

Director

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

August 14, 1969

BULLETIN 1871

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STATE OF NEW JERSEY
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1. APPELLATE DECISIONS - MASTERS AND DIAMOND v. LIVINGSTON and AMERICAN LEGION LIVINGSTON POST 201.

Anthony J. Masters and Phillip Diamond,)	
)	
Appellants,)	On Appeal
v.)	
)	CONCLUSIONS
Township Council of the Township of Livingston, and American Legion Livingston Post 201,)	AND ORDER
)	
Respondents.)	

Max Klayman, Esq., Attorney for Appellants
Louis Bort, Esq., Attorney for Respondent Township Council
Dowd, Barbaris, Skripek & Kirby, Esqs., by Ernest A. Barbaris, Esq., Attorneys for Respondent American Legion

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellants (members of respondent American Legion Livingston Post 201) challenge the action of respondent Township Council of the Township of Livingston (hereinafter Council) which on June 3, 1968 granted renewal of the club license of respondent American Legion Livingston Post 201 (hereinafter Legion). In their petition of appeal they allege that the action of the Council was erroneous for reasons which may be briefly summarized as follows:

1. The application for renewal was granted without a public hearing, although timely objections to the said renewal application were made;
2. The published notice of application was fatally defective because it was "incorrect, inaccurate and incomplete";
3. A license issued by the Legalized Games of Chance Control Commission to the Legion was suspended for thirty days effective June 28, 1968, because of illegal gaming on the premises;
4. Club bar earnings were misused, and the liquor license privilege was violated by sales of alcoholic beverages to non-members on occasions without first obtaining special permits;
5. The Legion filed "false police reports and filed false information with the Township of Livingston Police Department in violation of Statute 2A:148-22.1".

The Council in its answer denies the substantive allegations of the petition and states that it has no knowledge of any false information filed with the Police Department. It sets up as separate defenses:

- (a) That the Legion's application was properly filed and advertised "In the form as prescribed by the rules and regulations of the Division of Alcoholic Beverage Control";
- (b) That no timely objection had been received and filed to the renewal of the club license prior to the Council's regular meeting on June 3, no objection was voiced by any person at the said meeting, and a resolution was unanimously adopted to renew the license of the Legion "among others";
- (c) That a letter purportedly dated May 31, 1968, addressed to the Township Clerk, "was received by said Township Clerk on June 4, 1968".

A separate answer was filed by the Legion substantially to the same effect. It adds that the determination of the Legalized Games of Chance Control Commission was rendered subsequent to consideration by the Council of the Legion's renewal application.

The hearing on appeal was de novo pursuant to Rule 6 of State Regulation No. 15. Hearings were held at this Division on October 28, 1968 and March 20, 1969, after which written summations were submitted by counsel for all parties herein. The lapse of time between hearings was due to the illness of appellants' attorney who was thus unable to participate in the continued hearing until the latter date. At this plenary hearing a full opportunity was afforded counsel to present testimony under oath and cross-examine witnesses.

I

Certain matters relating to the jurisdiction of the Council were raised in this appeal and will be considered preliminarily.

Appellants contend they were not afforded an opportunity for full hearing before the Council although timely objections were made to the renewal application. The evidence, which is supported by the testimony of Township Clerk William P. Schilling, shows that letters of objection to the said issuance (one dated May 31, 1968 and one dated June 1, 1968) were sent to the Township Clerk in envelopes postmarked June 3, 1968 and were received in his office on June 4, 1968. Both letters and envelopes were admitted into evidence.

At the hearing held on June 3, at which all applications for renewal of liquor licenses issued by the Council were considered, no one appeared to object to the Legion's application. Rule 8 of State Regulation No. 2 sets forth in pertinent part that:

"No hearing need be held if no such objections shall be lodged (but this in no wise relieves the issuing authority from the duty of making a thorough investigation on its own initiative)...."

The minutes of the meeting of June 3 disclose that the Mayor asked "if any one in the audience wanted to be heard on the renewals of these licenses"; that, there being no response, a motion was made, seconded and unanimously carried that the public hearing be closed. Thereupon an omnibus resolution was presented, and adopted on roll call, approving all pending applications and renewing all of the licenses including the Legion's. The minutes further set forth that all of the applications, including the subject application, had been checked, that approval had been given by the Fire Chief, the Police Chief and the Health Officer, and that the Township Clerk had received no complaints with reference to the subject license up to the date of the meeting. The report of the Police Chief was marked in evidence as Exhibit A-10.

Appellants herein, having failed to file timely written objection, are in no position to complain that they had no opportunity to oppose the issuance of the license. Scherzer et al. v. Atlantic Highlands and Atlantic Highlands Yacht Club, Bulletin 1037, Item 1. Cf. Marsteller v. Somers Point and Hagenbucher, Bulletin 244, Item 7. It is clear from the foregoing that the Council conducted the necessary investigation and the public hearing required by R.S. 33:1-24.

Appellants argue that the Council acted "with undue haste" in approving the said license. They point out that May 30 was a legal holiday and June 1 and 2 were a Saturday and Sunday; that the meeting held during the twenty-four hour period of June 3 was less than two business days following the date of the second publication of the notice of intention on May 29. There is no provision of the rules and regulations of this Division or the statute which refers to two "business days". The fact is that all applications, as noted hereinabove, were considered at a regularly scheduled meeting, and no one appeared to object to the grant of the subject application. The advertisements were properly published, and the Council had the legal authority to act on the renewal applications.

Appellants maintain that the Legion's application failed to set forth the names and addresses of all its officers and members of its governing body and that the same were also not properly set forth in the notice of application, in violation of Rule 2 of State Regulation No. 2 and Rules 6 and 7 of State Regulation No. 7. The application and the notices of intention contained a list of officers and board members and there was no way that the Council could know whether that list was complete since no objection was made at the time of the said hearing. Appellants' testimony does not clearly establish any omission of names from the application submitted to the Council.

Appellants also maintain that the name of the Legion was improperly adverted to in the published notices because the word "Inc." was omitted from its corporate title. I reject this contention because the purpose of a notice of intention is to inform the public of the intention of the Legion to apply for a license. Such omission was purely technical and did not tend to deceive or mislead the Council or the public in that respect. Cf. Hand and Peters v. Middle, Bulletin 1350, Item 1.

When the application for renewal of the license was considered by the Council, it properly exercised its discretion in approving the application. It is clear that in its con-

sideration of this application the Council was cognizant of the general principles relating to such issuance. A renewal license is in the same category as an original license. There is no inherent right of the licensee to sell intoxicating liquors. Cf. Bumball v. Burnett, 115 N.J.L. 254 (1935); Paul v. Gloucester County, 50 N.J.L. 585 (1888). Whether a license should be renewed rests in the first instance in the sound discretion of the issuing authority. Blanck v. Magnolia, 38 N.J. 484. Under the statutory duty imposed upon it, an issuing authority is required to consider an applicant's past record as a licensee which will include the determination of whether the licensed business has been conducted in a reputable manner. Cf. Zicherman v. Driscoll, 133 N.J.L. 586 (1946). The Legion had operated under a club license for a number of years prior thereto and, so far as the records before the Council indicated, it had conducted itself reputably and in a law-abiding manner. The action of the Council may not be reversed by the Director unless he finds the action of the Council was "clearly against the logic and effect of the presented facts" and "it is shown to be unreasonable, arbitrary and capricious." Hudson Bergen County Retail Liquor Stores Assn. v. Hoboken, 135 N.J.L. 502 (1947); Hawkes v. Rockaway et al., Bulletin 1535, Item 2; Fanwood v. Rocco, 59 N.J. Sup. 306 (1960).

Thus the burden of proof in all matters involving discretion such as in the matter sub judice rests upon appellants. Rule 6 of State Regulation No. 15. The Director's function on appeal is not to substitute his opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for that opinion and, if so, to affirm irrespective of his personal views. Biscamp v. Teaneck, 5 N.J. Super. 172 (1949); Broadley v. Clinton and Klingler, Bulletin 1245, Item 1; Guice v. Paterson and Elbar, Inc., Bulletin 1573, Item 1.

II

Appellants assert on this plenary de novo appeal that, because of certain alleged violations of the Alcoholic Beverage Law and the rules and regulations of this Division, "the renewal of the liquor license should not have been issued to American Legion Livingston Post 201, and having now been renewed, must be revoked" (underscoring added). They set forth the following alleged violations of the rules and regulations which they contend provide the basis for revocation of the Legion's license:

- (a) Failure to obtain special social affair permits when selling alcoholic beverages to non-members;
- (b) Failure to keep and maintain accurate books and records, in violation of Rule 36 of State Regulation No. 20;
- (c) Conducting an unlicensed raffle on October 11, 1966, in violation of regulations of the Legalized Games of Chance Control Commission; and also for an unspecified period in the latter part of 1966 or early 1967, conducting an unlicensed "50-50" raffle, in violation of the said Commission's regulations;

- (d) Receipts from bar sales were used to pay bingo workers and to pay attorney's fees for the defense of members in their individual capacities in law suits;
- (e) Bar proceeds were used for political contributions.

What appellants are seeking in effect, by their contention that the subject club license should now be revoked by the Director, is to convert this appeal from the renewal of the Legion's license into a disciplinary proceeding directed to the revocation of the license. Since I have determined on the basis of the facts appearing before the Council at the time of its consideration of the subject application that the Council acted properly in approving the renewal application, it is abundantly clear that an action to revoke the said license at this appeal hearing would be violative of due process and contrary to the Legion's statutory rights. In disciplinary actions under the procedure provided for in R.S. 33:1-31, the licensee is entitled to be served with charges preferred against it and must be afforded an opportunity, upon notice, to answer such charges. This section states in pertinent part:

"No suspension or revocation of any license shall be made until a 5-day notice of the charges preferred against the licensee shall have been given to him personally or by mailing the same by registered mail addressed to him at the licensed premises and a reasonable opportunity to be heard thereon afforded to him."

Cf. 111 Park Street Corporation v. Orange, Bulletin 1859, Item 2; Drozdowski v. Sayreville, 133 N.J.L. 536 (1946). Obviously, since these allegations were not made at any time before the Council, the Council could not have instituted such disciplinary action. The Council, however, may now, under the evidence provided at this hearing (which may be made available to it) take such action as it deems advisable under the circumstances. R.S. 33:1-24.

Under the present factual complex, appellants' contention that this appeal be converted to an action to revoke the Legion's license is frivolous and must be rejected. I have examined the other matters raised in the petition of appeal and find them to be without merit.

After review of the evidence and the written summations of counsel for appellants and Council, I conclude that appellants have failed to sustain the burden of proof of showing that the action of the Council was unreasonable, erroneous or constituted an abuse of discretion. Rule 6 of State Regulation No. 15. For the reasons aforesaid, it is, accordingly, recommended that an order be entered affirming the action of respondent Council 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 by the attorney for the appellants.

I have carefully considered all the facts and circumstances herein, including the entire record and exhibits introduced into evidence at the hearing of the appeal, as well as each exception and supporting arguments taken to the Hearer's report by the appellants' attorney. The various exceptions and arguments are without merit and, hence, no change in the result recommended by the Hearer is warranted. Accordingly, I concur in the Hearer's findings and conclusions and adopt his recommendations.

Accordingly, it is, on this 20th day of June 1969,

ORDERED that the action of the Township Council of the Township of Livingston be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

JOSEPH M. KEEGAN
DIRECTOR

2. APPELLATE DECISIONS - THE CHELSEA BAPTIST CHURCH OF ATLANTIC CITY v. ATLANTIC CITY and 730 ATLANTIC AVENUE, INC.

The Chelsea Baptist Church of Atlantic City (a corporation),
Appellant,
v.
Board of Commissioners of the City of Atlantic City, and 730 Atlantic Avenue, Inc., t/a B & B Bar & Grille,
Respondents.

On Appeal
CONCLUSIONS
AND ORDER

Patrick T. McGahn, Jr., Esq., Attorney for Appellant
Murray Fredericks, Esq., Attorney for Respondent Board of Commissioners
Feinberg & Ginsburg, Esqs., by Edward I. Feinberg, Esq.,
Attorneys for Respondent 730 Atlantic Avenue, Inc.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the unanimous action of respondent Board of Commissioners of the City of Atlantic City (hereinafter Commissioners) which on November 21, 1968 approved the place-to-place transfer of respondent licensee's plenary retail consumption license from premises 726-728-730 Atlantic Avenue and 7 South Delaware Avenue, to premises 3027 Atlantic Avenue, Atlantic City.

Appellant in substance contends in its petition of appeal that (a) the area to which the license was transferred is residential, (b) no need exists for another outlet at the proposed site, (c) the transfer is not in the best interests

of the community, (d) the Commissioners erred in approving the transfer because a similar application filed by the licensee for the transfer was unanimously denied by the Commissioners on February 1, 1968, and (e) under the existing circumstances the grant of the said transfer on November 1, 1968 was unreasonable and arbitrary.

Commissioners in answer filed in this matter denied allegations a, c, d and e and, regarding b, neither denied nor admitted the allegation but put appellant to its proof.

Moreover, the Commissioners allege in defense of their action that the resolution concerning the transfer, after consideration of all the facts, contained a special condition "that there shall be no live music on or in the licensed premises" and thus was in the best interests of the surrounding area; the particular location on Atlantic Avenue upon which the proposed premises are to be situated is a business zone. Three of the five Commissioners testified at the instant hearing and it was noted for the record that the remaining two were ill and could not appear at the hearing.

Commissioner Karlos R. La Sane testified that he became a member of the commission on May 21, 1968 and that he voted in favor of the place-to-place transfer in this matter. He further stated that he had occasion to visit the proposed premises located at 3027 Atlantic Avenue. Commissioner La Sane further testified that his reason for voting as he did (in favor of the transfer) was because of the urban renewal taking place whereby the old licensed establishment was demolished and it was necessary for it to relocate the license so that it could maintain its business at the proposed site. Furthermore, he stated that he checked the rules and regulations with reference to the distances involved between the liquor establishments, and he was of the opinion that the licensee was well within its rights to have the license transferred to the new location. He further said that he listened to the objections of the minister of the church, and the only thing he got from that was that the minister was against drinking. Furthermore, there were petitions produced and filed on behalf of those who were in favor of the transfer and many who he understood had objected previously but since removed their objections. Moreover, Commissioner La Sane said that, between the time he took office in May and the present time, more of the properties, because of urban renewal in the area where the licensee formerly had its place of business, were demolished.

Commissioner La Sane was interrogated at length by the attorney for the appellant and it appears from his testimony that he had a fairly clear understanding of the type of neighborhood where the proposed premises are located.

Commissioner William T. Somers testified that he was a member of the commission on February 1, 1968 and voted to deny an application filed by the licensee herein for a place-to-place transfer similar to the one in question because there were at least a half-dozen protestors at the hearing. In addition to the protest on behalf of The Chelsea Baptist Church, "there were two or three other church groups." Moreover, the Florence Crittenton Home and "Nicholson's Bar" opposed the transfer at that time. However, at the hearing, with reference to the transfer now under consideration, he

voted to approve the transfer of the license because only the appellant and Nicholson's Bar were objecting to the transfer. Another thing which prompted his vote to grant the transfer was that a special condition had been inserted in the license "that there could be no loud music in the establishment at Chelsea and Atlantic Avenues." When asked whether or not in his opinion there had been any material change in the area of the proposed premises between February 1, 1968 as compared to November 21, 1968, he said, "I think there might have been some material change in that ensuing period to this degree: There was a great deal of demolition which had not occurred in the early part of the year. But demolition really started to occur from February to November and many blocks, as you know, were just completely taken down."

Commissioner Arthur W. Ponzio testified that he had voted on the previous application of the licensee herein to deny the transfer in question and, when confronted by the present application, he voted to grant the transfer sought. Commissioner Ponzio said that he looked upon the present application as an entirely new one, an entirely new hearing, and he approached it on that basis. He further stated that he believed himself to be wrong when he voted previously to deny the transfer as he now was of the opinion that another license was perhaps needed in the area. Moreover, he stated that, in the absence of other church groups which had objected at the first hearing, with the exception of The Chelsea Baptist Church, whose rector objected at the instant hearing, and the withdrawal of the objection by another licensee located across the street by his failure to appear, he felt that his judgment in the matter was proper. Furthermore, "that this establishment would be run as a high-class, so to speak, restaurant, a picture was presented, prepared by an architect, the type of establishment, and in my mind I thought that this would perhaps enhance the neighborhood somewhat as against what was there, the original Michael's Barber Shop, and then an empty store, somewhat dilapidated and rundown."

Commissioner Ponzio further said that, previous to becoming a commissioner, he was an assistant city engineer for twenty-two years and that the area in which the proposed location is located was in a business zone.

Reverend James E. Westcott, Jr., pastor of The Chelsea Baptist Church, testified that his primary reason for objecting is that "we feel that the neighborhood has sufficient outlets to service the business that might be available. We feel that the added burden of an extra license is not necessary at this time. We feel also that the particular area involved is a residential area primarily and is also a center for four churches and two welfare-type agencies at least and rather close proximity to a public school, among other things."

Thomas R. Moore, Jr., assistant pastor of The Chelsea Baptist Church, testified that he too opposed the place-to-place transfer of the license in question. Reverend Moore said that he became associated with The Chelsea Baptist Church on June 1, 1968, and primarily works "in training Sunday School teachers, working with young people and children in performing the functions of the minister when Pastor Westcott is away."

H. Earl Johnson testified he is "connected with the Christian Science First Church" as vice president of the board of trustees and that the board of trustees passed a resolution objecting to the transfer of the license primarily because there are sufficient outlets in the community for all who wish to avail themselves of their services and that the existence of liquor establishments in an area does not lead to a peaceful or orderly community.

In the memorandum filed by the attorney for the appellant he emphasized that the main contention of the appellant in objecting to the transfer in question was because between February 1, 1968 (when the licensee's first application was denied) and November 21, 1968 (when the second application was approved), nothing had happened in the area which would warrant the commissioners to grant the place-to-place transfer. Thus, in effect, he raised the issue of res judicata. In this connection it is well to quote the applicable language of Justice Burling in Russell v. Board of Adjustment of the Borough of Tenafly, et al., 31 N.J. 58, at p. 66 (1959), where he noted that the issue before the Board was "whether there has occurred a sufficient change in the application itself or in the conditions surrounding the property to warrant entertainment of the application" and "the board did not abuse its discretion in considering the second application on its merits." In a well reasoned and definitive discussion of the issue of res judicata in Lubliner et al. v. Board of Alcoholic Beverage Control for the City of Paterson et als., 33 N.J. 428, 441 (1960), Justice Jacobs points out that:

"... the municipal issuing authority's function in determining whether additional licenses shall be allowed in the municipality or in particular areas, is primarily a policy determination on the basis of facts which are generally undisputed. Where the municipal issuing authority reasonably entertains the opinion that it is in the public interest to do so, it is free to alter an earlier policy determination ..."

This is particularly applicable in the situation sub judice. All licenses under the Alcoholic Beverage Law are annual licenses which may be renewed annually upon due application and approval. R. S. 33:1-26.

In Tozzi's Tavern, Inc. v. Plainfield Common Council, 65 N.J. Super. 286, Judge Gaulkin, speaking for the Appellate Division of the Superior Court, stated, at p. 289:

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

Moreover,

"The burden of proving bad faith, improper motives, illegal interest or other facts which affect the validity of a councilman's vote, is upon the challenger"

In the instant case three of the commissioners gave their reasons for their action in voting to grant a place-to-place transfer

to the proposed premises. Since the commissioners who changed their respective votes apparently were of the opinion that the facts and circumstances differed on the subsequent application considered by them, the doctrine of res judicata was not applicable. This Division has always recognized the right of a municipal issuing authority to alter its earlier policy in the reasonable exercise of its discretion.

"My function on appeals of this type is not to substitute my 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 my personal view on the subject." Hudson-Bergen County Retail Liquor Stores Association v. North Bergen et als., Bulletin 997, Item 2. As was previously stated, the proposed location is situated in a business zone. The mere fact that other licensed premises also serve the same area is not the controlling factor. Guarino v. Newark and Suppa, Bulletin 1069, Item 2.

After reviewing the testimony and the exhibits, I find that the Commissioners' action was neither arbitrary, unreasonable nor did it constitute an abuse of discretion. I conclude that appellant has failed to sustain the burden of proof necessary to establish that the action of the Commissioners was erroneous so as to warrant reversal thereof. Rule 6 of State Regulation No. 15. Hence it is recommended that an order be entered affirming the Commissioners' action and dismissing the appeal.

Conclusions and Order

Exceptions to the Hearer's report and argument in substantiation thereof were filed by appellant's attorney, and answers, together with arguments in support thereof, were filed by the attorneys for respondent Board of Commissioners and respondent licensee, respectively, pursuant to Rule 14 of State Regulation No. 15.

I have considered the exceptions on behalf of appellant and find that they have either been adequately answered by the Hearer or lack merit.

I have carefully considered the entire record herein, including the transcript of the proceedings, the exhibits, the Hearer's report, the exceptions and answer thereto. I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 24th day of June 1969,

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

JOSEPH M. KEEGAN
DIRECTOR

3.

ACTIVITY REPORT OF JUNE 1969

ARRESTS:		
Total number of persons arrested - - - - -		15
Licensees and employees - - - - -	4	
Bootleggers - - - - -	11	
SEIZURES:		
Motor vehicles - trucks - - - - -		2
Distilled alcoholic beverages - gallons - - - - -		5.76
Wine - gallons - - - - -		3.59
Brewed malt alcoholic beverages - gallons - - - - -		24.39
RETAIL LICENSEES:		
Premises inspected - - - - -		786
Premises where alcoholic beverages were gauged - - - - -		645
Bottles gauged - - - - -		10,400
Premises where violations were found - - - - -		216
Violations found - - - - -		332
No Form E-141-A on premises - - - - -	93	Form E-141-A incomplete - - - - - 38
Unqualified employees - - - - -	91	No disposal permit - - - - - 4
Application copy not available - - - - -	39	Other violations - - - - - 67
STATE LICENSEES:		
Premises inspected - - - - -		11
License applications investigated - - - - -		15
COMPLAINTS:		
Complaints assigned for investigation - - - - -		504
Investigations completed - - - - -		474
Investigations pending - - - - -		247
LABORATORY:		
Analyses made - - - - -		104
Refills from licensed premises - bottles - - - - -		82
Bottles from unlicensed premises - - - - -		8
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		4
Persons fingerprinted for non-criminal purposes - - - - -		793
Identification contacts made with other enforcement agencies - - - - -		483
Motor vehicle identifications via N.J. State Police teletype - - - - -		2
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities - - - - -		7
Violations involved - - - - -		7
Sale to minors - - - - -	4	
Sale during prohibited hours - - - - -	3	
Cases instituted at Division - - - - -		29
Violations involved - - - - -		35
Permitting lottery acty. on premises - - - - -	7	Fraud in application - - - - - 1
Sale during prohibited hours - - - - -	5	Permitting female impersonators on prem. - - - - - 1
Possessing liquor not truly labeled - - - - -	4	Unqualified employee - - - - - 1
Permitting lottery & bookmaking on prem. - - - - -	3	Opened container on "D" premises - - - - - 1
Sale below filed price - - - - -	3	Unauthorized transportation - - - - - 1
Sale to minors - - - - -	3	Delivery w/o bona fide invoice - - - - - 1
Permitting immoral acty. on prem. - - - - -	2	Fraud and front - - - - - 1
Perm. lottery & misc. gambling on prem. - - - - -	1	
Cases brought by municipalities on own initiative and reported to Division - - - - -		22
Violations involved - - - - -		29
Sale to minors - - - - -	8	Fail. to have copy of lic. application on premises - - - - - 1
Sale during prohibited hours - - - - -	3	Fail. to have list of employees on prem. - - - - - 1
Permitting immoral acty. on premises - - - - -	2	Permitting brawl on premises - - - - - 1
Unqualified employees - - - - -	2	Hindering investigation - - - - - 1
Fail. to file notice of change in license application - - - - -	2	Employing female bartender (local reg.) - - - - - 1
Fail. to close prem. during proh. hrs. - - - - -	2	Employment w/o ID card (local reg.) - - - - - 1
Unqualified stockholders - - - - -	1	Fraud in application - - - - - 1
Improper advertising - - - - -	1	Premises ineligible for license - - - - - 1
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		23
Appeals - - - - -	5	Eligibility - - - - - 7
Disciplinary proceedings - - - - -	10	Seizures - - - - - 1
STATE LICENSES AND PERMITS:		
Total number issued - - - - -		4,754
Licenses - - - - -	1	Miscellaneous permits - - - - - 465
Solicitors' permits - - - - -	2,547	Transit insignia - - - - - 308
Employment permits - - - - -	967	Transit certificates - - - - - 50
Disposal permits - - - - -	73	
Social affair permits - - - - -	443	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - -	30	Enforcement files established - - - - - 6
Premises inspected - - - - -	95	Premises where violations were found - - - - - 6
State Fair licenses issued - - - - -	36	Number of violations found - - - - - 7

Dated: July 10, 1969

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

4. SEIZURE - FORFEITURE PROCEEDINGS - SUPPLEMENTAL ORDER DIRECTING RETURN OF STOLEN ALCOHOLIC BEVERAGES TO INNOCENT CLAIMANT.

In the Matter of the Seizure on : Case No. 12,135
November 28, 1968 of a quantity :
of alcoholic beverages and a 1965 : On Hearing
Dodge Van on the public highway, :
Route 561, Berlin Township, County : SUPPLEMENTAL
of Camden and State of New Jersey. : CONCLUSIONS AND ORDER
.

Nathan L. Amdur, Esq., appearing for claimant, Eastern Freight Ways, Inc.
Harry Gross, Esq., appearing for Division.

BY THE DIRECTOR:

On March 14, 1969 I entered an Order directing the return of a motor vehicle, seized in the above-entitled matter, to Anthony J. Senteneri, after determining that this claimant acted in good faith and did not know that the motor vehicle would be used in the unlawful transportation of alcoholic beverages. Bulletin 1855, Item 3. The evidence therein established that the said Senteneri loaned his automobile to a neighbor who subsequently was involved in the transportation, in the said motor vehicle, of certain alcoholic beverages which were stolen from the warehouse of the Eastern Freight Ways, Inc.

At a supplemental hearing held on March 31, 1969, Philip Brafman, representing Crown Ltd. of Pennsylvania, entered a claim for the return of 684 containers of alcoholic beverages as set forth in a schedule attached hereto, made part hereof and marked Schedule "A". He gave the following account: This claimant purchased 1,110 cases of alcoholic beverages from Joseph E. Seagram and Sons, and the Eastern Freight Ways of St. Denis, Maryland, a common carrier acted as its agent in transporting the said alcoholic beverages to its facility in Pennsauken, N.J. Part of this shipment was in the motor vehicle of Senteneri when it was seized by a state trooper, and the alcoholic beverages were thereafter adopted by this Division.

The claimant produced invoices and identified the alcoholic beverages which were stolen from the Eastern Freight Ways on or about November 27, 1968 and established to my satisfaction that it is the owner of the said alcoholic beverages.

This was corroborated at a continued hearing held on April 9, 1969, at which time John J. Roulinabage, the Director of Claims of the said Eastern Freight Ways, Inc. testified that the alcoholic beverages referred to in Schedule "A" were part of the shipment consigned to the said claimant. He produced the shipping order and the original bill of lading to prove the ownership by this claimant of the said alcoholic beverages. He explained that while the shipment was in the Eastern Freight Ways terminal it was stolen.

This witness acknowledged that the Eastern Freight Ways, Inc. has no claim to the said alcoholic beverages; they do, in fact, belong to this claimant.

I am satisfied from the evidence produced herein that the alcoholic beverages were part of a stolen shipment and that it is the property of the said claimant.

The Director has the discretionary authority to return alcoholic beverages in such cases where the facts justify the return. R.S. 33:1-66(f); Seizure Case No. 10,207, Bulletin 1467, Item 6.

Under all the facts of this case I shall recognize the claim of the said claimant for the return of the said alcoholic beverages. Several of the bottles will be retained for use in related criminal proceedings now pending in the Camden County Criminal Court.

Accordingly, it is on this 25th day of June, 1969

DETERMINED and ORDERED that the alcoholic beverages set forth in Schedule "A", annexed hereto (with the exception of several bottles as hereinabove noted) be and the same shall be returned to the said Crown Ltd.

JOSEPH M. KEEGAN
DIRECTOR

SCHEDULE "A"

684 - containers of alcoholic beverages

- 5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
E. J. S., Inc.
t/a Sportsmen's Bar
681 Montgomery St.
Jersey City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-476 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City

Licensee, by Edward J. Shaara, President, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on May 21, 1969, it sold six 12-ounce cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re 284 Club, Bulletin 1854, Item 7.

Accordingly, it is, on this 24th day of June, 1969,

ORDERED that Plenary Retail Consumption License C-476, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to E.J.S., Inc., t/a Sportsmen's Bar, for premises 681 Montgomery Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Tuesday, July 1, 1969, and terminating at 2:00 a.m. Friday, July 11, 1969.

JOSEPH M. KEEGAN
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE -
LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
Helen Redding & Joseph L. Redding)
t/a Spike's Bar)
325 Lafayette Street)
Newark, N. J.)
Holders of Plenary Retail Consumption)
License C-819 issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Newark)

CONCLUSIONS
AND ORDER

Carl J. Yagoda, Esq., Attorney for Licensees
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on June 14, 1969, they sold twenty-four 12-ounce cans of beer below filed price, in violation of Rule 5 of State Regulation No. 30.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Sallar, Inc., Bulletin 1844, Item 6.

Accordingly, it is, on this 24th day of June 1969,

ORDERED that Plenary Retail Consumption License C-819, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Helen Redding and Joseph L. Redding, t/a Spike's Bar, for premises 325 Lafayette Street, Newark, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1969, commencing at 2:00 a.m. Monday, June 30, 1969; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Saturday, July 5, 1969.

JOSEPH M. KEEGAN
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) -
LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
)
Polonaise Lounge, Inc.)
206 No. 3rd Street)
Harrison, New Jersey,)
)
Holder of Plenary Retail Consumption)
License No. C-61, issued by the Town)
Council of the Town of Harrison.)
- - - - -)

CONCLUSIONS
and
ORDER

Joseph F. McCarthy, Esq., Attorney for Licensee
Louis F. Treole, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that
on divers dates between January 14 and March 13, 1969, it
permitted acceptance of horse race bets on the licensed
premises, in violation of Rule 7 of State Regulation No. 20.

Absent prior record, the license will be suspended
for sixty days, with remission of five days for the plea
entered, leaving a net suspension of fifty-five days.
Re Marinaccio, Bulletin 1831, Item 2.

Accordingly, it is, on this 25th day of June 1969,

ORDERED that Plenary Retail Consumption License
C-61, issued by the Town Council of the Town of Harrison to
Polonaise Lounge, Inc., for premises 206 North 3rd Street,
Harrison, be and the same is hereby suspended for fifty-five
(55) days, commencing at 2 a.m. Wednesday, July 2, 1969, and
terminating at 2 a.m. Tuesday, August 26, 1969.

JOSEPH M. KEEGAN
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

PAUL TUSCHYN)
t/a Riley's Tavern)
430 Long Avenue)
Hillside, New Jersey)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-15, issued by the Municipal Board of Alcoholic Beverage Control of the Township of Hillside.)

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Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

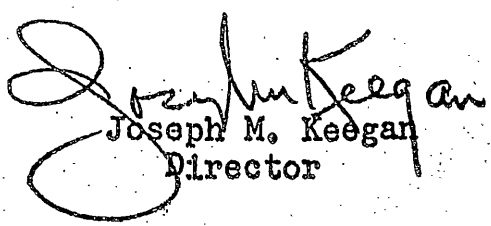
Licensee pleads non vult to a charge alleging that on April 1, 1969 he possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Thompson, Bulletin 1850, Item 7.

Accordingly, it is, on this 23rd day of June 1969,

ORDERED that Plenary Retail Consumption License C-15, issued by the Municipal Board of Alcoholic Beverage Control of the Township of Hillside to Paul Tuschyn, t/a Riley's Tavern, for premises 430 Long Avenue, Hillside, be and same is hereby suspended for the balance of its term, viz., until midnight June 30, 1969, commencing at 6 a. m. Monday, June 30, 1969; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 6 a. m. Saturday, July 5, 1969.


Joseph M. Keegan
Director