

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

BULLETIN 1650

December 16, 1965

TABLE OF CONTENTSITEM

1. DISCIPLINARY PROCEEDINGS (ATLANTIC CITY) - SALE TO INTOXICATED PERSONS - FOUL LANGUAGE AND INDECENT CONDUCT - SALE TO A MINOR - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 55 DAYS, LESS 5 FOR PLEA.
2. DISCIPLINARY PROCEEDINGS (TRENTON) - SALE DURING PROHIBITED HOURS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (PATERSON) - SALE DURING PROHIBITED HOURS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
4. ACTIVITY REPORT FOR OCTOBER 1965.
5. STATE LICENSES (MENLO PARK) - OBJECTIONS TO TRANSFER OF STATE BEVERAGE DISTRIBUTOR'S LICENSE - TRANSFER APPROVED SUBJECT TO SPECIAL CONDITION.
6. DISCIPLINARY PROCEEDINGS (LODI) - SALE TO A MINOR - PRIOR SIMILAR RECORD OF CORPORATE STOCKHOLDERS AS INDIVIDUALS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
7. DISQUALIFICATION REMOVAL PROCEEDINGS - WILLFUL EVASION OF INCOME TAX - MALICIOUS BURNING AND CONSPIRACY TO BURN A BUILDING - PRIOR DISCIPLINARY RECORD AS LICENSEE - CONNECTION IN BUSINESS CAPACITY WITH LICENSEE - ORDER DENYING PETITION.
8. DISCIPLINARY PROCEEDINGS (JERSEY CITY) - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (JERSEY CITY) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (SEASIDE HEIGHTS) - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (DOVER) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (PISCATAWAY TOWNSHIP) - SALE TO INTOXICATED PERSON - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
13. DISCIPLINARY PROCEEDINGS (TRENTON) - GAMBLING (WAGERING) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

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

BULLETIN 1650

December 16, 1965

1. DISCIPLINARY PROCEEDINGS - SALE TO INTOXICATED PERSONS - FOUL LANGUAGE AND INDECENT CONDUCT - SALE TO A MINOR - PRIOR DIS-SIMILAR RECORD - LICENSE SUSPENDED FOR 55 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Samjo Corporation)
t/a Stage Door Bar)
2228-2230 Atlantic Avenue)
Atlantic City, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-189, issued by the Board)
of Commissioners of the City of)
Atlantic City.)
-----)

Isaac C. Ginsburg, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on September 5, 1965, it (1) sold drinks of alcoholic beverages to intoxicated persons, in violation of Rule 1 of State Regulation No. 20, (2) permitted foul language (by a bartender and patrons) and indecent conduct (by a female patron), in violation of Rule 5 of State Regulation No. 20, and (3) sold drinks of beer to a minor, age 17, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for ten days effective May 14, 1962, for possession of alcoholic beverages not truly labeled. Re Samjo Corporation, Bulletin 1430, Item 3; Bulletin 1456, Item 7.

The license will be suspended on the first charge for twenty days (Re Ed's Tavern, Bulletin 1627, Item 9), on the second charge for ten days (Re Milchman, Bulletin 1571, Item 3) and on the third charge for twenty days (Re Park Grill, Inc., Bulletin 1638, Item 10), to which will be added five days by reason of the record of suspension of license for prior dissimilar violation occurring within the past five years (Re Triple T. Inc., Bulletin 1639, Item 2), or a total of fifty-five days, with remission of five days for the plea entered, leaving a net suspension of fifty days.

Accordingly, it is, on this 27th day of October, 1965,

ORDERED that Plenary Retail Consumption License C-189, issued by the Board of Commissioners of the City of Atlantic City to Samjo Corporation, t/a Stage Door Bar, for premises 2228-2230 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for fifty (50) days, commencing at 7:00 a.m. Wednesday, November 3, 1965, and terminating at 7:00 a.m. Thursday, December 23, 1965.

JOSEPH P. LORDI,
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Sebastian P. Giallella t/a Swan Cafe 532 Hudson Street Trenton, N. J.)

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-71, issued by the City Council of the City of Trenton)

Licensee, Pro se. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging (1), (2), (3) and (4) that on Sunday, August 29, 1965, he sold drinks of alcoholic beverages before 5:00 p.m. during hours prohibited by local ordinance and (5) that in his current application for license, he failed to disclose his record of prior license suspension, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective September 10, 1962, for sale during prohibited hours in violation of State Regulation No. 38, non-disclosure of which being the subject of the fifth charge herein.

The prior record of suspension of license for similar violation occurring within the past five years considered, the license will be suspended on the first, second, third and fourth charges for thirty days (Re Costantino's Bar, Inc., Bulletin 1598, Item 11) and on the fifth charge for ten days (Re Scangarello, Bulletin 1631, Item 6) or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 27th day of October, 1965,

ORDERED that Plenary Retail Consumption License C-71, issued by the City Council of the City of Trenton to Sebastian P. Giallella, t/a Swan Cafe, for premises 532 Hudson Street, Trenton, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. Wednesday, November 3, 1965, and terminating at 2:00 a.m. Wednesday, December 8, 1965.

JOSEPH P. LORDI, DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Louise Turner, Mary Condon and Margaret Brophy 591 East 31st Street Paterson, N. J.

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-298, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Henry Riccobene, Esq., Attorney for Licensees. Harry D. Gross, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to charges alleging that (1) and (2) on August 8, 1965, they sold drinks of alcoholic beverages after 3:00 a.m. during hours prohibited by local regulation and (3) in their current application for license failed to disclose the record of prior license suspension of Louise Turner, in violation of R.S. 33:1-25.

Licensee Louise Turner (then in partnership with Alma Badagliacca, t/a Louise Turner's Bar & Grill, holders of license for the same premises) has a previous record of suspension of license by the municipal issuing authority for five days effective October 2, 1960, for similar hours violation, the subject of the third charge.

The prior record of suspension of license of Louise Turner for similar violation within the past five years considered (Re Mandel, Bulletin 1472, Item 2), the license will be suspended on the first and second charges for thirty days (Re Jersey Bar, Inc., Bulletin 1636, Item 6) and on the third charge for ten days (Re Scangarello, Bulletin 1631, Item 6), or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 1st day of November, 1965,

ORDERED that Plenary Retail Consumption License C-298, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Louise Turner, Mary Condon and Margaret Brophy for premises 591 East 31st Street, Paterson, be and the same is hereby suspended for thirty-five (35) days, commencing at 3:00 a.m. Monday, November 8, 1965, and terminating at 3:00 a.m. Monday, December 13, 1965.

JOSEPH P. LORDI, DIRECTOR

ACTIVITY REPORT FOR OCTOBER 1965

ARRESTS:

Total number of persons arrested - - - - -		13
Licensees and employees - - - - -	7	
Bootleggers - - - - -	6	

SEIZURES:

Motor vehicles - cars - - - - -		1
Stillis - 50 gallons or under - - - - -		1
Alcohol - gallons - - - - -		1
Mash - gallons - - - - -		195
Distilled alcoholic beverages - gallons - - - - -		4.72
Wine - gallons - - - - -		27.15
Brewed malt alcoholic beverages - gallons - - - - -		5.18

RETAIL LICENSEES:

Premises inspected - - - - -		668
Premises where alcoholic beverages were gauged - - - - -		548
Bottles gauged - - - - -		8,775
Premises where violations were found - - - - -		66
Violations found - - - - -		87
Unqualified employees - - - - -	29	Disposal permit necessary - - - - - 3
Application copy not available - - - - -	16	Prohibited sign - - - - - 1
Other mercantile business - - - - -	9	Other violations - - - - - 21
Reg. #38 sign not posted - - - - -	8	

STATE LICENSEES:

Premises inspected - - - - -		23
License applications investigated - - - - -		6

COMPLAINTS:

Complaints assigned for investigation - - - - -		345
Investigations completed - - - - -		303
Investigations pending - - - - -		229

LABORATORY:

Analyses made - - - - -		134
Refills from licensed premises - bottles - - - - -		65
Bottles from unlicensed premises - - - - -		3

IDENTIFICATION:

Criminal fingerprint identifications made - - - - -		3
Persons fingerprinted for non-criminal purposes - - - - -		336
Identification contacts made with other enforcement agencies - - - - -		193

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -		7
Violations involved - - - - -		7
Sale during prohibited hours - - - - -	5	
Sale to minors - - - - -	2	
Cases instituted at Division - - - - -		32
Violations involved - - - - -		44
Possessing liquor not truly labeled - - - - -	6	Unqualified employee - - - - - 2
Sale to minors - - - - -	6	Failure to close prem. during proh. hours - - - - - 2
Sale during prohibited hours - - - - -	6	Mislabeled beer taps - - - - - 1
Fraud in application - - - - -	4	Aiding & abetting unlicensed sale - - - - - 1
Sale outside scope of license - - - - -	3	Permitting unauth. use of licensed vehicle - - - - - 1
Conducting business as a nuisance - - - - -	3	Sale below filed price - - - - - 1
Permitting hostesses on premises - - - - -	3	Sale outside scope of license - - - - - 1
Sale to intoxicated person - - - - -	2	
Permitting immoral activity on prem. - - - - -	2	
Cases brought by municipalities on own initiative and reported to Division - - - - -		22
Violations involved - - - - -		29
Sale to minors - - - - -	17	Conducting business as a nuisance - - - - - 2
Sale during prohibited hours - - - - -	6	Sale to intoxicated person - - - - - 1
Permitting brawl on premises - - - - -	2	Employee working while intoxicated - - - - - 1

HEARING HELD AT DIVISION:

Total number of hearings held - - - - -		34
Appeals - - - - -	4	Seizures - - - - - 2
Disciplinary proceedings - - - - -	21	Applications for license - - - - - 1
Eligibility - - - - -	6	

STATE LICENSES AND PERMITS ISSUED:

Total number issued - - - - -		1,904
Licenses - - - - -	2	Social affair permits - - - - - 499
Solicitors' permits - - - - -	42	Miscellaneous permits - - - - - 186
Employment permits - - - - -	302	Transit insignia - - - - - 207
Disposal permits - - - - -	78	Transit certificates - - - - - 32
Wine permits - - - - -	556	

OFFICE OF AMUSEMENT GAMES CONTROL:

Licenses issued - - - - -	1
Enforcement files established - - - - -	55

JOSEPH P. LORDI
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: November 5, 1965

5. STATE LICENSES - OBJECTIONS TO TRANSFER OF STATE BEVERAGE DISTRIBUTOR'S LICENSE - TRANSFER APPROVED SUBJECT TO SPECIAL CONDITION.

In the Matter of Objections to the)
Transfer of State Beverage Distri-)
butor's License SBD-103 from)

Nicholson's Beverages)
Rear 1405 Kuser Road)
Hamilton Township,)
P.O. Trenton, New Jersey,)

to)

Carmine Maglione)
t/a Menlo Beer & Soda Distributor)
Route 27, East of Frederick Street)
Menlo Park, N.J.)

CONCLUSIONS

Jack I. Doppelt, Esq., Attorney for Applicant
Wilentz, Goldman & Spitzer, Esqs., by Douglas T. Hague, Esq.,
Attorneys for Objectors
Lilliam Forman Neubauer, Attorney for Transferor Nicholson's
Beverages.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

On May 26, 1965 Carmine Maglione, t/a Menlo Beer & Soda Distributor, filed an application for person-to-person and place-to-place transfer of a State Beverage Distributor's license from Nicholson's Beverages, Rear 1405 Kuser Road, Hamilton Township, to the applicant and to premises on Route 27, East of Frederick Street, Menlo Park.

Written objections to the granting of the application for the said transfer were filed and a hearing was duly held thereon. These objections may be summarized as follows:

1. There are adequate beer outlets in the area and there is no need for such additional outlet;

2. The proposed premises will be located next door to an ice cream stand which also sells other refreshments and which draws many youngsters; such proposed outlet would be detrimental to the best interest of these children;

3. The proposed premises will be located on Route 27, a busy highway, and would create a traffic hazard and a hazard to the children patronizing the other facility;

4. The proposed transfer would create additional competition which would have an adverse effect on the business of the present licensees in the area.

At the hearing herein Carmine Maglione testified that he is the owner of the building at the proposed site which has three stores with separate entrances, each store being individually partitioned. His brother operates one of the stores which sells ice cream, ices and other food. He operates the second store in which he sells plants, produce and cabana pools.

He also owns three trucks and sells and makes deliveries of soda from the third store of these premises. He has been selling soda for the past eight years and has never been engaged in the sale of alcoholic beverages or beer. He further stated that he intends to sell beer at retail and will build up consumer routes in the Menlo Park area.

In further support of his application the applicant showed that there were many new homes built in this area, including a number of multi-family dwellings; that there were recently constructed two apartment buildings -- one of 360 units and another of 450 units. He feels that this area is undergoing a building boom, and a large number of persons, including some of his customers, have indicated they would like him to make home deliveries of beer.

James A. Stanley, who operates a gas station about a quarter of a mile away from the proposed premises, testified that he has received inquiries from his customers with respect to home deliveries of beer and he believes that it would be a convenience for him and others in the area to have the present applicant make such home deliveries.

Philip Peck, a holder of a plenary retail distribution license in Woodbridge Township, and also president of the Woodbridge Liquor Dealers Association representing twelve licensees in Woodbridge Township, presented the position of the four objectors who appeared at this hearing in opposition to this application. He testified that Woodbridge Township, which includes Menlo Park, had a population of 76,000 people in 1960 and there are presently in existence seventy-six "C" licenses and eleven "D" licenses. In addition, there is a "minimum of eight" SBD licenses serving in this area. He also stated that there were thirty "C" licenses and also "D" licenses in Edison Township.

He maintained that the transfer to this area of this license would adversely affect his business and the business of the other licensees in the area. He also asserted that the transfer of this license to the proposed premises would create a serious traffic hazard. On cross examination he stated that the only information with respect to the seven or eight SBD licenses serving the area came from his observance of trucks of these licensees which pass through the area, but he was unable to give the names of any residents who are presently being served by these licensees.

Counsel for the objectors also offered in evidence a copy of the zoning ordinance which purports to show that the proposed premises are in a general business zone which would preclude the operation of this business. It should be noted that, although notice of this application was sent to the local zoning board, no objection was entered by it with respect thereto. Furthermore, it is unnecessary, and indeed without the jurisdiction of this Division, to determine whether this business at the proposed premises is permissible under the zoning ordinance. Zoning matters are left to the local zoning authorities and, in the event that such business is impermissible under the local zoning ordinance, they may take such action consistent with such ordinance. Lubliner v. Paterson, 33 N.J. 428; Re Lutz, Bulletin 1401, Item 5.

It is significant that the only objections to the approval of this application came from local liquor licensees. The attitude of this Division has been well established to the effect that, in considering the objections to such applications, the privileges of a State Beverage Distributor's license are State-wide. Thus the question of public necessity and convenience cannot be determined on the narrow basis of the single municipality

in which the prospective licensee would have his principle office or warehouse. Re Beer Depot, Inc., Bulletin 1312, Item 8; Re Variety Beers and Soda Distributors, Inc., Bulletin 1000, Item 6.

Under R.S. 33:1-11(2c), such licensees may sell unchilled malt alcoholic beverages in not less than a half-case, in quantities not less than 144 fluid ounces. State Beverage Distributor licensees may sell and deliver these unchilled beverages both to licensed retailers and to consumers, with consumer sales and deliveries required to be made at prices which are not lower than the minimum prices filed. There may, of course, be no sale or delivery of alcoholic beverages for consumption upon the licensed premises.

It should be emphasized furthermore that a municipal ordinance limiting the number of retail licenses in the municipality does not apply to State Beverage Distributor licenses which are issued and transferred by the Director. Additionally, experience has indicated that this type of licensee offers little, if any, competition to retail distribution and consumption licensees. Cf. Re Walkiewicz, Bulletin 1172, Item 5.

There is considerable merit, however, to the argument of the objectors that over-the-counter sales to consumers at the proposed premises would be objectionable because of its proximity to the refreshment stand conducted by the licensee's brother in the same structure which attracts a considerable number of children and young adults, and the likelihood that an additional traffic hazard would be created on an already crowded highway by such sales which may further endanger the lives of these young people.

While I am convinced that such licensees do not conduct a retail business over-the-counter of any substance (and indeed very little, if any, competition to retail distribution and consumption licensees even in the same area in which the same are located), nevertheless any increase in traffic which may endanger the lives of children and young people should not be encouraged. Cf. Re Jiannantino, Bulletin 1246, Item 9.

The decision as to whether or not an application for a transfer of a State Beverage Distributor's license should be granted rests solely within the discretion of the State Director. The attitude and commitment of the applicant herein must fairly meet the objections presented. I am persuaded that, in order to properly meet these objections, the applicant should agree in writing that he will not conduct any over-the-counter sales of alcoholic beverages at the proposed premises.

I therefore recommend that the pending application be granted subject to the express condition that no deliveries of alcoholic beverages to consumers be made on the licensed premises, and that the applicant notify the Director, in writing, of his intention to comply with said condition. Cf. Re Watchung Spring Water Co., Inc., Bulletin 1581, Item 6; Re Beer Depot, Inc., supra.

Conclusions and Order

Written exceptions to the Hearer's Report were filed with me by the attorney for the applicant. A full examination and analysis of the matters raised in the exceptions are embraced and satisfactorily disposed of in the Hearer's report.

I have given careful consideration to the evidence, the Hearer's report and the argument of counsel. I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. I shall therefore grant the application.

Accordingly, it is, on this 27th day of October, 1965,

ORDERED that such application herein be granted subject to the express condition that no deliveries of alcoholic beverages to consumers be made on the licensed premises, and that the applicant notify the Director in writing of his intention to comply with said condition.

JOSEPH P. LORDI,
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR SIMILAR RECORD OF CORPORATE STOCKHOLDERS AS INDIVIDUALS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

J. C. R. Corporation)
t/a Luciano's)
State Highway #46)
Lodi, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-28, issued by the Mayor and Council of the Borough of Lodi.)

Licensee, by Richard Luciano, President, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 2, 1965, it sold drinks of alcoholic beverages to a minor, age 19, in violation of Rule I of State Regulation No. 20.

Although the licensee corporation has no previous record of suspension of license, the license then held by Richard Luciano and Camillo Peloso (each 33-1/3% stockholders of the licensee corporation) in partnership with John J. Luciano, for premises Route 46, Lot 6, Block 122, Lodi, was suspended by the Director for fifteen days effective November 12, 1957, for sale to minors and possession of indecent matter. Re Luciano and Peloso, Bulletin 1199, Item 10.

The license will be suspended for fifteen days (Re W & W, Inc., Bulletin 1639, Item 8), to which will be added five days by reason of the record of suspension of license of the stockholders while individual licensees (Re Woodland Grove, Inc., Bulletin 1625, Item 4) for similar violation occurring more than five but less than ten years ago (Re Stratford Inn, Inc., Bulletin 1641, Item 7,) or a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 27th day of October, 1965,

ORDERED that Plenary Retail Consumption License C-28, issued by the Mayor and Council of the Borough of Lodi to J.C.R. Corporation, t/a Luciano's, for premises State Highway #46,

Lodi, be and the same is hereby suspended for fifteen (15) days, commencing* at 3 a.m. Wednesday, November 3, 1965, and terminating at 3 a.m. Thursday, November 18, 1965.

JOSEPH P. LORDI,
DIRECTOR

* Order entered October 29, 1965 defers effective dates of suspension to commence at 3 a.m. Monday, January 3, 1966, and to terminate at 3 a.m. Tuesday, January 18, 1966.

7. DISQUALIFICATION REMOVAL PROCEEDINGS - WILLFUL EVASION OF INCOME TAX - MALICIOUS BURNING AND CONSPIRACY TO BURN A BUILDING - PRIOR DISCIPLINARY RECORD AS LICENSEE - CONNECTION IN BUSINESS CAPACITY WITH LICENSEE - ORDER DENYING PETITION.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant)
to R.S. 33:1-31.2)
Case No. 1950)
-----)

CONCLUSIONS
and
ORDER

Lillian Forman-Neubauer, Attorney for Petitioner

BY THE DIRECTOR:

Petitioner's criminal record discloses that on January 27, 1957, following a plea of nolo contendere in the Federal court at Camden to five counts of an indictment charging willful evasion of income tax, he was fined \$750 and placed on probation for three years on one count. Sentence on the remaining four counts was suspended. It further appears that on June 4, 1959, petitioner was convicted in the Camden County Court for "malicious burning" in violation of N.J.S. 2A:89-2(A) and for conspiracy to burn a building in violation of N.J.S. 2A:98-1 and 2; as a result thereof he was sentenced to serve from one to three years in New Jersey State Prison on each conviction, sentences to run concurrently. On June 12, 1959 petitioner was again sentenced in the Federal court for violation of probation to serve one year to run concurrently with the sentence imposed in State court on June 4, 1959. Petitioner was paroled from State Prison on September 13, 1960. Since the crimes of which petitioner was convicted involve the element of moral turpitude, he was thereby rendered ineligible to engage in the alcoholic beverage industry in this State, R.S. 33:1-25, 26.

The records of this Division disclose that on April 24, 1951 the New Town Tavern, Inc. obtained its license by transfer from petitioner whose wife was the holder of ninety-eight per cent. of its corporate stock; that petitioner continued to be employed by the corporate licensee as its manager; that effective March 28, 1955 the license of the New Town Tavern, Inc. was suspended by the then Director for seventy days for immoral activities (show) and for possession of contraceptives (Re New Town Tavern, Inc., Bulletin 1055, Item 2), which suspension was affirmed on appeal to the Superior Court (New Town Tavern, Inc. v. Davis, 37 N.J. Super. 376, reprinted in Bulletin 1078, Item 1); that at the time of said violations petitioner was in the licensed premises in his capacity as manager. It further appears that petitioner's license for the same premises was twice suspended by the State Director for ten days commencing April 19, 1948, for possession

of illicit liquor (Re Bushkoff, Bulletin 800, Item 6) and for thirty-five days, commencing January 22, 1951, for a lewd show involving "bumps and grinds" and for permitting women at the bar contrary to local ordinance (Re Bushkoff, Bulletin 896, Item 4).

The records of this Division further disclose that on September 29, 1964, agents of this Division were assigned to investigate a complaint that petitioner was employed by 7921, Inc., t/a Red Hill Inn, a retail corporate licensee, for the same premises as licensed to Bushkoff and New Town Tavern, Inc. The agents reported that an officer of the licensee informed them that he had accepted a proposal from petitioner to book shows for the licensed premises and that, in return for such services, the licensee would purchase its meat supplies from petitioner who was a meat jobber; and that petitioner had booked two such shows. It further appears that on November 16, 1964 petitioner, in a sworn statement, claimed that he and three others each held a twenty-five percent. interest in the aforesaid corporate licensed business; that he had invested \$2,267 in cash in the corporation; that he was to receive one-third of its profits; that he could not be an officer of record because of his disqualification; that the then attorney for the licensee (not the attorney herein) advised him that he would hold twenty-five shares of the corporate stock in escrow for him; that he booked and managed the shows for the licensee; that he did advertising for the licensed premises, purchased its meats, took care of the linen supplies and supervised the hiring of employees from the Union; but that he no longer had any interest in the licensed business and that it was his wish to fully cooperate with the agents in the hope that it would not adversely affect his application to remove his disqualification. However, the report of agents disclosed that petitioner had no interest in the business of the corporate licensee, as claimed.

(It may be noted, in passing, that the license of 7921, Inc. was suspended for thirty days by order dated July 1, 1965 (for undisclosed interest of one Barry Shapiro) but that imposition of the suspension was deferred because the licensed premises had been destroyed by fire. Re 7921, Inc., Bulletin 1631, Item 3.)

At the hearing held herein, petitioner (56 years old) denied that, subsequent to his parole on September 13, 1960, he had been engaged in or had any interest in the alcoholic beverage industry in this State; denied he had invested \$2,267 in cash in the aforesaid corporate licensed business, and further testified that he was self-employed as a meat jobber; that in September 1964, the licensee owed him about \$2,200 for meat sold it and was unable to pay for the same; that the licensee verbally promised, and he agreed, to accept twenty-five per cent. of its stock and one-third of its profits in payment of his claim; that by reason of aforesaid agreement he "took it for granted" that he was the owner of twenty-five per cent. of the licensed business; that he accepted aforesaid proposition to salvage his \$2,200; that the licensee failed to keep its promises; and that he was aware of his disqualification at the time he accepted aforesaid proposal.

It is apparent that petitioner, although disqualified, was connected in a business capacity with the licensee, and attempted to enter into an oral agreement to acquire a prohibited interest (R.S. 33:1-25, 26) in a retail licensed business.

To afford petitioner the relief requested it is necessary that I find that he has been conducting himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest. See R.S. 33:1-31.2.

While more than five years have elapsed since his parole on September 13, 1960, I am not satisfied, by reason of petitioner's criminal record and his apparent disregard for the alcoholic beverage law of this State and the rules and regulations of this Division, that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 26th day of October, 1965,

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

JOSEPH P. LORDI,
DIRECTOR

8. 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)

Vito A. Cavaluzzi and Josephine Cavaluzzi, t/a Jewett Tavern 21 Jewett Avenue Jersey City, N. J.)

CONCLUSIONS and ORDER

-----)
Holders of Plenary Retail Consumption License C-247, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Licensees, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on October 3, 1965, they sold a pint bottle of gin for off-premises consumption, 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 Parkes, Perlowski & Guzek, Bulletin 1641, Item 8.

Accordingly, it is, on this 1st day of November, 1965,

ORDERED that Plenary Retail Consumption License C-247, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Vito A. Cavaluzzi and Josephine Cavaluzzi, t/a Jewett Tavern, for premises 21 Jewett Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, November 8, 1965, and terminating at 2:00 a.m. Thursday, November, 18, 1965.

JOSEPH P. LORDI,
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

Josephine Galka)
t/a Jo's Bar)
373 Palisade Avenue)
Jersey City, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-401, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Licensee, Pro se.
Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads nolo contendere to a charge alleging that on September 28, 1965, she possessed an alcoholic beverage in one 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 Levine, Bulletin 1638, Item 9.

Accordingly, it is, on this 1st day of November, 1965,

ORDERED that Plenary Retail Consumption License C-401, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Josephine Galka, t/a Jo's Bar, for premises 373 Palisade Avenue, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, November 8, 1965, and terminating at 2:00 a.m. Saturday, November 13, 1965.

JOSEPH P. LORDI,
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

Ralph F. & George E. Tompkins t/a Tompkins' Spa 1320 Boulevard Seaside Heights, New Jersey)

CONCLUSIONS and ORDER

-----)
Holders of Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of Seaside Heights.)

Christian J. Jorgensen, Esq., Attorney for Licensees.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on June 19, 1965, they sold mixed drinks of alcoholic beverages to two minors, ages 18 and 19, in violation of Rule 1 off State Regulation No. 20.

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 Fischer, Bulletin 1530, Item 3.

Accordingly, it is, on this 3rd day of November, 1965,

ORDERED that Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of Seaside Heights to Ralph F. and George E. Tompkins, t/a Tompkins' Spa, for premises 1320 Boulevard, Seaside Heights, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, November 8, 1965, and terminating at 2:00 a.m. Thursday, November 18, 1965.

JOSEPH P. LORDI,
DIRECTOR

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

In the Matter of Disciplinary Proceedings against
 Cleffi's Cafe, Inc.
 t/a Cleffi's
 Perry Street and Highway 46
 Dover, N. J.
 Holder of Plenary Retail Consumption License C-20, issued by the Board of Aldermen of the Town of Dover

CONCLUSIONS and ORDER

 Donley and Korpita, Esqs., by George Korpita, Jr., Attorneys for Licensee.
 Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 21, 1965, it possessed an alcoholic beverage in one 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 Garrigues, Bulletin 1642, Item 5.

Accordingly, it is, on this 3d day of November, 1965,

ORDERED that Plenary Retail Consumption License C-20, issued by the Board of Aldermen of the Town of Dover to Cleffi's Cafe, Inc., t/a Cleffi's; for premises Perry Street and Highway 46, Dover, be and the same is hereby suspended for five (5) days, commencing at 1:00 a.m. Monday, November 8, 1965, and terminating at 2:00 a.m. Saturday, November 13, 1965.

JOSEPH P. LORDI,
DIRECTOR

13. DISCIPLINARY PROCEEDINGS - GAMBLING (WAGERING) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

George Kriss)
t/a Bismark Cafe)
29 East Hanover Street)
Trenton, N. J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-202, issued by the City Council of the City of Trenton.)

Licensee, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

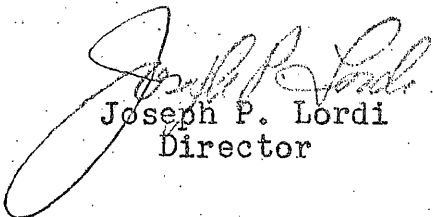
Licensee pleads non vult to a charge alleging that on October 22-23, 1965, he permitted wagering in connection with the playing of a bowling machine game on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Licensee, then in partnership with Cleo Mary Ward, has a previous record of suspension of license by the Director for thirty-five days effective October 22, 1963, for sale to minors and sale to an intoxicated person. Re Kriss and Ward, Bulletin 1538, Item 3.

The license will be suspended for fifteen days (Re Rogers, Bulletin 1546, Item 8), to which will be added five days by reason of the record of suspension of license for dissimilar violation occurring within the past five years (Re Triple T. Inc., Bulletin 1639, Item 2), or a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 10th day of November 1965,

ORDERED that Plenary Retail Consumption License C-202, issued by the City Council of the City of Trenton to George Kriss, t/a Bismark Cafe, for premises 29 East Hanover Street, Trenton, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Wednesday, November 17, 1965 and terminating at 2 a.m. Thursday, December 2, 1965.


Joseph P. Lordi
Director