

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 5, N. J.

BULLETIN 1131

September 19, 1956

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 5, N. J.

September 19, 1956

BULLETIN 1131

1. APPELLATE DECISIONS - FURMAN ET AL. v. AVON-BY-THE-SEA AND STRATFORD INN.

MARIE FURMAN, THOMAS GAGAN,)
PETER SIMONSEN, MABEL CHAPLIN)
AND BETTY VOORHEES,)

Appellants,)

-vs-

ON APPEAL
CONCLUSIONS AND ORDER

BOARD OF COMMISSIONERS OF THE)
BOROUGH OF AVON-BY-THE-SEA,)
AND STRATFORD INN, A CORP.,)
TRADING AS STRATFORD INN)

Respondents.)

Henry W. Sayrs, Esq., Attorney for the Appellants.
Joseph N. Dempsey, Esq. Attorney for Respondent Stratford Inn.
Donald J. Cunningham, Esq., Attorney for Respondent Board of
Commissioners.

BY THE DIRECTOR:

Appellants appeal from the action of respondent Board of Commissioners in granting a summer seasonal retail consumption license to the respondent Stratford Inn for premises on the N/W corner of 2nd and Garfield Avenues, Avon-by-the-Sea, New Jersey, Beginning in 1947 and for each successive year thereafter, a similar license was issued by the respondent Board to the Stratford Inn for the same premises.

Appellants allege in their Petition of Appeal that respondent Board erred in its action in granting the license for the current licensing term because respondent licensee had, during the 1955 licensing period, violated certain conditions imposed upon it in its license and operated the premises in a manner to constitute a nuisance within the meaning of the Alcoholic Beverage Law.

The conditions allegedly violated as contended by appellants in their Petition of Appeal were (a) that respondent Stratford Inn would abide by and comply with the Alcoholic Beverage Law, rules and regulations promulgated by the Director and all municipal ordinances and resolutions; (b) that it would not allow, permit or suffer in or upon the licensed premises or grounds of the licensee any lewdness, immoral activity or foul, filthy or obscene language or conduct, or any brawl, act of violence, disturbance or unnecessary noise; nor shall the licensee allow, permit, or suffer the licensed place of business to be conducted in such manner as to become a nuisance; (c) that it would not permit loitering on the grounds of the premises; (d) that adequate policing should be available in and about the licensed premises, including the grounds of the licensee; and

(e) that the entrance, exit areas and aisles of the licensed premises shall be kept clear at all times.

Appellants produced a number of witnesses, some of whom reside in the immediate vicinity, who testified, in substance, that respondent licensee permitted on various occasions during the summer season of 1955, particularly on week-ends and holidays, large crowds of persons to congregate outside its premises; that some of these persons used profane language and directed insulting remarks to persons walking on the sidewalks near the premises; and that at times automobiles were double parked in the streets adjacent to the premises in question.

Respondent licensee produced a number of witnesses, some of whom also resided in the neighborhood of the licensed premises, who testified that they have never seen anything wrong occurring in or near the respondent licensee's licensed premises.

A licensee is responsible for conditions in and outside of his licensed premises which are caused by patrons thereof. Conte v. Princeton, Bulletin 139, Item 8.

The determination as to whether a retail liquor license should be issued or renewed rests within the sound discretion of the municipal issuing authority. The issuance here appealed from was granted after a lengthy hearing at which the testimony of twenty witnesses was heard by the respondent Board. After careful examination of the whole record and the argument presented in the memoranda filed by counsel for the respective parties, I am of the opinion that the respondent Board's action to issue the license in question to the respondent licensee should be affirmed. It might be pointed out, however, that the respondent licensee should be fully mindful at all times of its responsibilities to conduct its business in a manner so as not to cause any undue infringements of the peace and quiet of the neighborhood, with particular thought to the residential character thereof. It must be clearly understood that my decision in this appeal is necessarily founded upon the testimony and record now before me--that while adequate affirmative proof of its having caused conditions complained of is here lacking, there is strong suspicion that the conduct of its establishment contributes to such conditions. It is to be borne carefully in mind that respondent Board will have full opportunity (in the exercise of its duty, under R. S. 33:1-24, to enforce primarily the Alcoholic Beverage Law and regulations in so far as they pertain or refer to or are in any way connected with retail licenses) to consider the manner in which the premises are hereafter conducted and, in the event of a violation, to take prompt and effective action.

Accordingly, it is on this 9th day of August, 1956,

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

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - ECHO WINES & LIQUORS, INC. v. ELIZABETH AND DUBROW AND DUBROWSKY.

ECHO WINES & LIQUORS, INC.,)
)
 Appellant,)
)
 -vs-)
)
 MUNICIPAL BOARD OF ALCOHOLIC)
 BEVERAGE CONTROL OF THE CITY)
 OF ELIZABETH, AND BENJAMIN)
 DUBROW AND SEYMOUR DUBROWSKY,)
 TRADING AS D. & D. LIQUORS,)
)
 Respondents.)

ON APPEAL
CONCLUSIONS AND ORDER

 Julius R. Pollatschek, Esq., Attorney for Appellant.
 Jacob Pfeferstein, City Attorney, by John L. Ard, Second
 Assistant City Attorney, Attorney for Respondent Municipal
 Board.
 Edward W. McGrath, Esq., Attorney for individual Respondents.
 John T. Glennon, Esq., Attorney for Louis Kolker, Objector.
 Herbert Hausman, Esq., Attorney for Court House Shopping Center,
 Objector.

BY THE DIRECTOR:

This is an appeal from the action of respondent Municipal Board on April 23, 1956, whereby it transferred plenary retail distribution license D-22, then held by respondents Benjamin Dubrow and Seymour Dubrowsky, from 3 West Grant Street to 1184 Elizabeth Avenue, Elizabeth.

The petition of appeal alleges that the action of respondent Board was erroneous because said transfer was in violation of Section 7 of a local ordinance adopted April 5, 1955, and in violation of Section 7 of a local ordinance adopted May 7, 1956. The petition of appeal alleges also that the area to which the license was transferred is adequately served by existing licensees and that the action of respondent Board was arbitrary, improper and capricious.

The answers filed by the Municipal Board and the individual respondents deny that the action of the Board was erroneous and the answer filed by the Municipal Board further alleges that the transfer was granted on the basis of extreme hardship being shown by the respondents Benjamin Dubrow and Seymour Dubrowsky.

Blanche Wine & Liquor Co. was the holder of plenary retail distribution license D-22 issued for the 1955-56 licensing year for premises 3 West Grand Street. In August or September 1955 Seymour Dubrowsky started negotiations with a Mr. Weingarten, then owner of Blanche Wine & Liquor Co., for the purchase of said business. At the hearing herein Seymour Dubrowsky testified that Mr. Weingarten then "told us that either we would be able to stay there or, if the building is remodeled, we will be able to get a new lease in the vicinity at that location." Later in his testimony he stated that Mr. Weingarten then told him that, if the building were remodeled, they would be able to get a new location "in the same building." In any event, the individual respondents herein entered into a contract, in September or October 1955, with the owner of the Blanche Wine & Liquor Co. for the purchase of said business and thereafter applied to respondent Municipal Board for a person-to-person transfer of

License D-22. On December 28, 1955, the building known as 1184 Elizabeth Avenue (which then had a vacant store) was purchased by Benjamin Dubrow and his wife and Hyman and Dora Dubrowsky who are the father and mother of Seymour Dubrowsky. At a meeting held on January 10, 1956, respondent Municipal Board granted the application for the person-to-person transfer of License D-22 from Blanche Wine & Liquor Co. to the individual respondents herein, and three days later the transferees of the license began operation of the licensed business at premises known as 3 West Grand Street. Indirectly, as a result of letters written on March 1, 1956, and March 12, 1956, by the managing agent of 3 West Grand Street, the individual respondents were advised that they must vacate their licensed premises on April 30, 1956, because the building had been sold and the new owners intended to start demolition of the building on May 1, 1956. Demolition and reconstruction of said building began on or about May 1, 1956.

At the hearing Seymour Dubrowsky testified that, after receiving notice of termination of tenancy, he tried unsuccessfully to obtain other suitable premises within 1,500 feet of 3 West Grand Street, and also employed Peter J. McGurk, a realtor, to assist him. Mr. McGurk, who has been engaged in the real estate business for forty years, testified that he looked at many suggested locations but was unable to find suitable premises at a reasonable rental within 1,500 feet of 3 West Grand Street. He also testified that he consulted the renting agent for the building being reconstructed at the latter address and was advised that the new owner would not rent any of the new stores to the holder of a plenary retail distribution license. The individual respondents filed an application to transfer license D-22 from 3 West Grand Street to 1184 Elizabeth Avenue. That application was granted by respondent Board on April 23, 1956, and said action is the subject of this appeal.

It has been stipulated that the premises at 1184 Elizabeth Avenue are more than 1,500 feet from the premises at 3 West Grand Street, and that there are other existing licensed premises within a radius of 1,500 feet of the premises at 1184 Elizabeth Avenue.

Since the application for transfer was granted, the decision herein must be based upon the ordinance in effect at the time the transfer was granted. Baker v. Newark et al., Bulletin 1018, Item 1. I am, therefore, disregarding the amendment to the local ordinance subsequently adopted on May 7, 1956. The primary question to be decided herein is whether the granting of the transfer violated Section 7 of the local ordinance adopted on April 5, 1955.

The general policy of the City of Elizabeth since 1935 to maintain a distance of 1,500 feet between licensed premises has been set forth by various resolutions and ordinances and, in earlier cases, the policy has been uniformly upheld on appeal. Gural and Toplovich v. Elizabeth, Bulletin 153, Item 7; Fine v. Elizabeth, Bulletin 346, Item 18; Burns v. Elizabeth, Bulletin 794, Item 5; Perry v. Elizabeth, Bulletin 847, Item 4.

Section 7 of an ordinance adopted March 5, 1952, provided as follows:

"Section 7. No licenses, excepting club licenses and excepting renewals and person-to-person transfers of other licenses now outstanding shall be granted for or transferred to premises within a radius of 1,500 feet of then existing licensed premises."

A transfer of a license in violation of said section

was reversed. Monroe Tavern, Inc. v. Elizabeth and Stadeck, Bulletin 994, Item 4.

On June 29, 1954, the aforesaid ordinance was amended and supplemented by adding thereto Section 7A which provides as follows:

"Section 7A. Whenever any licensed premises are totally destroyed by fire, earthquake, hurricane or other disaster beyond the control of the licensee of such premises and the owner of the same does not rebuild or refuses to renew the lease or rental agreement to the licensee the Municipal Board of Alcoholic Beverage Control, may, in its discretion permit an exception to the provisions of this section."

No appeals have been decided in which the effect of Section 7A was considered, but the Municipal Board and the individual respondents herein contended at the hearing and in their respective briefs that the transfer was permissible under said section as well as under Section 7 as amended on April 5, 1955, and hereafter set forth.

On April 5, 1955, Section 7 of the ordinance adopted on March 5, 1952, was amended to read as follows:

"Section 7. No licenses, excepting club licenses and excepting renewals and person-to-person transfers of other licenses now outstanding, shall be granted for or transferred to premises within a radius of 1500 feet of then existing licensed premises.

"This section shall not apply in situations covered by supplemental section 7A in the ordinance adopted June 29, 1954, concerning transfers from premises destroyed by fire, earthquake, hurricane or other disaster.

"Nothing in this section shall prevent transfer of a license to premises located within a radius of 1500 feet of the premises for which the license sought to be transferred is issued, provided that no part of the 1500 feet has been used up in a previous transfer; it being the intention of this ordinance to permit transfers only in cases where an extreme hardship is established.

* * * * *

The effect of the third paragraph of Section 7 as amended was considered in two subsequent appeals. In Higgins v. Elizabeth, Bulletin 1081, Item 5, and Cooperstein v. Elizabeth, Bulletin 1098, Item 1, it was held that the transfers to premises within 1,500 feet of existing premises were properly denied where appellants failed to establish extreme hardship.

After considering the evidence, all the briefs filed herein and the exceptions and argument filed on behalf of the individual respondents, I conclude that Section 7, as amended, should be construed as follows: Aside from the exemptions set forth in the first paragraph, a transfer to other premises within a radius of 1,500 feet of existing licensed premises is prohibited except that (1) where a licensee establishes that he has suffered extreme hardship due to any cause set forth in Section 7A, such a transfer may be granted irrespective of the distance between the premises from and the premises to which transfer is sought, and (2) where a licensee establishes that he has suffered any other extreme hardship, such a transfer may be granted under the third

paragraph of said section, but only to other premises within a radius of 1,500 feet of the premises from which the transfer is sought. Such a construction gives meaning to the word "ordinance" as used in the third paragraph.

Applying the aforesaid construction to the facts herein, I find that the individual respondents have failed to show that they sought the transfer for any of the reasons set forth in Section 7A and, specifically, I find that the transfer was not sought because of a "disaster." Hence, their application does not come within any of the exceptions set forth in Section 7A. I find that they have established extreme hardship under the third paragraph of Section 7 in that the building at 3 West Grand Street was demolished and they are unable to rent a store in the remodeled building at that address. However, said paragraph provides that in such a case a license may be transferred only to other premises within a radius of 1,500 feet of their licensed premises at 3 West Grand Street. The evidence of the individual respondents that they are unable to find suitable premises within that distance is immaterial because such failure does not permit the Board to grant a transfer to other premises beyond a radius of 1,500 feet of 3 West Grand Street if it is within a radius of 1,500 feet of existing licensed premises. Since the transfer herein was granted to premises beyond a radius of 1,500 feet of 3 West Grand Street, it was granted in violation of Section 7 of the amended ordinance. It is well established that an issuing authority may not issue or transfer a license in violation of the terms of a local regulation. Monroe Tavern, Inc. v. Elizabeth and Stadeck, supra, and cases therein cited.

It is unnecessary to consider the other grounds set forth in the petition of appeal. The transfer was prohibited by Section 7 of the ordinance. I shall, therefore, reverse the action of respondent Board.

It appears that Benjamin Dubrow and Seymour Dubrowsky, trading as D. & D. Liquors, have obtained from the Municipal Board a 1956-57 renewal of their license for 1184 Elizabeth Avenue. The effect of the decision herein is that, for the purposes of renewal, these individual respondents must be considered as the holders of a license on June 30, 1956, for 3 West Grand Street. The license which they now hold for 1184 Elizabeth Avenue may not be considered as a renewal of the license which they previously held because it does not cover the premises previously licensed. See R.S. 33:1-12.13. Ordinarily the entry of an order setting aside the renewal of the license would be justified. (Rule 13, State Regulations No. 15; Hudson Bergen Retail Liquor Stores Assn. v. Jersey City, Bulletin 931, Item 4, aff'd in Greenspan v. Div. of A.B.C., 12 N.J. 456, Sup. Ct. 1953.) However, respondents apparently acted in good faith, and my order as to the renewed license will be a modified one. Cf. St. Paul and St. Philip's Episcopal Church v. Newark and Cilio, Bulletin 993, Item 1. I shall postpone the effective date of the order setting aside renewal of the license until sixty days from the date hereof in order to permit the individual respondents to apply to respondent Municipal Board for a transfer of their license from 1184 Elizabeth Avenue to suitable premises within a radius of fifteen hundred feet of 3 West Grand Street. The granting or denial of such application will, of course, be discretionary with the Municipal Board, in the first instance, and appealable thereafter. (R.S. 33:1-26.) If the transfer is granted within said sixty days, the renewed license, as transferred, may continue in effect.

Accordingly, it is on this 16th day of August, 1956,

ORDERED that the action of respondent Municipal Board in granting the transfer of License D-22 for the 1955-56 licensing year, from 3 West Grand Street to 1184 Elizabeth Avenue, be and the same is hereby reversed; and it is further

ORDERED that the 1956-57 renewal of said license for 1184 Elizabeth Avenue be cancelled, effective at 2 a.m. October 15, 1956, unless before said time said license is duly transferred by respondent Municipal Board as hereinabove set forth.

WILLIAM HOWE DAVIS
Director.

3. APPELLATE DECISIONS - 819 CLUB, INC. v. ELIZABETH.

819 CLUB, INC., TRADING AS)	
819 CLUB,)	
)	
Appellant,)	
)	ON APPEAL
-vs-)	ORDER
)	
MUNICIPAL BOARD OF ALCOHOLIC)	
BEVERAGE CONTROL OF THE CITY)	
OF ELIZABETH,)	
)	
Respondent.)	

Joseph L. Kaplan, Esq., Attorney for Appellant.
Jacob Pfeferstein, Esq., by Raymond A. Leahy, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

Appellant appealed from the action of respondent whereby it suspended its plenary retail consumption license C-173 (for premises 819-821 East Jersey Street, Elizabeth) for thirty days, effective July 16, 1956. Said suspension was imposed after respondent had found appellant guilty on a charge of selling alcoholic beverages to a minor and permitting the consumption of said beverages by said minor in and upon the licensed premises. Upon the filing of said appeal I entered an order, dated July 16, 1956, staying respondent's order of suspension pending the entry of a further order herein. R.S. 33:1-31.

Prior to the hearing herein, the attorney for appellant has advised me in writing that his client desires to discontinue the appeal and that the attorney for respondent has no objection to the discontinuance.

No reason appearing to the contrary, it is, on this 21st day of August, 1956,

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

ORDERED that the thirty-day suspension imposed by respondent, which suspension was stayed by my order hereinabove set forth, is hereby restored to become effective at 2 a.m. August 27, 1956, and to terminate at 2 a.m. September 26, 1956.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 5 DAYS.

In the Matter of Disciplinary Proceedings against)	
ANTHONY VILLARE)	
T/A TONY'S SUPPER CLUB)	CONCLUSIONS
900 N. 2nd Street)	AND ORDER
Camden, N. J.,)	
Holder of Plenary Retail Consumption License C-53 for the 1955-56 licensing period, and C-103 for the 1956-57 licensing period, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)	

Charles Camp Cotton, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant, after previously entering a not guilty plea, pleaded non vult at the hearing in the case to the following charge:

"On Thursday night, May 24, 1956, you engaged in and allowed, permitted and suffered gambling, viz., the playing of dart games and the so-called 'finger game' or 'Mora', for stakes of money or other valuable thing, in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

On May 24, 1956, two ABC agents at defendant's licensed premises observed a dart game in progress with money changing hands between the players after each game. One of the agents called the licensee's attention to the fact that the stakes appeared to be 50¢ a game. The licensee encouraged him to join the players. The agent thereupon played a number of dart games with two other men, paying the winner 50¢ a game. The other agent also engaged in playing this game at times with the two men and at other times with his fellow agent and another man with similar payments to the winner.

While the agents were so engaged, they observed patrons playing a game called "Mora" where the fingers are extended and a number is called in Italian, the loser buying the winner a drink of alcoholic beverages. Later the price of the drink, rather than the drink itself was paid to the winner. The licensee played three such games which he lost and which he paid for with drinks of alcoholic beverages.

The above activities constitute gambling within the interdiction of the above mentioned Rule. Wagering on the game of darts on licensed premises is specifically prohibited. See Re Utter, Bulletin 580, Item 9, wherein reference is made to the rules governing the playing of such games as set forth in Bulletin 255, Item 4.

Defendant has no prior adjudicated record. The conduct engaged in is somewhat akin to a sociable pastime and not commercialized gambling. It is similar to playing cards on licensed premises for money. I shall suspend defendant's

license for a period of five days. Re Salerno, Bulletin 1031, Item 4. Nothing will be remitted for the late plea entered herein. Re The New Ciro's, Inc., Bulletin 994, item 7.

Accordingly, it is on this 31st day of July 1956,

ORDERED that Plenary Retail Consumption License C-103, issued for the 1956-57 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Anthony Villare, t/a Tony's Supper Club, 900 N. 2nd Street, Camden, be and the same is hereby suspended for a period of five (5) days, commencing at 7 a.m., August 6, 1956, and terminating at 7 a.m., August 11, 1956.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO WOMEN AT BAR IN VIOLATION OF LOCAL ORDINANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against

THE SPORT CENTER, A CORP.
806-10 Market St. & 805-13 Federal St.
Camden, N. J.

Holder of Plenary Retail Consumption License C-170 (for the 1955-56 licensing period) and C-125 (for the 1956-57 licensing period) for premises at 805-807-09-11-13 Federal Street, Camden, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS
AND ORDER

Frank M. Lario, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On February 3, 1956, you served beverages to women directly over a bar on your licensed premises; in violation of Section 10 of an Ordinance adopted by the Board of Commissioners of the City of Camden on December 27, 1934, as amended by Ordinance adopted September 12, 1935."

It was stipulated at the time of the hearing by the attorneys for the respective parties that the facts contained in the reports of the two ABC agents who made the investigation which resulted in the charge being preferred in this matter and a diagram of the inside of defendant's premises as prepared by the agents be used in place of their testimony at the within hearing.

It appears from the reports of the agents that there are four "bars" erected in defendant's premises, the largest thereof referred to as "Bar A" is approximately 30 feet long and 13 feet wide. In the center of the bar is a bandstand in front of which is a table and on two sides of the bar, there are openings, three feet in width, to permit ingress and egress thereof. On the date in question the agents observed forty-five patrons, eighteen of whom were women, seated at "Bar A". Three waitresses were on

duty behind the bar and a four piece band which furnished music was located there also. The women seated at the bar were served alcoholic beverages from time to time by the waitresses. The latter would accept orders for the drinks, proceed to a service bar herein designated as "Bar B", pay the bartender who dispensed the beverages to them, return to "Bar A", serve the women and receive payment therefor. The agents did not observe any beer taps or any display of alcoholic beverages behind said bar. There were no patrons or activity of any kind at "Bar D", although fifteen male patrons were seated at "Bar C".

The initial question to be decided here is whether the service of alcoholic beverages to the women at "Bar A" constituted a violation of Section 10 of the Ordinance adopted by the Board of Commissioners of the City of Camden on December 27, 1934, as amended by Ordinance adopted September 12, 1935. The attorney for defendant in his argument before the Hearer referred to "Bar A" as a counter, contending that the service of drinks was made from the service bar ("Bar B"). In view of the fact that "Bar A" and "Bar B" (the bar at which the bottles of alcoholic beverages are displayed and equipment for dispensing beer is installed) are separated from each other, the attorney for the defendant presumably was of the opinion that there was no violation committed by the service of alcoholic beverages to women over "Bar A". This question has already been decided by Judge Freund speaking for the Court in Eskridge v. Division of Alcoholic Beverage Control, 30 N.J. Super. 474-478, as a result of an appeal by Eskridge from an Order of Director Davis suspending his license for violation of the section of the Ordinance of the City of Camden now under consideration. In said opinion, Judge Freund quoted former Director Cavicchia's language in Blue Mirror Inn, Inc., Bulletin 961, Item 5, wherein he said, "It is the use to which a facility is put that constitutes it a bar--not its equipment (such as bottles and glasses) or its fixtures (such as beer taps and sinks). * * * I am convinced that the purpose underlying the section in question was to keep women away from any public bar, whatever its equipment or lack of equipment, and to get them seated at tables."

The other argument advanced by the attorney for the defendant in the instant case is that the Director could not institute action for violation of a City Ordinance until the defendant was convicted in a municipal court. Municipal action against licensees instituted under penalty clauses of municipal alcoholic beverage regulations, like criminal proceedings under the Alcoholic Beverage Law (Re DuPree, Bulletin 108, Item 8) are separate and distinct from disciplinary proceedings. The former are criminal in nature and are aimed at the offending licensee. The latter are civil in nature (Re Gahr, Bulletin 377, Item 7) and are directed mainly against the privilege or license. (Re Messina & Ruisi, Bulletin 392, Item 12.)

After careful examination of the entire record presented herein, I find the defendant guilty of the charge preferred against it.

Defendant has a prior adjudicated record. Effective June 28, 1954, its license was suspended by the Director for three days for a violation similar to that committed herein. Re The Sport Center, Bulletin 1023, Item 5. In view of the fact that the prior similar violation occurred within the past five years, I shall double the penalty imposed herein and suspend defendant's license for a period of ten days.

Accordingly, it is, on this 6th day of August 1956,

ORDERED that Plenary Retail Consumption License C-125,

issued for the 1956-57 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Camden to The Sport Center, A Corp., 805-07-09-11-13 Federal Street, Camden, be and the same is hereby suspended for a period of ten (10) days, commencing at 7 a.m., August 13, 1956, and terminating at 7 a.m., August 23, 1956.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE FOR OFF-PREMISES CONSUMPTION IN OTHER THAN ORIGINAL CONTAINER - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EDWARD T. BARTON)
t/a Barton's Tavern)
541 Ocean Avenue)
Jersey City 5, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Edward T. Barton, Defendant-Licensee, Pro Se.
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, July 15, 1956, at about 1:30 p.m., he sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

On the above date and hour, an ABC agent upon entering the licensed premises observed that it was occupied by ten patrons and two bartenders. Shortly thereafter he saw two of the patrons departing from the premises with a case of Rheingold beer. The agent then asked one of the bartenders for 2 quart bottles of Ballantine beer. The bartender thereupon handed him a bag containing the beer requested and deposited the payment thereof by the agent in a cash register. The agent left the premises with his purchase and within a few minutes returned in the company of another ABC agent. Both agents identified themselves to the aforesaid bartender who denied making the aforementioned illegal sale.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Barkey's Bar & Grill, Inc., Bulletin 1119, Item 8.

Accordingly, it is, on this 14th day of August 1956,

ORDERED that Plenary Retail Consumption License C-1, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Edward T. Barton, t/a Barton's Tavern, 541 Ocean Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2 a.m., August 20, 1956, and terminating at 2 a.m., August 30, 1956.

WILLIAM HOWE DAVIS
Director.

ACTIVITY REPORT FOR AUGUST 1956

ARRESTS:

Total number of persons arrested - - - - -		40
Licensees and employees - - - - -	20	
Bootleggers - - - - -	27	
ADC agent impersonator - - - - -	1	

SEIZURES:

Motor vehicles - cars - - - - -		4
Stillis - over 50 gallons - - - - -		2
Mash - gallons - - - - -		750.00
Distilled alcoholic beverages - gallons - - - - -		44.821
Wine - gallons - - - - -		62.926
Brewed malt alcoholic beverages - gallons - - - - -		165.194

RETAIL LICENSEES:

Premises inspected - - - - -		543
Premises where alcoholic beverages were gauged - - - - -		280
Bottles gauged - - - - -		4,898
Premises where violations were found - - - - -		48
Violations found - - - - -		101

 Type of violations found:

Unqualified employees - - - - -	73	Disposal permit necessary - - - - -	2
Prohibited signs - - - - -	2	Other mercantile business - - - - -	1
Probable fronts - - - - -	2	Other violations - - - - -	19
Reg. #38 sign not posted - - - - -	2		

STATE LICENSEES:

Premises inspected - - - - -		14
License applications investigated - - - - -		13

COMPLAINTS:

Complaints assigned for investigation - - - - -		422
Investigations completed - - - - -		409
Investigations pending - - - - -		220

LABORATORY:

Analyses made - - - - -		180
Refills from licensed premises - bottles - - - - -		2
Bottles from unlicensed premises - - - - -		55

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - -		33
Persons fingerprinted for non-criminal purposes - - - - -		260
Identification contacts made with other enforcement agencies - - - - -		255
Motor vehicle identifications via N. J. State Police teletype - - - - -		1

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -		9
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 Violations involved:

Sale during proh. hours - - - - -	7	Sale to minors - - - - -	2
Failure to close lic. prem. during proh. hours - - - - -	2	Failure to afford view into prem. dur. proh. hours - - - - -	1

Cases instituted at Division - - - - -		40*
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 Violations involved:

Sale to minors - - - - -	16	Furnishing gifts with retail sales - - - - -	1
Sale during prohibited hours - - - - -	10	Permitting lottery activity (fight pool) on prem. - - - - -	1
Conducting bus. as a nuisance - - - - -	4	Mislabeling beer taps - - - - -	1
Sale to intoxicated persons - - - - -	3	Hindering investigation - - - - -	1
Sale below min. cons. resale price - - - - -	3	Permitting immoral activity on prem. - - - - -	1
Sale outside scope of license - - - - -	2	Possessing indecent matter - - - - -	1
Unqualified employees - - - - -	2	Failure to file notice of change in application - - - - -	1
Possessing illicit liquor - - - - -	2	Fraud and front - - - - -	1
Permitting bookmaking on prem. - - - - -	1		
Storage off lic. prem. - - - - -	1		

*Includes one cancellation proceeding - license improvidently issued by reason of disqualified stockholder

Cases brought by municipalities on own initiative and reported to Division - - - - -		6
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 Violations involved:

Sale to minors - - - - -	6	Conducting bus. as a nuisance - - - - -	1
Permitting loitering on prem. (local reg.) - - - - -	1	Sale during prohibited hours - - - - -	1

HEARINGS HELD AT DIVISION:

Total number of hearings held - - - - -		67	
Appeals - - - - -	24	Eligibility - - - - -	8
Disciplinary proceedings - - - - -	33	Seizures - - - - -	2

STATE LICENSES AND PERMITS ISSUED:

Total number issued - - - - -		1,294	
Licenses - - - - -	21	Miscellaneous Permits - - - - -	118
Employment Permits - - - - -	262	Transit Insignias - - - - -	298
Solicitors' Permits - - - - -	50	Transit Certificates - - - - -	39
Disposal Permits - - - - -	108	Social affair Permits - - - - -	398

WILLIAM HONE DAVIS
DIRECTOR

Dated: September 6, 1956

NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1955 TO JUNE 30, 1956 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club No. Issued	Fees Paid	Limited Retail Distribution		Seasonal Retail Consumption		Number Surren- dered Revoked Expired	Number Licen- ses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid			No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	489	\$ 208,750.00	71	\$ 25,575.00	19	\$ 1,785.62						579	\$ 236,110.62
Bergen	816	305,962.98	298	84,594.90	99	9,337.34	53	\$ 2,471.25	11	\$ 3,032.55	6	1271	405,399.02
Burlington	185	87,290.00	38	10,086.93	43	6,014.45	1	50.00				267	103,441.38
Camden	454	217,390.41	82	31,925.00	73	6,847.07			2	750.00	2	609	256,912.48
Cape May	133	73,650.00	11	4,300.00	18	2,150.00					2	160	80,100.00
Cumberland	81	40,000.00	13	3,600.00	30	4,060.00						124	47,660.00
Essex	1365	760,299.04	351	205,700.00	99	13,520.07	30	1,500.00	3	2,250.00	2	1846	983,269.11
Gloucester	108	34,400.00	13	2,750.00	20	1,738.77						141	38,888.77
Hudson	1547	702,273.65	298	122,400.00	83	9,338.16	67	2,900.00			1	1994	836,911.81
Hunterdon	79	26,300.00	8	2,600.00	7	758.08						94	29,658.08
Mercer	425	257,731.78	51	21,000.00	53	7,474.52			1	97.50	1	529	286,303.80
Middlesex	633	311,255.00	73	22,895.00	89	8,001.03	3	150.00				798	342,301.03
Monmouth	558	282,744.39	121	41,560.00	40	4,537.95	10	435.00	50	22,136.81	26	753	351,414.15
Morris	357	124,094.93	98	33,300.00	47	4,318.75	19	950.00	11	2,906.25	6	526	165,569.93
Ocean	197	105,251.58	49	19,630.00	23	2,361.59					1	268	127,243.17
Passaic	875	358,044.66	167	51,370.00	38	4,675.00	10	475.00			1	1089	414,564.66
Salem	51	19,700.00	8	1,550.00	18	1,504.61						77	22,754.61
Somerset	185	81,100.00	40	12,145.00	26	2,902.95						251	96,147.95
Sussex	168	45,855.00	19	3,805.00	8	585.00	1	50.00	2	395.30	1	197	50,690.30
Union	549	301,389.19	144	66,300.00	72	8,040.00	29	1,425.00				794	377,154.19
Warren	149	43,455.00	20	4,449.22	29	2,980.00			3	409.43	2	199	51,293.65
Totals	9404	\$4,386,937.61	1973	\$771,536.05	934	\$102,930.96	223	\$10,406.25	83	\$31,977.84	51	12566	5,303,788.71

William Howe Davis
Director

9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JAMES A. O'DONNELL)
t/a Union Line Hotel)
Kingston Highway #27)
South Brunswick Township)
PO Kingston, N. J.,)

CONCLUSIONS AND ORDER

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

James R. Giuliano, Esq., Attorney for Defendant-Licensee.
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on January 21, 1956, he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a minor, in violation of Rule 1 of State Regulations No. 20.

Acting upon information obtained from the Princeton Police Department, ABC agents obtained signed sworn statements from Marvin --- (age 17) and two minor boy companions wherein it appears that seven minors met in Princeton on the night of January 21, 1956 and decided to buy some beer. Accordingly, the boys went by car to defendant's licensed premises and Marvin and another boy entered the establishment and went to the bar. The bartender said he would sell alcoholic beverages to Marvin but not to his companion. Thereupon Marvin asked for, received delivery of, and paid the bartender for a case of twenty-four cans of beer. The bartender did not raise any question as to Marvin's age or request him to sign a written representation thereof. Marvin then carried the case of beer to the car. Subsequently Marvin and his companion, accompanied by ABC agents, identified the defendant's licensed premises as the place where the beer was purchased and the bartender who made the sale.

Defendant, under the name of "James A. O'Donald", has a prior adjudicated record, in that, effective April 16, 1950, the local issuing authority suspended his license for the same premises for five days for an "hours" violation. However, since this dissimilar violation occurred more than five years ago, I shall not consider it in fixing a penalty herein. Re McCrory, Bulletin 1119, Item 4. The minimum suspension imposed for an unaggravated sale of alcoholic beverages to a seventeen-year-old minor after January 16, 1956 is twenty days. I shall suspend defendant's license for twenty days and remit five days for the plea entered herein, leaving a net suspension of fifteen days. Re Alexander, Bulletin 1112, Item 10.

Accordingly, it is, on this 7th day of August 1956,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of South Brunswick Township to James A. O'Donnell, t/a Union Line Hotel, Kingston Highway #27, South Brunswick Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2 a.m., August 13, 1956, and terminating at 2 a.m., August 28, 1956.

WILLIAM HOWE DAVIS
Director

10. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 FURMICK'S TAVERN, INCORPORATED)
 266 Somerset Street) CONCLUSIONS
 New Brunswick, New Jersey) AND ORDER
)
 Holder of Plenary Retail Consumption License C-72, issued by the Board of Commissioners of the City of New Brunswick.)

 Anthony N. Arico, Esq., Attorney for Defendant-Licensee.
 David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On June 8, 9, 15 and 16, 1956, you engaged in and allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

The file herein discloses that on the dates set forth in the above charge, three ABC agents visited defendant's licensed premises wherein, on June 8, 1956, one of them placed a \$6.00 horse race bet with Anthony Arico, president of defendant corporate-licensee; that on June 9 and 15, 1956, two of the agents each placed a \$4.00 horse race bet with Peter Furmick, the bartender; and that on June 16, 1956, the three agents each placed a \$4.00 horse race bet with the same bartender. On the last occasion the agents handed Furmick \$12.00 in marked money which, together with slips recording the bets, he took to a back room. Shortly thereafter, as prearranged, four other agents accompanied by a county and two city detectives entered the licensed premises, identified themselves and found in the back kitchen the marked currency and the recorded bets which they seized. They also located on the second floor of the premises Stephen Kish who was accepting horse race bets over a phone and they seized betting paraphernalia from a table at which he was seated. Arico arrived during the investigation and admitted that he was in charge of the licensed premises but refused, as did Furmick and Kish, to give a signed sworn statement respecting the violation. Kish, however, admitted verbally that he had been requested by Arico to accept bets over the phone on that day.

Defendant has no prior adjudicated record. The minimum penalty heretofore imposed for a violation such as charged herein where the licensee or his employees participated was twenty days. Re Dakos, Bulletin 1095, Item 10. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the violation herein occurred after that date, I shall suspend defendant's license for twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 16th day of August 1956,

ORDERED that Plenary Retail Consumption License C-72, issued by the Board of Commissioners of the City of New Brunswick to Furmick's Tavern, Incorporated, 266 Somerset Street, New Brunswick, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2 a.m., August 23, 1956, and terminating at 2 a.m., September 12, 1956.

WILLIAM HOWE DAVIS
Director

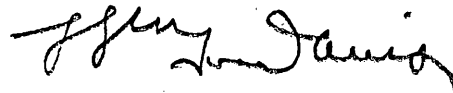
11. STATE LICENSES - NEW APPLICATIONS FILED.

Fleming & McCaig, Inc.
1 Industrial Road
Wood-Ridge, N. J.

Application filed September 12, 1956 for place to place transfer of Plenary Wholesale License W-36 from 629 Grove Street, Jersey City, N. J.

Miller Beverages Inc.
t/a Clicquot Club Beverages
260 George Street
New Brunswick, N. J.

Application filed September 17, 1956 for person to person, place to place transfer of State Beverage Distributor's license SBD-5 from Anthony Rotella, t/a Rotella Distributing Co., 45 Downing Street, Newark, N. J.



William Howe Davis
Director