

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

BULLETIN 1552

March 9, 1964

TABLE OF CONTENTSITEM

1. APPELLATE DECISIONS - BESSER, TOMASKI AND KRONMAIER v. MULLICA AND JOCRIS COMPANY, INC.
2. APPELLATE DECISIONS - PALGROTT, INC. v. WASHINGTON.
3. DISCIPLINARY PROCEEDINGS (Trenton) - ORDER IMPOSING SUSPENSION AFTER DISMISSAL OF APPEAL.
4. DISCIPLINARY PROCEEDINGS (Newark) - ORDER IMPOSING SUSPENSION AFTER DISMISSAL OF APPEAL.
5. ACTIVITY REPORT FOR JANUARY 1964.
6. STATUTORY AUTOMATIC SUSPENSION (Wallington) - ORDER LIFTING SUSPENSION.
7. STATUTORY AUTOMATIC SUSPENSION (Clifton) - ORDER STAYING SUSPENSION.
8. DISCIPLINARY PROCEEDINGS (Plumsted Township) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

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

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March 9, 1964

1. APPELLATE DECISIONS - BESSER, TOMASKI AND KRONMAIER v.
MULLICA AND JOCRIS COMPANY, INC.

ARNOLD A. BESSER, MICHAEL)	
TOMASKI AND MARY KRONMAIER,)	
Appellants,)	
v.)	ON APPEAL
)	CONCLUSIONS
TOWNSHIP COMMITTEE OF THE)	AND ORDER
TOWNSHIP OF MULLICA, and JOCRIS)	
COMPANY, INC.,)	
Respondents.)	

Joseph E. Robertson, Esq., Attorney for Appellants.
Glenn and Glenn, Esqs., by Alfred T. Glenn, Jr., Esq., Attorneys
for Respondent Township Committee.
H. Emil Paarz, Jr., Esq., Attorney for Respondent Jocris
Company, Inc.
Robert W. Wolfe, Esq., Attorney for Atlantic County Tavern Owners
Association and New Jersey Licensed Beverage Association.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the grant of a plenary retail consumption license by respondent Mullica Township Committee (hereafter Committee) to respondent Jocris Company, Inc. (hereinafter Jocris) for premises to be constructed on Seventh Avenue, Sweetwater, Mullica Township.

The genesis of this action is as follows: On January 21, 1963, Jocris filed an application for a place-to-place transfer of a plenary retail consumption license to premises on Seventh Avenue, Sweetwater, Mullica Township. Upon the filing of written objections, a hearing was held before the Committee, after which, on February 6, 1963, said application was unanimously denied by the three members of the Committee.

On June 5, 1963, Jocris filed the subject application for a new license to be issued after the proposed construction of a motel containing more than fifty sleeping rooms and a restaurant. The application included a survey and plans and specifications in accordance with applicable State Regulation. Written objections were filed to the second application and a hearing was held before the Committee.

It was clearly delineated at this hearing that the application was based upon the hotel exception of the State Limitation law set forth in R.S. 33:1-12.20. It was also pointed out that, whereas the January application encompassed all of the lands of Jocris, the present application restricted the sale and dispensing of alcoholic beverages to the proposed motel and the restaurant, bar and pool area which covers about

half of Jocris' lands. The application was unanimously approved by the two members of the Committee present (the third member having since died) by the following resolution:

"BE IT RESOLVED that the application of Jocris Company, Inc., for a new plenary retail consumption license for premises located at 7th Avenue, Sweetwater, is hereby granted, subject to the special condition that the license shall not be issued unless and until the proposed additional premises shall first have been duly completed so that there shall be at least 50 bona fide sleeping rooms; and subject to the further special condition that there shall be no operation under the license except during such period as the establishment is operated as a hotel or motor lodge or motel containing at least 50 bona fide sleeping rooms equipped and furnished for the accommodation of guests; and subject to the further special condition that there shall be no renewal or transfer of the license except for or to a hotel or motor lodge or motel containing at least 50 sleeping rooms; and subject to the further special condition that there shall be no consumption of alcoholic beverages on any property owned by the applicant in Mullica Township except on the licensed premises; and subject to the further special condition that a survey of the land from 7th Avenue to Sweetwater Creek shall be annexed to and made a part of the application, showing the licensed premises.

The petition of appeal filed herein urges reversal of respondent Committee's action for reasons which may be summarized as follows:

- (a) No public need or necessity was shown for the grant of said application;
- (b) A sufficient number of licenses are already in existence adequately to serve the public need;
- (c) The issue of public need or necessity had been adjudicated by the Committee in its earlier action and no new facts were demonstrated warranting the present grant;
- (d) The Committee did not have before it sufficient plans and specifications, or a survey, prior to its action herein (it should be noted that this point was abandoned, with the exception that it alleges that the resolution failed to contain the statement which would apprise anyone reading it that plans and specifications had been submitted to and found acceptable by the issuing authority);
- (e) Jocris should have appealed the prior action of January 21, 1963, rather than file the new application;
- (f) The Committee had no jurisdiction to consider the application filed June 5, 1963, in view of its earlier determination with respect to the January application. Although the first application was based on a transfer, and the second application on R.S. 33:1-12.20, appellants allege that, since the

premises, construction and location are one and the same, the second application constitutes a subterfuge;

- (g) The Committee acted arbitrarily and capriciously, in violation of the Regulations and decisions of the Division of Alcoholic Beverage Control and the laws of New Jersey;
- (h) R.S. 33:1-12.20 is inapplicable since it refers solely to hotels, and not motels as proposed in said application.

Respondent Committee denies the allegations of the petition; states that approval of the application was predicated upon the construction of a motel, authorization for which action was based on R.S. 33:1-12.20; asserts that its action was grounded upon the conviction that said grant would be "in the best interests of the Township of Mullica and that public interest and convenience would be served by the issuance of said license," and sets forth the adopting resolution.

In a separate answer filed by Jocris it (1) admits that objections to the prior application were filed but were not directed against Jocris but against another corporation known and designated as "Crow's Nest;" (2) admits that the new application was based upon other grounds and denies that the plans and specifications were the same in both instances; (3) asserts that adequate public need and necessity were shown, and (4) asserts that the Committee's action was taken in the proper exercise of its discretion.

Jocris also sets up the following defenses:

1. There is a need and necessity for the proposed facility;
2. The nearest consumption licensed premises is approximately one-quarter mile from the proposed premises;
3. The action of the Committee was properly taken under the aforementioned statute, as distinguished from the prior application for transfer of an existing plenary retail consumption license;
4. A valid building permit had been issued to Jocris for the construction of a motel, restaurant, swimming pool and warehouse, and a number of motel units had already been completed;
5. It is not necessary to prosecute an appeal on the earlier application in order to validate the present issuance;
6. The application was given a full and fair hearing before the Committee prior to its grant of the said application;
7. There is no practical difference between a hotel and a motel, and the statute contemplates the construction of motels as well;

also pointed out that the other licensed businesses in the municipality, with the exception of the one operated by Sweetwater Casino, were located at the southern end of the Township on the main highway, which is approximately five miles from the location in question.

He reiterated, on cross examination, that the population in Mullica Township had doubled in the past ten years, which demonstrated that there was real progress and a possibility of even greater progress in the next decade. For this reason the community needed a motel and restaurant, and a liquor license is, in his opinion, indispensable in the operation of this kind of facility.

Mr. Wolf also drew one additional distinction between the earlier application and the subject one. He pointed out that, at the hearing on the proposed transfer in January, no plans and specifications were presented. However, at the June hearing detailed plans and specifications were offered and considered by the members of the Committee and an entirely new picture was presented.

Nicholas J. Acciola (president) and Joseph R. Gionti (secretary-treasurer of Jocris), testifying in behalf of respondents, documented their decision to build upon the following reasoning: They made a survey of the entire area and found that there were many people who could not find suitable accommodations. This Township is located approximately three miles from Batsto Village (a recreational attraction which drew over a half-million visitors last year from many parts of the country). These visitors must travel to other communities for accommodations. In addition, there are many salesmen who travel in the area who find the same difficulty. Accordingly, it was determined that a modern, up-to-date facility containing at least fifty rooms, a restaurant and a swimming pool would be an asset, and they planned to invest between \$200,000 and \$250,000 in the construction of this motel. They also made it clear that the licensed premises would occupy 4.2 acres instead of 7.5 acres as reflected in the transfer application of January 1963. They stated that they are not interested in building a marina or catering to boatsmen. Their purpose is to provide accommodations for travelers and visitors. They pointed out that no large motel survives merely upon the patronage of the local populace but depends upon out-of-town and out-of-state patronage for its successful operation.

I am persuaded that the respondent Committee considered these factors when it arrived at its decision to grant this license. The testimony, as hereinabove reported, particularly that of Committeeman Wolf, clearly reflects the feeling that this is an expanding community. It seems apparent that the Committee was of the opinion that Mullica Township, like other communities in this State, should prepare for both a normal and, indeed, an abnormal population growth. It is well known that there has been a population explosion in our State and, to operate on the provincial principle of a "sleepy hollow", even in this municipality, is obsolescent and unrealistic.

This is not to say that much of the residential character of Mullica will not remain. Surely one facility does not destroy the character of a community. The fact is, as Hamilton testified, that up-grading and development of all businesses is welcome in the community. It is also indisputable that there is

no presently available modern facility in that area. The five motel units operated by the Sweetwater Casino cannot conceivably be considered adequate to serve the needs of a progressive area.

I also have the feeling that this was the thinking of Mayor Blemle when he voted in favor of the application. I cannot believe that the explanation offered by him at this hearing for his apparent change of heart reflected his thinking at the time the action was taken. He stated that the decision was a difficult one -- in fact, one of the most difficult that he had to make. I don't know why that should be so in view of the clear facts presented. In any event, he has not taken an affirmative position, in my view, against this type of development.

In this connection it should be emphasized that, regardless of whether or not the grant of the license is affirmed, this facility will be constructed. Building permits have been issued; construction is already well under way, and a considerable sum of money has been expended in the erection of motel units, the clearing of ground, the building of the restaurant and the preparation of the area for the swimming pool. The license for the dispensing of alcoholic beverages is merely an added convenience which the respondents feel would serve the best interests of the community.

The action of the respondent Committee is consistent with the view positively stated in Ward v. Scott, 16 N.J. 16 (1954) where the Supreme Court, dealing with an appeal from a zoning ordinance, set forth the following general principle:

"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 for variance. And their determination 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)."

II

A fundamental operating principle should be restated with respect to the action of the respondent Committee. In Clemencich v. Manalapan, Bulletin 1465, Item 1, it was settled that the issuing authority's discretionary powers in matters of this kind are broad and it has the power to determine, in the first instance, whether or not a license should be granted. The burden of proving that the respondent Committee abused its discretion falls upon appellants, and they must make out their case by a preponderance of the proofs. Family Finance Corp. v. Gaffney, 11 N.J. 565; O'Hara and Yuttal v. West Orange, Bulletin 1483, Item 2. Since the municipal action is discretionary, appellants must show manifest error or abuse of discretion below. Nordco v. State, 43 N.J. Super. 277; Rajah Liquors v. Division of Alcoholic Beverage Control, 33 N.J. Super. 598.

The Director's function on appeals of this kind 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 view. Broadley v. Clinton and Klingler, Bulletin 1245, Item 1; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1; Larion, Inc. v. Atlantic City, Bulletin 1306, Item 1. The action of the municipal issuing authority 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 Association v. Hoboken, 135 N.J.L. 502. Cf. Fanwood v. Rocco, 59 N.J. Super. 306.

I therefore find from the facts presented that the action of the respondent Committee was not arbitrary but based upon what it conceived to be the best interests of the community and upon the merits of the evidence before it.

III

Counsel for the appellants argues that, once the issuing authority reached a final determination upon an application for a license, it has no jurisdiction to reconsider the same at a subsequent meeting, citing Plager v. Atlantic City, Bulletin 80, Item 11. The facts, however, convincingly argue to the contrary. The January application had to do with a transfer of a license to premises consisting of 7.5 acres. No plans and specifications had been submitted suggesting the operation of a motel facility. The present application, as hereinabove mentioned is bottomed upon the construction of a motel containing fifty sleeping units, a restaurant, a bar, a swimming pool and a warehouse on 4.2 acres of land. The application is specifically filed under the applicable statute relating to such construction. Therefore, while parts of the applications have certain similarities the basic differences are sufficient to sustain the action of the respondent Committee. In fine, this was consideration of a new application, not reconsideration of the old.

Counsel also argues that the word "hotel," as used in R.S. 33:1-12.20, should be strictly construed, and cites State v. Gorum v. Mills, 34 N.J.L. 177, to the effect that "Statutes conferring particular exemptions from general burdens ... are strictly construed." This Division has taken what I consider to be a more practical and realistic view of "motel" vis-a-vis "hotel" particularly in the light of the phenomenal development of the motel industry in the past twenty years. In Rynax v. Neptune, Bulletin 1462, Item 1, when considering the issuance of a liquor license to a motel pursuant to R.S. 33:1-12.20, it was stated:

"The word 'hotel' has been interpreted by the Director of this Division as contemplating and including an exception in favor of 'motels' as well as 'hotels'. Bayshore Tavern Owners Association et al. v. Sea Bright, Bulletin 1378, Item 2; cf. Schermer v. Fremar Corporation, 36 N.J. Super. 46 (1955). Mrs. Rynax has testified that her facility will contain at least fifty sleeping units before the end of May 1962. Her application may, therefore, be properly considered within the contemplation of this section."

See also Longview Corp. v. South Hackensack, Bulletin 1494, Item 2. Cf. Ocean County Licensed Beverage Association and Liptak v. Point Pleasant, Bulletin 1522, Item 3.

IV

Counsel for the appellants further argues that there was a fatal omission in the resolution, viz., it did not contain the following clause, as directed by a release of this Division of April 25, 1956, directed to municipal issuing authorities, viz:

"Provided, however, that the license shall not be actually issued unless and until the premises, as described in the plans and specifications, prepared, submitted to and found acceptable by its issuing authority, shall first be completed."

This Division, in numerous cases, has taken a liberal view with respect to the inclusion of this particular provision in the granting resolution, when the fact of the prior acceptability of such plans has been determined by the municipal issuing authority. The mere failure to make the magic statement has not been considered to be sufficient cause fatally to defeat such resolution. This Division has always been interested in fair play and substantial justice, rather than in mere form. Cf. Wilson v. Schnettler, 5 L. Ed. (2d) 620 (U.S. Sup. Ct. 1961). If urgent need be, the resolution may be amended nunc pro tunc.

One additional point should be considered. It has been suggested that there were more residents opposing the resolution than favoring it. Petitions had been filed with the respondent Committee favoring and opposing. There is some testimony that a number of the residents signed both petitions and no authentic verification made of the signatures. Petitions are, of course, influential and persuasive. However, the counting of noses cannot serve as a substitute for the considered determination of the local issuing authority in fulfilling its obligation and responsibility in its designated capacity. Petitions are given weight after proper discount for self-interest and the often irresponsible way in which petitions are signed as friendly accommodation, without any considered thought of contents or of argument on the other side. Therefore, the weight to be given a petition must, in large measure, depend upon what the petition states, who signs it and how it accords with the policy and common sense of the officials responsible for the administration of law and whose duty and privilege it is to hear both sides. Dunster v. Bernards, Bulletin 99, Item 1.

It should finally be stated that, in the matter of licensing, the responsibility of a municipal issuing authority is "high," its discretion "wide" and its guide the public interest. Lublner v. Paterson, 33 N.J. 428 (1960).

I have considered the other matters raised in the appellants' petition of appeal and do not find them of substantial merit.

After reviewing the evidence and the well prepared memoranda of counsel and the arguments therein, I conclude that the appellants have failed to sustain the burden of establishing that the action of the Committee was erroneous, improper, capricious, or constituted an abuse of its discretionary powers. Rule 6 of State Regulation No. 15.

For the reasons aforesaid, it is recommended that an order be entered affirming the action of the respondent Committee and dismissing the appeal.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument in support thereof were filed with me by the attorney for the appellants. Answers to the exceptions and written argument in support thereof were thereupon filed with me by the attorneys for both respondents.

After careful consideration of the record herein, including the transcript of the testimony, the exhibits, the arguments of counsel, the Hearer's Report, the written exceptions and argument thereto, and the answers to said exceptions and argument thereto, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 21st day of January, 1964,

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

EMERSON A. TSCHUPP
ACTING DIRECTOR

2. APPELLATE DECISIONS - PALGROTT, INC. V. WASHINGTON.

PALGROTT, INC.,)	
Appellant,)	
v.)	ON APPEAL
)	ORDER
TOWNSHIP COMMITTEE OF THE)	
TOWNSHIP OF WASHINGTON)	
(Bergen County),)	
Respondent.)	

J. Mortimer Rubenstein, Esq., Attorney for Appellant.
Irving C. Evers, Esq., Attorney for Respondent.

BY THE ACTING DIRECTOR:

Appellant appeals from denial by respondent on October 29, 1963, of its application for transfer of Plenary Retail Consumption License C-5 issued to Frida Bluhm, t/a Maple Tree Inn, for premises 571 Ridgewood Road, Washington Township, to appellant for premises 299 Pasack Road, Washington Township (Bergen County).

Prior to the hearing on appeal, by letter of January 23, 1964, appellant advised me that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 24th day of January 1964,

ORDERED that the appeal herein be and the same is hereby dismissed.

EMERSON A. TSCHUPP
ACTING DIRECTOR

3. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING SUSPENSION AFTER DISMISSAL OF APPEAL.

In the Matter of Disciplinary Proceedings against

ANTHONY GEORGE CAPPUCCIO
t/a THE PADDOCK INN
24 South Warren Street
Trenton 8, N. J.

)
)
) SUPPLEMENTAL
) ORDER
)

Holder of Plenary Retail Consumption License C-177, issued by the City Council of the City of Trenton.

Edward A. Costigan, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

On November 18, 1963, I entered Conclusions and Order herein suspending the license for sixty days for permitting apparent homosexuals on the licensed premises. Re Cappuccio, Bulletin 1543, Item 3.

Upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

On January 17, 1964, the appeal was withdrawn and dismissed by agreement, pursuant to RR 1:8-6. The suspension may now be reimposed.

Accordingly, it is, on this 27th day of January, 1964,

ORDERED that the sixty-day suspension heretofore imposed, and stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-177, issued by the City Council of the City of Trenton to Anthony George Cappuccio, t/a The Paddock Inn, for premises 24 South Warren Street, Trenton, commencing at 2:00 a.m. Monday, February 3, 1964, and terminating at 2:00 a.m. Friday, April 3, 1964.

EMERSON A. TSCHUPP
ACTING DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING SUSPENSION AFTER DISMISSAL OF APPEAL.

In the Matter of Disciplinary Proceedings against)

JACK DOBBS)
t/a JOE'S BAR)
111 Washington Street)
Newark, N. J.)

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-897, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Joseph A. D'Alessio, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

On September 3, 1963, I entered Conclusions and Order herein suspending the license for one hundred days for permitting lewdness and immoral activity (solicitation for prostitution), foul language and nuisance on the licensed premises. Re Dobbs, Bulletin 1531, Item 3.

Upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

On January 17, 1964, the appeal was withdrawn and dismissed by agreement, pursuant to RR 1:8-6. The suspension may now be reimposed.

Accordingly, it is, on this 27th day of January, 1964,

ORDERED that the one-hundred-day suspension heretofore imposed, and stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-897, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Jack Dobbs, t/a Joe's Bar, for premises 111 Washington Street, Newark, commencing at 2:00 a.m. Monday, February 3, 1964, and terminating at 2:00 a.m. Wednesday, May 13, 1964.

EMERSON A. TSCHUPP
ACTING DIRECTOR

ACTIVITY REPORT FOR JANUARY 1964

5.

ARRESTS:			
Total number of persons arrested	-----		26
Licensees and employees	----- 13		
Bootleggers	----- 13		
SEIZURES:			
Still - 50 gallons or under	-----		2
Alcohol - gallons	-----		25,666
Mash - gallons	-----		80
Distilled alcoholic beverages - gallons	-----		103,575
Wine - gallons	-----		3,125
Brewed malt alcoholic beverages - gallons	-----		264,554
RETAIL LICENSEES:			
Premises inspected	-----		762
Premises where alcoholic beverages were gauged	-----		473
Bottles gauged	-----		6,951
Premises where violations were found	-----		75
Violations found	-----		96
Unqualified employees	----- 24	Disposal Permit necessary	----- 4
Application copy not available	----- 20	Improper beer taps	----- 3
Reg. #38 sign not posted	----- 19	Other violations	----- 19
Prohibited signs	----- 7		
STATE LICENSEES:			
Premises inspected	-----		12
License applications investigated	-----		4
COMPLAINTS:			
Complaints assigned for investigation	-----		386
Investigations completed	-----		342
Investigations pending	-----		190
LABORATORY:			
Analyses made	-----		104
Refills from licensed premises - bottles	-----		31
Bottles from unlicensed premises	-----		13
IDENTIFICATION:			
Criminal fingerprint identifications made	-----		8
Persons fingerprinted for non-criminal purposes	-----		225
Identification contacts made with other enforcement agencies	-----		146
Motor vehicle identifications via N.J. State Police teletype	-----		1
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities	-----		9
Violations involved	-----		10
Sale during prohibited hours	----- 6	Failure to close premises during	-----
Sale to minors	----- 3	prohibited hours	----- 1
Cases instituted at Division	-----		16
Violations involved	-----		18
Possessing liquor not truly labeled	----- 4	Sale during prohibited hours	----- 2
Permitting lottery activity (numbers, fight pool) on premises	----- 4	Permitting bookmaking on premises	----- 1
Beverage Tax Law non-compliance	----- 2	Conducting business as a nuisance	----- 1
Sale below filed price	----- 2	Permitting pinball machine on prem.	----- 1
Fraud in application	-----	Fraud in application	----- 1
Cases brought by municipalities on own initiative and reported to Division	-----		22
Violations involved	-----		24
Sale to minors	----- 13	Permitting brawl on premises	----- 2
Sale during prohibited hours	----- 4	Unqualified employee	----- 2
Failure to afford view into premises during prohibited hours	----- 2	Permitting lottery activity (numbers) on premises	----- 1
HEARINGS HELD AT DIVISION:			
Total number of hearings held	-----		35
Appeals	----- 8	Seizures	----- 1
Disciplinary proceedings	----- 13	Tax revocations	----- 3
Eligibility	----- 10		
STATE LICENSES AND PERMITS ISSUED:			
Total number issued	-----		1,265
Licenses	----- 1	Social affair permits	----- 339
Solicitors' permits	----- 80	Miscellaneous permits	----- 168
Employment permits	----- 169	Transit insignia	----- 419
Disposal permits	----- 77	Transit certificates	----- 11
Wine permits	----- 1		
OFFICE OF AMUSEMENT GAMES CONTROL:			
Licenses issued	----- 48	Enforcement files established	----- 31

EMERSON A. TSCHUPP
 Acting Director of Alcoholic Beverage Control
 Acting Commissioner of Amusement Games Control

dated: February 5, 1964

6. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto.Susp.#240)
 In the Matter of a Petition to Lift)
 the Automatic Suspension of Plenary)
 Retail Consumption License C-32,)
 issued by the Mayor and Council of)
 the Borough of Wallington to) ON PETITION
) ORDER
 VINCENT SAWICKI)
 t/a V & Z TAVERN)
 215 Paterson Avenue)
 Wallington, N. J.)

Joseph A. Banas, Jr., Esq., Attorney for Petitioner.

BY THE ACTING DIRECTOR:

It appears from the petition filed herein and the records of this Division that on January 9, 1964, the licensee-petitioner herein was fined \$50 and \$5 costs in the Wallington Municipal Court after he was found guilty of a charge alleging that he sold alcoholic beverages to a minor on May 28, 1963, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that the municipal issuing authority suspended the license for sixty days after finding the licensee guilty of a charge in disciplinary proceedings alleging the same sale to the minor. On appeal, the action of the municipal issuing authority was affirmed and the suspension, stayed during the pendency of the appeal, was reimposed to become effective at 3:00 a.m. Monday December 16, 1963, and to terminate at 3:00 a.m. Friday, February 14, 1964. Sawicki v. Wallington, Bulletin 1546, Item 3. Hence, I shall lift the automatic suspension in anticipation of the service of the currently effective suspension. Re Nixon, Bulletin 1535, Item 8.

Accordingly, it is, on this 24th day of January, 1964,

ORDERED that the statutory automatic suspension of said license C-32 be and the same is hereby lifted, effective 3:00 a.m. Friday, February 14, 1964.

EMERSON A. TSCHUPP
ACTING DIRECTOR

7. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto.Susp.#241)
 In the Matter of a Petition to Lift)
 the Automatic Suspension of Plenary)
 Retail Distribution License D-2,)
 Issued by the Municipal Board of) ON PETITION
 Alcoholic Beverage Control of the) ORDER
 City of Clifton to)

 MICHAEL & ANNA LUCHEJKO)
 t/a Swizzle Stick)
 137-139 Third Street)
 Clifton, N. J.)

Joseph M. Keegan, Esq., Attorney for Petitioners.

BY THE ACTING DIRECTOR:

It appears from the petition filed herein and the records of this Division that on January 7, 1964, Anna Luchejko, one of the licensees-petitioners, was fined \$50 and \$5 costs in the Clifton Municipal Court after pleading guilty to a charge of sale of alcoholic beverages to a minor on November 27, 1963, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioners' license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that disciplinary proceedings are in contemplation but have not yet been instituted by the municipal issuing authority against the licensees because of said sale of alcoholic beverages to the minor. A supplemental petition to lift the automatic suspension may be filed with me by petitioners after such disciplinary proceedings have been concluded. In fairness to petitioners, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Madison Narrow Fabrics, Bulletin 1537, Item 6.

Accordingly, it is, on this 24th day of January, 1964,

ORDERED that the aforesaid automatic suspension of license D-2 be stayed pending the entry of a further order herein.

EMERSON A. TSCHUPP
ACTING DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

MILDRED SCHULER HAYDOCK)
t/a TAYLOR'S BAR)
w/s Pinehurst Road)
Plumsted Township)
PO New Egypt, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Plumsted.)

Licensee, Pro se.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

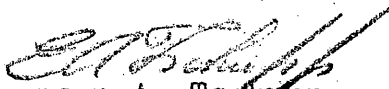
BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 26, 1963, she 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 Strand's Tavern, Inc., Bulletin 1510, Item 10.

Accordingly, it is, on this 27th day of January, 1964,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Plumsted to Mildred Schuler Haydock, t/a Taylor's Bar, for premises on west side Pinehurst Road, Plumsted Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Monday, February 3, 1964, and terminating at 2:00 a.m. Tuesday, February 18, 1964.


Emerson A. Tschupp
Acting Director