

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

Director

BULLETIN 1935

October 6, 1970

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STATE OF NEW JERSEY
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 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1935

October 6, 1970

1. APPELLATE DECISIONS - 111 PARK STREET CORPORATION v. ORANGE.

111 Park Street Corporation,)	
t/a The Galaxy,)	
Appellant,)	On Appeal
v.)	CONCLUSIONS
)	and
)	ORDER
Municipal Board of Alcoholic Beverage Control of the City of Orange,)	
Respondent.)	

-----)
 Nathaniel S. Goldring, Esq., Attorney for Appellant
 Joseph L. Magrino, Esq., by Jeffrey R. Lowe, Esq., Attorney for Respondent
 Thomas P. Kelly, Esq., Attorney for Objectors

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent (hereinafter Board) whereby (a tie vote of the three-member Board, one member abstained) it denied the application for renewal for the 1969-70 licensing term of appellant's plenary retail consumption license for premises 111 Park Street, Orange.

Upon the filing of the appeal the Director entered an order dated August 8, 1969, extending the term of appellant's license until further order herein.

Appellant's petition of appeal alleges that the action of respondent was erroneous in that:

- a. The decision of the Respondent is arbitrary, capricious and unlawful.
- b. The decision of the Respondent is contrary to the weight of the evidence.
- c. The credible testimony adduced failed to establish by the evidence that the Appellant licensee committed any actions in violation of the regulations of the Division of Alcoholic Beverage Control.
- d. The Respondent permitted improper testimony to be admitted into evidence.
- e. The hearing conducted by Respondent was unlawful and did not afford Appellant a fair hearing.

The Board in its answer denied the substantive allegations contained in the petition of appeal.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity for counsel to present testimony and cross-examine witnesses.

Foy Williamson testified that he resides in the one-family house which he owns at 114 Park Street, directly across the street from the licensed premises (a tavern) and approximately fifty feet distant therefrom. He has resided there for the past nine years. Referring to the lighting, he asserted that the lights at the tavern light up his bedroom. The front of the tavern has two doors, only one is used.

On June 21, 1968, at 12:50 a.m., the witness observed at least three or four men fighting in and at the doorway of the tavern. "Some of them coming out standing in the doorway, some in front of the doorway, going in and out, big disturbance going on, fighting in the doorway and all the way outside. They was fighting, cursing, and abusive language going on." He called the police department as a result of his observation.

On June 22, 1968, at 11:59 a.m., he heard "a lot of loud cursing" and then observed a male being carried out of the front door and "they put him on the sidewalk, and all piled up together and had a fight going on, and had a fight and throw fireworks in the street and explosion there." On June 29, 1968 he heard loud noises and cursing at his driveway. Upon being questioned as to where the individuals had come from, Williamson testified, "One came out of the tavern, three of them at the car, one in the car, this fellow in the car was fighting the one outside the car, the other one outside he ran back to the tavern, another fellow came out of the tavern, and they carrying on bad. The fellow in the car carrying on was bad. I called the police." The police responded to the call.

On July 19, 1968 there was "a crowd in the doorway of the Galaxy, and there was cursing." "You could hear it [the cursing] two blocks away." He called the police.

On July 28, 1968, at 1:10 a.m., he observed that they "ganged up in front, cursing, carrying on, making loud noise, nobody could rest, bad language." This tumult continued for one-half hour. Again he called the police. On July 29, between 1:00 and 2:00 a.m., he observed three or four men exiting from the tavern fighting and cursing. He called the police. On September 2 he called the police in order to request a patron in the tavern to remove a motor vehicle that was blocking his driveway.

On week-ends all during the summer months, commencing at 10:00 p.m., he heard loud music emanating from the tavern. This disturbed his sleep. On September 8 at 1:00 a.m. he called the police because approximately ten or twelve men were in front of the tavern cursing and talking loudly. He again heard loud music. He called the police a second time that night because he observed a patron being ejected from the tavern and then struck on his head with a bottle. The individual who was struck was removed from the scene in an ambulance. The perpetrator of the assault fled from the scene.

On September 10 he observed "about five or six or more" persons coming in and out of the tavern, slam doors, drinking, cursing and throwing bottles in the street towards his house. On

September 18 at 2:00 a.m. (closing time for the tavern) he heard "cursing, carrying on, disturbance on the sidewalk" in front of the licensed premises. On October 6 he saw two men fighting in front of the door and heard cursing. The police were called. On October 9 at 11:25 p.m. he again observed "Cursing and fighting, argument in front of the Galaxy, abusive language." He observed the same type incidents on October 22. Additionally, men were cursing at each other from opposite sides of the street. On April 12, 1969, at 10:55 p.m., he observed a group of four or five youngsters fighting and cursing in front of the tavern door. On May 3, 1969, at midnight, he observed "At least eight or ten of them out there. Some trying to stop the fight, some making the fight, more came outside trying to break it up, some going back inside, in and out, confusion." He frequently saw men drinking on the sidewalk in front of the licensed premises and break bottles in the street. Recently the situation did improve. He characterized the neighborhood as residential, consisting mainly of one and two-family dwellings and some apartment buildings. The appellant conducts the only tavern in the neighborhood.

In describing an incident which occurred on the night prior to the hearing held herein (January 16, 1970), the witness testified: "Something went off, a gun or something. Anyhow, it woke me up, like a gun fired. I got up and some one on up against the window, large show window, two guys out there shouting, two standing in the doorway, and every kind of language in the world being used."

On cross examination the witness testified that more than two blocks distant from his home there is located a tavern, a block-and-a-half distant there is located a package goods store, and there are a number of shops and commercial enterprises in the area, none of which causes interference with his sleep. The tavern was in business when he moved to his present address nine years ago.

He occasionally entered the tavern in order to have a patron remove his car from his driveway. In order to enter the tavern it was necessary to open the main outside door and then a door inside the vestibule. He recorded some, but not all, of the incidents in a small book that he was referring to while on the witness stand. He recorded nothing for the month of August because he was on vacation. He has protested the issuance of a license since 1964. He had noted speeding and drag races on Park Street in the area of the tavern. That ceased this year.

Verlie Williamson (wife of the previous witness), who also resides at 114 Park Street, Orange, testified that during the summer months in the years 1968 and 1969 she heard the sound of loud music emanating from the tavern and when "somebody go in and out you could hear the door slam and hear music." She heard the music while she was in the house or on the porch. The witness then testified as follows:

"Q Do you have any problems sleeping at night during the summer?

A Yes.

Q Why?

A For the noise. You can't sleep to save your life from the noise, cussing, and going in and

out, so I go sit in the den I got a den on the second floor. I sit opposite the window and look at them going in and out, cussing and fighting."

The witness then added:

"A It is both summers. You can't rest in the summer to save your life. When they start fighting inside the tavern somebody throw them out. And they finish out in the street."

In June or July 1968 she "heard all this cussing and fight going on, I looked out, a gang being pushed out of the tavern, being pushed out, because I went downstairs and looked out, and I saw them push them out of the tavern, and they started fighting up and down the street, grabbed the garbage cans and talking and fighting with the garbage cans." In the summer of 1968 she observed a male running out of the tavern. While on the sidewalk he was struck over the head with a bottle and then struck by a fist. Police officers came to the scene. She observed fighting and "cussing" throughout the summer of 1968. Whenever a fight was started in the tavern, the participants would be pushed out and the fight would continue in the street. The witness characterized the conduct of the business as a nuisance.

On cross examination Mrs. Williamson testified that during July and August she has sat up late due to the noise. There are not many teenagers in the neighborhood; there are many children six, seven and eight years of age. Concluding, the witness testified as follows:

"Q There is no particular incident that registers in your mind in July and August, 1969? This is this past summer, not the summer before. There is no incident in July or August, 1969, that comes to your mind?

A It is so much of it you can't think of all because it is every month of the year."

Daisy Moorhead testified that she resides in a two-family house which she owns at 159 Elm Street "just around the corner about two houses around" from the tavern in question. At two o'clock in the morning she would hear the noise of slamming of cars and has seen three police officers trying to quiet them down. "Any time in the summertime I can get up two o'clock in the morning and see them getting in their cars." The noise has interfered with her sleep, particularly during the summer months.

On cross examination the witness testified that although she has never called the police, she has seen them about the premises.

Evelyn Bowner, who owns and resides in a one-family house at 155 Elm Street "just around the corner" from the licensed premises testified that during the summer months of 1968 and 1969 she has been disturbed by the noise emanating from the tavern. She described the noise as "cussing, swearing, slamming the car doors." The noise occurs mostly on week-ends. She saw

no fighting at the tavern. She characterized the neighborhood as mostly residential and asserted that there are no other taverns in the immediate neighborhood.

Andy Addison testified that he has resided and conducted a sign business at 95 Park Street since May 15, 1969. He had heretofore testified in behalf of the licensee. During the past six years he frequented the licensed premises almost every day and night. He characterized the tavern as a place of gaiety. It featured go-go dancers and juke box music. When he first opened his shop he had problems with "people congregating on the corner and standing in the doorway drinking wine, blocking my windows, I had broken glass." He had no idea where these people came from. He usually called the police and the police would clear the corner. The testimony then revealed the following:

- "Q Did any of those people ever go in the Galaxy?
- A They drift up the street while the cops were there on the corner and telling them to clean off the corner, drift up the block, maybe some go in the Galaxy and come back no sooner than the cops left.
- Q What would they do on the corner?
- A What they did on the corner? It seems some stood there drinking wine, some stood there to purchase narcotics, I observed it being passed, and this general area thing."

On cross examination the witness testified that no wine is sold in the tavern. He described the front entrance doorways as flush with the building line. Beyond this there is a vestibule and then another door which opens into the tavern proper. Automatic vacuum door stops prevent the doors from slamming. Park Street is heavily trafficked.

On behalf of the corporate appellant, Jerry T. Ferrell (president and sole stockholder thereof) testified that music in the tavern is furnished by a juke box through small speakers located on the bar. He received no complaints from the municipal authorities concerning the operation of the tavern for the period from July 1968 to July 1969.

He had no occasion ever to call the police for anything occurring in the barroom. He did call the police some time in July and August 1969 because some unidentified person or persons had thrown missiles through a window in the tavern after closing hours. Neither Mr. nor Mrs. Williamson complained to him concerning noise in the tavern. They do not speak to him. Concerning the incident of June 22, 1968, regarding which Williamson testified there were fireworks in front of the tavern, he testified that one of the youths passing by on the way from the recreation center threw a cherry bomb in the street.

There was no fighting or swearing. If anything disruptive occurred, he would call the police. He employs bartenders and works in a strictly managerial capacity, walking "the floor inside or out around the sidewalk, down the driveway, through the parking lot, the exterior as well as the interior."

When he first purchased the tavern in 1966, he had the juke box set so that the music could not be heard across the street. Neither Mrs. Moorhead nor Mrs. Bowner had ever been in his tavern. His tavern attracts patronage from Orange, East Orange, Montclair and New York.

On cross examination the witness asserted that there was never a fight in the tavern since he owned it in 1966. During the summer months he employs five bartenders, a waiter and a waitress. There have been fights on the sidewalk and in the street. However, they did not start in the tavern. Whenever he heard swearing in the tavern, he told the patrons to cease. The music in the barroom is loud enough for the patrons to dance. He employs go-go dancers two or three times a week. The barroom could accommodate approximately two hundred patrons. In his opinion he operates a quiet bar.

Pasquale G. Messano, who holds the rank of sergeant in the local police force, testified that he brought with him certain records of the Police Department which disclosed whether or not a police radio car was dispatched to the area of the licensed premises on certain dates enumerated therein. The records were marked in evidence by consent of counsel (R-1 and R-2).

Officer Reginald H. Thaxton, of the local police force, testified that he patronizes the tavern twice or three times a month, usually in the daytime when visiting his father who resides in the immediate area thereof. He characterized the tavern as "fairly peaceful." He never saw a fight in the tavern.

Robert L. Warren, who has resided in a house diagonally across the street from the licensed premises since August 1968, testified that he patronizes it daily. He never witnessed any altercation inside the licensed premises from August 1968 to June 1969. He characterized the neighborhood as business and residential and Park Street as well-traveled. He witnessed no fights in front of the licensed premises. He has not been disturbed by noise emanating from the licensed premises.

Prior to considering the merits of this proceeding, I observe that the evenly divided vote of the Board constituted, in effect, a denial of appellant's application. Pascua and Vecchione v. Weehawken, Bulletin 1363, Item 1; Duca v. National Park, Bulletin 1070, Item 1, and cases cited therein.

In adjudicating this matter I am mindful that in Zicherman v. Driscoll, 133 N.J.L. 586, 587 (Sup. Ct. 1946), the court stated:

"The primary question presented is the right of a holder of a plenary retail consumption license to a renewal of that license for a subsequent term.

"The question of a forfeiture of any property right is not involved. R. S. 33:1-26. A liquor license is a privilege. A renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor by retail, Crowley v. Christensen, 137 U.S. 86, and no person is entitled as a matter of law to

a liquor license.... No licensee has vested right to the renewal of a license. Whether an original license should issue or a license be renewed rests in the sound discretion of the issuing authority. Unless there has been a clear abuse of discretion this court should not interfere with the actions of the constituted authorities.... 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."

It is the duty of appellant to see that the liquor establishment is conducted in a manner conducive to the best interest of both the liquor industry and the public.

Judge Jayne, speaking for the court in In re 17 Club, Inc., 26 N. J. Super. 43,52 (App. Div. 1953), said:

"The governmental power extensively to supervise the conduct of the liquor business and to confine the conduct of that business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad and liberal judicial support."

In appraising the factual picture presented herein, the credibility of witnesses must be weighed. Testimony, to be believed, must not only proceed from the mouth of a credible witness, but must be credible in itself. It must be such as the common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961).

The general rule in these cases is that the findings must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

From the totality of the evidence adduced herein, I am persuaded that these premises were conducted in such manner as to justify the characterization as a "nuisance" and "trouble spot." The tavern appears to have been conducted in an unruly and noisy manner, permitting males to engage in fighting and use of foul language. Except for the number of times which he asserted the police were summoned, I am of the opinion that Williamson's testimony was otherwise credible and factual. His testimony was amply supported by the testimony of the objectors.

Licensees are responsible for conditions that exist both inside and outside the licensed premises. As early as Conte v. Princeton, Bulletin 139, Item 8 (1936), this Division has firmly held to that principle. See, most recently, Kaplan and Buzak v. Englewood, Bulletin 1745, Item 1; aff'd id nom. App. Div. 1968, not officially reported, recorded in Bulletin 1809, Item 1; certif. den 51 N.J. 464.

After considering the entire record herein, I

recommend that the Board's action be affirmed, that the appeal be dismissed, and that the order extending the term of appellant's 1968-69 license pending further order of the Director be vacated.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's report and argument in support thereof were filed by the attorney for appellant, and answer to the said exceptions, with supportive argument, was filed by the attorney for respondent.

I have fully analyzed and considered the exceptions, and I find that they have either been answered in the Hearer's report or are lacking in merit.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's report, written exceptions filed thereto and answer to the said exceptions, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 11th day of August, 1970,

ORDERED that the action of respondent be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the order dated August 8, 1969, extending the term of appellant's 1968-69 license pending determination of the appeal be and the same is hereby vacated, effective immediately.

RICHARD C. McDONOUGH
DIRECTOR

2. APPELLATE DECISIONS - PITTS v. NEWARK.

K. Margaret Pitts,)	
t/a Kay's Tavern,)	
)	
Appellant,)	On Appeal
)	
v.)	CONCLUSIONS
)	AND ORDER
Municipal Board of Alcoholic)	
Beverage Control of the City)	
of Newark,)	
Respondent.)	
-----)	
William Osterweil, Esq., Attorney for Appellant)	
Anthony J. Iuliani, Esq., by Ronald Owens, Esq., Attorney for Respondent)	

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Board which unanimously denied a place-to-place transfer of appellant's plenary retail consumption license from premises 82 William Street to 62 William Street.

The attorneys for the respective parties agreed to submit the appeal on the transcript of testimony taken in proceedings before the Board, pursuant to Rule 8 of State Regulation No. 15. Additionally the parties consented to offer in evidence a sketch of the area in question. This exhibit was marked A-1 in evidence.

The transcript reveals that the licensee was compelled to seek other premises because the building wherein the tavern was located was in a ruinous condition; and further, licensee had received a notice to vacate the premises from the Urban Renewal Authority. Licensee then entered into a conditional agreement to purchase premises at 62 William Street which is located 342 feet distant from the present location and on the block adjoining thereto.

At the hearing before the Board, Harry Fein, who owns a building known as 319-323 Washington Street and 68-70 William Street (approximately midway between 82 William Street and 62 William Street) objected to the transfer because the licensed premises "has been flooded with undesirables, and bottles of all sort along the street, and I would say the remarks passed by some of the boys hanging around have been very, very bad. I cannot express it in the way I would like to. It seems to be a hangout for undesirables." He has complained to the police department concerning these conditions.

Bernard Winter, who operates an electrical store at 64-66 William Street immediately adjacent to 62 William Street on the westerly side thereof, objected to grant of the transfer. He asserted that the businessmen in the immediate area would be

compelled to close their businesses because of the "element" that patronizes the licensed premises. He testified:

"It is going to be a deserted area as far as business people go. I myself, I could go on record that I would not be there. That building would come down. And I know the other people who are tenants there, they are not going to be there. What do they have to be there for? We have all we could do to stay in the City of Newark now."

Referring to the licensed premises he continued:

"...you could pass there at 4:00 o'clock and you could see four or five people in this hallway sitting there, and when you park your car there you have remarks. You are scared to stop there for a red light because of those people hanging around there."

Both objectors conceded that an employment office in the area had contributed to attracting an undesirable element.

Fein, Winter and an Edward Katler, proprietor of Max S. Katler & Son, located at 44 William Street, sent letters to this Division wherein they stated that they objected to the transfer of the license for substantially the same reasons particularized above.

On the adjourned date of the hearing held before the Board, the members thereof asserted that they opposed the transfer of the license for reasons which may be succinctly summarized as follows: That there are sufficient liquor outlets in the area; That the transfer would be from one type of a business area into another type of a business area; That the proposed transfer would be in an area in which there is a concentration of retail stores and, lastly, that the proposed transfer would be detrimental to the businessmen of the area and their patrons.

It is not disputed that the area in question is mainly a business or commercial area in which there are located many retail outlets.

It appears to me that the dispositive issue has been identified: Did the Board act reasonably and in the best interest of the community?

It is basic that a transfer of a liquor license to other premises is not an inherent or automatic right. The issuing authority may grant or deny a transfer in the exercise of reasonable discretion. If denied on reasonable grounds, such action will be affirmed. Richmon, Inc. v. Trenton, Bulletin 1560, Item 4; Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946). As the court said in Fanwood v. Rocco, 59 N.J. Super. 306 (App. Div. 1960), aff'd 33 N. J. 404 (Sup. Ct. 1960): "No person is entitled to [the transfer of a license] as a matter of law" and "If the motive of the governing body is pure, its reasons, whether based on morals, economics or aesthetics, are immaterial."

In this connection it may be well to quote further

from Fanwood v. Rocco, supra, at p. 320:

"The primary purpose of the act is to promote temperance (R. S. 33:1-3) and 'to be remedial of abuses inherent in liquor traffic and shall be liberally construed' to effect those purposes. R. S. 33:1-73; Hudson Bergen County Retail Liquor Stores Ass'n, Inc. v. Board of Com'rs. of City of Hoboken, supra. Because these are the purposes there is a sharp and fundamental distinction between the power of the Director when a license is denied by the municipality and when one is granted, because refusing a license cannot lead to intemperance or to any of the other evils the act is intended to prevent."

The Legislature has entrusted to municipal issuing authorities in the first instance with the duty to approve or disapprove place-to-place transfers. The action of the Board in either approving or denying an application for such transfer may not be reversed by the Director unless he finds "the act of the board was clearly against the logic and effect of the presented facts." Hudson Bergen County Retail Liquor Stores Ass'n, Inc. v. Hoboken, 135 N. J.L. 502 (E. & A. 1947).

As was stated in Ward v. Scott, 16 N. J. 16 (1954), at p. 23:

"... Local officials who are thoroughly familiar with their community's characteristics and interests and are the proper representatives of its people, are undoubtedly the best equipped to pass initially on such applications.... And their determinations should not be approached with a general feeling of suspicion, for as Justice Holmes has properly admonished: 'Universal distrust creates universal incompetence.' Graham v. United States, 231 U. S. 474, 480, 34 S. Ct. 148, 151, 58 L. Ed. 319, 324 (1913)...."

In the recent case of Lyons Farms Tavern, Inc. v. Newark, 55 N. J. 292, 303 (1970), the court stated:

"The conclusion is inescapable that if the legislative purpose is to be effectuated the Director and the courts must place much reliance upon local action. Once the municipal board has decided to grant or withhold approval of a premises-enlargement application of the type involved here, its exercise of discretion ought to be accepted on review in the absence of a clear abuse or unreasonable or arbitrary exercise of its discretion. Although the Director conducts a de novo hearing in the event of an appeal, the rule has long been established that he will not and should not substitute his judgment for that of the local board or reverse the ruling if reasonable support for it can be found in the record...."

In Lyons Farms Tavern, Inc. the Supreme Court re-emphasized the thesis of the Fanwood case that the Director may not disregard the municipal governing body's authority to decline

to license the operation of any taverns or package stores in a business section particularly where there is widespread local sentiment in favor of keeping the area free of taverns and package stores.

Evidently these factors were conscientiously evaluated by the Board in reaching its ultimate determination. Absent improper motivation, the action of the issuing authority, based upon proper and bona fide use of its discretion, must be affirmed. Hudson Bergen Retail Liquor Stores Ass'n Inc. v. Hoboken, supra.

Therefore, after considering all of the evidence herein, including the transcript of the testimony and the exhibit, I conclude that the appellant has failed to sustain the burden of establishing that the action of the Board was unreasonable or constituted an abuse of its discretionary power. Rule 6 of State Regulation No. 15. Hence I recommend that an order be entered affirming the action of the Board and dismissing the appeal.

Conclusions and Order

No exceptions were taken to the Hearer's report pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record, including the transcript of testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 11th day of August, 1970,

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

RICHARD C. McDONOUGH
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING (BASKETBALL GAMES, HORSE RACE AND NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

George William Tonks)
t/a Turk's Bar and Restaurant)
315 Main Street)
Little Ferry, N. J.)

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-9 (for 1969-70 and 1970-71 license periods), issued by the Mayor and Council of the Borough of Little Ferry, and transferred prior to conclusion of these proceedings to)

ORDER

Leonida Tonks)
t/a Turk's Bar and Restaurant)
for same premises.)

-----)
John F. McCann, Esq., Attorney for Licensee George William Tonks
Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee George William Tonks pleads non vult to charges as follows:

- "1. On February 21, 24, 26 and March 5, 1970, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets on 'sports events' (basketball games) on said dates of February 21, 24 and 26, 1970, on horse races on said date of February 21, 1970 and in a lottery, commonly known as the 'numbers game' on said date of March 5, 1970; in violation of Rule 7 of State Regulation No. 20.
- "2. On March 5, 1970, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game', to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

Licensee George William Tonks has a previous record of suspension of license by the Director for twenty-five days effective April 3, 1961, for permitting alcoholic beverage activity on the licensed premises during hours prohibited by local regulation and for sale of alcoholic beverages for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38. Re Tonks, Bulletin 1387, Item 6.

The prior record of suspension for dissimilar violation occurring more than five years ago disregarded, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Wall, Bulletin 1887, Item 5.

Accordingly, it is, on this 13th day of August 1970,

ORDERED that Plenary Retail Consumption License C-9 issued by the Mayor and Council of the Borough of Little Ferry to Leonida Tonks, t/a Turk's Bar and Restaurant, for premises 315 Main Street, Little Ferry, be and the same is hereby suspended for fifty-five (55) days, commencing at 3 a.m. Tuesday, September 1, 1970, and terminating at 3 a.m. Monday, October 26, 1970.

RICHARD C. McDONOUGH
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Emjam, Inc.)
t/a Mr. Wonderful)
474 & 476 Avon Avenue)
Newark, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-42, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

-----)
Licensee, by Pamela Bentley, President, Pro se.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to charge alleging that, on May 8, 1970, it possessed alcoholic beverages in two bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Black Harbor Inn (A Corp.), Bulletin 1914, Item 5.

Accordingly, it is on this 27th day of July 1970,

ORDERED that Plenary Retail Consumption License C-42, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Emjam, Inc., t/a Mr. Wonderful, for premises 474 & 476 Avon Avenue, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, August 3, 1970, and terminating at 2:00 a.m. Thursday, August 13, 1970.

RICHARD C. McDONOUGH
DIRECTOR

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

In the Matter of Disciplinary)
Proceedings against)

Swartswood Lodge, Inc.)
t/a Swartswood Lodge)
West Shore Drive)
Stillwater Township)
PO Swartswood, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-8 issued by the Township)
Committee of the Township of)
Stillwater)

Licensee, by Frank Patracuolla, Secretary-Treasurer, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
May 25, 1970, it possessed an alcoholic beverage in a bottle
bearing a label which did not truly describe its contents, in
violation of Rule 27, of State Regulation No. 20.

Absent prior record, the license will be suspended
for ten days, with remission of five days for the plea entered,
leaving a net suspension of five days. Re Jacobus, Bulletin
1912, Item 11.

Accordingly, it is on this 30th day of July, 1970,

ORDERED that Plenary Retail Consumption License C-8,
issued by the Township Committee of the Township of Stillwater
to Swartswood Lodge, Inc., t/a Swartswood Lodge, for premises
on West Shore Drive, Stillwater, be and the same is hereby
suspended for five (5) days, commencing at 7:00 a.m. Monday,
August 3, 1970, and terminating at 7:00 a.m. Saturday, August
8, 1970.

RICHARD C. McDONOUGH
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Lucille Gumienny
t/a Eddie's Bar
352 Broadway
Newark, N. J.

)
) CONCLUSIONS
) and
) ORDER
)

) Holder of Plenary Retail Consumption License C-110 (for 1969-70 and 1970-71 license periods), issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.
)
)

Sarcone and Mascia, Esqs., by C. Robert Sarcone, Esq., Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for the Division


BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on January 14, 21, 26 and 28, 1970 she permitted the acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Lorello and Schulkes, Bulletin 1919, Item 9.

Accordingly, it is, on this 19th day of August 1970,

ORDERED that Plenary Retail Consumption License C-110, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Lucille Gumienny, t/a Eddie's 352 Bar, for premises 352 Broadway, Newark, be and the same is hereby suspended for fifty-five (55) days, commencing at 2 a.m. Tuesday, September 1, 1970, and terminating at 2 a.m. Monday, October 26, 1970.



Richard C. McDonough
Director