

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

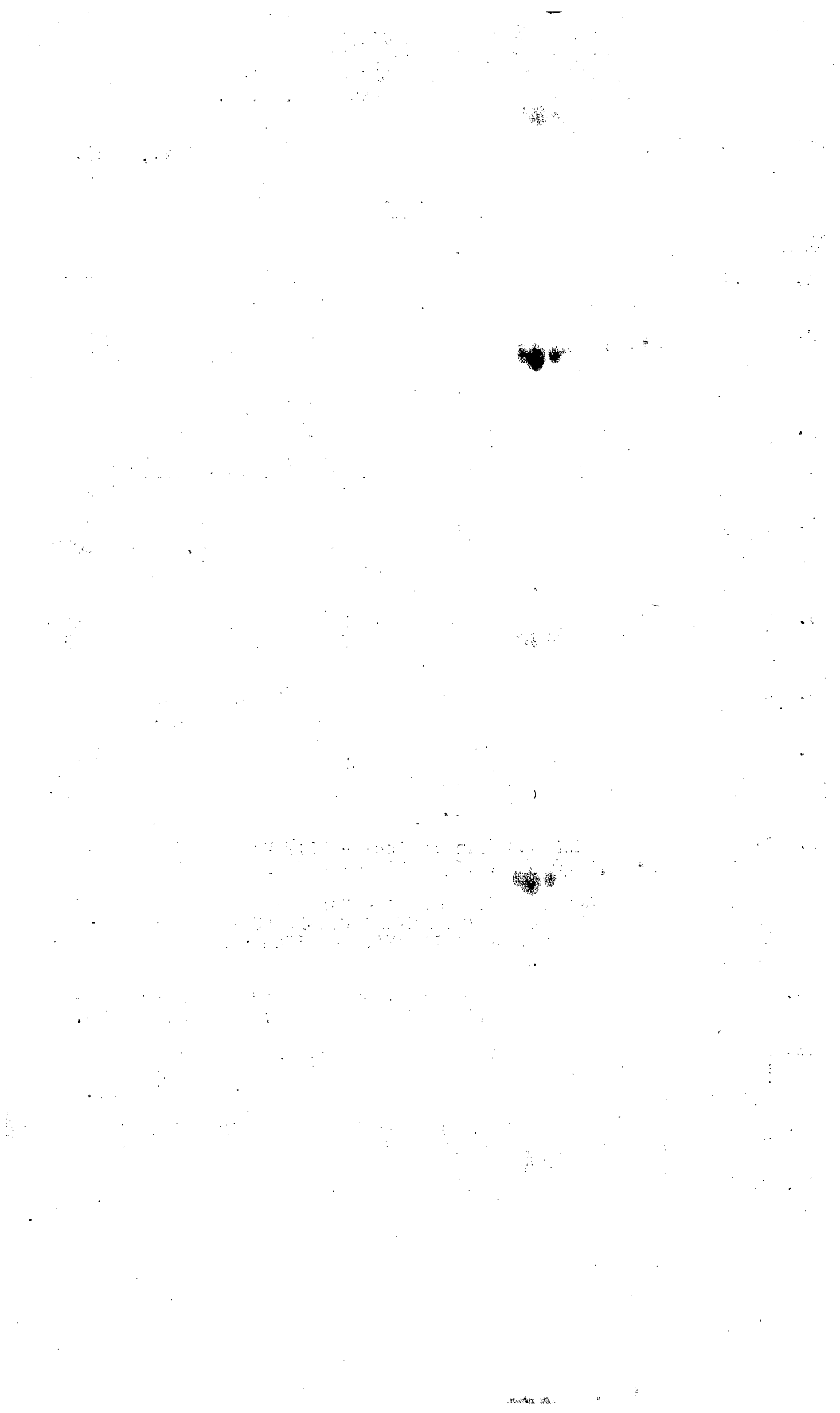
BULLETIN 969

MAY 20, 1953.

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DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 969

MAY 20, 1953.

1. APPELLATE DECISIONS - DUFFY AND COLLINS v. MOUNT LAUREL TOWNSHIP AND SCLAROFF.

LEONARD DUFFY and HAROLD COLLINS, )  
Appellants, )

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP )  
OF MOUNT LAUREL, and MARTIN SCLAROFF, )  
trading as MARTIN'S LIQUOR STORE, )  
Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----  
Parker, McCay and Criscuolo, Esqs., by Robert W. Criscuolo, Esq.,  
Attorneys for Appellants.  
Benjamin Marmer, Esq., Attorney for Respondent Township Committee.  
William T. Cahill, Esq., Attorney for Respondent Martin Sclaroff.

BY THE DIRECTOR:

Appellants allege that the action of respondent Township Committee in transferring a plenary retail distribution license held by respondent Sclaroff from premises located on Hartford Road to premises planned to be erected on Marter Avenue north of Route #38 was erroneous for the following reasons:

- "(a) Public necessity and convenience will not be served by the location in question.
- (b) The only persons to be served by such a license would be residents of the adjoining Town of Moorestown which is dry.
- (c) The proposed license is located in a rural area.
- (d) The present location of the license better serves the needs of the residents of the Township. The Township Committee abused its discretion in granting the transfer.
- (e) The Township Committee has refused to transfer in the past and there has been no change of circumstances intervening that would warrant a transfer now."

The Township of Mount Laurel is predominantly rural in character but it contains six small settlements bearing local names. The location to which the license has been transferred is in a rural section in the northern section of the township, more than three miles from the former premises covered by the license, at least two miles from the nearest settlement, and within 600 feet of the line dividing the Township of Mount Laurel from the Township of Moorestown. However, the location to which the license has been transferred is on State Highway #38 (the main artery connecting Camden and Mount Holly) and a gasoline and service station was established, subsequent to 1947, on State Highway #38 about 300 feet from Sclaroff's property. Appellant Duffy, whose land adjoins Sclaroff's property, operates a farm and manufactures wooden fences thereon. He employs from two to ten people. Appellant Collins, whose land adjoins Sclaroff's property, operates a farm and employs "a lot of help." Other objectors reside in the same section of the Township of Mount Laurel, but the majority of the objectors (twenty-seven of whom appeared at the hearing herein) reside in the Township of Moorestown, in which no liquor licenses have been issued. While one may travel from Sclaroff's premises to Main Street, Moorestown, by going north about one-quarter of a mile along Marter Avenue, the main artery between these two townships is the Moorestown-Mount

Laurel Road, located about one-half mile west of Marter Avenue.

Since 1936 respondent Sclaroff has continuously held and now holds a plenary retail consumption license for premises on Hartford Road in one of the local settlements known as Springville. Effective July 1, 1947, the Township Committee issued to him a plenary retail distribution license for the same address. Sclaroff renewed his plenary retail distribution license for each year thereafter to and including the present licensing year. However, he testified that at the present time he is not conducting any activity under his plenary retail distribution license. He has tried unsuccessfully on a number of prior occasions to transfer his plenary retail distribution license to Marter Avenue north of Route #38. Thus the record shows that at a meeting held on August 20, 1947, the Township Committee (then composed of William T. Nardin, Charles E. Cameron and Daniel E. Wells) denied his first application for such a transfer because of objections filed by the appellants herein and others. The minutes indicate that at that time the objectors stated that "they were convinced that a liquor store at that location would be an overwhelming temptation to many of their hired hands, a nuisance to everyone nearby, and that it would lower the desirability and therefore the value of their property." It should be noted that substantially the same objections have been made by appellants at the hearing below and at the hearing held herein. Approximately a year ago a second similar application filed by Sclaroff was denied. At that time there was a vacancy on the Township Committee, and a denial of the application to transfer resulted when Harry C. Thompson (one of the members of the Township Committee) voted to deny the application and Louis W. Wells (the other member of the Township Committee) voted to grant the application. In September 1952 John F. Smith was elected to fill the vacancy on the Township Committee. On December 29, 1952, a subsequent similar application filed by Sclaroff was granted when Township Committeeman Harry C. Thompson voted against said application, and Township Committeeman John F. Smith and Louis W. Wells voted in favor of said application. The appeal filed herein seeks to set aside the action of the Township Committee taken on December 29, 1952.

At the hearing herein Committeeman Thompson testified that he voted against the application because "when the petition was signed and I saw it covered practically 100% of the people in that vicinity, naturally, I felt it my duty to protect those people there -- not to work for them or against, but with them." Referring to the premises for which the license was issued and the premises to which transferred, he said, "It is an established business location over there in the settlement; over here it is purely farm land." On the other hand, Committeeman Smith testified that "my own investigation in the area surrounding this proposed site within three miles -- three or four miles -- was the vast majority was in favor of the transfer." He also testified as follows:

- Q Did you feel that the best interests of the community would be served by permitting the transfer to that site? A Oh, yes.
- Q And do you feel at this time that this is the logical area for development of the town commercially and industrially?
- A Yes, I do.
- Q Now, Mr. Smith, it has been a little while since you have rendered your decision, but let me ask you this: Do you feel the same way today that you did when you rendered your decision in December? A Oh, yes."

It was stipulated that, if Committeeman Louis W. Wells, who was present, were called to the stand, his testimony would be the same as the testimony given by Committeeman Smith.

So far as testimony by the residents of Mount Laurel Township are concerned, there appears to be a real difference of opinion as to whether or not the majority of the members of the Township Committee acted in accordance with the general welfare of the community. There is absolutely no evidence that any member was improperly motivated. The most that has been shown is that there is an honest difference of opinion between the members of the Township Committee.

So far as objection by residents of the Township of Moorestown are concerned, the following language of Commissioner Burnett, in Howard v. Somers Point and Manypenny, Bulletin 193, Item 1, applies:

\*\*\* (2) The testimony shows that a bridge connecting Somers Point and Ocean City was completed in 1933 and that the traffic circle upon which the licensed premises are located is at the Somers Point end of the bridge. The traffic circle was completed in 1935. There is evidence that much of the traffic into Ocean City passes around the circle and over the bridge, and it may well be, as appellant contends, that the licensee will obtain a large percentage of his business from persons residing in Ocean City. But that of itself is not a reason for denying a license in Somers Point. If Ocean City chooses to be 'dry,' it is well within its rights, but, by the same token, Somers Point has equal right to decide for itself. Free and equal sovereignties are, by their very nature, mutually exclusive. The very fact that no licenses are granted in Ocean City naturally attracts to its borders those who cater to the thirsts of its inhabitants. Thus there are now two distribution licensees in Upper Township at the other end of Ocean City, which are almost as close to Ocean City as the premises in question. There is no wrong in this. The liquor industry is a legitimate business and its location at strategic points is merely a matter of business sense. Whether it is profitable or not may well depend on the patronage it receives from the inhabitants of Ocean City. Undoubtedly, there are many people who, with families and growing children, or for just personal reasons, prefer to have a summer home in a municipality where there are no licensed premises. If, in addition, they refuse to patronize a liquor store in adjoining municipalities, those places may well fold up. If, however, they choose to buy, there is no law which says they may not. The appellant himself resides in Somers Point but most of the objectors reside in Ocean City. Objections coming from or in behalf of another municipality may well be considered as a matter of comity or neighborliness, but have no mandatory extra-territorial effect.\*\*\*"

There is room for latitude of opinion in cases of this kind. My function on appeals of the type now before me, however, is to determine whether reasonable cause exists for the issuing authority's opinion and, if so, to affirm. Curry v. Margate City, Bulletin 460, Item 9; Mulcahy v. Maplewood, Bulletin 658, Item 4.

Considering all the evidence herein, and particularly the evidence indicating that there are no licensed premises in the Township of Mount Laurel within approximately three miles of the location to which the license was transferred, I cannot say that the only proper conclusion open to the members of the Township Committee was to deny the application. That being so, neither can I say that its action in voting to grant the application is arbitrary and unreasonable so as to amount to an abuse of discretion warranting reversal of its action. Cf. Howard v. Somers Point and Manypenny, *supra*; Northend Tavern, Inc. v. Northvale, Bulletin 493, Item 5.

Accordingly, it is, on this 30th day of April, 1953,

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

DOMINIC A. CAVICCHIA  
Director.

2. APPLICATION FOR RETAIL LICENSES - LOCATION AND EXTENT OF PREMISES TO BE LICENSED MUST BE CLEARLY INDICATED - ADJACENT GROUNDS, IF ANY, SHOULD BE SET FORTH IN FEET AND INCHES, PREFERABLY WITH SKETCH OR DIAGRAM ATTACHED TO APPLICATION.

TO ALL MUNICIPAL ISSUING AUTHORITIES:

In our annual Notices to all Municipal Issuing Authorities (including our most recent Notice of May 1, 1953) we have pointed out that all questions in license applications must be answered by the applicant correctly and completely.

Recently, it has come to my attention that the description of the extent of premises to be licensed (in Questions 7(a) and 7(b) of Applications for all Retail Licenses Except Club Licenses, and in Questions 4(a) and 4(b) of Applications for Club Licenses) is frequently so vague and indefinite that no one can tell, from a reading of the application, just exactly what is being licensed.

Obviously, the municipal license issuing authority should know what it is licensing. The applicant should know what has been licensed. Agents of this Division and other law enforcement officers must know what does constitute the licensed premises and what does not, since state and municipal regulations are generally applicable only to the licensed premises and not to unlicensed premises.

Under the Alcoholic Beverage Law (R. S. 33:1-24), it is the duty of each municipal issuing authority "to inspect premises sought to be licensed". Naturally, this cannot be done unless the application clearly indicates what premises are sought to be licensed. Consequently, applicants for license should be required, in answer to the questions concerning this matter, so to describe the licensed premises that it will be readily apparent to all concerned just what is and is not to be considered licensed premises. If grounds adjacent to the building are to be licensed the extent of such grounds should be set forth in feet and inches, preferably with a sketch or diagram attached to the application, showing the extent of such grounds clearly and plainly so that any layman can tell from the indicated measurements just what portion is being licensed and what is not being licensed.

I urge that all applications for renewals (to be received, shortly, by all Municipal Issuing Authorities) be scrutinized most carefully with especial reference to the answers to questions concerning the location and extent of the premises to be licensed.

DOMINIC A. CAVICCHIA  
Director.

3. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AND FAILURE TO KEEP LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

JOHN VERRILLI )  
T/a VERRILLI'S TAVERN )  
575 - 61st Street )  
West New York, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-45, issued by the Board of Commissioners of the Town of West New York. )

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Otis & Kilkenny, Esqs., by Raymond J. Otis, Esq., Attorneys for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Sunday, March 8, 1953, between 4:00 A.M. and 4:25 A.M., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section 6 of a Resolution adopted by the Board of Commissioners of the Town of West New York on December 15, 1933, as amended by Ordinance adopted by said Board of Commissioners on January 12, 1943, which prohibits any such activity between 4:00 A.M. and noon on Sunday.

"2. On Sunday, March 8, 1953, between 4:00 A.M. and 4:25 A.M., you failed to keep your licensed premises closed and allowed thereon persons other than yourself and your bona fide employees; in violation of the above mentioned Resolution as amended as aforesaid which also requires that licensed premises (other than bona fide restaurants) shall be closed and that persons other than the licensee and his bona fide employees be excluded therefrom between the hours of 4:00 A.M. and noon on Sunday.

"3. On Sunday, March 8, 1953, between 4:20 A.M. and 5:05 A.M., while an inspector and an investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation at your licensed premises, you, individually and by your agent and employee, known as 'Frank' or 'Frankie', failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation; in violation of R.S. 33:1-35."

The file herein discloses that, at approximately 3:30 A.M., on Sunday, March 8, 1953, two ABC agents arrived in the vicinity of defendant's licensed premises to investigate a complaint that defendant was remaining open and selling alcoholic beverages during prohibited hours in violation of the local "hours" regulation. One of the agents entered defendant's barroom while his companion remained outside. At 3:55 A.M., when there were approximately thirty-five patrons in the barroom, defendant spoke briefly with his bartender and the latter announced the "last call" for drinks. Some of the patrons, including the agent, ordered drinks. The agent finished his drink and left the premises at 3:59 A.M., at which time defendant announced that it was time to close. Only a few of the other

patrons left the premises. The agents kept the premises under surveillance until 4:19 A.M., when two municipal police officers arrived. The agents and police officers went to the door of the premises but found it locked. After they had knocked on the door for a short time defendant came out, slammed the door behind him, saying "You can't go in there, the tavern is closed," and drove away in an automobile. The agents and officers ultimately gained admission to the licensed premises when a male patron opened the door of the barroom. There were twenty male and female patrons in the barroom, all with partly consumed drinks in front of them. The agents saw the bartender pour two drinks of whiskey from a bottle and place the money therefor in the cash register. There was also money on the bar in front of some of the patrons.

The agents then identified themselves and seized several drinks of whiskey and placed them on the bar. As the patrons were leaving, as requested by the agents, defendant returned to the licensed premises. Shortly thereafter the bartender started to clean up behind the bar and, as he approached the drinks which had been seized by the agents, they warned him that those drinks were being held as evidence and that he should not disturb them. However, after pretending to walk away, the bartender came back and grabbed the glasses and spilled their contents, thereby destroying the evidence which had been seized. The agents asked the bartender to give his name but he refused. They then asked the defendant to give them the bartender's name but defendant claimed that the bartender was not in his employ and refused to give his name. Subsequent investigation proved this claim to be false.

The local "hours" regulation prohibits sale, service, delivery and consumption of alcoholic beverages upon licensed premises between 4:00 a.m. and noon on Sunday, and requires that the premises be closed to persons other than the licensee and his bona fide employees between those hours. Clearly defendant violated the provisions of that regulation. Furthermore, the failure of defendant and his bartender to facilitate the investigation by refusing to supply the name of the bartender and the destruction of the evidence by the bartender constitute violations of R. S. 33:1-35.

Defendant has no prior adjudicated record. I shall suspend the license for fifteen days on the "hours" violation (charges 1 and 2), Re Horak, Bulletin 957, Item 4, and for an additional fifteen days on the "hindering" violation (charge 3), Re Woodrow Wilson Democratic Club of Passaic, N. J., Inc., Bulletin 867, Item 2, or a total of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 29th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-45, issued by the Board of Commissioners of the Town of West New York to John Verrilli, t/a Verrilli's Tavern, 575 - 61st Street, West New York, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. May 7, 1953, and terminating at 3:00 a.m. June 1, 1953.

DOMINIC A. CAVICCHIA  
Director.

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SECOND SIMILAR VIOLATION WITHIN FIVE YEARS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

HARRY KAISER )  
T/a KAISER'S BAR )  
321 Van Horne Street )  
Jersey City 4, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-43, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

----- )  
Harry Kaiser, Defendant-licensee, Pro Se.  
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that, during prohibited hours, he sold alcoholic beverages in original containers for consumption off the licensed premises, in violation of Rule 1 of State Regulations No. 38.

The file discloses that two ABC agents entered defendant's premises at 9:00 p.m. on Wednesday, April 8, 1953. At 10:50 p.m. one of the agents asked defendant for a bottle of Ballantine beer. Defendant went to the cooler and returned with a quart bottle of beer in a paper bag which he placed on the bar in front of the agent. The agents did not identify themselves at that time.

The file also discloses that the same agents entered defendant's premises at 9:00 p.m. on Friday, April 10, 1953. At 11:10 p.m. one of the agents asked defendant for one quart of Ballantine beer. Defendant placed the bottle of beer in a paper bag, handed the bag to the agent and charged him 40¢ for the beer. Both agents immediately left the licensed premises, but returned within a few minutes and identified themselves to defendant, who verbally admitted the violation. The file also indicates that after 10:00 p.m. on both evenings other patrons purchased beer in original containers for consumption off the licensed premises.

In alleged mitigation defendant says that on April 10 he "didn't realize the lateness of the hour." This explanation carries little weight in view of defendant's prior record. Less than four months prior to the dates herein mentioned, he committed a similar violation. As a result, I suspended his license for a net period of ten days, effective January 12, 1953. Re Kaiser, Bulletin 954, Item 7. Since this is a second similar violation within a brief period of time, I shall double the minimum fifteen-day penalty and suspend defendant's license for thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 11th day of May, 1953,

ORDERED that Plenary Retail Consumption License C-43, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Harry Kaiser, t/a Kaiser's Bar, for premises 321 Van Horne Street, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. May 18, 1953, and terminating at 2:00 a.m. June 12, 1953.

DOMINIC A. CAVICCHIA  
Director.

5. DISCIPLINARY PROCEEDINGS - ILLEGAL SITUATION CORRECTED - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED UPON EXPIRATION OF 30 DAYS FROM EFFECTIVE DATE THEREOF.

In the Matter of Disciplinary Proceedings against )

CHARLES DONEMAN )  
89 Garden Street )  
Hoboken, N. J., )

ON PETITION  
O R D E R

Holder of Plenary Retail Consumption License C-82, issued by the Board of Commissioners of the City of Hoboken. )

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Rudolph R. Naddeo, Esq., Attorney for Petitioner, Charles Porcuri.

BY THE DIRECTOR:

On March 24, 1953, I suspended defendant's license for the balance of its term, effective at 2:00 a.m. March 30, 1953, after he had pleaded non vult to charges alleging in substance that he was a "front" for Charles Porcuri. See Bulletin 963, Item 3. In said order it was provided that, in the event of a correction of the illegal situation, leave was given to apply for an order lifting the suspension after at least thirty days of the suspension had been served.

Charles Porcuri has filed a petition wherein he sets forth that on April 21, 1953, the Board of Commissioners of the City of Hoboken transferred said license to him. A certified copy of the resolution of said Board transferring the license to Charles Porcuri, t/a Sunshine Tavern, is attached to the petition. The transfer, of course, is subject to the suspension imposed herein. Rule 5 of State Regulations No. 16. The petition requests that the suspension be lifted so that petitioner may begin operation on April 29, 1953.

It appearing that the unlawful situation has been corrected, and that a thirty-day suspension will expire at 2:00 a.m. April 29, 1953,

It is, on this 24th day of April, 1953,

ORDERED that the suspension heretofore imposed be lifted and that Plenary Retail Consumption License C-82 be restored to full force and operation effective on the endorsement, after 2:00 a.m. April 29, 1953, by the City Clerk of the aforesaid transfer on the license certificate. Until then the license remains under suspension.

DOMINIC A. CAVICCHIA  
Director.

6. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ST. REGIS, INC. )  
34-36 Park Place & 2-4-6 )  
Center Street )  
Newark 2, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-631, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

----- )  
David H. Wiener, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it possessed on its licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on February 7, 1953, an ABC agent examined fifty-four opened bottles of alcoholic beverages on defendant's premises and seized two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky 90.4 Proof" when his field test indicated a variance between the description on the label and the contents of the bottles. Subsequent analysis by the Division chemist disclosed that the contents of the seized bottles were not genuine as labeled.

In mitigation of the violation the President of defendant corporation has advised me that the seized bottles were tampered with by an employee, whom he has since discharged. Nevertheless, a licensee is responsible for any "refills" found in his stock of liquor. Re Ostrowski, Bulletin 952, Item 7; Re Leeds and Lippincott Company, Bulletin 959, Item 6.

Defendant has a prior record. Effective March 21, 1949, the local issuing authority suspended its license for a period of five days after it had pleaded non vult to a charge alleging that it possessed contraceptives upon its licensed premises. The minimum penalty imposed for a violation of the kind herein charged is a suspension for a period of fifteen days. Re Nurse, Bulletin 680, Item 7. In view of defendant's record of a prior dissimilar violation occurring within the past five years, I shall suspend its license for a period of twenty days. Cf. Re Dos Santos, Bulletin 928, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 11th day of May, 1953,

ORDERED that Plenary Retail Consumption License C-631, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to St. Regis, Inc., for premises 34-36 Park Place & 2-4-6 Center Street, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. May 18, 1953, and terminating at 2:00 a.m. June 2, 1953.

DOMINIC A. CAVICCHIA  
Director.

7. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against DOMENICKO G. PIZZO & JULIUS J. GERARD T/a MORTON INN W/S Morton Avenue Deerfield Township P.O. Rosenhayn, N. J.,

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Deerfield; and transferred during the pendency of these proceedings to:

GEORGE PIZZO & JULIUS J. GERARD T/a MORTON INN,

for the same premises.

Joshua V. Davidow, Esq., Attorney for Defendant-licensees. David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. In your application dated June 16, 1952, filed with the Township Committee of the Township of Deerfield, upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question 30, which asks: 'Has any individual... other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact George Pizzo had such an interest in that he was the real and beneficial owner of 50 per cent of the licensed business in partnership with you, Julius J. Gerard; said false statement being in violation of R. S. 33:1-25.

"2. In your aforesaid application for license, you falsely stated 'No' in answer to Question 31, which asks: 'Have you agreed to pay any employee, or other person, any portion or percentage of the profits or income (by way of rent, salary or otherwise) derived from the business to be conducted under the license applied for?', whereas in truth and fact you had agreed to permit George Pizzo to retain 50 per cent of the profits derived from the licensed business; said false statement being in violation of R. S. 33:1-25.

"3. From November 8, 1950, until the present time, you knowingly aided and abetted George Pizzo to exercise, contrary to R. S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses; thereby yourselves violating R. S. 33:1-52."

The file herein discloses that, on February 2, 1948, Julius J. Gerard, one of the licensees, and George Pizzo acquired the license by transfer and that the funds for George Pizzo's share were obtained by him in a loan from his father, licensee Domenicko G. Pizzo.

Julius J. Gerard and George Pizzo continued to conduct the licensed business as equal partners and divided the proceeds between them until late in the year 1950 when George's father (Domenicko G. Pizzo) having no security for his loan and not having received any payments in reduction thereof sought to have the loan secured. Consequently George Pizzo agreed to transfer his interest in the license to his father as security for the loan and, pursuant thereto, the local issuing authority, upon application duly filed, transferred the license from Julius J. Gerard and George Pizzo to Domenicko G. Pizzo and Julius J. Gerard.

Statements were obtained from all three men who readily admitted the facts hereinabove related and also admitted that Domenicko G. Pizzo had no interest in the license and claimed none. Nor did he receive any of the proceeds from the licensed business. Obviously the above described situation created a "front."

The illegal situation has already been corrected. On May 4, 1953 the local issuing authority approved a transfer of the license to the real and beneficial owners, George Pizzo and Julius J. Gerard, effective May 5, 1953.

The licensees have no prior adjudicated record. Since George Pizzo, who held the undisclosed interest, appears to be qualified in all respects to hold a license I shall suspend the license for twenty days, the minimum penalty established for "front" cases. Re Maione, Bulletin 806, Item 1; Re Russo, Bulletin 741, Item 4.

Accordingly, it is, on this 11th day of May, 1953,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Deerfield to Domenicko G. Pizzo & Julius J. Gerard, t/a Morton Inn, W/S Morton Avenue, Deerfield Township, and transferred during the pendency of these proceedings to George Pizzo & Julius J. Gerard, t/a Morton Inn, for the same premises, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. May 20, 1953, and terminating at 2:00 a.m. June 9, 1953.

DOMINIC A. CAVICCHIA  
Director.

8. DISCIPLINARY PROCEEDINGS - LOTTERY (50-50 CLUB) - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

KLINE McANNEY POST 396 AMERICAN LEGION 3218 Brigantine Avenue Brigantine, N. J.,

CONCLUSIONS AND ORDER

Holder of Club License CB-135, issued by the Director of the Division of Alcoholic Beverage Control.

Kline McAnney Post 396, American Legion, by Harry Marder, Post Commander.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On divers days between November 25, 1952 and December 20, 1952 you allowed, permitted and suffered a lottery known as 'Santa Claus 50-50 Club' to be conducted and sold and offered for sale and possessed, had custody of, and allowed, permitted and suffered tickets and participation rights in such aforementioned lottery, in and upon your licensed premises; in violation of Rule 6 of State Regulations No. 20."

On March 6, 1953, an ABC agent found in a cabinet on defendant's premises a book of ten unused tickets for a "50-50" drawing sponsored by defendant. On the same day the Post Commander gave to the ABC agent a written statement wherein he admitted that the drawing had been held in the meeting room of the Post on December 20, 1952. Other evidence indicated that the tickets for the drawing had been sold to members and the general public between November 25, 1952, and December 20, 1952.

Defendant has no prior record. The Post Commander has advised me that the moneys received from the drawing were "used to purchase foodstuffs for poor and needy families during the Christmas Season." Since no aggravating circumstances appear, I shall suspend defendant's license for fifteen days (the minimum penalty in such cases). Five days will be remitted for the plea herein, leaving a net suspension of ten days. Re Thomas A. Swanwick Post, Bulletin 940, Item 10.

Accordingly, it is, on this 23rd day of April, 1953,

ORDERED that Club License CB-135, issued by the Director of the Division of Alcoholic Beverage Control to Kline McAnney Post 396; American Legion, for premises 3218 Brigantine Avenue, Brigantine, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m. May 4, 1953, and terminating at 7:00 a.m. May 14, 1953.

DOMINIC A. CAVICCHIA Director.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JOHN F. SPAGNUOLO  
74 Hamilton Avenue  
Paterson 1, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-231, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

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David H. Wiener, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that he (1) sold, served and permitted the sale and service of alcoholic beverages between 3:00 a.m. and 7:00 a.m. on Saturday, April 4, 1953, and (2) failed to have his licensed premises closed during said prohibited hours, both in violation of a local ordinance.

An ordinance of the City of Paterson prohibits the sale of alcoholic beverages on weekdays between 3:00 a.m. and 7:00 a.m. and requires that licensed premises (with exceptions not here material) shall be closed between said hours.

The file discloses that two ABC agents entered defendant's premises about 2:15 a.m. on Saturday, April 4, 1953. Shortly before 3:00 a.m. the licensee turned off the neon sign lights and opened the venetian blind in the front window of the licensed premises. Some of the patrons left, but thereafter the bartender served bottles of beer to two patrons and a glass of wine to another patron. The licensee also served a glass of whiskey to a patron. At about 3:10 a.m. the agents asked for another drink and the bartender refused to serve them. Both agents then left the premises, but some patrons remained thereon.

At about 3:30 a.m. the agents looked through the door of the premises and could see some patrons still seated at the bar. At that time the door was locked, but the agents, after knocking on the door, were admitted by the licensee and identified themselves to the licensee. At that time five patrons were still consuming drinks of alcoholic beverages.

Defendant has no prior adjudicated record. In attempted mitigation the attorney for defendant alleges that "on the night in question there were several men in the licensee's place of business who refused to leave at closing time." The file herein does not support the statement that any patrons refused to leave the premises. In any event, the facts in the case fully support the charge. I shall suspend defendant's license for fifteen days. Re Lei Club, Bulletin 946, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 27th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-231, issued by the Board of Alcoholic Beverage Control for the City of Paterson to John F. Spagnuolo, for premises 74 Hamilton Avenue, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. May 4, 1953, and terminating at 3:00 a.m. May 14, 1953.

DOMINIC A. CAVICCHIA  
Director.

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CARMELO DOMINO  
T/a DOMINO'S TAVERN  
82 Super Highway  
Raritan Township (Middlesex County)  
P.O. Route 19, New Brunswick, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-15, issued by the Board of Commissioners of the Township of Raritan (Middlesex County).

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Carmelo Domino, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to a minor, and allowed, permitted and suffered the consumption thereof by said minor on his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on Friday evening, March 13, 1953, a minor, eighteen years of age, in the company of two adult male companions, was served and permitted to consume several glasses of beer. It further appears that no inquiry was made by the bartender with respect to the age of the minor.

Defendant has no prior adjudicated record. In the absence of aggravating circumstances, I shall impose the minimum suspension for a violation of this character -- ten days. Re Carabelli, Bulletin 948, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 24th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-15, issued by the Board of Commissioners of the Township of Raritan (Middlesex County) to Carmelo Domino, t/a Domino's Tavern, 82 Super Highway, Raritan Township (Middlesex County), be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. May 4, 1953, and terminating at 2:00 a.m. May 9, 1953.

DOMINIC A. CAVICCHIA  
Director.

11. DISQUALIFICATION - CONVICTION OF CRIME WITHIN PAST FIVE YEARS - PETITIONER ADJUDGED GUILTY OF DISORDERLY CONDUCT ON THREE OCCASIONS DURING PAST FIVE YEARS - APPLICATION TO LIFT DENIED.

In the Matter of an Application )  
to Remove Disqualification because )  
of a Conviction, Pursuant to R. S. )  
33:1-31.2. )

CONCLUSIONS  
AND ORDER

Case No. 1046. )  
----- )

BY THE DIRECTOR:

In his application filed herein petitioner disclosed that on July 15, 1938, he had been convicted of the crime of carnal abuse, as a result of which he was sentenced to one year in a workhouse, and that on January 16, 1942, he had been convicted of petty larceny, as a result of which he received a suspended sentence. The crime of carnal abuse involves moral turpitude.

Fingerprint returns indicated that on June 25, 1948, petitioner had also been arrested on a charge of assault and battery. At the hearing two witnesses called by petitioner testified that petitioner had been arrested several times in the past few years. One witness testified that the records of the Office of the Prosecutor of the county in which petitioner resides disclosed that on August 30, 1948, petitioner pleaded non vult to a charge of assault and battery and received a suspended sentence of eighteen months. When petitioner was questioned at the hearing as to his reason for failing to disclose this conviction, he stated that "I didn't think of it." Petitioners who don't tell the truth in petitions filed by them or at the hearing held thereon will not be afforded relief in proceedings of this kind.

Moreover, another witness testified that the records of the local Police Department disclosed that petitioner was adjudged guilty of disorderly conduct on three occasions within the past five years, namely, on October 24, 1948, when he was fined \$100.00; on November 19, 1948, when he was fined \$75.00, and on July 30, 1950, when he was fined \$50.00; that said records also disclose that on June 29, 1951, petitioner was found guilty of shooting crap and fined \$25.00 and that on March 8, 1952, he was arrested on a charge of assault and battery and forfeited \$50.00 bail. While none of the adjudications mentioned in this paragraph constitutes a conviction of a crime, they clearly indicate that petitioner has not been law-abiding during the past five years. I shall deny the relief requested.

Accordingly, it is, on this 22nd day of April, 1953,

ORDERED that the petition herein be and the same is hereby DISMISSED.

DOMINIC A. CAVICCHIA  
Director.

12. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary Proceedings against  
 WILLIAM A. STOCK & WILLIAM H. STOCK  
 T/a RED TOP BAR AND PORCH Boardwalk and Porter Ave., East of the Boardwalk Seaside Park, N. J.,  
 Holders of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Seaside Park.

O R D E R

BY THE DIRECTOR:

It appearing that by Order dated November 5, 1952, the license held by the above named defendants was suspended for a period of fifteen days and that the effective dates of said suspension were to be fixed by subsequent order (Re Stock, Bulletin 948, Item 12); and

It further appearing that defendants' premises have now been reopened for business;

It is, on this 28th day of April, 1953,

ORDERED that the fifteen-day suspension heretofore imposed shall commence at 2:00 a.m. May 5, 1953, and terminate at 2:00 a.m. May 20, 1953.

DOMINIC A. CAVICCHIA  
 Director.

13. STATE LICENSES - NEW APPLICATIONS FILED.

Stefan's Distributing Co., Inc.  
 805-811 Georges Road, North Brunswick, N. J.  
 Application filed May 11, 1953 for transfer of State Beverage Distributor's License SBD-69 from Anna Hubert and Anna Stefan, t/a Stefan's Distributing Co.

Hudson River Day Line, Inc., t/a Hudson River Day Line and Day Line  
 S. S. Peter Stuyvesant, 303 W. 42nd Street, New York 36, N. Y.  
 Application filed May 12, 1953 for Plenary Retail Transit License.

New Jersey Apple Growers, Inc.  
 Cottrell's Road, Madison Township, Browntown, RD 1, Box 240, Matawan, N. J.  
 Application filed May 14, 1953 for Limited Distillery License.

Rudolph Brenner, Stephen M. Brenner and Stephen Brenner  
 T/a S. Brenner & Sons  
 514 Hamilton St., Franklin Township, Somerset County, N. J.  
 Application filed May 15, 1953 for Limited Wholesale License.