

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1267

MARCH 16, 1959.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1267

MARCH 16, 1959.

1. APPELLATE DECISIONS - SCHWARTZ v. KINGWOOD TOWNSHIP AND WIZNER.

STEVE SCHWARTZ and ANNA SCHWARTZ,)
Appellants,)
-vs-) ON APPEAL
TOWNSHIP COMMITTEE OF THE TOWNSHIP) CONCLUSIONS AND ORDER
OF KINGWOOD, and GEORGE WIZNER,)
Respondents.)

Herrigel & Herrigel, Esqs., by A. Warren Herrigel, Esq.,
Attorneys for Appellants.
Emmett D. Topkins, Esq., Attorney for Respondent Township.

BY THE DIRECTOR:

This is an appeal from the action of respondent Township Committee on December 10, 1958, whereby it granted a plenary retail distribution license to respondent George Wizner for premises to be erected on Tumble Falls Road, Kingwood Township, Hunterdon County.

The petition of appeal alleges that respondent Wizner failed to advertise properly his application in that said advertisement did not include the words "plans and specifications of building to be constructed may be examined at the office of the Municipal Clerk" and failed to file said plans and specifications with the issuing authority. The petition also alleges that respondent Township Committee did not consider the question as to whether or not there was need for the issuance of the license.

I have examined the transcript of the proceedings before the Hearer at the time scheduled for hearing the appeal. It appears that, before any testimony was taken, the Hearer called to the attention of the attorneys the ruling in Simmons v. Lawnside et al., Bulletin 1016, Item 4, wherein it was held that a local issuing authority has no jurisdiction to grant an application when there has not been complete compliance with Rule 2 of State Regulation No. 2 concerning a building not yet constructed. The attorney for the Township Committee admitted that plans and specifications had not been filed prior to December 10, 1958, when the license was granted after a public hearing had been held. However, he stated that plans and specifications had been filed on a subsequent date and that Wizner had thereafter caused to be advertised a notice of application in proper form. Appellants' attorney stated that on January 3, 1959, he filed with the Township Committee, on behalf of his clients, a written objection to the issuance of the license as readvertised. From the pleadings and the aforesaid proceedings I conclude that the Township Committee had no jurisdiction to grant the license on December 10 but that, at the present time, the plans and specifications are on file with the original application and that the notice of application has been readvertised presumably in proper form.

The motion made by appellants' attorney to dismiss the appeal will be denied because there appears to be no reason why

the applicant should be required to file a new application and advertise for a third time. I shall remand the case to the Township Committee to consider the original application upon its merits including the question as to whether or not there is need for the issuance of the license. Appellants and their attorney are entitled to be heard upon the written objection dated January 3, 1959, because it is evident that, at least, they had no opportunity to examine the plans and specifications at the public hearing previously held. The hearing pursuant to Rule 7 of State Regulation No. 2 should be held as promptly as possible. Where an application is for premises not yet constructed, the most an issuing authority may do is grant the application subject to an express condition that the license shall not be issued unless and until the premises as described in the plans and specifications, found acceptable by the issuing authority, shall first be completed. Haines v. Pemberton, Bulletin 851, Item 10.

Accordingly, it is, on this 2nd day of February, 1959,

ORDERED that the matter be and the same is hereby remanded to respondent Township Committee to schedule a hearing upon the written objection and thereafter to pass upon the merits of the original application filed by respondent George Wizner, including the plans and specifications now on file and the readvertisement of the notice of application.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - KELLY v. NEPTUNE CITY.

MABEL F. KELLY and WILLIAM F.
KELLY, t/a KELLY'S CORNER,

Appellants,

-vs-

MAYOR AND COUNCIL OF THE BOROUGH
OF NEPTUNE CITY,

Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

Richard J. Fay, Esq., Attorney for Appellants.
Joseph R. Megill, Esq., Attorney for Respondent.
Thomas F. Shebell, Esq., Attorney for the Objector,
Mrs. Philippine Gettle.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on October 27, 1958 five of the six councilmen (one refrained from voting) voted to deny appellants' application for a place-to-place transfer of Plenary Retail Consumption License C-1 from 7 West Sylvania Avenue to 43 Laird Avenue, Borough of Neptune City.

"Appellants allege in substance that respondent's action was erroneous in that it was unreasonable, arbitrary, capricious and contrary to the weight of the evidence adduced at the hearing before respondent Mayor and Council.

"Respondent in its answer filed herein denies appellants' allegations.

"The stenographic transcript of the proceedings before respondent was introduced in evidence pursuant to Rule 8 of State Regulation No. 15.

"Appellants have complied with all the formal requirements pertaining to their application. Plans and specifications for the building which is to constitute the licensed premises were prepared by a professional architect and were filed with respondent in accordance with Rule 1 of State Regulation No. 2.

"The record herein discloses that the proposed building to which the transfer is sought will be situated diagonally across the street or highway between 100 to 150 feet distant from the present licensed premises. The present and the proposed premises are located in a district zoned for business. At the present location there is a parking area to accommodate nine cars, and appellants' vacant land located across the street (a part of which will be used for the erection of the proposed premises) is presently used by patrons for parking purposes. There is testimony that when the proposed building is constructed, there will be ample parking space available for use by patrons of appellants' establishment.

"A number of the objectors who appeared before respondent Mayor and Council reside on side streets adjacent to and in some cases in close proximity to the site of the proposed premises as does Gertrude E. Thompson, who appeared at the hearing herein. The objections advanced were that the transfer of the license across the street would put a liquor establishment closer to their homes and, hence, would cause annoyance to them. On the other hand, some of the persons appearing before respondent also reside near the proposed site but were of the opinion that the transfer in question would not cause any annoyance to them. The daughter of the landlord of the present premises testified that appellants and the landlord had reached a verbal agreement on a new lease of the premises and, furthermore, there is a provision in the current lease that the license may not be transferred to other premises.

"Forrest Cottrell, Chief of Police of respondent borough, testified he knows of no complaint ever having been made pertaining to the operation of appellants' premises. He further testified that in his opinion the transfer across the highway to the proposed premises would benefit the municipality; that the licensed premises being located on the other side of the highway where sufficient parking facilities are provided would obviate the necessity of patrons having to cross the highway to visit appellants' premises and when leaving the premises to again cross the highway to reach the parking area for their cars; that the few cars which park adjacent to the present premises must back out into the highway when leaving, whereas at the proposed location the cars would have sufficient room to be turned around in order that they might be driven forward into the highway; that there is heavy traffic, especially on week-ends during the summer months, and that when pedestrians cross the highway to the present premises and use the manual, push-button control to stop the flow of traffic (which always has a green signal light), traffic congestion is caused in a southerly direction to an extent at times of approximately five hundred feet.

"William F. Kelly, one of the appellants, testified that no dancing is permitted on the licensed premises and that

the only music provided is a piano and a juke box; that appellants' licensed premises are closed between 8:00 and 9:00 p.m. each evening, during which time no one except employees are permitted on the premises when cleaning and other preparations are made in anticipation of the evening business; that, after reopening the premises on Friday, Saturday and Sunday evenings, a special officer is stationed in the parking area until closing time and, when especially busy, another person is stationed at the entrance to appellants' establishment to check ages of persons desiring to enter.

"The transfer of a liquor license to other persons or premises, or both, 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 ground, such action will be affirmed. On the other hand, where it appears that the refusal of a transfer is arbitrary or unreasonable, the action denying the transfer will, on appeal, be reversed.

"The situation which exists in the instant case is closely comparable to that in Leonia Liquors, Inc. v. Leonia, Bulletin 766, Item 1; Grower v. Hackensack, Bulletin 789, Item 1; Costa v. Verona, Bulletin 501, Item 2. In the latter case the then Commissioner stated:

'Thus, were appellant located in a different section of the municipality and seeking to transfer into the vicinity in question, or if, being within the area (as is the case), he were seeking to transfer to a site that would aggravate to any appreciable degree the existing concentration of licenses in that area, respondent would be justified in denying the transfer and, on appeal, I would sustain such denial. Neither of such situations, however, is present in this case. On the contrary, the facts herein indicate that the applicable ruling is that where no attack is made on the personal fitness of the applicant or the suitability of the premises, a refusal to transfer, whether from person to person or from place to place, cannot, in the absence of good independent cause, be sustained.'

See also Bivona et al. v. Hock, 5 N. J. Super. 118 (App. Div. 1949).

"The appellants or members of their family have conducted licensed premises at the present location since June 1949 and there is no indication that their business was operated in an improper manner. The testimony of the Chief of Police of the municipality confirms this fact.

"The contention that it would detrimentally affect the financial status of the landlord were the transfer approved has been ruled to be without merit. Cf. Sando v. Englewood Cliffs, Bulletin 1249, Item 1, and cases cited therein. The question of any agreement between the parties seeking to bind the tenant to remain in the premises or to retransfer the license to the landlord has been ruled by our courts to be against public policy and, therefore, void. Walsh v. Bradley, 121 N. J. E. 359; Lachow v. Alper, 130 N. J. E. 588; Takaks v. Horvath, 32 N. J. Super. 433.

"The objections voiced by objectors (some living a considerable distance from the proposed premises) are general in character and not sufficient in themselves to justify the refusal to approve an application for transfer of a license to

premises listed in a business neighborhood. Cf. Palmer v. Atlantic City, Bulletin 1017, Item 1.

"While it is true that the issuing authority's discretionary powers are very broad and that, on appeal, the burden of proof is on the appellant, the presumption in favor of the validity of the issuing authority's action is not conclusive. Ways and Witteborn v. Egg Harbor et als., Bulletin 951, Item 3; Olko v. Saddle River Township et al., Bulletin 914, Item 3. The reasons assigned for its action must be reasonably supported by the evidence in order for such action to be sustained. O'Bertz v. Perth Amboy, Bulletin 1011, Item 1.

"Under all the facts and circumstances in this case, I find that the refusal to approve the application for transfer of the license in question was unreasonable and I recommend that the action of respondent be reversed."

No exceptions to the Hearer's Report were taken within the time limited by Rule 14 of State Regulation No. 15. Having carefully considered all the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendation.

Accordingly, it is, on this 3rd day of February, 1959,

ORDERED that the action of respondent be and the same is hereby reversed and respondent is directed to approve such transfer application subject to the special condition that the transfer shall not be endorsed on the license certificate and become effective unless and until the proposed building is duly completed in keeping with the plans and specifications on file with the Borough Clerk and that appellant has complied with all other safety, health and sanitary regulations required by the Borough.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - PERMITTING ARRANGEMENTS FOR ILLICIT SEXUAL INTERCOURSE - NUISANCE - SALE TO MINOR - PRIOR RECORD - LICENSE SUSPENDED FOR BALANCE OF TERM (142 DAYS).

In the Matter of Disciplinary
Proceedings against

EDNA HAFNER
t/a EDNA'S RENDEZVOUS
45 West Broadway
Paterson, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-250, issued by the
Board of Alcoholic Beverage Control
for the City of Paterson.

Murner & Murner, Esqs., by James J. Murner, Esq., Attorneys for
Defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On September 10, 11, 17, 25 and 26, 1958, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of overtures and arrangements for illicit sexual intercourse and acts of perverted sexual relations; in violation of Rule 5 of State Regulation No. 20.

"2. On September 10, 11, 17, 25 and 26, 1958, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered on your licensed premises persons, females impersonating males, who appeared to be homosexuals; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and 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.

"3. On July 4, 1958, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Kathleen ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

ABC agents visited defendant's licensed premises on four separate occasions during the month of September 1958. During the first visit on September 10th, the agents engaged in conversation with a woman (hereinafter referred to as Ella) who promised that if they would return to defendant's premises on either the following Friday or Saturday night she would procure two females who would engage in illicit sexual relations with them. The agents left the premises at 1:00 a.m. the following morning. On Friday, September 12th, the agents returned to the premises and inquired of the bartender concerning Ella and told him of her promise to have females in the licensed premises on that night who would engage in immoral activities with them. The bartender stated that he did not see her. On the evening of September 17th, as the agents were engaged in conversation with the bartender about Ella's failure to be present on September 12th, Ella entered the premises. When the agents questioned her about her failure to appear on September 12th she stated that one of the bartenders employed at defendant's premises advised her that the ABC agents were to be in town on that date. She promised the agents that if they would come to the defendant's establishment on Thursday (September 25th) she would introduce them to females who would engage in illicit sexual intercourse. The bartender joined in the conversation and stated he desired also to engage in illicit intercourse, to which one of the agents suggested that he obtain his own girl and keep away from those which Ella was to provide for them. The agents observed seven females in the premises who, from their attire, hair style and demeanor, appeared to be Lesbians.

The agents again visited the defendant's premises on September 25th and some time after their arrival Ella came into the premises. She immediately approached the agents stating that on the previous night she had two girls for them. As Ella and the agents were engaged in conversation, a girl called

Ruth came over and Ella asked the bartender to give her a drink. The bartender poured a glass of beer for Ruth taking payment therefor from the money on the bar belonging to one of the agents. The agents inquired of Ella whether Ruth was available for illicit sexual relations. Ella then engaged in whispered conversation with Ruth and the agents were advised that Ruth would go out with one of them to engage in a perverted sex act. The agent informed the bartender what he and Ruth intended to do and then he left the premises. Five minutes thereafter Ruth emerged from the premises and after she got into the agent's car he drove to the far end of the parking lot. As they sat in the car Ruth stated that she charged \$5.00 to perform the perverted act, at which time the agent handed her a five-dollar bill (the serial number of which had been previously recorded). Another agent and two local detectives approached the car and ordered both occupants to come out. Ruth was directed to empty her purse and the five-dollar bill given to her by the agent was found. The agents, officers and Ruth returned to the licensed premises and identified themselves. One of the bartenders refused to answer questions and the other stated he had nothing to do with the arrangements that were made by Ruth and the agents.

An examination of the file with reference to Charge 3 discloses that on July 4, 1958 Kathleen ---, age 20 years, was served six or seven glasses of beer in defendant's licensed premises. The minor stated that she was not questioned as to her age before service of the drinks to her.

Counsel for defendant in attempted mitigation of penalty has submitted an affidavit by defendant wherein she states in substance, that since acquiring the licensed premises on May 28, 1958, she has attempted to keep lesbians and other undesirable characters from frequenting the premises. Furthermore, she states that because of illness she was absent from the licensed premises during September 1958 when the violations concerning immoral activities occurred; that because of her age and physical condition she intends to dispose of her business.

Licensees are responsible for violations committed on licensed premises during their absence or committed by their agents, servants or employees, even though they did not personally participate in the violations, or if committed contrary to instructions. Rule 33 of State Regulation No. 20; Re Paton, Bulletin 898, Item 3. See also Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947); Greenbrier, Inc. v. Hock, 14 N. J. Super. 39 (App. Div. 1951).

Defendant has a prior adjudicated record. Effective October 15, 1956 her license was suspended for twenty-five days for sale of alcoholic beverages to minors. Re Hafner, Bulletin 1139, Item 10.

There is no indication that any female was procured by the bartender to engage in immoral activities with the agents. Furthermore, the defendant was not present in the establishment when the arrangements were made with a female in this case. In view of these facts and taking into consideration the previous record of defendant occurring within the past five years, I shall suspend her license for the balance of its term. Defendant's suggestion to dispose of the licensed business seems to be well taken. For her to continue the operation of the establishment without her presence there in a supervisory capacity, in all probability would lead to future violations.

Accordingly, it is, on this 2nd day of February, 1959,

ORDERED that Plenary Retail Consumption License C-250, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Edna Hafner, t/a Edna's Rendezvous, for premises 45 West Broadway, Paterson, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. Monday, February 9, 1959.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS NUISANCE
(UNESCORTED FEMALES SOLICITING DRINKS, OBSCENE LANGUAGE) -
PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

279-10, INC.

t/a MIDTOWN TAVERN

279 Market Street & 10 Park Avenue

Paterson 4, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-17, issued by the Board of
Alcoholic Beverage Control for the
City of Paterson.

George S. Grabow, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On October 25, 31, November 15, 16, 20, 22 and 23, 1958, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered unescorted females frequenting your licensed premises to solicit male patrons, directly or indirectly, to purchase numerous drinks of alcoholic beverages for consumption by them and others; allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; and 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."

ABC agents were in defendant's licensed premises on the dates set forth in the charge herein. On all of the aforesaid visits the agents observed four unescorted females solicit numerous drinks from and at the expense of a number of male patrons, with the complete cooperation and assistance of the bartender Joseph Cropanese (secretary of the corporate licensee). On three of aforesaid visits these females also successfully practiced their "barfly" activities on the ABC agents. On November 15 aforesaid an agent observed that one of these females was served seven drinks within five minutes at the expense of an apparently intoxicated patron. During two of said visits an agent heard the bartender and one of the aforesaid females use foul and obscene language without restraint.

By way of mitigation the defendant's attorney has submitted a statement which I have carefully read, together with the reports of the agents.

Defendant has a prior adjudicated record. Effective August 20, 1956, its license was suspended by this Division for twenty-five days for sale to minors and fraud in its license application (Bulletin 1132, Item 3). Because the facts herein disclose an aggravated violation, I shall suspend defendant's license for forty days (cf. Re Johar Tavern, Inc., Bulletin 1210, Item 4), to which five days will be added because of the prior dissimilar violation which occurred within the past five years (Re Guarino, Bulletin 1259, Item 9), making a total suspension of forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days.

Accordingly, it is, on this 4th day of February, 1959,

ORDERED that Plenary Retail Consumption License C-17, issued by the Board of Alcoholic Beverage Control for the City of Paterson to 279-10, Inc., t/a Midtown Tavern, for premises 279 Market Street & 10 Park Avenue, Paterson, be and the same is hereby suspended for forty (40) days, commencing at 3:00 a.m. Friday, February 13, 1959, and terminating at 3:00 a.m. Wednesday, March 25, 1959.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE
SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary)
Proceedings against)

FIRST & LAST CHANCE, INC.)
t/a FIRST & LAST CHANCE BAR)
1473-75 Haddon Avenue)
Camden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-90, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Camden.)
-----)

Lipman & Casella, Esqs., by Philip L. Lipman, Esq., Attorneys
for Defendant-licensee.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'On September 12 and 13, 1958, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., James ---, age 18, and Robert ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"At the hearing herein, James and Robert testified that their respective dates of birth are June 14, 1940 and November

26, 1937; that on Friday, September 12, 1958 between 4:40 p.m. and 5:10 p.m., and Saturday, September 13, 1958 between 1:05 p.m. and 3:30 p.m., they visited the defendant's licensed premises; that Martin Twersky (an officer of the corporate licensee) was tending bar on both occasions; that on their first visit they each consumed four glasses of beer and purchased a pint bottle of wine and a quart bottle of beer for home consumption; that on their second visit they each consumed about 14 glasses of beer and four drinks of rum and coke; that aforesaid alcoholic beverages were served to them by Mr. Twersky who at no time questioned or required them to make any written representations as to their ages. The minors further testified that about a week or two later they returned to the licensed premises with an ABC agent, identified Mr. Twersky as the bartender who served them the aforesaid alcoholic beverages on the alleged dates and that they had not visited the licensed premises prior to September 12th aforesaid.

"In addition, James testified that on September 12th and 13th aforesaid, Robert and he were employed by the same company which was located about two blocks from the licensed premises and about five or six miles from his home; that he began working for said company on or about September 5, 1958 and that prior thereto he had not been in the area of the licensed premises except on one occasion when he applied for his aforesaid job.

"Ralph Schuldiner, an officer of defendant, testified that on September 12, 1958 at about 4:00 p.m., he relieved Mr. Twersky behind the bar and remained until closing time; that while on duty as aforesaid he did not see James and Robert on the licensed premises; that the first time he saw them was either weeks or months prior to September 12th aforesaid; that he had at that time refused to serve them any alcoholic beverages because they were unable to produce any identification; that he last saw them when they returned to the licensed premises in the company of an ABC agent and that in an interview that followed with the agent he did not inform him that he had previously refused to serve the aforementioned minors any alcoholic beverages.

"Mr. Twersky testified that at about 4:00 p.m. on September 12, 1958 he was relieved of his duties behind the bar by Mr. Schuldiner; that he returned to the licensed premises that same evening about 6:00 or 6:30; that he did not see James and Robert at any time on September 12, 1958; that on September 13, 1958 the aforesaid minors were on the licensed premises between 1:30 p.m. and 2:30 p.m. during which time he served each of them with two drinks of Coca Cola; that they had asked for and he refused to sell them any alcoholic beverages; that the first time he saw James and Robert was two weeks prior to September 13th aforesaid (one evening between 6 and 7 o'clock) at which time he had refused to serve them any alcoholic beverages because they were unable to produce any identification. Mr. Twersky further testified that subsequent to September 13th aforesaid he was questioned by an ABC agent and informed him that he had refused to serve James and Robert alcoholic beverages prior to September 13, 1958.

"I have carefully considered all the testimony adduced herein together with the brief filed by counsel on behalf of the licensee, and find that, notwithstanding the exhaustive cross-examination of the Division's witnesses, their testimony

remained unshaken and that they gave an accurate and truthful account of what transpired in the case. Under the circumstances, I conclude that the Division has sustained the burden of proof of defendant's guilt by a fair preponderance of the believable evidence and it is recommended that the defendant be found guilty as charged. I conclude also that the violation herein is aggravated because of the large number of drinks which the minors were permitted to consume on September 13, 1958.

"Defendant has no prior adjudicated record. It is further recommended that an order be entered suspending defendant's license for a period of twenty days, which is the minimum penalty imposed for an aggravated sale of alcoholic beverages to an 18-year-old minor. Re Cirigliano, Bulletin 1141, Item 8."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After carefully considering the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 9th day of February, 1959,

ORDERED that Plenary Retail Consumption License C-90, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to First & Last Chance, Inc., t/a First & Last Chance Bar, for premises 1473-75 Haddon Avenue, Camden, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, February 17, 1959, and terminating at 2:00 a.m. Monday, March 9, 1959.

WILLIAM HOWE DAVIS
Director.

6. AUTOMATIC SUSPENSION - SALE TO MINORS - LICENSE PREVIOUSLY
SUSPENDED BY DIRECTOR - APPLICATION TO LIFT GRANTED AT
EXPIRATION OF SUSPENSION NOW IN EFFECT.

Auto. Susp. #162)	
In the Matter of a Petition to)	
Lift Automatic Suspension of)	ON PETITION
Plenary Retail Distribution)	O R D E R
License D-7, issued by the Common)	
Council of the City of South Amboy)	
to)	
PINE LIQUOR STORE, INC.)	
101-103 South Pine Street)	
South Amboy, N. J.)	
-----)	

George G. Kress, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

A petition filed herein discloses that on January 26, 1959, Andrew Chinchar (president of Pine Liquor Store, Inc.) was fined \$100.00 and costs in the Municipal Court of South Amboy after he pleaded non vult to a charge of selling alcoholic beverages to minors in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by the corporation for the balance of its term. R. S. 33:1-31.1.

It further appears that on January 21, 1959, the Director suspended the license held by the corporation for twenty days

commencing at 9:00 a.m. January 28, 1959, and terminating at 9:00 a.m. February 17, 1959, after it had pleaded non vult in disciplinary proceedings to a charge alleging that it had sold alcoholic beverages to the same minors.

It appearing that the suspension imposed in the disciplinary proceedings is adequate, the relief requested herein will be granted at the expiration of the suspension now in effect.

Accordingly, it is, on this 3rd day of February, 1959,

ORDERED that the statutory automatic suspension of said License D-7 will be lifted at 9:00 a.m. Tuesday, February 17, 1959, at which time the license will be restored to full force and operation.

WILLIAM HOWE DAVIS
Director.

7. ADVERTISING - CONTRIBUTION OF "DINNERS ON THE HOUSE" BY LICENSEE-RESTAURATEURS TO BE AWARDED AS DOOR PRIZES AT AFFAIRS HELD BY CHARITABLE ORGANIZATIONS CONDITIONALLY PERMISSIBLE - PREVIOUS PROHIBITION MODIFIED.

March 2, 1959

Chanticleer, Inc.
Millburn, N. J.

Gentlemen:

This acknowledges your letter of February 19th inquiring whether you may, in response to request for donation of door prizes, furnish a dinner for two, not including alcoholic beverages, to the various organizations which from time to time request such donations.

Although it was ruled by my predecessor in Re Horn, Bulletin 951, Item 9, in December 1952, that "dinners on the house" could not be furnished by licensee-restaurateurs to charitable and other organizations to be awarded by such organizations as door prizes at social affairs, in my opinion the ruling is unrealistic and is widely and innocently disregarded by licensees unaware of its existence.

I can see no harm in permitting licensee-restaurateurs to donate one "dinner for two" by gift certificate clearly indicating on its face that no alcoholic beverages are included (Re Bowne, Bulletin 1017, Item 6) to be awarded as a door prize at any single social affair sponsored only by a bona fide charitable organization such as church or religious groups, fraternal and benevolent groups, veterans service groups, and fire and police units.

However, in view of the fact that the award of door prizes constitutes the conduct of a lottery (Re Reilly, Bulletin 323, Item 12), such dinners for two to be awarded as door prizes may be furnished only to organizations holding a raffles license under the Raffles Licensing Law to avoid any aiding or abetting of the conduct of an unlawful raffle with resulting jeopardy of license.

The foregoing modification of ruling in Re Horn is made on a tentative basis in the expectation that it will create no substantial problem of alcoholic beverage control. However, if any abuse of the privilege herein granted occurs in the future, the ruling herein made may be rescinded.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

ACTIVITY REPORT FOR JANUARY 1959

8. ARRESTS:

Total number of persons arrested	18
Licensees and employees	12
Bootleggers	6

SEIZURES:

Motor vehicles - cars	2
Stillis - 50 gallons or under	1
Mash - gallons	350.00
Distilled alcoholic beverages - gallons	43.91
Wine - gallons	3.66
Brewed malt alcoholic beverages - gallons	1.18

RETAIL LICENSEES:

Premises inspected	681
Premises where alcoholic beverages were gauged	1,030
Bottles gauged	17,870
Premises where violations were found	59
Violations found	74
Unqualified employees	23
Application copy not available	11
Reg. #38 sign not posted	9
Other mercantile business	2
Prohibited signs	1
Disposal permit necessary	1
Other violations	27

STATE LICENSEES:

Premises inspected	33
License applications investigated	12

COMPLAINTS:

Complaints assigned for investigation	555
Investigations completed	495
Investigations pending	132

LABORATORY:

Analyses made	221
Refills from licensed premises - bottles	19
Bottles from unlicensed premises	28

IDENTIFICATION BUREAU:

Criminal finger print identifications made	13
Persons fingerprinted for non-criminal purposes	150
Identification contacts made with other enforcement agencies	117
Motor vehicle identifications via N. J. State Police teletype	8

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	13
Violations involved	22
Sale during prohibited hours	17
Failure to close premises during prohibited hours	4
Sale to minors	1

Cases instituted to Division	34
Violations involved	58

Sale to minors	8	Aiding and abetting unauthorized sale	1
Sale below minimum resale price	7	Service to women at a bar (local reg.)	1
Sale during prohibited hours	6	Permitting immoral activity on prem.	1
Possessing indecent matter	4	Permitting foul language on premises	1
Permitting lottery activity (football pool, "50-50 club", horse-race pool)	3	Permitting bookmaking on premises	1
Solicitor violating terms of permit	2	Sale outside scope of license	1
Permittee engaging in conduct prohibited to employer	2	Aiding and abetting unauthorized transportation	1
Unlicensed sale by solicitor	2	Hindering investigation	1
Possessing contraceptives on premises	2	Act of violence on premises	1
Conducting business as a nuisance	2	Possessing liquor not truly labeled	1
Permitting gambling (wagering) on prem.	2	Failure to file notice of change in application	1
Delivery without bona fide invoice	2	Possessing containers (miniatures) under minimum standard of fill	1
Fraud and front	2	Possessing untaxed liquor	1
Unauthorized transportation	1		
Cases brought by municipalities on own initiative and reported to Division	20		
Violations involved	22		
Sale to minors	15	Sale during prohibited hours	2
Permitting brawl on premises	3	Failure to close premises during prohibited hours	1
Unqualified employees	1		

HEARINGS HELD AT DIVISION:

Total number of hearings held	54
Appeals	7
Disciplinary proceedings	35
Eligibility	5
Seizures	2
Tax revocations	5

STATE LICENSES AND PERMITS ISSUED:

Total number issued	898
Employment permits	119
Solicitors	59
Disposal	84
Social affair	306
Wine permits	6
Miscellaneous permits	94
Transit insignia	222
Transit certificates	8

Dated: February 3, 1959

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED
IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED
FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against)

JOHN BOHL, SR., JOHN BOHL, JR.
and ARTHUR BOHL
t/a BOHL BEVERAGE COMPANY
260 Crystal Street
North Arlington, N. J.,)

CONCLUSIONS
AND ORDER

Holders of State Beverage Distrib-
utor's License SBD-74, issued by
the Director of the Division of
Alcoholic Beverage Control.)

Leo J. Berg, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charge:

"On divers dates during June, July, August, September, October, November and December 1958, you sold, at retail, cases of malt alcoholic beverages of various brands to several of your customers at less than the prices thereof listed in the then currently effective Pamphlet of New Jersey Minimum Consumer Resale Prices of Alcoholic Beverages, published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

During an investigation of a complaint alleging that defendants sold malt alcoholic beverages at less than the minimum resale price, ABC agents obtained a written statement from Arthur Bohl. In his statement Arthur Bohl admitted that, during the period mentioned in the charge, he had sold cases of various brands of beer to about eight customers at fifteen cents per case less than the minimum resale prices then in effect for said items. Defendants' delivery cards, which were inspected by the ABC agents, also disclosed these violations.

Defendants have no prior adjudicated record. I shall suspend defendants' license for the minimum period of ten days. Re Jersey State Beverage Distributors, Inc., Bulletin 1197, Item 7. Five days will be remitted for the plea herein, leaving a net suspension of five days.

Accordingly, it is, on this 2nd day of February, 1959,

ORDERED that State Beverage Distributor's License SBD-74, issued by the Director of the Division of Alcoholic Beverage Control to John Bohl, Sr., John Bohl, Jr. and Arthur Bohl, t/a Bohl Beverage Company, for premises 260 Crystal Street, North Arlington, be and the same is hereby suspended for five (5) days, commencing at 7:00 a.m. Monday, February 9, 1959, and terminating at 7:00 a.m. Saturday, February 14, 1959.

WILLIAM HOWE DAVIS
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)

THOMAS DOLAN)
 t/a OLD FASHION TAVERN)
 454 Orange Street)
 Newark 7, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-22, issued by the)
 Municipal Board of Alcoholic)
 Beverage Control of the City of)
 Newark.)
 -----)

Thomas Dolan, Defendant-licensee, Pro se.
 William F. Wood, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On December 31, 1958, two ABC agents seized a number of bottles of alcoholic beverages on the defendant's licensed premises because their contents appeared to be low in proof. Subsequent analysis by the Division's chemist disclosed that the contents of five of said bottles when compared with samples of the genuine product of the labeled brands varied substantially in solids and color.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of twenty-five days imposed in cases involving five bottles (Re Wilcox, Bulletin 1232, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 2nd day of February, 1959,

ORDERED that Plenary Retail Consumption License C-22, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Thomas Dolan, t/a Old Fashion Tavern, for premises 454 Orange Street, Newark, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, February 10, 1959, and terminating at 2:00 a.m. Monday, March 2, 1959.

WILLIAM HOWE DAVIS
 Director.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Eagle Brewing Co.
210 Second Street
Catasauqua, Pennsylvania.

Application filed March 4, 1959 for person-to-person transfer of Limited Wholesale License WL-3 from Lebanon Valley Brewing Company, 840 North 7th Street, Lebanon, Pa.

Affiliated Distillers Brands Corp.
350 Fifth Avenue
New York, N. Y.

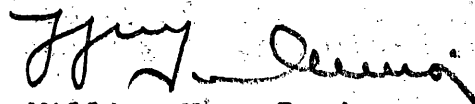
Application filed March 6, 1959 for place-to-place transfer of Salesroom on Plenary Wholesale License W-41 to 586 Kearny Avenue, Kearny, N. J.

Kramer Beverage Co., Inc.
102-116 North Virginia Avenue
Atlantic City, N. J.

Application filed March 9, 1959 for place-to-place transfer of Additional Warehouse License AW-26 on State Beverage Distributor's License SBD-189 from 118-120 West Spruce Street, North Wildwood, N. J., to 400-414 New Jersey Avenue, North Wildwood, N.J.

Hub City Distributors, Inc.
649 White Head Road Ext.
Trenton, N. J.

Application filed March 9, 1959 for place-to-place transfer of Limited Wholesale License WL-75 from 835 New York Avenue, Trenton, N. J.



William Howe Davis
Director.