

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

June 27, 1968

BULLETIN 1796

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
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June 27, 1968

BULLETIN 1796

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY
(INDECENT ENTERTAINMENT) - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against)

HILLSBORO BAR - LIQUORS, INC.)
390 Route 206 South)
Hillsborough Township)
PO Somerville, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-3 issued by the Township Committee of the Township of Hillsborough)

George S. Grabow, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to the following charge:

"On Monday night February 12, 1968, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered a female to perform thereon in a lewd, indecent and immoral manner and engage in acts of perverted sexual relations with a male person, and you otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

Report of investigation discloses that the conduct alleged occurred during the course of a "stag show" consisting of the showing of several colored pornographic films and live performances by two females. Tickets were sold at \$10 each and approximately seventy-five males attended, having been transported to the licensed premises by two buses after their being picked up at a rendezvous point where they left their cars.

Although Walter Wengryn (president and 33-13 per cent. stockholder of the licensee corporation) originally disclaimed any knowledge of the nature of the affair, subsequently he (together with Daniel Wengryn, secretary and 33-1/3 per cent. stockholder of the corporation, both present on the licensed premises at the time) pleaded guilty to complaints under the Disorderly Persons Law of aiding and abetting violation of 2A:170-1, in violation of N.J.S. 2A:170-20.7. In addition, it is now admitted that after the affair commenced, Walter Wengryn "became aware of what was going on" but took no action to stop it.

All of the circumstances considered, and especially

further stated that during the ten years that appellant has operated the licensed premises it was never charged with committing any kind of violation. Moreover, the business at its present location has decreased in volume due to the urban renewal program in the area.

It was stipulated and agreed by the attorneys for the respective parties that testimony of Anthony J. Barbara (an officer of appellant corporation) would corroborate the testimony given by Mary Barbara, his wife.

Bernard Murphy (employed by respondent as license supervisor) testified that in the immediate vicinity of appellant's licensed premises approximately five other liquor licenses are affected by the urban redevelopment program. As to the various objectors to the transfer, Mr. Murphy testified that the Lido Village Restaurant is within three hundred feet of appellant's proposed premises; the Chelsea Baptist Church on Atlantic Avenue is within four hundred twenty-five feet thereof; the Nicholson Tavern at Sovereign and Atlantic Avenues is two blocks distant, and the Florence Crittenton Home at 5 South Chelsea Avenue is approximately one hundred thirty-five feet from the premises in question.

On cross examination Mr. Murphy testified that, within a radius of six blocks of the proposed premises, there are forty licenses issued to hotels, motels, bars and restaurants.

James E. Westcott, Jr. (Pastor of Chelsea Baptist Church) testified that he objects to the transfer because the liquor license would be situated "too near to the vicinity of our church operation" and thus detrimental to the members thereof.

Arthur W. Ponzio (a member of respondent and formerly associated with the city engineering department) testified that the distance between the present and the proposed locations of the premises in question is "approximately 9,000 feet;" that he voted against the transfer of the license because in his opinion there are sufficient liquor licenses in the area of the site sought by appellant and a denial of the transfer would serve the best interests of the public.

James A. Green (holder of a liquor license at 3300 Atlantic Avenue) testified that in his opinion there are presently sufficient liquor outlets in the area.

At the outset, it is pointed out that a licensee-objector has been ruled to be an aggrieved person within the meaning of the Alcoholic Beverage Law. See Hudson Bergen County Retail Liquor Stores Assn. et al. v. Hoboken et als., 135 N.J.L. 502.

The burden of establishing that the action of respondent was erroneous and should be reversed rests with appellant. Rule 6 of State Regulation No. 15. No one has a right to the issuance or transfer of a license to sell alcoholic beverages. Zicherman v. Driscoll, 133 N.J.L. 586; Biscamp v. Teaneck, 5 N.J. Super. 172 (App.Div. 1949). Whether a license should be transferred to a particular section of a municipality rests in the sound discretion of the local issuing authority in the first instance. Hudson-Bergen County Retail Liquor Stores Assn. v. North Bergen et al., Bulletin 997, Item 2. Each municipal issuing authority has wide discretion with reference to the transfer of a liquor license, which, however, is subject to review by the

Director in the event of abuse of its authority. Passarella v. Atlantic City, 1 N.J. Super. 313. Its action will not be disturbed in the absence of a clear abuse of discretion. Blanck v. Magnolia, 38 N.J. 484.

The Director's function on appeal is not to substitute his opinion for that of the issuing authority but, rather, to determine whether proper cause exists for its opinion and, if so, to affirm irrespective of his personal view. Rothman v. Hamilton, Bulletin 1091, Item 1; Food Fair Stores of New Jersey, Inc. v. Union, Bulletin 1129, Item 1; The Grand Union Company v. West Orange, Bulletin 1155, Item 3.

In Fanwood v. Rocco, 59 N.J. Super. 306, 321 (App. Div. 1960), Judge Gaulkin stated:

"The Legislature has entrusted to the municipal issuing authority the right and charged it with the duty to issue licenses (R.S. 33:1-24) and place-to-place transfers thereof ' [O]n application made therefor setting forth the same matters and things with reference to the premises to which a transfer of license is sought as are required to be set forth in connection with an original application for license, as to said premises.' N.J.S.A. 33:1-26."

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

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

The court pointed out in Fanwood, supra, at p. 320:

"No person is entitled to either [transfer of a license or issuance of an original 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."

In the matter sub judice, the municipality did not grant, but denied, the application. The action of respondent may not be reversed by the Director unless he finds "the act of the board was clearly against the logic and effect of the presented facts." Hudson Bergen County Retail Liquor Stores Assn. et al. v. Hoboken et als., supra, at p. 511.

It is apparent by the unanimous vote of the members of respondent that they were of the opinion that no need existed for a license at the proposed site and that the public interest would best be served by denying the transfer thereto. The evidence presented, which disclosed the number of licenses not only in the immediate area but within a radius of six blocks, appears to substantiate the opinion that no need exists for another liquor outlet in the vicinity. Also, in view of the distance between the present and the proposed premises, the transfer would in effect place an additional liquor license in a different section of the municipality.

Nothing in the record before me indicates that respondent's action in denying appellant's application was inspired by improper motives.

After considering all of the allegations set forth by appellant and the evidence presented herein, it is my conclusion that appellant has failed to sustain the burden of establishing that the action of respondent was arbitrary or capricious or in any manner constituted an abuse of discretion. Rule 6 of State Regulation No. 15. Therefore I recommend that an order be entered affirming respondent's action and dismissing the appeal.

Conclusions and Order

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

Having carefully considered the Hearer's report, the transcript of testimony and the exhibits, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 23d day of April, 1968,

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

JOSEPH M. KEEGAN
DIRECTOR

3. APPELLATE DECISIONS - HOMEOWNERS CIVIC ASSOCIATION OF OAK TREE VILLAGE v. SAYREVILLE and LEPPIG.

HOMEOWNERS CIVIC ASSOCIATION OF OAK TREE VILLAGE, A CORPORATION,)	
)	
APPELLANT,)	ON APPEAL
)	CONCLUSIONS
V.)	AND ORDER
)	
BOROUGH COUNCIL OF THE BOROUGH OF SAYREVILLE, AND FRED G. LEPPIG AND CAROLE A. LEPPIG, T/A MALABU INN,)	
)	
RESPONDENTS.)	

 Sidney H. Weintraub, Esq., Attorney for Appellant
 John R. Everitt, Esq., Attorney for Respondent Borough Council
 Meyner and Wiley, Esqs., by Edwin C. Landis, Jr., Esq.,
 Attorneys for Respondents Fred G. & Carole A. Leppig

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Borough Council (hereinafter Council) in approving a place-to-place transfer of the plenary retail consumption licensed held by respondents Fred G. Leppig and Carole A. Leppig (hereinafter



licensees) from premises 99 Washington Road to premises to be constructed in accordance with filed plans on Lot 1, Block 445A, Ernston Road, Sayreville,

Appellant's petition of appeal alleges that the action of Council was erroneous and should be reversed for reasons which may be summarized as follows:

- (a) Appellant did not have proper notice of the hearing to be held by respondent on November 1, 1967;
- (b) Parents, teenagers and children would pass the proposed location when going to shopping centers and cinemas nearby;
- (c) A traffic hazard will be created at the intersection of Ernston Road and U.S. Highway 9;
- (d) A new grammar school is to be erected near the proposed location, to and from which school children attending it will walk on Ernston Road;
- (e) There is no need for another licensed premises at the proposed site.

Council in its answer neither admits nor denies the appellant's allegations but leaves appellant to its proof.

Licensees' answer denies the aforesaid allegations and contends that the application for transfer filed by the licensees conforms to statutory requirements and that a bar and restaurant at the proposed site would not create a traffic hazard.

Richard S. Weber and Thurman E. Hughes (president and secretary, respectively, of appellant civic association) voiced objections to the transfer of the license in question to the proposed site. Weber testified that the association consists of 150 families and that the section known as Oak Tree Village is a new development, the homes having been constructed during the past two years; that persons going to the shopping center travel on Ernston Road where the proposed premises are to be located; that the said shopping center "contains a motion picture theater, a big Shop-Rite Super Market, John's Bargain Store and Bradley's Discount, a department store." Weber further testified, "Across Route 9 there's another big shopping center on one side, on the other side there's Dunkin Donuts, and back on the east side of Route 9 there's a Chrysler-Plymouth dealer and a gas station and another gas station on the other side of Route 9." Weber also stated that the nearest liquor outlet to the proposed premises "would be no more than a quarter of a mile" distant, and that in his opinion there is no need for a liquor license at the proposed location.

On cross examination Weber testified that the children residing in the development who attend grammar school are transported to and from the school by bus, and that he has no knowledge concerning the transportation of students attending high school. In answer to a question if children who might attend the new school when constructed on Ernston Road will have to pass the proposed licensed premises, Weber stated, "they will not walk past it, no."

Thurman E. Hughes testified that, after the hearing before Council (which he was not aware was to take place), a motion objecting to the transfer was immediately passed at a

meeting of appellant civic association by the members in attendance. Hughes stated that he was in agreement with the testimony given by Weber, including the lack of need for a liquor establishment at the proposed site, but was of the opinion that "such time in the future a school on Ernston Road might of necessity be used by our children and in this case upper-grade children or junior high school children would have to walk past this proposed area."

Fred G. Leppig (one of the licensees) testified that the application for transfer of the license was advertised pursuant to law; that the nearest home in Oak Tree Village was "around six, 700 feet" distant from the proposed premises; that the location of the school mentioned by appellant's witnesses, when constructed, will be "eight-tenths of a mile" away, and that no children going to or from school will walk past the proposed premises. Leppig further testified that a variance from the zoning ordinance was granted to permit construction of the building to be used as a licensed premises.

Edward L. Cyr testified that he is a traffic engineer and was retained by the licensees to make a study of the traffic conditions near the proposed location of the premises in question. Mr. Cyr stated that he is familiar with the area and in the past has made numerous traffic studies in the vicinity. The last observation in the area of Ernston Road and Route 9 respecting traffic conditions was on December 16, 1967. Based on his personal study of vehicular traffic in the area and off-street parking facilities for forty-two cars to be provided by the licensees, it was Mr. Cyr's opinion that the operation of the tavern would not "cause any traffic hazards or traffic congestion."

On March 17, 1965 the licensees' application for place-to-place transfer of their license to the same site was denied by the Council, which determination was affirmed on appeal to this Division. See Leppig v. Sayreville, Bulletin 1664, Item 3. The testimony of Weber discloses that the section of the Borough known as Oak Tree Village is a comparatively new development, coming into being during the past two years and, thus, subsequent to the former action of the Council. In all likelihood, such increase in population was one of the reasons considered by the members of Council when approving the present application for transfer. In Tozzi's Tavern, Inc. v. Plainfield, 65 N.J. Super. 286 (App.Div. 1961), Judge Gaulkin, speaking for the court, said:

"...We know of no authority to support the proposition that a member of the governing body who changes his vote must show good cause for doing so."

The court also said that the burden of proving bad faith or improper motives which affect the validity of a councilman's vote is upon the challenger. There has been no evidence produced to attribute any improper motivation on the part of any members of the Council in arriving at their decision in this matter.

Whether or not a license should be transferred to a particular section of a municipality rests in the sound discretion of the local issuing authority in the first instance. Hudson Bergen County Retail Liquor Stores Ass'n v. North Bergen et al., Bulletin 997, Item 2. Each municipal issuing authority has wide discretion with reference to a transfer of a liquor license which, of course, is subject to review by the Director in the event of abuse of its authority. Passarella v. Atlantic City et als., 1 N.J. Super. 313. However, its action will not be disturbed in the absence of a clear abuse of discretion. Blanck v. Magnolia, 38 N.J. 484.

The Director's function on appeals of the kind now under consideration is not to substitute his personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal views. Larion, Inc. v. Atlantic City, Bulletin 1306, Item 1.

Inasmuch as in the appeal herein the entire matter was heard de novo, with an opportunity for any objector to be heard, if there had been any apparent irregularity it has now been rectified. No evidence was presented to indicate that the Council acted arbitrarily, or abused the discretion vested in it, by granting the transfer of the license in question.

After examination of the entire record and consideration of all the allegations set forth by appellant in its petition of appeal, I am satisfied that appellant has failed to sustain the burden of proof in showing that Council's action was erroneous. Rule 6 of State Regulation No. 15. See Shiloh Baptist Church v. Atlantic City et al., Bulletin 1387, Item 2, and cases cited therein.

It is therefore recommended for the reasons aforesaid that an order be entered affirming Council's action and dismissing the appeal.

Conclusions and Order

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

Having carefully considered the Hearer's report, the transcript of testimony and the exhibits, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 23d day of April, 1968,

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

JOSEPH M. KEEGAN
DIRECTOR

4. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1967 THROUGH MARCH 31, 1968

	1st Quarter July, Aug., Sept.	2nd Quarter Oct., Nov., Dec.	3rd Quarter Jan., Feb., March	Total
ARRESTS:				
Total number of persons arrested	46	28	44	118
Licensees and employees	16	15	31	62
Bootleggers	29	13	13	55
ABC Agent impersonator	1	-	-	1
SEIZURES:				
Motor vehicles - cars	1	-	2	3
- trucks	-	1	1	2
Stills - 50 gallons or under	1	1	-	2
Alcohol - gallons	-	-	35	35
Mash - gallons	-	320	-	320
Distilled alcoholic beverages - gallons	15.39	73.51	115.33	204.23
Wine - gallons	13.06	.47	409.27	422.80
Brewed malt alcoholic beverages - gallons	167.30	52.66	25.40	245.36
RETAIL LICENSEES:				
Premises inspected	1,676	1,988	2,378	6,042
Premises where alcoholic beverages were gauged	1,432	1,658	1,903	4,993
Bottles gauged	22,834	25,709	28,758	77,301
Premises where violations were found	375	594	482	1,451
Violations found	499	508	665	1,672
No Form E-141-A on premises	224	344	291	859
Unqualified employees	162	97	170	429
Application copy not available	52	66	60	178
Other mercantile business	12	16	26	54
Disposal permit necessary	6	11	10	27
Prohibited signs	1	2	3	6
Improper beer taps	1	1	-	2
Other violations	41	80	105	226
STATE LICENSEES:				
Premises inspected	78	47	46	171
License applications investigated	30	17	26	73
COMPLAINTS:				
Complaints assigned for investigation	1,087	1,171	1,225	3,483
Investigations completed	1,086	1,176	1,381	3,643
Investigations pending	(273)	(318)	(269)	(269)
LABORATORY:				
Analyses made	80	224	452	756
Refills from licensed premises - bottles	32	161	316	509
Bottles from unlicensed premises	16	21	44	81
IDENTIFICATION:				
Criminal fingerprint identifications made	19	23	17	59
Persons fingerprinted for non-criminal purposes	1,443	843	924	3,210
Ident. contacts made w/other enforcement agencies	980	578	588	2,146
Motor vehicle identifications via NJ State Pol. Teletype	-	-	1	1
DISCIPLINARY PROCEEDINGS:				
Cases transmitted to municipalities	22	19	20	61
Violations involved	23	21	22	66
Sale during prohibited hours	13	11	9	33
Sale to minors	10	7	8	25
Failure to close prem. dur. prohibited hours	-	1	2	3
Sale to non-members by club	-	2	1	3
Possessing chilled beer (DL license)	-	-	1	1
Cases instituted at Division	94	53*	111*	258*
Violations involved	120	61	127	308
Possessing liquor not truly labeled	30	6	30	66
Permitting lottery activity on premises	10	11	14	35
Beverage Tax Law non-compliance	3	14	18	35
Sale during prohibited hours	15	6	8	29
Sale to minors	8	7	7	22
Fraud in application	6	2	6	14
Permitting bookmaking on premises	9	1	3	13
Permitting immoral act. on premises	4	-	7	11
Permitting misc. gambling on premises	4	4	2	10
Fraud and front	3	-	4	7
Unqualified employees	2	-	4	6
Permitting hostess activity on premises	2	1	3	6
Hindering investigation	2	3	1	6
Permitting foul language on premises	3	1	1	5
Sale below filed price	-	2	3	5
Sale to intoxicated persons	3	-	-	3
Conducting business as a nuisance	3	-	-	3
Retailer-to-retailer sales	3	-	2	5
Purchase from improper source	2	-	1	3

*Includes three cancellation proceedings - license issued beyond limitation; license improvidently issued for premises at which sale of foodstuffs is not primary and principal business, and for sale beyond scope of special alcohol permit.

	1st Quarter July, Aug., Sept.	2nd Quarter Oct., Nov., Dec.	3rd Quarter Jan., Feb., March	Total
DISCIPLINARY PROCEEDINGS (CONTINUED)				
Cases instituted at Division (Continued)				
Failure to file notice of chge. in lic. appl.	2	-	1	3
Failure to close prem. dur. prohibited hours	-	2	-	2
Sale outside scope of license	2	-	-	2
Permitting lottery & bookmaking on premises	-	-	1	1
Single instance of other violations	4	1	2	7
Cases brought by municipalities on own initiative and reported to Division				
Violations involved	42	44	59	145
Sale to minors	53	70	77	200
Permitting brawl, etc. on premises	23	27	33	83
Sale during prohibited hours	4	10	3	17
Conducting business as a nuisance	5	3	8	16
Failure to close prem. dur. prohibited hours	5	3	6	14
Permitting bookmaking on premises	2	2	9	13
Unqualified employees	4	-	2	6
Hindering investigation	2	2	1	5
Permitting gambling on premises	-	2	2	4
Fail. to afford view into prem. dur. proh. hours	-	2	2	4
Permitting lottery activity on premises	1	2	1	4
Permitting minors to congregate on premises	2	-	1	3
unaccompanied by parents (local reg.)	-	-	3	3
Permitting unlawful activity on premises	-	-	2	2
Employee working while intoxicated	1	1	-	2
Employment w/o ID card (local reg.)	-	-	2	2
Single instance of other violations	4	5	2	11
HEARINGS HELD AT DIVISION:				
Total number of hearings held	138	114	113	365
Appeals	25	17	16	58
Disciplinary proceedings	85	58	60	203
Eligibility	20	19	15	54
Seizures	4	5	3	12
Tax revocations	2	12	18	32
Applications for license	-	-	1	1
Order to show cause	2	-	-	2
On petitions	-	3	-	3
STATE LICENSES AND PERMITS ISSUED:				
Total number issued	5,275	4,694	3,227	13,196
Licenses	631	11	7	649
Solicitors' permits	167	98	168	433
Employment permits	1,464	825	723	3,012
Disposal permits	183	172	169	524
Social affair permits	1,382	1,238	1,039	3,659
Wine permits	44	716	7	767
Miscellaneous permits	676	662	497	1,835
Transit insignia	615	907	510	2,032
Transit certificates	113	65	97	275
OFFICE OF AMUSEMENT GAMES CONTROL:				
Licenses issued	14	82	327	423
State Fair licenses issued	190	-	-	190
Premises inspected	1,117	13	2	1,132
Premises where violations were found	36	1	-	37
Number of violations found	40	1	-	41
Enforcement files established	30	38	4	72
Disciplinary proceedings instituted	-	-	1	1
Violations involved	-	-	1	1
Redemption of prize for money	-	-	1	1

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

Dated: May 9, 1968

5. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS AND HORSE RACE BETS) - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 75 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MELVIN MARKS t/a Midtown Tavern Bar & Grill 9 No. 3rd Street Harrison, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-45, issued by the Town Council of the Town of Harrison.)

----- Joseph F. McCarthy, Esq., Attorney for Licensee. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that he (1) and (2) on January 10 and 16, 1968, permitted acceptance of numbers bets, and on January 16, 1968, possessed horse race betting slips on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20, and (3) on January 6, 1968, sold a pint bottle of whiskey for off-premises consumption during hours prohibited by Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended on charges (1) and (2) for sixty days (Re Reiker, Bulletin 1780, Item 4) and on charge (3) for fifteen days (Re Kicey, Bulletin 1787, Item 4), or a total of seventy-five days, with remission of five days for the plea entered, leaving a net suspension of seventy days.

Accordingly, it is, on this 24th day of April 1968,

ORDERED that Plenary Retail Consumption License C-45, issued by the Town Council of the Town of Harrison to Melvin Marks, t/a Midtown Tavern Bar & Grill, for premises 9 No. 3rd Street, Harrison, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1968, commencing at 2 a.m. Wednesday, May 1, 1968; and it further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2 a.m. Wednesday, July 10, 1968.

JOSEPH M. KEEGAN DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CONCLUSIONS AND ORDER

CAROLINE GUGALA and JOHN GUGALA)
171 Hathaway Street)
Wallington, N. J.)

Holders of Plenary Retail Consumption License C-24, issued by the Mayor and Council of the Borough of Wallington.)

Licensees, Pro se
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on January 2, 1968, they possessed alcoholic beverages in ten 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 thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days. Re R.B.H.I. Corporation, Bulletin 1783, Item 8.

Accordingly, it is, on this 24th day of April 1968,

ORDERED that Plenary Retail Consumption License C-24, issued by the Mayor and Council of the Borough of Wallington to Caroline Gugala and John Gugala, for premises 171 Hathaway Street, Wallington, be and the same is hereby suspended for thirty (30) days, commencing at 3 a.m. Wednesday, May 1, 1968, and terminating at 3 a.m. Friday, May 31, 1968.

JOSEPH M. KEEGAN
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - FRONT (FARMING OUT LICENSE) -
 PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS
 5 FOR PLEA - DEFERRED EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary)	
Proceedings against)	
TIED, INC.)	CONCLUSIONS
t/a Lincoln Hotel-Candy Cane Lounge)	AND ORDER
200 Fourth Avenue)	
Asbury Park, N. J.)	
Holder of Plenary Retail Consumption)	
License C-65 issued by the City)	
Council of the City of Asbury Park)	

 M. Lester Lynch, Esq., Attorney for Licensee.
 David S. Piltzer, Esq., Appearing for Division of Alcoholic
 Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that from March 2, 1967 to January 17, 1968, it farmed out its license to one Harry W. MacDonald, Jr. and permitted him to retain all of the profits of the licensed business on payment of a stipulated rental fee, in violation of R.S. 33:1-25 and 52.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective August 24, 1967, for sale to a minor, which suspension was stayed effective August 25, 1967 pending appeal to the Director and, upon withdrawal thereof, the nine-day balance of the suspension was reimposed by the Director effective September 25, 1967. Tied, Inc. v. Asbury Park, Bulletin 1762, Item 1.

The unlawful situation having been corrected, the license will be suspended for twenty days (Re S.S.M. Corporation, Bulletin 1760, Item 9), to which will be added five days by reason of the record of suspension of license for dissimilar violation occurring within the past five years (Re Diesel Inn, Incorporated, Bulletin 1786, Item 6), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Recent report of investigation discloses that the licensed business is not presently being conducted. Thus, no effective penalty can be imposed at this time. Hence, the effective dates for the suspension will be fixed by the entry of a further order herein after the operation of the licensed business shall have been fully resumed on a substantial basis.

Accordingly, it is, on this 24th day of April, 1968,

ORDERED that Plenary Retail Consumption License C-65, issued by the City Council of the City of Asbury Park to Tied, Inc., t/a Lincoln Hotel-Candy Cane Lounge, for premises 200 Fourth Avenue, Asbury Park, be and the same is hereby suspended for twenty (20) days, the effective dates of such suspension to be fixed by further order, as aforesaid.

JOSEPH M. KEEGAN
 DIRECTOR

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

In the Matter of Disciplinary Proceedings against
 JACKSON'S LOUNGE (A CORP.)
 t/a Jackson's Tavern
 105 Cedarbridge Avenue
 Lakewood, N. J.
 Holder of Plenary Retail Consumption License C-20 issued by the Township Committee of the Township of Lakewood

CONCLUSIONS AND ORDER

Licensee, by Syd Brooke, President, Pro se
 Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 15-16, 1968, it sold mixed drinks of alcoholic beverages to two minors, ages 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Although the licensee has no previous record of suspension, the license then held by Syd Brooke and Anne Brooke (respectively president and treasurer of the licensee corporation), t/a Buchanan & Co., for premises 116 Clifton Avenue, Lakewood, was suspended by the Director for five days effective January 25, 1954, for sale below filed price. Re Brooke, Bulletin 1002, Item 12.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, 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 The Nut Club, Inc., Bulletin 1759, Item 9.

Accordingly, it is, on this 23d day of April, 1968,

ORDERED that Plenary Retail Consumption License C-20, issued by the Township Committee of the Township of Lakewood to Jackson's Lounge (A Corp.), t/a Jackson's Tavern, for premises 105 Cedarbridge Avenue, Lakewood, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, April 29, 1968, and terminating at 2:00 a.m. Thursday, May 9, 1968.

JOSEPH M. KEEGAN
 DIRECTOR

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

In the Matter of Disciplinary)
Proceedings against)

JULIA BATTAGLIA)
t/a Frank's Grill)
201 Mulberry Street)
Trenton, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-20, issued by the City)
Council of the City of Trenton)

Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
February 16, 1968 she possessed an alcoholic beverage in a
bottle bearing a label which did not truly describe its contents,
in violation of Rule 27 of State Regulation No. 20;

Licensee has a previous record of suspension of
license by the municipal issuing authority for ten days effective
October 23, 1967 for sale during prohibited hours, in violation
of State Regulation No. 38.

The prior record of suspension of license for dis-
similar violation within the past five years considered, 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 Lanzi, Bulletin 1779, Item 12.

Accordingly, it is, on this 24th day of April 1968,

ORDERED that Plenary Retail Consumption License C-20,
issued by the City Council of the City of Trenton to Julia
Battaglia, t/a Frank's Grill, for premises 201 Mulberry Street,
Trenton, be and the same is hereby suspended for ten (10) days,
commencing at 2 a.m. Monday, April 29, 1968, and terminating at
2 a.m. Thursday, May 9, 1968.

JOSEPH M. KEEGAN
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
 LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)
 LOUIS E. JAKIEL and FRANCES B.)
 GRUSINSKI)
 t/a First Avenue Tavern)
 402 First Avenue)
 Elizabeth, N. J.)
 Holder of Plenary Retail Consumption)
 License C-80 issued by the City)
 Council of the City of Elizabeth)

CONCLUSIONS
 AND ORDER

 Licensees, by Louis E. Jakiel, Pro se
 Walter H. Cleaver, Esq., Appearing for Division of Alcoholic
 Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on December 20, 1967, they possessed alcoholic beverages in three 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 days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Cardinali & Strakowski, Bulletin 1788, Item 10.

Accordingly, it is, on this 30th day of April, 1968,

ORDERED that Plenary Retail Consumption License C-80, issued by the City Council of the City of Elizabeth to Louis E. Jakiel and Frances B. Grusinski, t/a First Avenue Tavern, for premises 402 First Avenue, Elizabeth, be and the same is hereby suspended for fifteen (15) days; commencing at 2:00 a.m. Tuesday, May 7, 1968, and terminating at 2:00 a.m. Wednesday, May 22, 1968.


 Joseph M. Keegan
 Director