes with an alcoholic content by volume of 5.31%.

The seized alcoholic beverages are illicit because they were intended for sale without a license. R.S. 33:1-1(i). Such illicit alcoholic beverages, the personal property and the cash, as set forth in Schedule "A" herein, constitute unlawful property and are subject to forfeiture. R.S. 33:1-2; R.S. 33:1-66. This applies similarly to the cash which is commingled with the monies obtained from the ABC agents. Seizure Case No. 11,182, Bulletin 1568, Item 5; Seizure Case No. 10,898, Bulletin 1500, Item 2.

The Commander of Post 4914, James H. Barth, testifying on behalf of his claim did not deny the unlawful sale of alcoholic beverages. The sole thrust of his testimony was that certain items seized were not owned by him or by the Veterans of Foreign Wars, Post 4914. He identified a seized pool table which he asserted was owned by John-Ray, whose address he was unable to give. He also stated that an amusement game and two pinball machines, similarly seized, were not his property, but he could not state who was the owner of these items. He also added that a television set was not used in connection with the bar or the sale of liquor.

On cross-examination he admitted, however, that all of the seized property was in the barroom at the time of the seizure.

The Director has the discretionary authority to return property subject to forfeiture to a claimant who has established to his satisfaction that he has acted in good faith, and did not know, or have any reason to believe that the property would be used in unlawful liquor activity. In the absence of so showing, the Director is without authority to return such property.

The attorney for this claimant argues, however, that since the pool table, the amusement machine and the two pinball machines, which were included as part of the appraisal made on behalf of the Director, did not, in fact, belong to this claimant, that a re-appraisal should be made of the property actually belonging to this claimant; and the sum representing the difference between the two appraisals should be returned to the said claimant. This contention is without substance and must be summarily rejected. The fact is (1) that all of the seized property has been declared to be unlawful property and is subject to forfeiture; (2) all of the seized property was claimed by this claimant with the implicit representation that title thereto resided in said claimant; and the appraisal was based upon such claim; (3) none of the property embodied in the stipulation was actually seized and is, therefore, in the possession of the claimant so that neither the true owner, if other than this claimant, nor the claimant has been prejudiced thereby; (4) there has been no evidence presented at this hearing to support the testimony of Barth that the said items are, in fact, the property of another. After this hearing, this Division was in receipt of an affidavit signed by James H. Barth in which he states that a pool table, a pinball machine and an amusement machine, valued at \$400.00 according to his undocumented estimate, are owned by John-Ray Vending Company. This affidavit is clearly hearsay and has no probative value; (5) On the record there has been no proof offered to support this claim or to dispute the actual value of the seized property; (6) R.S. 33:1-66(a) relating to the return, under bond, of seized property, provides that such monies posted may be recovered "upon establishing that the property was not unlawful property..." It is clear that all of the property herein seized was unlawful property, and in the absence of any valid and convincing proof to the contrary, is subject to forfeiture.

Under the facts as established herein, the Director does not have the authority under the compulsion of the Statute and the applicable regulations, to return any part of the sum deposited under the aforesaid stipulation.

It is, accordingly, recommended that the claim herein be rejected; that the claimant's application for the return of a portion of the deposit be denied; that an order be entered forfeiting the \$700.00 deposited by this claimant under protest under the aforesaid stipulation; and that the alcoholic beverages and cash similarly be ordered forfeited. R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 11,431, Bulletin 1644, Item 3, Seizure Case No. 11,597, Bulletin 1679, Item 7.

Conclusions and Order

No exceptions were taken to the Hearer's Report pursuant to Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and adopt them as my conclusions.

Accordingly, it is on this 24th day of February 1967,

DETERMINED and ORDERED that the seized property, including the \$78.15 in cash, and the alcoholic beverages, more fully described in Schedule "A", attached hereto, constitute unlawful property; and that the sum of \$700.00 (representing the retail value of various fixtures, furnishings and equipment, exclusive of the seized alcoholic beverages and \$78.15, which was returned to James H. Barth) paid under protest to the Director of the Division of Alcoholic Beverage Control by the said James H. Barth, pursuant to a stipulation signed by him, together with the sum of \$78.15 in cash, be and the same are hereby forfeited in accordance with the provisions of R.S. 33:1-66, to be accounted for in accordance with law; and it is further

DETERMINED and ORDERED that the alcoholic beverages are hereby forfeited, and shall be retained for the use of hospitals and State, county and municipal institutions or destroyed in whole, or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

JOSEPH P. LORDI
DIRECTOR

SCHEDULE "A"

- 7 - containers of alcoholic beverages
- 1 - pool table; 1 barrel; 1 bar
- 16 - stools; 16 chairs; 2 tables
- 1 - cash register; 1 wall clock
- 1 - television set
- 1 - amusement game; 2 peanut machines
- 1 - ice maker; 6 glass pitchers; 30 glasses
- \$78.15 in cash

ACTIVITY REPORT FOR MARCH 1967

ARRESTS:

Total number of persons arrested	-----	17
Licensees and employees	10	
Bootleggers	7	

SEIZURES:

Motor vehicles - cars	-----	1
- trucks	-----	1
Stills - 50 gallons or under	-----	1
Alcohol - gallons	-----	23.78
Mash - gallons	-----	180.00
Distilled alcoholic beverages - gallons	-----	117.57
Wine - gallons	-----	2.54
Brewed malt alcoholic beverages - gallons	-----	9.11

RETAIL LICENSEES:

Premises inspected	-----	817	
Premises where alcoholic beverages were gauged	-----	687	
Bottles gauged	-----	11,768	
Premises where violations were found	-----	63	
Violations found	-----	107	
Unqualified employees	30	Other mercantile business	7
Application copy not available	16	Disposal permit necessary	5
Reg. #58 sign not posted	7	Other violations	42

STATE LICENSEES:

Premises inspected	-----	24
License applications investigated	-----	8

COMPLAINTS:

Complaints assigned for investigation	-----	363
Investigations completed	-----	364
Investigations pending	-----	260

LABORATORY:

Analyses made	-----	161
Refills from licensed premises - bottles	-----	122
Bottles from unlicensed premises	-----	22

IDENTIFICATION:

Criminal fingerprint identifications made	-----	2
Persons fingerprinted for non-criminal purposes	-----	382
Identification contacts made with other enforcement agencies	-----	253

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	-----	14	
Violations involved	-----	15	
Sales to minors	11		
Sales during prohibited hours	4		
Cases instituted at Division	-----	30	
Violations involved	-----	39	
Possessing liquor not truly labeled	9	Permitting gambling on premises	1
Sales to minors	5	Permitting lottery on premises	1
Permitting bookmaking on premises	4	Sale below filed price	1
Permitting immoral act. on premises	3	False statement in lic. appl.	1
Sale during prohibited hours	3	Sale beyond scope of permit	1
Permitting hostesses on premises	3	Permitting minor to sell alc. bev.	1
Conducting premises as a nuisance	2	Possessing pinball mach. on prem.	1
Sales to intoxicated persons	2	Beverage Tax Law non-compliance	1
Cases brought by municipalities on own initiative and reported to Division	-----	19	
Violations involved	-----	27	
Sales to minors	15	Sale during prohibited hours (local reg.)	1
Unqualified employees	2	Conducting business as a nuisance	1
Failure to afford view into prem.		Sale to intoxicated person	1
during prohibited hours	2	Act of violence	1
Failure to close prem. dur. proh. hrs.	2	Permitting women to drink at bar	
Hindering investigation	1	(local reg.)	1

HEARINGS HELD AT DIVISION:

Total number of hearings held	-----	37	
Appeals	12	Eligibility	4
Disciplinary proceedings	20	Tax revocation	1

STATE LICENSES AND PERMITS ISSUED:

Total number issued	-----	1,072	
Licensees	2	Social affair permits	450
Solicitors' permits	68	Miscellaneous permits	142
Employment permits	171	Transit insignia	129
Disposal permits	73	Transit certificates	36
Wine permits	1		

OFFICE OF AMUSEMENT GAMES CONTROL:

Licenses issued	190
Enforcement files established	1

JOSEPH P. LORDI
Director of Alcoholic Beverage Control
Commissioner of Amusement Games Control

Dated: April 11, 1967

5. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto. Susp. #299)
 In the Matter of a Petition to Lift)
 the Automatic Suspension of Plenary)
 Retail Consumption License C-126)
 Issued by the Board of Alcoholic) On Petition
 Beverage Control for the City of)
 Paterson to) O R D E R

Acman, Inc.)
 t/a Frankie's Playpen)
 27 Church Street)
 Paterson, N. J.)

 Goodman and Rothenberg, Esqs., by Sylvan G. Rothenberg, Esq.,
 Attorneys for Petitioner.

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on February 8, 1967, Arfelio Acquaviva, vice-president of the licensee-petitioner, was fined \$100 in the Paterson Municipal Court after being found guilty of a charge of sale of alcoholic beverages to minors on January 2, 1967, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that disciplinary proceedings are presently pending before the municipal issuing authority against the licensee because of said sale of alcoholic beverages to the minors. In fairness to petitioner, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Klara, Bulletin 1664, Item 7.

Accordingly, it is, on this 24th day of February, 1967,

ORDERED that the aforesaid automatic suspension be stayed pending the entry of a further order herein.

JOSEPH P. LORDI
 DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - UNLAWFUL TRANSPORTATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Jakenwes, Inc.)
s/s of Route 70, approximately 400')
west of Split Rock Drive (to be)
known as 2077 Marlton Pike))
Cherry Hill, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-6, issued by the Township Council of the Township of Cherry Hill.)

Licensee, by John S. Bleakly, President, Pro se.
Philip Margulies, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on July 1, 8, 15 and 28, 1966, it (1) sold cases of beer below filed price (viz., by delivery thereof in "A" zone at lower "B" zone prices), in violation of Rule 5 of State Regulation No. 30, and (2) delivered such alcoholic beverages without requisite delivery slip, in violation of Rule 3 of State Regulation No. 17.

Absent prior record, the license will be suspended on the first charge for ten days (Re Cattani Wines & Liguors, Inc., Bulletin 1693, Item 10) and on the second charge for ten days (Re Cost, Bulletin 1629, Item 4), or a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 23d day of February, 1967,

ORDERED that Plenary Retail Distribution License D-6, issued by the Township Council of the Township of Cherry Hill to Jakenwes, Inc., for premises south side of Route 70, approximately 400' west of Split Rock Drive, Cherry Hill, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. Monday, February 27, 1967, and terminating at 9:00 a.m. Tuesday, March 14, 1967.

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - UNQUALIFIED EMPLOYEES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 B.E.L. Investment Corp.)
 t/a Speedway Lounge)
 Old White Horse Pike)
 Waterford Township)
 PO Atco, New Jersey)
)
 Holder of Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Waterford.)

CONCLUSIONS AND ORDER

 David Novack, Esq., Attorney for Licensee.
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on January 8, 1967, it (1) sold drinks of beer to three minors, one age 18 and two age 19, in violation of Rule 1 of State Regulation No. 20, and (2) employed two minors, ages 18 and 19, as musicians without requisite employment permit, in violation of Rule 3 of State Regulation No. 13.

Absent prior record, the license will be suspended on the first charge for twenty days (Re Jocon Bar & Grill, Inc., Bulletin 1709, Item 5) and on the second charge for five days (Re Morrin, Bulletin 1705, Item 3), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 28th day of February, 1967,

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Waterford to B.E.L. Investment Corp., t/a Speedway Lounge, for premises on Old White Horse Pike, Waterford, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, March 7, 1967, and terminating at 2:00 a.m. Monday, March 27, 1967.

JOSEPH P. LORDI
 DIRECTOR

8. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto. Susp. #300)
 In the Matter of a Petition to Lift)
 the Automatic Suspension of Plenary)
 Retail Consumption License C-290)
 Issued by the Board of Alcoholic)
 Beverage Control for the City of)
 Paterson to) On Petition
)
) O R D E R
 Alesandar Ciric and Trajanka Ciric)
 t/a Sloboda Bar & Restaurant)
 28-30 Cross Street)
 Paterson, N. J.)

Charles J. Alfano, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division, that on January 31, 1967, Trajanka Ciric, one of the licensees-petitioners, was fined \$50 plus \$10 costs in the Paterson Municipal Court after being found guilty of a charge of sale of alcoholic beverages to minors on January 8, 1967, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioners' license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that disciplinary proceedings are presently pending before the municipal issuing authority against the licensees because of said sale of alcoholic beverages to the minors. In fairness to petitioners, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Klara, Bulletin 1664, Item 7.

Accordingly, it is, on this 2d day of March, 1967,

ORDERED that the aforesaid automatic suspension be stayed pending the entry of a further order herein.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Samuel G. Ludlow, Jr. 423 - 18th Street Union City, N. J. Holder of Plenary Retail Consumption License C-161, issued by the Board of Commissioners City of Union City

CONCLUSIONS AND ORDER

Licensee, Pro se. Leon Chorkavy, Jr., Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on December 12, 1966, he 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.

Licensee has a record of suspension of license by the municipal issuing authority for ten days, effective February 7, 1967, for sale in violation of State Regulation No. 38 and municipal hours ordinance.

The prior record of suspension of license for dissimilar violation within the past five years considered, 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 Newman, Bulletin 1707, Item 6.

Accordingly, it is, on this 2nd day of March, 1967,

ORDERED that Plenary Retail Consumption License C-161, issued by the Board of Commissioners City of Union City to Samuel G. Ludlow, Jr. for premises 423 - 18th Street, Union City, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. Thursday, March 9, 1967, and terminating at 3:00 a.m. Friday, March 24, 1967.

JOSEPH P. LORDI. DIRECTOR

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
 Club 435, Incorporated)
 t/a Club 435)
 435 Spring Street)
 Elizabeth, New Jersey)
 Holder of Plenary Retail Consumption License C-134, issued by the City Council of the City of Elizabeth)
 -----)

CONCLUSIONS AND ORDER

Licensee, by Mary McKenna, President, Pro se.
Philip Margulies, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 30, 1966, it possessed alcoholic beverages in five 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 twenty-five days with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Gonzales, Bulletin 1709, Item 9.

Accordingly, it is, on this 21st day of March, 1967,

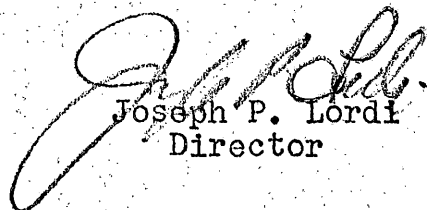
ORDERED that Plenary Retail Consumption License C-134, issued by the City Council of the City of Elizabeth to Club 435, Incorporated, t/a Club 435, for premises 435 Spring Street, Elizabeth, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, March 28, 1967, and terminating at 2:00 a.m. Monday, April 17, 1967.

JOSEPH P. LORDI
DIRECTOR

11. STATE LICENSES - NEW APPLICATIONS FILED.

Rose F. Ricciani, t/a Trenton Wine Co., 171-173 Washington St, Trenton, New Jersey
Application filed May 1, 1967 for person-to-person transfer of Wine Wholesale License WW-21 from Americo P. Ricciani.

Kramer Beverage Co., Inc., 102-116 N. Virginia Avenue, Atlantic City, New Jersey
Application filed May 1, 1967 for additional warehouse license, in connection with State Beverage Distributor's License SBD-189, to cover premises at 219 South New Jersey Ave., Atlantic City, N. J.


Joseph P. Lordi
Director