

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

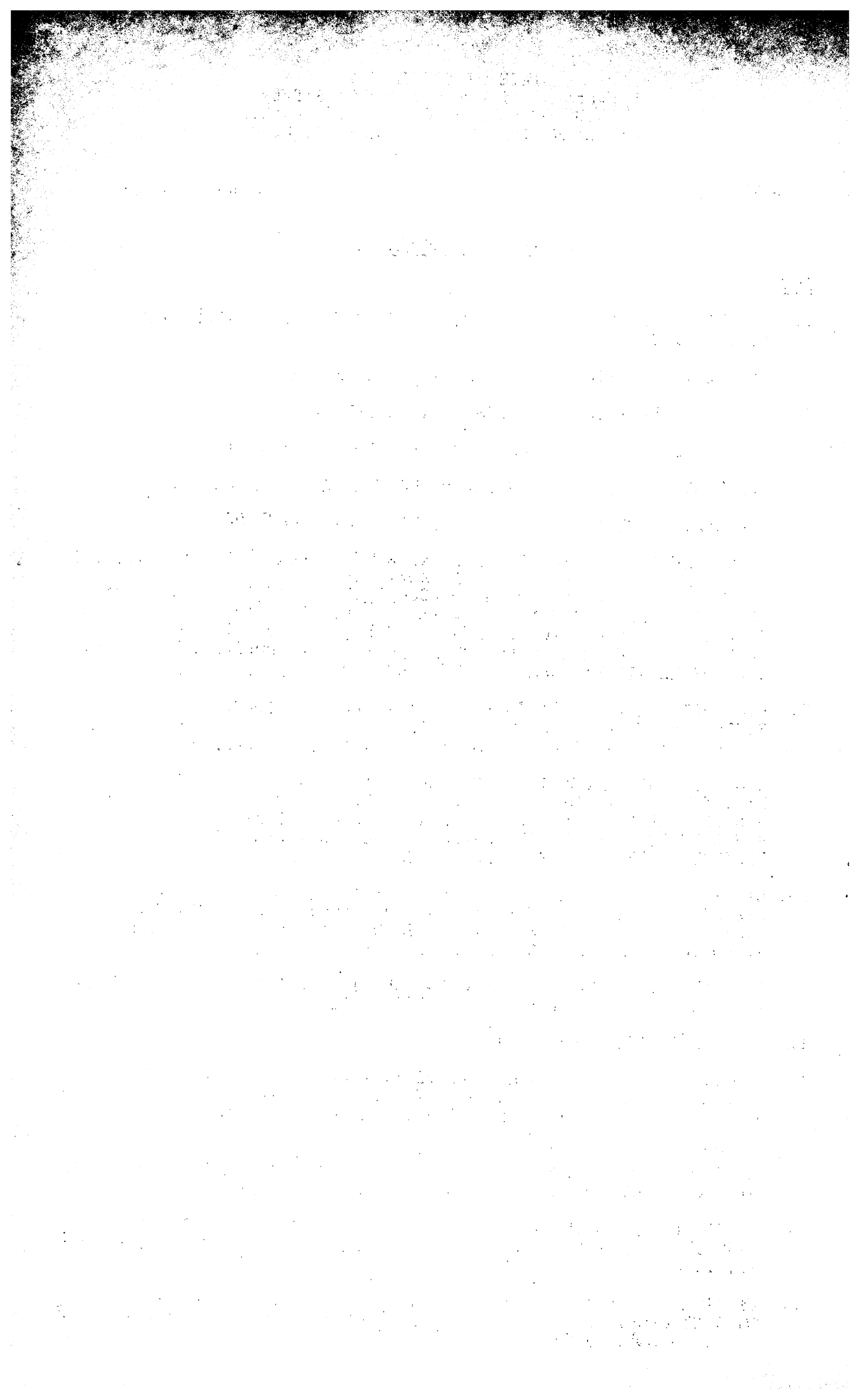
BULLETIN 915

AUGUST 21, 1951.

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BULLETIN 915

AUGUST 21, 1951.

1. APPELLATE DECISIONS - RIDGEFIELD DELICATESSEN v. RIDGEFIELD  
(CASE NO. 2).

Case No. 2. )  
RIDGEFIELD DELICATESSEN (a corp. )  
of New Jersey), )

Appellant, )

-vs-

MAYOR AND COUNCIL OF THE BOROUGH )  
OF RIDGEFIELD, )

Respondent. )  
----- )

ON APPEAL  
CONCLUSIONS AND ORDER

Mortimer L. Mahler, Esq., Attorney for Appellant.  
Edwin A. A. Muller, Esq., Attorney for Respondent.  
Sidney Simandl, Esq., Attorney for United Beverage Association of  
New Jersey and Licensed Beverage Association of the Borough  
of Ridgefield, Objectors.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby, on June 19, 1951, it denied appellant's application for a limited retail distribution license for premises at 672 Shaler Boulevard, Ridgefield.

In a prior appeal between the same parties concerning the same application, an order was entered on May 31, 1951, remanding the case to respondent because it appeared therein that no formal action granting or denying appellant's application had previously been taken by respondent. See Ridgefield Delicatessen v. Ridgefield, Bulletin 908, Item 4. At its meeting subsequently held on June 19, 1951, respondent unanimously adopted the following resolution:

"WHEREAS, RIDGEFIELD DELICATESSEN, a corporation of the State of New Jersey, has filed an application for a limited retail distribution license for premises known as Number 672 Shaler Boulevard Ridgefield, New Jersey; and

"WHEREAS, at the present time, there are the following alcoholic beverage licenses issued and outstanding in the Borough of Ridgefield:

15 Plenary Retail Consumption Licenses  
2 Plenary Retail Distribution Licenses  
1 Limited Retail Distribution License

"WHEREAS, the population of the Borough of Ridgefield, as shown by the 1950 Census, is approximately 8300 persons; and

"WHEREAS, a petition has been received by the Borough Council protesting the issuance of a license to the applicant, Ridgefield Delicatessen; and

"WHEREAS, after due consideration, the Borough Council is of the opinion that the existing sources of supply of alcoholic beverages as evidenced by the outstanding licenses are adequate to serve the needs of the people of the Borough of Ridgefield;

"NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of The Mayor and Council of the Borough of Ridgefield, that the application of RIDGEFIELD DELICATESSEN, a corporation of the State of New Jersey, for a limited retail distribution license, be and the same is hereby denied."

By stipulation filed herein, the parties have agreed that all of the evidence and exhibits given and presented at the hearing of the first appeal, together with a certified copy of the resolution adopted by respondent at its meeting held on June 19, 1951, shall be considered as the evidence to be presented in connection with this appeal. See Rule 8 of State Regulations No. 15.

From the evidence presented at the prior appeal it appears that a prior application filed by Joseph Levine (one of the stockholders of appellant corporation) was denied by respondent in December 1950. Appellant's application, which is the subject of this appeal, was filed on January 10, 1951. At an executive session held on February 5, 1951, arguments in favor of the granting of the application were presented to respondent by said Joseph Levine, and Florence Mahler who is also a stockholder of appellant corporation. Both stockholders argued that an additional limited retail distribution license was necessary in this section of the borough because appellant's premises are located in close proximity to the "Shaler Boulevard development" which was erected a few years ago and houses more than 400 families. These stockholders also alleged that the additional license was required because appellant's premises are open in the evening after the premises operated by the other limited retail distribution licensee in the borough are closed. A petition containing the names of 175 persons who favored the issuance of the license was also presented to respondent.

At the prior appeal, Mayor Carpenter testified that, at the executive session held on February 5, 1951, the six members of the Borough Council voted unanimously to deny the application because they felt that the eighteen existing licenses were sufficient to satisfy the needs of approximately 8,300 people who resided in the borough. It now appears that a resolution denying the application for the reasons set forth by Mayor Carpenter has been adopted by respondent. The evidence further discloses that the one limited retail distribution license now existing in the borough has been issued to Samuel Resnick, trading as Shaler Super Market, for premises at 555 Shaler Boulevard. These premises are also in close proximity to the "Shaler Boulevard development" and are located within a half-mile of appellant's premises. The Borough of Ridgefield is small, the evidence indicating that it is approximately a mile square and, hence, it would not appear difficult for any resident of the borough to purchase beer at one of the other seventeen licensed premises even if the Resnick premises are closed after 6:00 p.m. The weight to be given to petitions is a matter confided to the sound discretion of the issuing authority in considering all the facts of the case.

After reviewing the evidence, I conclude that appellant has failed to sustain the burden of proof in establishing that respondent abused its discretionary power in denying appellant's application. Hence, I shall affirm the action of respondent.

Accordingly, it is, on this 7th day of August, 1951,

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

ERWIN B. HOCK  
Director.

2. APPELLATE DECISIONS - MALIKEN v. NEPTUNE CITY.

ALEX MALIKEN, )

Appellant, )

-vs-

ON APPEAL  
CONCLUSIONS

BOROUGH COUNCIL OF THE )  
BOROUGH OF NEPTUNE CITY, )

Respondent.

- - - - - )

Edelstein and Edelstein, Esqs., by E. Alexander Edelstein, Esq.,  
Attorneys for Appellant.

Thomas D. Nary, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent in denying an application to transfer appellant's plenary retail distribution license for the 1950-51 licensing year from premises 104 Hillside Avenue to premises located on the southeast corner of Hillside Avenue and State Highway 35, Neptune City.

Respondent denied the application to transfer, according to the minutes taken at the meeting on May 28, 1951, because of a petition filed by five alleged residents who objected to the transfer of the license. No objectors appeared at the instant hearing.

No answer was filed on behalf of respondent. The municipal attorney, however, appeared at the hearing held at this Division and noted on the record, "I don't expect to enter any formal defense except, however, that I resist the application on the theory that the Borough of Neptune City Officials acted in a discretionary capacity, and we feel that the action is valid and should be sustained".

No question concerning the fitness of the appellant or the suitability of the premises for which application to transfer has been made is presented herein.

Appellant testified that the present location of his licensed premises is in a residential neighborhood; that the proposed location is in a business neighborhood and is approximately one block from appellant's present licensed premises; that he owns the building to which he seeks the transfer and has provided space for parking off the highway; that the nearest establishment occupied by a plenary retail consumption licensee is 500 feet away and that the nearest establishment occupied by a plenary retail distribution licensee is approximately one-quarter mile away from appellant's proposed premises. Both of these other liquor establishments aforementioned are located on State Highway 35.

The transfer of a liquor license to other persons or premises, or both, is not an inherent or automatic right. The issuing authority may grant or deny a transfer in the exercise of reasonable discretion. If denied on a reasonable ground, such action will be affirmed. Fafalak v. Bayonne, Bulletin 95, Item 5; Van Schoick v. Howell, Bulletin 120, Item 6; Craig v. Orange, Bulletin 251, Item 4; Mesarik v. Milltown, Bulletin 283, Item 10.

On the other hand, where it appears that refusal of a transfer is arbitrary and unreasonable, the action of respondent in refusing the transfer will be reversed: Blumenthal v. Wall, Bulletin 169, Item 6; Conn v. Kearny, Bulletin 173, Item 1; Miller v. Paterson, Bulletin 219, Item 6; Rucereto v. Dumont, Bulletin 253, Item 6; Shapley v. Delaware, Bulletin 294, Item 7.

The situation in this appeal is closely comparable to that in Grower v. Hackensack, Bulletin 789, Item 1; Leonia Liquors, Inc. v. Leonia, Bulletin 766, Item 1; Costa v. Verona, Bulletin 501, Item 2; Conn v. Kearny, *supra*.

In the case of Costa v. Verona, *supra*, the State Commissioner stated:

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

It is apparent from the record herein that the granting of the transfer in question will not aggravate to any appreciable degree the existing concentration of licenses in that particular area.

I find, therefore, that the denial of the transfer was unreasonable. The decision below is, therefore, reversed.

It appears that the respondent has issued to appellant a renewal of his license for the premises 104 Hillside Avenue for the period from July 1, 1951 to June 30, 1952. Since the license in question has expired, the decision herein is merely advisory in the event of the filing of a similar transfer application by the appellant herein. Both parties are, of course, free in any future application to offer testimony in addition to that already offered in these proceedings, either with respect to the present issues or such additional issues as may be raised.

While the action of respondent is reversed, nevertheless, since the license which was the subject of this appeal has expired, no order requiring respondent to transfer said license will be entered herein.

ERWIN B. HOCK  
Director.

Dated: August 7, 1951.

3. APPELLATE DECISIONS - DEUTSCH v. SOMERVILLE.

N. IRVING DEUTSCH, trading as )  
ASTOR HOTEL BAR AND GRILL, )

Appellant, )

-vs-

BOROUGH COUNCIL OF THE BOROUGH )  
OF SOMERVILLE, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

Milton A. Weiss, Esq., Attorney for Appellant.  
Leon Gerofsky, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's denial of appellant's application to renew his plenary retail consumption license for the licensing year 1951-52, for premises at 59 Division Street, Somerville.

Respondent contends that, because of appellant's past record as a licensee, it was of the opinion that the interest of the general public would best be served by a refusal to renew appellant's license.

Appellant has held a liquor license for the premises in question since July 14, 1947.

On November 27, 1950, appellant pleaded guilty in the County Court of Hunterdon County to the crime of gaming (participating in a dice game), in violation of R. S. 2:135-1 and, as a result thereof, was sentenced to pay a fine of \$50.00.

Effective April 30, 1951, I suspended appellant's license for a period of 45 days. The suspension of appellant's license was imposed after he had been found guilty in disciplinary proceedings of charges alleging that he (1) allowed, permitted and suffered foul, filthy and obscene language on his licensed premises, in violation of Rule 5 of State Regulations No. 20; (3) sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages on his licensed premises to a person actually or apparently intoxicated, in violation of Rule 1 of State Regulations No. 20. In the same proceeding defendant had pleaded non vult to charge (2) alleging that he engaged in gambling on his licensed premises, i.e., wagering money on the outcome of a boxing exhibition, in violation of Rule 7 of State Regulations No. 20. Re Deutsch, Bulletin 904, Item 5.

It is now well established in New Jersey that "No one has a right to demand a license. A license is a special privilege granted to the few, denied to the many." Paul v. Gloucester, 50 N.J.L. 585; Meehan v. Jersey City, 7 N.J.L. 382; Bumball v. Burnett, 115 N.J.L. 254. Nor is the rule any different because this is an application for renewal rather than a new license. Like a preceding new license, a renewal thereof is still a special privilege which in New Jersey no one has a right to demand. Zicherman v. Driscoll, 133 N.J.L. 586, wherein the court observed:

"The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. The common interest of the general public should be the guide post in the issuing and renewing of licenses." (Underscoring mine.)

In stressing the paramount public interest that must be considered on an application to renew, I have not lost sight of the fact that the licensee is entitled to fair play. Renewal of a license should not be denied arbitrarily or without a sufficient reason. However, it is well established that the fitness of the applicant and his conduct under a previous license may be considered by an issuing authority in reaching a decision on an application to renew. Caldwell Wine & Liquor Co. v. Caldwell, Bulletin 737, Item 3; Zicherman v. Driscoll, supra.

As was said in the case of Iamello v. Rumson, Bulletin 77, Item 9:

"The dispensation of alcoholic beverages from time immemorial has been recognized as impregnated with public interest. The character of the persons to whom the privilege of making such sales is entrusted is of utmost importance -- perhaps in the long run the most effective safeguard against abuses."

There is sufficient in the record to show that respondent's adverse determination to appellant was not unreasonable.

Even disregarding evidence concerning two disturbances on appellant's premises, for which he says he was not responsible, respondent's refusal to renew does not appear to be unreasonable and is, in fact, supported by appellant's misconduct. The action of respondent will, therefore, be affirmed.

Accordingly, it is, on this 7th day of August, 1951,

ORDERED that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the extension of appellant's 1950-51 license granted by Order dated June 27, 1951, to permit appellant to operate his business pending disposition of this appeal, be and the same is hereby terminated, and that appellant cease any alcoholic beverage activity thereunder forthwith.

ERWIN B. HOCK

Director.

4. APPELLATE DECISIONS - MORAN'S CAFE, INC. v. ELIZABETH.

MORAN'S CAFE, INC.,  
Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY  
OF ELIZABETH,

Respondent.

ON APPEAL  
CONCLUSIONS AND ORDER

Anthony D. Rinaldo, Esq.; Glickenhäus and Glickenhäus, Esqs., by  
Jacob S. Glickenhäus, Esq.; and Fast & Fast, Esqs., by  
Herman L. Fast, Esq., Attorneys for Appellant.  
Louis P. Longobardi, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from an order of respondent dated April 12, 1951, whereby it revoked the plenary retail consumption license then held by appellant for premises at 50 Marshall Street, Elizabeth.

Respondent revoked the license after it had found appellant guilty of the following charges (as amended):

"That on February 10, 1951, and on divers days prior thereto and since that time, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz.: The making of arrangements for illicit sexual intercourse and prostitution, and providing females for such purposes in violation of Rule No. 5 of State Regulations No. 20.

"That on February 10, 1951 and on divers days prior thereto and since that time, you did allow, permit and suffer upon the licensed premises acts of violence and disturbance, in violation of Rule 5 of State Regulations No. 20.

"That on February 10, 1951, and on divers days prior thereto and since that time, you did knowingly employ persons on your licensed premises who had been convicted of a crime, in violation of Rule 1 of State Regulations No. 13."

When the appeal was filed, appellant applied to me for a stay pending determination of the appeal but, by order entered herein, a stay was denied. R. S. 33:1-31.

As to charge (1): Appellant's licensed premises consisted only of the first floor and cellar of a three-story building known as "Moran's Hotel". There are twenty sleeping rooms on the second floor and twenty sleeping rooms on the third floor. Charles Johnson testified that he was employed as a bartender and porter on appellant's premises for a period of six or seven weeks. He further testified that, in accordance with instructions from Abraham Sabin, then acting as manager, he frequently rented rooms to a man and a woman without requiring them to sign any register, and that he collected three dollars, which he turned over to Sabin, every time he rented out a room. He said that he sometimes rented the same room more than once in the same evening. Archie Cohen, who was employed as a part-time bartender and waiter on appellant's premises, testified that he had followed substantially the same procedure in renting rooms on the second floor. A patron who visited appellant's premises regularly since 1949 testified that he frequently gave to the bartender the

price of the room and took upstairs a woman to whom he was not married, for the purpose of having intercourse. Another patron testified that on December 30, 1950, after paying money to the bartender, he was permitted to take a woman, not his wife, to a room on the second floor but that he was so drunk that he was incapable of having sexual intercourse. Appellant's witnesses denied all of the above testimony, but I am satisfied that respondent's witnesses told the truth and I shall affirm the finding of guilt as to charge (1).

As to charge (2): The evidence shows that on October 5, 1950, three shots were fired in appellant's premises by an unidentified person. No one was injured, although one bullet passed through a patron's hat and another bullet passed through a patron's coat. On February 2, 1951, Charles Johnson, apparently then present as a patron, engaged in a brawl with two other patrons and, "after they rushed me and started punching me", one of the patrons hit him in the face with a broken glass. The result was that Johnson was taken to a hospital where eight stitches were required to close the wound. The patron who rented the room on December 30, 1950 testified that the woman who accompanied him upstairs stole the sum of \$20.00 from him. Appellant's witnesses did not deny the aforesaid testimony, but appellant apparently contends that it did not "allow, permit and suffer" these violations. With this contention I do not agree. I believe that the evidence is sufficient to sustain the finding of guilt as to charge (2).

The evidence as to charge (3) is not convincing, and the finding of guilt as to that charge must be reversed.

The finding of guilt by the respondent as to charge (1) was amply justified and would, even standing alone, be sufficient to sustain the penalty of outright revocation of appellant's license. Hence, the action of respondent will be affirmed.

The fact that Osiyas Fishman, owner of the building and former licensee of the premises may suffer a monetary loss by reason of the revocation is entirely immaterial to the issues of this case.

Accordingly, it is, on this 10th day of August, 1951,

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

ERWIN B. HOCK  
Director.

5. APPELLATE DECISIONS - BUTTEL v. MONTCLAIR (CASE NO. 1).

Case No. 1

GEORGE G. BUTTEL, )

Appellant, )

-vs-

ON APPEAL

BOARD OF COMMISSIONERS OF THE )  
TOWN OF MONTCLAIR, )

CONCLUSIONS AND ORDER

Respondent. )  
- - - - - )

M. Eugene Speni, Esq. and Ernest F. Keer, Jr., Esq., Attorneys  
for Appellant.

Samuel Allcorn, Jr., Esq., Attorney for Respondent.

BY THE DIRECTOR:

This appeal seeks the reversal of the action of respondent in denying an application for a transfer of the license, expiring June 30, 1951, held by William Carl Thomsen and William John Thomsen, t/a Thomsens, 631-A Valley Road, Montclair, to appellant.

The license has been renewed on the application of William Carl Thomsen and William John Thomsen, t/a Thomsens. It therefore appears that any determination made herein would be merely advisory. Cf. Koodray v. Paterson, Bulletin 696, Item 9.

On motion by M. Eugene Speni and Ernest F. Keer, Jr., attorneys for appellant, Samuel Allcorn, Jr., attorney for respondent consenting, and no cause appearing to the contrary,

It is, on this 6th day of August, 1951,

ORDERED that the above cause be and hereby is discontinued, without prejudice.

ERWIN B. HOCK

Director.

6. APPELLATE DECISIONS - BUTTEL v. MONTCLAIR (CASE NO. 2).

Case No. 2

GEORGE G. BUTTEL, )

Appellant, )

-vs-

ON APPEAL

BOARD OF COMMISSIONERS OF THE )  
TOWN OF MONTCLAIR, )

CONCLUSIONS AND ORDER

Respondent. )  
- - - - - )

M. Eugene Speni, Esq. and Ernest F. Keer, Jr., Esq., Attorneys for  
Appellant.

Samuel Allcorn, Jr., Esq., Attorney for Respondent.

BY THE DIRECTOR:

This appeal seeks to reverse the alleged action of the respondent in denying the application for a transfer of the current license held by William Carl Thomsen and William John Thomsen, t/a Thomsens, 631-A Valley Road, Montclair, to appellant or in failing and neglecting to act thereon.

It appearing that no notice requiring such action had been given by appellant to respondent within the purview of Re Salsburg, Bulletin 118, Item 11, cf. D'Allessio v. Carteret, Bulletin 626, Item 5;

On motion by M. Eugene Speni and Ernest F. Keer, Jr., attorneys for appellant, consented to by Samuel Allcorn, Jr., Esq., attorney for respondent, that the appeal be discontinued, and no cause appearing to the contrary;

It is, on this 6th day of August, 1951,

ORDERED that the within cause be and hereby is discontinued without prejudicing any right in the application herein heretofore filed.

ERWIN B. HOCK  
Director.

- 7. DISCIPLINARY PROCEEDINGS - WHOLESALE LICENSEE - ILLEGAL TRANSPORTATION IN VIOLATION OF STATE REGULATIONS NO. 17 - DELIVERY TO RETAILERS WITHOUT ACCOMPANYING INVOICE IN VIOLATION OF STATE REGULATIONS NO. 39 - IMPROPERLY ACCEPTING RETURNS FROM RETAILERS IN VIOLATION OF STATE REGULATIONS NO. 34 - SALE OF ALCOHOLIC BEVERAGES TO PERSON OTHER THAN THE HOLDER OF A WHOLESALE OR RETAIL LICENSE - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against )

JACK ROSENBERG )  
T/a THE JARLYN COMPANY )  
907 Frelinghuysen Ave. )  
Newark 5, N. J., )

Holder of Wine Wholesale License WW-34 )  
for the 1950-51 and 1951-52 licensing )  
years, issued by the Director of the )  
Division of Alcoholic Beverage )  
Control; and transferred during the )  
pendency of these proceedings to )

JARLYN, INC. )  
170-174 Malvern Street )  
Newark 5, N. J., )

CONCLUSIONS  
AND  
ORDER

Samuel Moskowitz, Esq., Attorney for Defendant-licensee.  
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges that may be summarized as follows:

(1) That he transported alcoholic beverages in autos owned and operated individually by the licensee and several of his solicitors, without transportation insignia affixed thereto; in violation of Rule 2 of State Regulations No. 17.

(2) That he delivered alcoholic beverages to various retailers without accompanying invoice of sale; in violation of Rule 6 of State Regulations No. 39.

(3) That he accepted from various retailers return for credit of alcoholic beverages not originally delivered to such retailers by him within 30 days of the return date; in violation of Rule 9 of State Regulations No. 34.

(4) That he sold alcoholic beverages to a person other than the holder of a wholesale or retail liquor license, outside the terms of his wine wholesale license, contrary to R. S. 33:1-11(1); in violation of Rule 25 of State Regulations No. 20.

The investigation of defendant's business practices disclosed a serious disregard of the statute and the regulations. Admittedly, with the defendant's knowledge, solicitors employed by him used their private automobiles, not leased to defendant and not bearing transportation insignia, to deliver alcoholic beverages to retailers and to pick up alcoholic beverages from retailers and return them to defendant for credit. (Disciplinary proceedings against the four solicitors and their respective permits are decided concurrently herewith, the fifth solicitor having surrendered his permit and the said permit having been cancelled. See conclusions in Re Segal; Re Kneis; Re Little; Re Newman, dated August 8, 1951.) Defendant also used his own private automobile for these same purposes, also without transportation insignia.

Many of the deliveries of alcoholic beverages to retailers were made without accompanying invoices and very large numbers of the returns of alcoholic beverages were accepted more than 30 days after the date of their delivery to the retailers and without the necessary waiver required by the rule. In some cases the "returns" were not accompanied by credit memoranda. Furthermore, the defendant stored alcoholic beverages at the residence of one of his solicitors without license or permit.

All of the violations hereinabove recited, if permitted to continue, might well result in the complete breakdown of the prohibition against furnishing free goods and illegal discounts to retailers.

In addition, the defendant made sales of alcoholic beverages at retail, thereby exceeding the scope of his wholesale license and encroaching on the privilege granted to the holders of retail licenses.

In view of the circumstances and the plea, I shall suspend the license for 20 days.

These proceedings do not abate either by the expiration of the term of the license in effect at the time proceedings were commenced, or by the transfer of said license, or of its renewal, but continue against the new license or the new owner and licensee. State Regulations No. 16.

Accordingly, it is, on this 8th day of August, 1951,

ORDERED that Wine Wholesale License WW-34, issued to Jack Rosenberg, t/a The Jarlyn Company, 907 Frelinghuysen Avenue, Newark, and transferred during the pendency of these proceedings to Jarlyn, Inc., 170-174 Malvern Street, Newark, be and the same is hereby suspended for a period of twenty (20) days, commencing at 12:01 a.m. August 15, 1951, and terminating at 12:01 a.m. September 4, 1951.

ERWIN B. HOCK  
Director.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD OF ONE PARTNER NOT CONSIDERED IN FIXING PENALTY BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
 Proceedings against )

JAMES F. DALY and JOSEPH E. KOHM )  
 T/a DALY'S CAFE )  
 201 Vine Street )  
 Camden, N. J., )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consump- )  
 tion License C-168, issued by the )  
 Municipal Board of Alcoholic )  
 Beverage Control of the City of )  
 Camden. )

-----  
 William T. Cahill, Esq., Attorney for Defendant-licensees.  
 William F. Wood, Esq., appearing for Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

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

On April 24, 1951, an ABC agent, in the course of a routine inspection of defendants' licensed premises, seized two 4/5 quart bottles labeled "Park & Tilford Private Stock A Blend of Straight Whiskies 86 Proof" when his field tests disclosed a variance between the contents of said bottles and the labels thereon. Subsequent analysis by the Division Chemist substantiated the field tests.

There is no prior record against Joseph E. Kohm. While the license for these premises was held by James F. Daly, individually, his license was suspended by the local issuing authority for three days, effective March 9, 1942, and by the Commissioner for fifteen days, effective January 3, 1945. See Bulletin 644, Item 8. In both cases he sold during prohibited hours. However, since these violations occurred more than five years ago and are not similar to the violation herein, I shall not consider this record in fixing a period of suspension. Finding no aggravating circumstances in the present case, I shall suspend the license for the minimum, 15 days, indicated in such cases. Re Rudolph, Bulletin 680, Item 1. Remitting five days because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 7th day of August, 1951,

ORDERED that Plenary Retail Consumption License C-168, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to James F. Daly and Joseph E. Kohm, t/a Daly's Cafe, 201 Vine Street, Camden, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. August 13, 1951, and terminating at 7:00 a.m. August 23, 1951.

ERWIN B. HOCK  
 Director.

9. DISCIPLINARY PROCEEDINGS - STATE BEVERAGE DISTRIBUTOR - PERMITTING LICENSED VEHICLES TO BE IN POSSESSION AND CONTROL OF PERSON OTHER THAN THE LICENSEE AND PERMITTING SAID VEHICLES TO BE USED FOR PURPOSES OTHER THAN LICENSEES' BUSINESS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MORRIS SHARGOROD and MORRIS BARON  
T/a TAYLOR BEVERAGES  
Rear 600-602 Main Street  
Hackensack, N. J.,

CONCLUSIONS  
AND ORDER

Holder of State Beverage Distributor's License SBD-81 for the 1950-51 and 1951-52 licensing years, issued by the Director of the Division of Alcoholic Beverage Control.

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

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On or about April 26, 1951, and prior thereto, you allowed, permitted and suffered two motor vehicles bearing Transportation Insignia Nos. 6597 and 11658 respectively, issued to you, to be used for purposes other than solely for your own business, which vehicles did not remain at all times within your exclusive possession and control and were not operated only by you and your bona fide employees; in violation of Rule 4 of State Regulations No. 17."

The file in the instant case discloses that defendants have leased two trucks for which transportation insignia were obtained by the defendants from this Division. The trucks, however, are operated by the owner in connection with his butter and egg business, and in addition or incidental thereto the owner makes deliveries of cases of beer to various customers of the defendants.

Rule 4 of Regulations No. 17 provides:

"No licensee shall allow, permit or suffer any vehicle bearing transportation insignia issued to him to be used for any purpose except solely for the licensee's own business. Every such vehicle must at all times remain within the exclusive possession and control of the licensee, and be operated only by the licensee or his bona fide employees."

This is a case of novel impression since this particular type of violation has never heretofore come to the attention of the Division. If widespread, or if committed under other circumstances, serious problems of control might well result. In the instant case, however, there is no evidence that the violation involved a deliberate intent to violate or circumvent the law.

In view of all of the attendant circumstances I shall suspend defendants' license for a period of fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective

against the renewal license for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 9th day of August, 1951,

ORDERED that State Beverage Distributor's License SBD-81, issued for the 1951-52 licensing year by the Director of the Division of Alcoholic Beverage Control to Morris Shargorod and Morris Baron, t/a Taylor Beverages, Rear 600-602 Main Street, Hackensack, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. August 15, 1951, and terminating at 7:00 a.m. August 25, 1951.

ERWIN B. HOCK  
Director.

10. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - FALSE ANSWERS IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - NO PENALTY FIXED FOR ADMITTED VIOLATIONS BECAUSE LICENSE CANCELLED.

CANCELLATION PROCEEDINGS - HOLDER OF LICENSE CEASED TO BE A BONA FIDE CLUB - LICENSE CANCELLED.

In the Matter of Disciplinary Proceedings against )

PERTH AMBOY COLORED DEMOCRATIC CLUB )  
246 New Brunswick Avenue )  
Perth Amboy, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-10 for the 1950-51 and 1951-52 licensing years, issued by the Board of Commissioners of the City of Perth Amboy. )

-----)  
Alex B. Eger, Jr., Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant originally pleaded not guilty to charges alleging in substance that (1) it falsified its license application, dated June 12, 1950, by failing to disclose the interest of one Harold Lincoln in the business to be conducted under the license applied for, in violation of R. S. 33:1-25; and that (2) from on or about October 16, 1940 until the date of the charges, January 11, 1951, it knowingly aided and abetted the said Harold Lincoln unlawfully to exercise the rights and privileges of its successive club licenses, in violation of R. S. 33:1-52.

At the same time the above charges were served, defendant was also required to show cause why its then current license should not be cancelled and declared null and void for the following reason:

"Said license was improvidently issued in violation of R. S. 33:1-12(5) and Rule 2 of State Regulations No. 7 in that, at the time of issuance of such license and prior thereto, you were not a bona fide club."

Subsequently, the attorney for defendant advised in writing that his client would not appear at the scheduled hearing and requested leave to submit a memorandum. His request was granted. In his memorandum the attorney argued that the facts did not support a finding of guilt as to the charges and that, while the affairs of the club had been carelessly handled, it was in fact a bona fide club. Two hearings were subsequently held at which defendant produced testimony concerning its method of operation. At the beginning

of the second hearing defendant's attorney withdrew the not guilty plea and entered a plea of non vult to both charges. He then attempted to show, with respect to the show cause order, that defendant was a bona fide club and that any irregularities in its method of operation had been corrected since these proceedings were instituted.

At the time of the Division's investigation defendant's alleged officers, other than Harold Lincoln, its president, were unfamiliar with its affairs. Some of them were even unaware of the offices they were supposed to hold. Membership meetings and elections, if held at all, were very irregular. Although the president produced a book containing alleged minutes of monthly meetings for the period from December 1948 to December 1949, it is doubtful whether these minutes are genuine. In fact, according to a sworn statement made by Lincoln to an agent of this Division, the last meeting was in 1947. Furthermore, while the secretary's name is signed to most of the entries in the book, he admitted in a similar statement that neither the entries nor the signatures were in his handwriting. Defendant claimed that some of his records were stolen during a burglary which occurred at its premises shortly before the Division's investigation. However, it does not appear what records were taken. At the time of the investigation as well as at the time of the last hearing no dues were being collected from members. Evidently, to become a member one need only to be introduced to the bartender and to sign a membership (?) card.

After these proceedings were instituted, some effort was made to "reorganize" the club. Such efforts seemed to be more of something hoped for in the future than something presently accomplished. Minutes of alleged meetings and other records are still inadequate. Allegedly certain officers were elected on March 4, 1951; but at the time of the last hearing the Board of Trustees (governing body) had not been chosen.

Clearly, the "club", which presently claims to have only thirty members, was a personal operation of one Harold Lincoln, its onetime president, now chairman and only member of the "trustees" board. The club's alleged charitable or social purposes have at best been almost dormant since at least 1948. It has not sufficient income from the bar, its only source of revenue, to carry on any such activities. In fact, Lincoln, now chairman and formerly president, apparently maintains the club for his own purposes.

Since 1940 the club has annually held a liquor license. I find from the evidence herein that it has not existed as a club, within the intendment of the law, for several years. Clearly, when the license for the 1950-51 period was issued, defendant had ceased to be a bona fide club. Since Rule 3 of State Regulations No. 7 requires that an organization must be in active operation as a bona fide club continuously for at least three years to be eligible for a club license, it follows that even if defendant had constituted itself a bona fide club as a result of its recent efforts at reorganization, that fact would not render it eligible at the present time. Moreover, I am satisfied that defendant was not a bona fide club even at the time of the hearings. I shall cancel the license now held by the defendant.

The license existing at the time these proceedings were instituted expired June 30, 1951. However, in accordance with the provisions of State Regulations No. 16, the proceedings do not abate. Any order herein shall be effective against the license for the current licensing year. Re Unity Political and Social League, Inc., Bulletin 894, Item 3.

In view of the result herein, it is unnecessary to fix a penalty for the admitted violations set forth in the charges.

Accordingly, it is, on this 10th day of August, 1951,

ORDERED that Club License CB-10 for the 1951-52 licensing year, issued by the Board of Commissioners of the City of Perth Amboy to Perth Amboy Colored Democratic Club, 246 New Brunswick Avenue, Perth Amboy, be and the same is hereby cancelled and declared null and void, effective immediately.

ERWIN B. HOCK  
Director.

11. STATE LICENSES - NEW APPLICATIONS FILED.

New York & New Brunswick Auto Express Co.  
Vineyard Road, Raritan Township, N. J.  
Application filed August 8, 1951 for Transportation License.

Merchants' Wine & Liquor Company  
4576 Crescent Boulevard, Camden, N. J.  
Application filed August 10, 1951 for Plenary Wholesale License.

Venieslaus W. Klepka and Joseph A. Makuszewski  
T/a V-J Beverage Distributors  
61 Haddon Avenue, Haddon Township, P.O. Westmont, N. J.  
Application filed August 13, 1951 for transfer of State Beverage Distributor's License SBD-121 from Carmine Del Palazzo, t/a Neptune Beverage Distributors, same address.

Armand Cantor and Randolph Weinsier  
T/a National Cold Storage Company  
176 - 9th Street, Jersey City, N. J.  
Application filed August 13, 1951 for Public Warehouse License.

Chivas Brothers Import Corporation  
405 Lexington Avenue  
New York 17, New York  
Application filed August 17, 1951 for Plenary Wholesale License.

Louis R. Napolitano  
t/a Napolitano Winery Inc.  
178-80 8th Avenue  
Newark, New Jersey  
Application filed August 20, 1951 for Transfer Person to Person of Plenary Winery License V-40 from Antonio Napolitano, same address.

ERWIN B. HOCK,  
DIRECTOR.

12. DISCIPLINARY PROCEEDINGS - SOLICITOR - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER IN VIOLATION OF STATE REGULATIONS NO. 14 - SOLICITOR'S PERMIT SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against GEORGE F. LITTLE 430 Park Avenue Fairview, N. J.,

CONCLUSIONS AND ORDER

Holder of Solicitor's Permit No. 2076 for the 1950-51 licensing year and No. 2594 for the 1951-52 licensing year, issued by the Director of the Division of Alcoholic Beverage Control.)

Samuel Moskowitz, Esq., Attorney for Defendant-permittee. Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges as follows:

"On divers days between March 23, 1950 and January 31, 1951, you, the holder of a solicitor's permit, engaged in conduct prohibited to your employer, Jack Rosenberg, t/a The Jarlyn Company, holder of a wine wholesale license for premises 907 Frelinghuysen Avenue, Newark, N. J., by regulations adopted under the Alcoholic Beverage Law as follows:

"(a) On divers days between November 30, 1950 and February 16, 1951, you participated in your employer's transporting of various quantities of alcoholic beverages between Newark and various other points in New Jersey in a vehicle having no transportation insignia affixed thereto, viz., in an automobile operated by you, which conduct was prohibited to your employer by Rule 2 of State Regulations No. 17;

"(b) On divers days between March 23, 1950 and January 31, 1951, you participated in your employer's delivering and transporting, directly and indirectly, of various quantities of alcoholic beverages to various New Jersey retail licensees not accompanied by a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating requisite information, which conduct was prohibited to your employer by Rule 6 of State Regulations No. 39;

"(c) On divers days between March 23, 1950 and January 31, 1951, you participated in your employer's accepting from various retailers returns for credit of alcoholic beverages not originally delivered to said retailers by your employer not more than 30 days prior to such returns, without waiver of the provisions of Rule 9 of State Regulations No. 34 by the Director of the Division of Alcoholic Beverage Control, which conduct was prohibited to your employer by Rule 9 of State Regulations No. 34;

all of which conduct by you was in violation of Rule 12 of State Regulations No. 14."

Defendant's actions are a serious breach of the conditions of his solicitor's permit and Rule 12 of State Regulations No. 14. See Re Rosenberg, decided concurrently herewith.

The permit will be suspended for 20 days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal permit for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 8th day of August, 1951,

ORDERED that Solicitor's Permit No. 2594, issued for the 1951-52 licensing year by the Director of the Division of Alcoholic Beverage Control to George F. Little, 430 Park Avenue, Fairview, be and the same is hereby suspended for a period of twenty (20) days, commencing at 12:01 a.m. September 4, 1951, and terminating at 12:01 a.m. September 24, 1951.

ERWIN B. HOCK  
Director.

13. DISCIPLINARY PROCEEDINGS - SOLICITOR - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER IN VIOLATION OF STATE REGULATIONS NO. 14 - SOLICITOR'S PERMIT SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

MAX NEWMAN

93 Treacy Avenue  
Newark 8, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Solicitor's Permit No. 2737 for the 1950-51 licensing year and No. 2596 for the 1951-52 licensing year, issued by the Director of the Division of Alcoholic Beverage Control.)

Samuel Moskowitz, Esq., Attorney for Defendant-permittee.  
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges as follows:

"On divers days between August 31, 1950 and January 31, 1951, you, the holder of a solicitor's permit engaged in conduct prohibited to your employer, Jack Rosenberg, t/a The Jarlyn Company, holder of a wine wholesale license for premises 907 Frelinghuysen Avenue, Newark, N. J., by regulations adopted under the Alcoholic Beverage Law as follows:

"(a) On divers days between December 6, 1950 and February 6, 1951, you participated in your employer's transporting of various quantities of alcoholic beverages between Newark and various other points in New Jersey in a vehicle having no transportation insignia affixed thereto, viz., in an automobile operated by you, which conduct was prohibited to your employer by Rule 2 of State Regulations No. 17;

"(b) On divers days between August 31, 1950 and January 31, 1951, you participated in your employer's delivering and transporting, directly and indirectly, of various quantities of alcoholic beverages to various New Jersey retail licensees not accompanied by a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating requisite information, which conduct was prohibited to your employer by Rule 6 of State Regulations No. 39;

"(c) On divers days between August 31, 1950 and January 31, 1951, you participated in your employer's accepting from various retailers returns for credit of alcoholic beverages not originally delivered to said retailers by your employer not more than 30 days prior to such returns, without waiver of the provisions of Rule 9 of State Regulations No. 34 by the Director of the Division of Alcoholic Beverage Control, which conduct was prohibited to your employer by Rule 9 of State Regulations No. 34;

all of which conduct by you was in violation of Rule 12 of State Regulations No. 14."

Defendant's actions are a serious breach of the conditions of his solicitor's permit and Rule 12 of State Regulations No. 14. See Re Rosenberg, decided concurrently herewith.

The permit will be suspended for 20 days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal permit for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 8th day of August, 1951,

ORDERED that Solicitor's Permit No. 2596, issued for the 1951-52 licensing year by the Director of the Division of Alcoholic Beverage Control to Max Newman, 93 Treacy Avenue, Newark, be and the same is hereby suspended for a period of twenty (20) days, commencing at 12:01 a.m. September 4, 1951, and terminating at 12:01 a.m. September 24, 1951.

ERWIN B. HOCK  
Director.

14. DISCIPLINARY PROCEEDINGS - SOLICITOR - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER IN VIOLATION OF STATE REGULATIONS NO. 14 - SOLICITOR'S PERMIT SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

EMIL P. KNEIS  
271 Madison Avenue  
Paterson, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Solicitor's Permit No. 1876 for the 1950-51 licensing year and No. 2593 for the 1951-52 licensing year, issued by the Director of the Division of Alcoholic Beverage Control.)

Samuel Moskowitz, Esq., Attorney for Defendant-permittee.  
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges as follows:

"On divers days between March 15, 1950 and February 26, 1951, you, the holder of a solicitor's permit, engaged in conduct prohibited to your employer, Jack Rosenberg, t/a The Jarlyn Company, holder of a wine wholesale license for premises 907 Frelinghuysen Avenue, Newark, N. J., by regulations adopted under the Alcoholic Beverage Law as follows:

"(a) On divers days between November 30, 1950 and February 26, 1951, you participated in your employer's transporting of various quantities of alcoholic beverages between Newark and various other points in New Jersey in a vehicle having no transportation insignia affixed thereto, viz., in an automobile operated by you, which conduct was prohibited to your employer by Rule 2 of State Regulations No. 17;

"(b) On February 14, 15, and 16, 1951, and on divers days prior thereto, you participated in your employer's delivering and transporting, directly and indirectly, of various quantities of alcoholic beverages to various New Jersey retail licensees not accompanied by a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating requisite information, which conduct was prohibited to your employer by Rule 6 of State Regulations No. 39;

"(c) On divers days between March 15, 1950 and January 31, 1951, you participated in your employer's accepting from various retailers returns for credit of alcoholic beverages not originally delivered to said retailers by your employer not more than 30 days prior to such returns, without waiver of the provisions of Rule 9 of State Regulations No. 34 by the Director of the Division of Alcoholic Beverage Control, which conduct was prohibited to your employer by Rule 9 of State Regulations No. 34;

"(d) From February 16 to February 26, 1951, you participated in your employer's storing of alcoholic beverages at a place other than his licensed premises or a licensed public warehouse or at other premises pursuant to special permit first obtained from the Director of the Division of Alcoholic Beverage Control, viz., one case (half-gallons) of port wine, in your apartment at 271 Madison Avenue, Paterson, N. J., which conduct was prohibited to your employer by Rule 25 of State Regulations No. 20;

all of which conduct by you was in violation of Rule 12 of State Regulations No. 14."

Defendant's actions are a serious breach of the conditions of his solicitor's permit and Rule 12 of State Regulations No. 14. See Re Rosenberg, decided concurrently herewith.

The permit will be suspended for 20 days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal permit for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 8th day of August, 1951,

ORDERED that Solicitor's permit No. 2593, issued for the 1951-52 licensing year by the Director of the Division of Alcoholic Beverage Control to Emil P. Kneis, 271 Madison Avenue, Paterson, be and the same is hereby suspended for a period of twenty (20) days, commencing at 12:01 a.m. September 4, 1951, and terminating at 12:01 a.m. September 24, 1951.

ERWIN B. HOCK  
Director.

15. DISCIPLINARY PROCEEDINGS - SOLICITOR - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER IN VIOLATION OF STATE REGULATIONS NO. 14 - SOLICITOR'S PERMIT SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

HERMAN B. SEGAL  
333 Hillcrest Avenue  
Trenton 8, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Solicitor's Permit No. 2426 for the 1950-51 licensing year and No. 2595 for the 1951-52 licensing year, issued by the Director of the Division of Alcoholic Beverage Control.

Samuel Moskowitz, Esq., Attorney for Defendant-permittee.  
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges as follows:

"On divers days between March 15, 1950 and February 26, 1951, you, the holder of a solicitor's permit, engaged in conduct prohibited to your employer, Jack Rosenberg, t/a The Jarlyn Company, holder of a wine wholesale license for premises 907 Frelinghuysen Avenue, Newark, N. J., by the Alcoholic Beverage Law and by regulations adopted thereunder as follows:

"(a) On divers days between December 15, 1950 and February 26, 1951, you participated in your employer's transporting of various quantities of alcoholic beverages between Newark and various other points in New Jersey in a vehicle having no transportation insignia affixed thereto, viz., in an automobile operated by you, which conduct was prohibited to your employer by Rule 2 of State Regulations No. 17;

"(b) On or about February 26, 1951, and on divers days prior thereto, you participated in your employer's delivering and transporting, directly and indirectly, of various quantities of alcoholic beverages to various New Jersey retail licensees not accompanied by a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating requisite information, which conduct was prohibited to your employer by Rule 6 of State Regulations No. 39;

"(c) On divers days between March 15, 1950 and January 31, 1951, you participated in your employer's accepting from various retailers returns for credit of alcoholic beverages not originally delivered to said retailers by your employer not more than 30 days prior to such returns, without waiver of the provisions of Rule 9 of State Regulations No. 34 by the Director of the Division of Alcoholic Beverage Control, which conduct was prohibited to your employer by Rule 9 of State Regulations No. 34;

"(d) On February 23, 1951 and on divers days prior thereto, you participated in your employer's sale and distribution of various quantities of assorted alcoholic beverages not pursuant to and within the terms of his wine wholesale license to you, a person not a retailer or wholesaler licensed in

accordance with the Alcoholic Beverage Law, which conduct was prohibited to your employer by R. S. 33:1-11(2)b and R. S. 33:1-2;

all of which conduct by you was in violation of Rule 12 of State Regulations No. 14."

Defendant's actions are a serious breach of the conditions of his solicitor's permit and Rule 12 of State Regulations No. 14. See Re Rosenberg, decided concurrently herewith.

The permit will be suspended for 20 days.

Although this proceeding was instituted during the 1950-51 licensing period, it does not abate but remains fully effective against the renewal permit for the fiscal year 1951-52. State Regulations No. 16.

Accordingly, it is, on this 8th day of August, 1951,

ORDERED that Solicitor's permit No. 2595, issued for the 1951-52 licensing year by the Director of the Division of Alcoholic Beverage Control to Herman B. Segal, 333 Hillcrest Avenue, Trenton, be and the same is hereby suspended for a period of twenty (20) days, commencing at 12:01 a.m. September 4, 1951, and terminating at 12:01 a.m. September 24, 1951.

*Herman B. Segal*  
Director.