

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

BULLETIN 1739

July 17, 1967

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

BULLETIN 1739

July 17, 1967

1. APPELLATE DECISIONS - KARAM and FRANK O'HARA INC. v.
WEST ORANGE AND RALLO'S BAR, INC.

Emile J. Karam, t/a Dodd's)
Crest,)
Appellant,)
v.)

Board of Alcoholic Beverage)
Control of the Town of West)
Orange, and Rallo's Bar, Inc.,)
t/a Rallo's Restaurant and)
Pizza Pantry,)
Respondents.)

On Appeal

CONCLUSIONS and ORDER

-----)
Frank O'Hara Inc., t/a Durkin's)
Package Store and Bar,)
Appellant,)
v.)

Board of Alcoholic Beverage)
Control of the Town of West)
Orange, and Rallo's Bar, Inc.,)
t/a Rallo's Restaurant and)
Pizza Pantry,)
Respondents.)

-----)
Grosso, Beck & Mangino, Esqs., by Vincent M. Mangino, Esq.,)
Attorneys for Appellant Karam)
Harry P. Durkin, Esq., Attorney for Appellant Frank O'Hara Inc.)
Harry A. Margolis, Esq., Attorney for Respondent Board)
Martin Gelber, Esq., Attorney for Respondent Rallo's Bar, Inc.)

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

The above captioned appeals are from the action of respondent Board of Alcoholic Beverage Control of the Town of West Orange (hereinafter Board) whereby on June 28, 1966, by a vote of three to two, it granted the application (subject to certain conditions) of respondent Rallo's Bar, Inc., t/a Rallo's Restaurant and Pizza Pantry (hereinafter Rallo's) for transfer to it of a plenary retail consumption license from Green's Hotel, Inc. and from premises 103 Pleasant Valley Way, to premises 3 Beasley Street, West Orange.

The granting resolution, among other things, provided that the transfer of the license in question shall not become effective until respondent Rallo's Bar, Inc. complies with the following conditions:

- "(1) Construction of a new entrance on the Beasley Street side of the premises in accordance with the plans submitted to the Board, said entrance to be appropriate in design for use as a main entrance.

- (2) Sealing of all entrance doors to the premises located on Eagle Rock Avenue except for those doors to be used as fire exits as may be required by the Fire Department.
- (3) Construction of a 3-1/2 foot high masonry wall of decorative design with no openings therein from point abutting building on Eagle Rock Avenue to the point on Beasley Street shown on plan submitted by applicant, said point being more than 500 feet from nearest holder of a Plenary Retail Consumption License.
- (4) Repair and rehabilitation of upper portion of structure so as to improve attractiveness of same and so as to cause same to comply with applicable municipal ordinances, including Property Maintenance Code."

The petitions of appeal filed by the respective appellants contend in substance that the transfer in question not only violates the footage ordinance between licensed premises in effect in that Rallo's licensed premises is within 500 feet of another licensed premises, but also that the area has no need for another "bar" because the proposed site is in close proximity to "Dairy Queen and the Pleasantdale Presbyterian Church."

The answers filed by both respondents deny the aforesaid allegations, and respondent Board furthermore avers that there was compliance with the conditions imposed prior to the transfer of the license which negates the contention that the footage ordinance had been violated and that the matter of need for license at the proposed site was fully considered before approval was given for transfer of the license.

Prior to the instant appeals, similar appeals, including the same parties, were heard at this Division objecting to the approval of the application for the transfer of the license in question.

It appears that, after a full and complete hearing on the prior appeals, the Director reversed the action of the then Council on the ground that the distance between the licensed premises of appellant Frank O'Hara Inc. (designated as the "bar entrance") located at 455 Pleasant Valley Way and Rallo's proposed premises at 3 Beasley Street because the distance of 493.7 feet between said premises was insufficient to meet the requirement of the ordinance. Karam et al. v. West Orange et al., Bulletin 1662, Item 3. It appears that at the oral argument heard by the Director before his determination in the matter and on the request of the counsel for Rallo's, he stated:

"I am persuaded, however, that such new or amended plans should properly be submitted to the local issuing authority as part of a new application, which would require compliance with all procedural requirements prior to consideration thereof."

At the hearing before the Board which resulted in the present appeals, a survey prepared by John J. Vreeland

(a professional engineer and land surveyor) disclosed that the distance between the nearest entrance of appellant O'Hara's premises and the new entrance to Rallo's premises at 3 Beasley Street (using westerly walks) is 507.2 feet. Also it appears that the respective distances between Pleasantdale Presbyterian Church and Rallo's is 432.7 feet, and that of appellant Karam and Rallo's 529 feet.

The pertinent part of the footage ordinance applicable herein provides:

"No plenary retail consumption license ... shall be granted or transfer made to other premises within a distance of 500 feet from any other premises then covered by a plenary retail consumption license

"Where the 500 feet distance is referred to in this section the same shall be measured in the same manner as required by statute for the measuring of 200 feet relative to schools or churches."

R.S. 33:1-76 provides that the "two hundred feet shall be measured in the normal way that a pedestrian would properly walk from the nearest entrance of said church or school to the nearest entrance of the premises sought to be licensed."

It has been ruled by the court that the accepted and proper method of measurement in a matter of this kind is not between the building entrances but between points on the public way intersecting any walk which a person would use in entering the properties in question. Presbyterian Church of Livingston v. Division of Alcoholic Beverage Control, et al., 33 N.J. Super. 271.

The survey prepared by Mr. Vreeland discloses that, if a pedestrian would start at a point on the public way on the westerly side of Beasley Street and the most northerly side of the driveway where the walk and driveway intersect, and thence continue on the said walk in a general northerly direction a distance of 91 feet to a point on the sidewalk at the southwest corner of Beasley Street and Eagle Rock Avenue, thence continue on said sidewalk in a westerly direction on Pleasant Valley Way 284.2 feet to the southwest corner of Eagle Rock Avenue, thence cross Eagle Rock Avenue on the westerly crosswalk and proceed in a general northerly direction 132 feet to a point where the said sidewalk intersects the most southerly point of the driveway leading into the entrance to O'Hara's Bar, he would have traveled a distance of 507.2 feet.

Charles M. Barbier (a professional land surveyor) prepared a survey with ten different measurements on behalf of appellant O'Hara and, of the maze of measurements, it appears that one thereof in which he had measured the distance to be 508.30 feet met the proper statutory method of measurement. This measurement coincidentally was made in the same manner as that made by Mr. Vreeland. The only difference appearing is that Mr. Barbier's measurement began at O'Hara's premises and ended at Rallo's premises, whereas that of Mr. Vreeland was from Rallo's premises to O'Hara's. As can be seen, the difference in the measurements of Vreeland and Barbier was 1.1 feet.

I am satisfied that the respective measurements aforementioned are in conformity with the requirement provided in the pertinent statute as the distance between O'Hara and Rallo is in excess of 500 feet.

John R. Cunningham (building inspector) testified that he made an inspection of Rallo's premises and that there was full compliance with the various conditions which had been imposed by the Board at the time it had given approval to the application for transfer of the license.

Emile J. Karam (one of the appellants herein) testified that he is the holder of a plenary retail consumption license and now operates a cocktail lounge at 622 Eagle Rock Avenue, West Orange. He stated that he formerly operated the establishment as an Italian-American restaurant. Appellant Karam said that he does not consider Rallo as a competitor of him but that he feels there is no need or necessity for a liquor license at the proposed site.

It appears that three weeks prior to the hearing herein, according to the testimony of Mr. Karam, he installed a driveway the entrance of which is now closer to Rallo's premises than had been heretofore. A photograph marked in evidence shows such a driveway which, according to the testimony of Karam, took the place of various stone slabs which had existed there for the accommodation of his patrons when entering his establishment. However, the photograph shows that printed on the main driveway there was an arrow pointing to Karam's premises and the word "Enter." Thus the new driveway should not be considered to have any bearing with relation to the distance between Karam's and Rallo's premises.

Lewis P. Jandoli (a local police officer) testified that on occasions he does traffic duty in front of Karam's licensed premises and that in the past he had observed patrons walking on the flagstone walk which had been placed by Karam for the accommodation of his patrons, and that the driveway has been installed. Cars drive in in order to enter the parking lot.

John F. Malloy, Jr. and Edward Milkowski, Sr., objectors, stated that they reside on Beasley Street and, because of Beasley Street being a dead end street, were concerned with the traffic situation and the safety of their respective families.

Theodore D'Alessio (a member of respondent Board) testified that he voted in favor of the transfer in question subject to the various conditions being met. His "reasons for voting affirmatively is that there was a need, in my opinion, for an Italian Restaurant with this kind of appendage, a liquor license in the area."

Harry J. de Girolamo (a member of respondent Board) testified that he voted in favor of the transfer and, when the matter of the driveway or walk installed at Karam's was called to the attention of the Board, he was not very much impressed with this change in condition as he felt that it was installed at a later date after the application had been filed and that it was not in fact the real entrance to Karam's premises.

It is apparent that the transfer of the license to Rallo was not in violation of the distance between premises as set forth in the local footage ordinance in so far as appellant Karam, or within the prohibited distance of the Pleasantdale Presbyterian Church.

With reference to the objections made by the two residents on Beasley Street concerning traffic conditions, the apprehension of these men for the safety of their families is understandable but that in itself is insufficient to deprive Rallo of the license that had been approved for transfer to him.

In order for the appellants to be successful in the instant appeals it must be shown that respondent Board abused its discretion in approving the application for the transfer.

It has been well established that a local issuing authority's discretionary power is broad in determining whether or not a liquor license should be transferred. The Director's function on appeals of this nature is not to substitute his personal opinion for that of the issuing authority but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal view. Broadley v. Clinton and Klingler, Bulletin 1245, Item 1; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1. In Ward v. Scott, 16 N.J. 16 (1954), a Supreme Court decision of an appeal from a zoning ordinance, cited in Fanwood v. Rocco and Div. of Alcoholic Beverage Control, 59 N.J. Super. 306, the following general principles were stated:

"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 Rocco case, supra, it was stated:

"The Legislature has entrusted to the municipal issuing authority the right and charged it with the duty to issue licenses (R.S. 33:1-24) and place-to-place transfers thereof '[O]n application made therefor setting forth the same matters and things with reference to the premises to which a transfer of license is sought as are required to be set forth in connection with an original application for license, as to said premises.' N.J.S.A. 33:1-26. As we have seen, and as respondent admits, the action of the local board 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. Board of Com'rs. of City of Hoboken, supra, 135 N.J.L., at page 511"

No evidence has been presented herein to indicate that the Board was in any way improperly motivated or abused the discretion vested in it by granting the transfer of the license in question.

After careful examination of the entire record presented herein, I conclude that the appellants have failed to sustain the burden of proof in showing that the action of the Board was erroneous. Rule 6 of State Regulation No. 15.

For the reasons aforementioned, it is recommended that an order be entered affirming the action of the Board herein and dismissing the appeals.

Conclusions and Order

Pursuant to Rule 14 of State Regulation No. 15, exceptions to the Hearer's report and argument in support thereof were filed by the attorneys for appellants.

Appellant O'Hara, among other things, excepts to the selection by the Hearer of a measurement made by the land surveyor employed by it showing as the distance between the licensed premises of O'Hara and the premises of respondent Rallo to be 507.2 feet. It is contended on behalf of appellant that one or all of the nine other methods of measurement should have been accepted as the measurement of the distance between the premises in question.

I have examined the three surveys prepared in this case -- one by Mr. Vreeland on behalf of respondents and two which set forth ten methods of measurement prepared by Mr. Barbier on behalf of O'Hara.

It appears that of the ten measurements there were two taken in a generally southerly direction along Pleasant Valley Way, one of which was selected as proper in the opinion of the Hearer, the courses of which are described in the Hearer's report, whereas the other survey was prepared on November 19, 1966, during the time the hearing in this matter was pending at this Division. The latter measurement began at the southerly corner of the O'Hara driveway where it meets the adjacent property and continued on a front line of the adjacent properties in a generally southerly direction on Pleasant Valley Way to a point on the corner of Eagle Rock Avenue; from the said point at an acute angle it continues across the sidewalk and then on to the westerly crosswalk to a point on the southwesterly corner of the aforementioned thoroughfares; from said point the measurement continued on the alleged property lines of the properties located on the southerly side of Eagle Rock Avenue, including and parallel to the side of the premises of Rallo where it then continued immediately at the foot of a wall erected by Rallo four feet distant from the southerly edge of the sidewalk to a point on the southwesterly corner of Pleasant Valley Way and Beasley Street; then continued alongside the foot of the wall in a southerly direction on the west side of Beasley Street to a point 91 feet from the said corner, making a total of 497.73 feet.

It is obvious from an examination of this measurement that a pedestrian could not properly walk in the aforesaid manner between the entrances of the premises in question.

The other methods of measurement taken by Mr. Barbier are not acceptable as the normal way a pedestrian would walk, since measurements are at acute angles and others show that at the intersection of Pleasant Valley Way and Eagle Rock Avenue the measurement does not go over

the curbs to the sidewalk but merely makes a turn in the street in one direction to another direction on crosswalks. It is apparent that the words properly walk in the statute and incorporated in the ordinance in question were inserted there to emphasize the fact that the measurement requirement in all respects be consistent with safety. Vegotsky v. Ewing et al., Bulletin 1477, Item 1.

There does not appear to be, as alleged by O'Hara, any subterfuge perpetrated by Rallo or anyone in this case as everything was properly publicized by change of plans to provide another entrance to the proposed premises.

I might also state that both appellants changed conditions at their respective premises by construction of black-top driveways.

I have considered all of the exceptions of both appellants herein and the arguments advanced in substantiation thereof and find that they are insufficient to warrant a reversal of the action of the respondent Board.

I have carefully examined the lengthy record herein, the transcript of the testimony, the memoranda filed by the appellants, the exhibits and the Hearer's report, and I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 10th day of May 1967,

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

JOSEPH P. LORDI,
DIRECTOR.

2. APPELLATE DECISIONS - RAYOUT WINE & LIQUOR INC. v. GARFIELD.

| | | |
|----------------------------|---|-----------------------|
| Rayout Wine & Liquor Inc., |) | |
| Appellant, |) | On Appeal |
| v. |) | |
| Mayor and Council of the |) | CONSLUSIONS and ORDER |
| City of Garfield, |) | |
| Respondent. |) | |

Pindar, McElroy, Connell & Foley, Esqs., by James M. Coolahan, Esq., Attorneys for Appellant
Carmen M. Belli, Esq., Attorney for Respondent
Samuel J. Davidson, Esq., Attorney for Objectors Hudson-Bergen County Retail Liquor Stores Association and Joseph Turetsky

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant alleges in its petition of appeal that the action of respondent was erroneous in denying its

application for a person-to-person and place-to-place transfer of a plenary retail consumption license for premises to be constructed at 75 Outwater Lane. The license in question for the 1965-66 licensing period was held by Elda Gabriel, Inc. for premises 860 River Drive, Garfield. The said license was not renewed for the current licensing term.

Respondent's answer contends that its action was proper for the following reasons:

"1. There exists no public necessity for a plenary retail consumption license in this area in that there are several licenses in existence in the immediate area.

"2. There exists no deficiency or lack of liquor license facilities in the area.

"3. It is in the public interest not to permit any further liquor licenses in the area to which the within is sought to be transferred.

"4. The premises to which said transfer is being sought is unsuited for a tavern business in that the same is located on a heavily trafficked main road of the City and would increase traffic hazards in the area."

It appears from the record herein that on June 21, 1966, the eight members of respondent Council voted unanimously to deny appellant's application for transfer of the license. Although the matter herein was heard de novo pursuant to Rule 6 of State Regulation No. 15, additional evidence presented during the hearing of this appeal may be considered in the determination thereof. Lakewood v. Brandt et al., 38 N.J. Super. 462. The stenographic transcript of the testimony heard below was marked as an exhibit in the instant case.

Russell Spoto testified that on May 18, 1966, he and Lewis Cirignano "purchased" a liquor license from Elda Gabriel, Inc. where the latter had operated a liquor establishment at 860 River Drive; that as evidence of full payment for the license, a receipt made out to Russell Spoto and Lewis Cirignano and signed by Elda Gabriel and Michael Amico was obtained; that the present application was filed on May 20, 1966 by appellant corporation for a place-to-place transfer of the license to 75 Outwater Lane, where a building was to be constructed in accordance with plans and specifications filed with the application for transfer; that on June 15, 1966, the appellant was duly incorporated in New Jersey.

Spoto further testified that the contract for the purchase of the license was assigned to appellant herein. However, no application for a person-to-person transfer of the license was ever filed in this matter. Neither was there anything filed by Elda Gabriel, Inc. indicating consent by the licensee to transfer of the license. A mere receipt for payment is not a substitute for a written consent. Thus it is apparent that the appellant is not and never has been the holder of the license in question and, therefore, under the circumstances, respondent had no jurisdiction to grant the transfer of the license from place to place.

Inasmuch as a full and complete hearing was held at the hearing of the instant appeal, and because the respondent did not take into consideration that the appellant was not the actual holder of the license but made its determination on other grounds, I shall discuss the merits of the case.

Appellant produced a number of the members of the respondent Council as witnesses on its behalf. These included Anthony Spataro, Arthur Ringele, Steven Corsale, Albert Hepp, Louis Fabrici and former Councilman Michael Vancho. Furthermore, it was stipulated that Councilman Joseph Kobylarz, if called to testify, would corroborate in substance the reasons given by Councilman Fabrici. Although the respective councilmen may have considered other reasons for voting against the transfer, nevertheless all were of the opinion that there was no need or necessity for a license at the particular site sought by the appellant herein.

Granting merely for the sake of argument all procedural requirements had been complied with for the purpose of transfer of the license in question, appellant must, in order to warrant reversal of the action of respondent, show by a preponderance of the evidence an abuse of discretion on the part of the members of the respondent Council. To sustain this burden it is necessary that appellant show manifest error or some abuse of discretion on the part of the respondent herein. Nordco, Inc. v. State, 43 N.J. Super. 277; Rajah Liquors v. Div. of Alcoholic Beverage Control, 33 N.J. Super. 598 (App. Div. 1955).

A transfer of a liquor license to other premises is not an inherent or automatic right. The issuing authority in the exercise of a reasonable discretion may grant or deny the transfer. If the denial is on reasonable grounds, such action will be affirmed. Richmon, Inc. v. Trenton, Bulletin 1560, Item 4, and cases cited therein. The number of licenses to be permitted in any particular area is vested in the sound discretion of the issuing authority, and it is not the Director's function on appeal to substitute his opinion for that of the issuing authority but, rather, to determine whether proper cause exists for its opinion and, if so, to affirm irrespective of his personal views. Rothman v. Hamilton, Bulletin 1091, Item 1; Food Fair Stores of New Jersey, Inc. v. Union, Bulletin 1129, Item 1; The Grand Union Company v. West Orange, Bulletin 1155, Item 3.

In Fanwood v. Rocco and Div. of Alcoholic Beverage Control, 59 N.J. Super. 306, 321 (App. Div. 1960), Judge Gaulkin stated:

"The Legislature has entrusted to the municipal issuing authority the right and charged it with the duty to issue licenses (R.S. 33:1-24) and place-to-place transfers thereof '[O]n application made therefor setting forth the same matters and things with reference to the premises to which a transfer of license is sought as are required to be set forth in connection with an original application for license as to said premises.' N.J.S.A. 33:1-26."

In Ward v. Scott, 16 N.J. 16, 23 (1954), the Supreme Court, dealing with an appeal from a zoning ordinance, set forth the following general principle:

"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)."

The court stated in *Fanwood*, *supra*, at p. 320, "No person is entitled to either [transfer of a license or issuance of an original 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."

The attorneys for appellant contend in the memorandum filed in this matter that, since the area sought does not have more liquor licenses than the area where the license had formerly been located, the license should have been approved for transfer. This, of course, is not a valid reason why the transfer of a liquor license to another area in the municipality should be approved. Moreover, respondent's action may not be reversed by the Director unless he finds that "the act of the board was clearly against the logic and effect of the presented facts." *Hudson Bergen County Retail Liquor Stores Association et al. v. Hoboken et als.*, 135 N.J.L. 502, at p. 511. It is apparent by the unanimous vote of the members of the respondent Council that in their opinion there are sufficient liquor outlets to supply the needs of the people in the area of the proposed premises. Moreover, since the distance between the proposed premises and the former location of the license is one-quarter of a mile, it would in effect constitute placing of another liquor outlet in a different section of the municipality. I might add that nothing has been presented herein to indicate improper motivation on the part of any member of respondent Council.

I have fully considered the grounds of appeal contained in appellant's petition of appeal and also the argument of counsel for appellant in the memorandum filed herein.

After a careful review of the testimony, and since the respondent had no jurisdiction to transfer the license, I find that, under all of the circumstances appearing herein, its action was proper.

Therefore, it is recommended that the determination of respondent be affirmed and that the appeal be dismissed.

Conclusions and Order

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

Having carefully considered the entire record, including the transcript of testimony, the exhibits, the memoranda filed by the respective attorneys and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 9th day of May 1967,

ORDERED that the action of respondent in denying the

application for transfer filed by appellant herein be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI,
DIRECTOR.

- 3. DISCIPLINARY PROCEEDINGS - INDECENT ENTERTAINMENT - HOSTESS ACTIVITY - SALE TO A MINOR - MINOR EMPLOYED WITHOUT PERMIT - SALE DURING PROHIBITED HOURS - LICENSE SUSPENDED FOR 85 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Eddie Rodriguez)
2115 West Street)
Union City, New Jersey,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-150, issued by the Board of Commissioners of the City of Union City.)

Mario M. Polcari, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of
Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on December 17 and 29, 1966, he (1) permitted lewdness and immoral activity (indecent entertainment) on the licensed premises, in violation of Rule 5 of State Regulation No. 20, (2) permitted female entertainers to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20, (3) sold mixed drinks of alcoholic beverages to a minor, age 19, in violation of Rule 1 of State Regulation No. 20, (4) employed a minor, age 19, as an entertainer without requisite employment permit, in violation of Rule 3 of State Regulation No. 13, and (5) permitted the licensed premises to be open after 3 a.m., in violation of municipal regulation.

With respect to the first charge, reports of investigation disclose that two female entertainers performed "go-go" routines, one with accompanying suggestive posturings and gesturings and the other accompanied by simulated strip tease routine and repeated exposure of her breasts.

Absent prior record, the license will be suspended on the first charge for thirty days (Re Ask, Inc., Bulletin 1709, Item 2), on the second charge for twenty days (Re Post and Rail, Inc., Bulletin 1694, Item 7), on the third charge for fifteen days (Re The Bunny Hutch, Bulletin 1722, Item 2), on the fourth charge for five days (Re B.E.L. Investment Corp., Bulletin 1728, Item 7), and on the fifth charge for fifteen days (Re Pecoraro and Marchitto, Bulletin 1656, Item 7), or a total of eighty-five days, with remission of five days for the plea entered, leaving a net suspension of eighty days.

Accordingly, it is, on this 9th day of May 1967,

ORDERED that Plenary Retail Consumption License C-150, issued by the Board of Commissioners of the City of

Union City to Eddie Rodriguez, for premises 2115 West Street, Union City, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1967, commencing at 3 a.m. Tuesday, May 16, 1967; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3 a.m. Friday, August 4, 1967.

JOSEPH P. LORDI,
DIRECTOR.

4. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION STAYED DURING PENDENCY OF APPEAL.

In the Matter of Disciplinary Proceedings against)

Rocky Birch, Inc.)
t/a Rocky Castellani's Sports Bar)
2203 Atlantic Avenue)
Atlantic City, N. J.)

AMENDED ORDER

Holder of Plenary Retail Consumption License C-200, issued by the Board of Commissioners of the City of Atlantic City.)

-----)

Edward I. Feinberg, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On January 30, 1967, I entered Conclusions and Order herein suspending the license for ninety-five days for permitting solicitation for prostitution on the licensed premises. Re Rocky Birch, Inc., Bulletin 1724, Item 2.

Prior to effectuation of the order of suspension, upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

On May 2, 1967, the appeal was dismissed by consent. The suspension may now be reimposed.

Accordingly, it is, on this 8th day of May, 1967,

ORDERED that the ninety-five day suspension heretofore imposed and stayed during the pendency of proceedings on appeal be reinstated against Plenary Retail Consumption License C-200, issued by the Board of Commissioners of the City of Atlantic City to Rocky Birch, Inc., t/a Rocky Castellani's Sports Bar, for premises 2203 Atlantic Avenue, Atlantic City, for the balance of its term, viz., until midnight, June 30, 1967, commencing at 7:00 a.m. Monday, May 15, 1967; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Friday, August 18, 1967.

JOSEPH P. LORDI,
Director.

5. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against)

Remeth Inc., t/a Surf Bar 1000 Ocean Avenue Belmar, N. J.,)

SUPPLEMENTAL ORDER

Holder of Seasonal Retail Consumption License CS-5, issued by the Board of Commissioners of the Borough of Belmar.)

Lynch, Murphy, Mannion & Lynch, Esqs., by John A. Lynch, Esq., Attorneys for Licensee Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On March 1, 1967 I entered an order herein deferring the license suspension of twenty days for permitting wagering on shuffle-bowling games because it appeared that the licensed business had been discontinued by reason of the expiration of the license for the 1966 summer season. Re Remeth, Inc., Bulletin 1729, Item 4.

Report of recent inspection discloses that the licensed business is now being conducted pursuant to summer seasonal license for the year 1967. Consequently, I am satisfied that the deferred suspension may now be imposed.

Accordingly, it is, on this 3rd day of May 1967,

ORDERED that Seasonal Retail Consumption License CS-5, issued by the Board of Commissioners of the Borough of Belmar to Remeth Inc., t/a Surf Bar, for premises 1000 Ocean Avenue, Belmar, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Friday, May 5, 1967, and terminating at 2 a.m. Thursday, May 25, 1967.

JOSEPH P. LORDI, DIRECTOR.

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Jack Harris, t/a Jack's Bar & Restaurant 357 1/2-359 West Side Avenue Jersey City, N. J.,)

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-214, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

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

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 13, 1967 he sold six cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Commissioner for twenty-five days effective February 24, 1947, for possession of alcoholic beverages not truly labeled, and by the Director for ten days effective September 25, 1961, for sale in violation of State Regulation No. 38, and for twenty-five days effective April 16, 1962, for possessing alcoholic beverages not truly labeled. Re Harris, Bulletin 745, Item 9; Bulletin 749, Item 2; Bulletin 1418, Item 5; Bulletin 1449, Item 2.

The prior record of suspension of license for dissimilar violation in 1947 occurring more than five years ago disregarded but considering the record of suspension for similar violation in 1961, more than five but less than ten years ago, the license will be suspended for twenty days (Re Kusy and Drag, Bulletin 1706, Item 5), to which will be added five days by reason of the record of suspension for dissimilar violation in 1962 within the past five years (Re Amalgamated Local #731, Bulletin 1626, Item 2), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 9th day of May 1967,

ORDERED that Plenary Retail Consumption License C-214, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Jack Harris, t/a Jack's Bar & Restaurant, for premises 357 1/2-359 West Side Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, May 16, 1967, and terminating at 2 a.m. Monday, June 5, 1967.

JOSEPH P. LORDI,
DIRECTOR.

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Alexis Mugil)
t/a Crown Point Inn)
1102 Crown Point Rd., Vergo)
West Deptford Township)
PO Westville, N. J.,)

CONCLUSIONS
and
ORDER

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

Cahill and Wilinski, Esqs., by Robert Wilinski, Esq.,
Attorneys for Licensee
Leon Chorkavy, Jr., Esq., Appearing for Division of
Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 26, 1967 he possessed alcoholic beverages in five 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 twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Club 435, Incorporated, Bulletin 1728, Item 10.

Accordingly, it is, on this 9th day of May 1967,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of West Deptford to Alexis Mugil, t/a Crown Point Inn, for premises 1102 Crown Point Rd., Vergo, West Deptford Township, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, May 16, 1967, and terminating at 2 a.m. Monday, June 5, 1967.

JOSEPH P. LORDI,
DIRECTOR.

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

William D. Mahon)
t/a Village Inn)
900-902 Union Avenue)
Union Beach, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of Union Beach.)

Kantor & Burns, Esqs., by Lawrence D. Kantor, Esq.,
Attorneys for Licensee
Leon Chorkavy, Jr., Esq., Appearing for Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 21, 1966, he possessed alcoholic beverages in three 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 twenty days, with remission of five days

for the plea entered, leaving a net suspension of fifteen days. Re Bohl and Ripp, Bulletin 1724, Item 7.

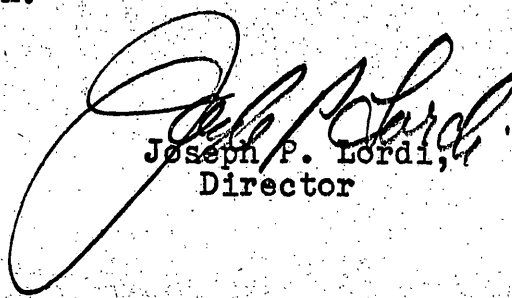
Accordingly, it is, on this 15th day of May, 1967,

ORDERED that Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of Union Beach to William D. Mahon, t/a Village Inn, for premises 900-902 Union Avenue, Union Beach, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Monday, May 22, 1967, and terminating at 2:00 a.m. Tuesday, June 6, 1967.

JOSEPH P. LORDI,
DIRECTOR.

9. STATE LICENSES - NEW APPLICATIONS FILED.

Petermann Co.
t/a Minck's Beverage Town &
Minck Beverage Co.
300 Route #17
Paramus, New Jersey
Application filed July 12, 1967 for
person-to-person transfer of State
Beverage Distributor's License
SBD-94 from Arthur R. Minck.



Joseph P. Lordi,
Director