

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

June 12, 1968

BULLETIN 1794

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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

June 12, 1968

BULLETIN 1794

1. APPELLATE DECISIONS - HUDSON-BERGEN PACKAGE STORES ASSOCIATION
v. CLIFFSIDE PARK and NAJARIAN.

Hudson-Bergen Package Stores
Association,

Appellant,

v.

Mayor and Council of the Borough
of Cliffside Park and Vahan
Najarian, t/a Vay's Liquors,

Respondents.

On Appeal

CONCLUSIONS

and

ORDER

Samuel J. Davidson, Esq., Attorney for Appellant
Paul L. Basile, Esq., Attorney for Respondent Mayor and Council
Lester & Kahn, Esqs., by Sherwin D. Lester, Esq., Attorneys for
Respondent Vahan Najarian

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This appeal challenges the action of respondent Mayor and Council of the Borough of Cliffside Park (hereinafter Council) whereby on the 13th day of November 1967 it granted the application of Vahan Najarian, t/a Vay's Liquors (hereinafter Najarian) for a place-to-place transfer of its plenary retail consumption license from premises 785 Palisade Avenue to 494 Anderson Avenue, Cliffside Park, and also granted the application for renewal of the said license for the 1967-68 period.

The genesis of the Council's action was as follows: On August 4, 1966, Najarian made an application for the transfer of his license as aforesaid and, after considering this matter, the Council approved his application for such transfer on December 20, 1966. An appeal was then taken from the Council's action to this Division. After hearing on that appeal the Director determined that the action of the Council was voidable because of a disqualifying interest on the part of a member of the Council who participated in the determination. The Director nevertheless felt that this matter should ultimately be decided upon its merits and remanded the matter to the Council for a full hearing by all of its members, said hearing to exclude Councilman Firaldi who was directed to refrain from participation at the hearing and consideration of the said application." Hudson-Bergen County Retail Liquor Stores Association v. Cliffside Park and Najarian, Bulletin 1767, Item 1.

Accordingly, upon remand and after hearing held pursuant thereto, the Council did, as aforementioned, on November 13, 1967 approve Najarian's application both for place-to-place transfer and for a renewal of the said license for the current licensing year. Councilman Clark, in offering the motion for approval of the said application, stated that the same should be granted for the following reasons:

"One, it is a present existing license which was formerly granted in the past by an authorized body to issue such type of licenses; two, that the existence of this license at the present location at 785 Palisades Avenue would cause further traffic congestion along the avenue in which parking is prohibited; three, the Council having met in caucus, it was felt that it would serve the best interest of the people to permit the applicant to place his license at the proposed location.

"All of these reasons are subject to a condition and a stipulation placed upon this granting of a license to the applicant, and that is before this store begins operation, whenever it does begin operation, that the applicant must obtain specific permission of the Mayor and Council for any parking on the premises or any ingress or egress of motor vehicles on the premises."

Appellant contends that the Council's action in granting Najarian's application for place-to-place transfer was erroneous for the reasons which may be briefly summarized as follows:

1. The Council permitted Arthur L. Minuskin, an attorney who is also a member of the Bergen County Board of Taxation, to act as counsel for Najarian and "as an advocate in the proceedings over objection of the Appellant;"
2. This matter should have been referred to the Director for his initial determination;
3. Council "ignored and refused to consider Petitions signed by numerous taxpayers opposing such transfer;"
4. The original transfer to Najarian of the said license for premises 785 Palisade Avenue, Cliffside Park, was fraudulent since he never intended to actually use the license at that address;
5. The action of the Council was contrary to the public interest; there was no need and necessity, and the area is amply served by existing outlets;
6. The action of the Council was "capricious, unreasonable, arbitrary" and an abuse of its discretion;
7. The trade name of Najarian is Vay's Liquors, which is contrary to Rule 2 of State Regulation No. 26 since this license requires the operation as a tavern or bar;
8. The premises to which this license will be transferred will not constitute a bona fide barroom within the contemplation of R.S. 33:1-12.23; and Najarian's proposed operation is a "subterfuge" to convert a plenary retail consumption license into a plenary retail distribution license.

The answer of Najarian admits the jurisdictional allegations of the petition but denies the substantive matters contained

therein. It also sets forth as separate defenses that (1) the Council reasonably exercised its discretion in granting the said application, (2) the application was granted for valid reasons as expressed in the resolution approving the said application, (3) the actions of the appellant are "dilatory and delaying, the sole purpose of which is procrastination." An answer was filed on behalf of the Council to the same effect except that it added the following reason:

"That the area from which the license is being transferred is presently overcrowded with establishments serving alcoholic beverages to the general public causing traffic congestion and that the proposed location would make for a better distribution of licenses in the community and eliminate traffic congestion."

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

The stenographic transcript of the hearing below was submitted into evidence at this hearing; no additional testimony was offered, only supplemental oral argument in summation by counsel for the respective parties.

I

Certain threshold issues raised in the petition of appeal which relate to the jurisdiction and proceedings before the Council will first be considered for resolution. The attorney for appellant first charges that Arthur L. Minuskin (an attorney who is also a member of the Bergen County Board of Taxation) was permitted to appear and participate as an advocate and counsel for the respondent Najarian. He maintains that, since Mr. Minuskin sits in a quasi-judicial capacity to determine appeals from assessments from various Bergen County municipalities, including the Borough of Cliffside Park, his presence at and participation in these proceedings has fatally tainted the action of the Council. He further contends that, under these circumstances, the matter should have been referred to the Director of this Division for his initial determination.

My examination of the transcript reveals, however, that, when Mr. Minuskin first appeared in these proceedings before the Council a motion was made by the attorney for the appellant that Mr. Minuskin withdraw from the matter because his official position as a member of the Bergen County tax board would render his appearance "in conflict with public policy." Although Minuskin vigorously challenged the objection of the appellant and pointed out that there is nothing either legally, morally or ethically objectionable to the appearance as counsel by a member of the county Board of Taxation before a local administrative body, he nevertheless withdrew and substituted in his place and stead Sherwin D. Lester who then presented the matter on behalf of Najarian. Lester also appeared on behalf of Najarian at this plenary appeal de novo hearing.

The general principle of law respecting disqualifying interest has been set forth very clearly in Hudson-Bergen County Retail Liquor Stores Association v. Cliffside Park and Najarian, supra. Therein the Director reiterated the principle that a quasi-judicial action of a municipal body is rendered voidable by the voting participation of a member thereof who is at the time subject to a direct or indirect private interest which is at variance with the impartial performance of

his public duty. Aldom v. Borough of Roseland, 42 N.J. Super. 495. See also McNamara v. Saddle River, 64 N.J. Super. 426 (App. Div. 1960). Accordingly it found under the facts and circumstances of that case that a member of the Council had a disqualifying interest which infected the action of the whole body and rendered it voidable.

However, there is nothing in the law or cases, nor has appellant cited any authorities, to support his contention that the appearance of a member of a county Tax Board infects the action of a municipal administrative board and taints its action. It must be assumed that the members of Council respected their oath of office and their quasi-judicial obligation as such members in the ultimate determination of this matter. They were neither related to Minuskin nor obligated to him either personally or by virtue of his official position. The fact that he is a member of a board which may ultimately determine matters upon review of assessment of taxes is, in my judgment, so far remote as to be outside the intent and scope of the applicable rule with respect to disqualifying interest. See Larue v. East Brunswick, 68 N.J. Super. 435; cf. Blanck v. Magnolia, 38 N.J. 484. In any event, Minuskin did withdraw at the beginning of the case and did not participate further therein. Thus it cannot be said as a matter of fairness that he irregularly influenced the Council in any way. This contention is therefore plainly frivolous and devoid of merit.

The record further reflects the fact that an objection was similarly made by counsel for the appellant to the participation of Mayor Calabrese on the ground that the Mayor was a candidate for the New Jersey Senate during the preceding election on the Democratic Party ticket, and Minuskin was financial chairman of the Democratic Party in that county.

It should be further added that Mayor Calabrese was an unsuccessful contender. However, in order to obviate the challenge to the propriety of his participation in these proceedings, Mayor Calabrese voluntarily removed himself from the body during its consideration of this application; Councilman Kochanski temporarily assumed the chair as presiding officer.

In view of the voluntary action of the Mayor, appellant certainly cannot complain that he has been prejudiced. His objection to certain other members of the Council, and indeed to the entire Council itself, on the ground that this matter should have been initially referred to the Director is, I conceive, of no legal sustenance and must be rejected.

The appellant further brings into issue the question of the alleged fraudulent transfer of the subject license to the premises 785 Palisade Avenue, Cliffside Park, in a year prior to the present licensing year. There has been no testimony offered in support of this allegation other than the oral contention by the attorney for the appellant, nor is it relevant to the present proceedings. It was admitted by Najarian that his license was not used at the aforementioned premises.

II

We now come to consideration of the merits of this application. Vahan Najarian was the only witness to testify at the hearing on remand. He testified he made this application for transfer because he considered that the location of the proposed new site was a much more desirable location. He explained that the building is only half completed, and he intends to expend substantial sums of money in

the completion of the premises and will personally operate the same. He admitted on cross examination that his intention is to operate a package liquor store. He also admitted that he never operated under his license at premises 785 Palisade Avenue, from which this license is sought to be transferred. He asserted that one of the reasons for this application was that he felt that this particular corner would be substantially improved from its present condition which he described as "a pigpen" and "dumping grounds."

This witness explained, in response to a question put to him by Councilman Clark, that he felt that this was the most suitable place at a Shop-Rite facility to have this license transferred, particularly in view of the fact that there was adequate parking space. It was agreed, among the counsel for the respective parties, that there are no objections raised to this location with respect to any traffic problems in view of the prior testimony presented by traffic expert Christ.

No testimony was offered on this appeal either before the Council or at the plenary de novo hearing on appeal in support of its objections. It should be noted that, when this matter was heard at this Division before the remand (Hudson-Bergen County Retail Liquor Stores Association v. Cliffside Park and Najarian, supra), the Director ordered "that the transcript of these proceedings be made available to the respondent Council so as to avoid the necessity of recalling those witnesses who have heretofore given their testimony under oath at the hearing held herein, and that all parties in interest be advised of the date of hearing." No application was made by the appellant at the hearing before the Council to introduce the transcript of the testimony of the prior hearing, nor was that transcript offered at the plenary de novo appeal hearing herein. It must be assumed, therefore, that the Council was aware of the prior testimony when it reached its final unanimous determination to grant Najarian's application for place-to-place transfer and the renewal of his license.

In considering the instant appeal, it is well to re-state the applicable principles pertinent hereto. To be successful the appellant herein must show that the Council abused its discretion in approving the said applications. No one has a right to the issuance, renewal or transfer of a license to sell alcoholic beverages. Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946); Biscamp v. Teaneck, 5 N.J. Super. 172 (App. Div. 1949). The decision as to whether or not a license shall be issued rests within the sound discretion of the local issuing authority in the first instance. 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, 59 N.J. Super. 306, 322, 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 Fanwood case, supra, it was stated at p.321:

"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 transfer 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."

As Mr. Justice Jacobs pointed out in Fanwood v. Rocco, 33 N.J. 404, 414:

"Although New Jersey's system of liquor control contemplates that the municipality shall have the original power to pass on an application for a tavern or package store license or the transfer thereof, the municipality's action is broadly subject to appeal to the Director of the Division of Alcoholic Beverage Control. The Director conducts a de novo hearing of the appeal and makes the necessary factual and legal determinations on the record before him.... Under his settled practice, the Director abides by the municipality's grant or denial of the application so long as its exercise of judgment and discretion was reasonable."

See Common Council of Hightstown v. Hedy's Bar, 86 N.J. Super. 561.

The Director's function on appeals of this kind 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. Broadly v. Clinton and Klingler, Bulletin 1245, Item 1; Bertrip Liquors, Inc. v. Bloomfield, Bulletin 1334, Item 1; Central Jersey Package Stores Association et als. v. Pohatcong and Falk's etc., Bulletin 1768, Item 2.

The number of licensed premises to be permitted in a particular area has been held to be a matter confided to the sound discretion of the local issuing authority. There is the well established thesis that an owner of a license or privilege acquires through its investment therein an interest which is entitled to some measure of protection in connection with a transfer. R.S. 33:1-26. Tp. Committee of Lakewood Tp. v. Brandt, 38 N.J. Super. 462.

The action of the local issuing authority will not be reversed by the Director unless there was evidence that "the act of the board was clearly against the logic and effect of the presented facts." Hudson Bergen, &c., Assn. v. Hoboken, 135 N.J.L. 502, 511.

My examination and assessment of the testimony presented in this case persuades me that Council acted reasonably and in the public interest in granting the Najarian application. I am further persuaded that Council considered all of the matters raised by appellant, including the location of the premises, the question of public need and convenience, and the personal character of Najarian.

However, there are certain matters raised by the appeal which require resolution and action before the license is actually issued. Appellant contends that Najarian intends to operate a package goods store rather than a tavern and thus intends to convert his plenary retail consumption license into a plenary retail distribution license in contravention of R.S. 33:1-12.23. Najarian testified quite frankly that he intends to operate these premises as a package goods store. R.S. 33:1-23 requires that the licensee shall not sell or display for sale alcoholic beverages in original containers for consumption off the licensed premises in other than the public barroom. It follows, therefore, that these premises must contain a bona fide public barroom. The operation of these premises solely as a package goods store would be in violation of the said statute and State Regulation No. 32, and the licensee would therefore be in violation of said statute subjecting him to appropriate action for the suspension or revocation of his license. See Re Krystyniak, Bulletin 1021, Item 2. Under these circumstances it is clearly necessary that the layout of the interior of these premises must be such as to constitute a bona fide public barroom as the term is used in R.S.33:1-23 and State Regulation No. 32, as interpreted in Division rulings.

Accordingly, I recommend that Najarian comply with the said statute, and that, before he actually undertakes the installation of his bar facilities and operation of the licensed business, he shall submit to this Division for approval a revised plan of the interior layout. This does not change the result herein since the matter of the proposed interior arrangement of the premises to be licensed is not material to the fundamental question whether the proposed building in its intended location should be licensed. See Monmouth County Retail Liquor Stores Association, et als. v. Middletown et al., Bulletin 1572, Item 1.

Furthermore, appellant validly objects to the trade-name Vay's Liquors since that trade-name refers to a package goods store rather than to a tavern, contrary to Rule 2 of State Regulation No. 26. Since the present name may mislead the general public and is violative of the said regulation, it is recommended that, before the subject license is issued, the trade-name be changed appropriately to conform with the said rule. Passaic County Retail Liquor Dealers Assn. v. Paterson et al., Bulletin 1021, Item 1.

I have examined the other matters raised in the petition of appeal and do not find them of substantial merit. I conclude that appellant has failed to sustain the burden of proof in showing that the action of respondent Council was erroneous. Rule 6 of State Regulation No. 16.

For the reasons aforesaid, it is recommended that, subject to the conditions hereinabove set forth, an order be entered affirming the action of the Council and dismissing the appeal.

Conclusions and Order

Pursuant to the provisions of Rule 14 of State Regulation No. 15, exceptions to the Hearer's report and argument in support thereof were filed by the attorney for the appellant. Answer thereto was filed by the attorney for respondent Council and was also filed by the attorneys for respondent Najarian.

I have examined the exceptions advanced by the appellant and find that they have been fully considered in the Hearer's report and are without merit.

However, the matter raised in the exceptions filed by the attorneys for Najarian is meritorious. They assert that the plenary retail consumption license in question carries the broad package privilege and the "license itself on its face permits the sale of alcoholic beverages in original containers for consumption off the licensed premises from portions of licensed premises other than the public bar-room pursuant to P.L. 1948, chapter 98 and State Regulation No. 32."

It appears that in the petition of appeal the appellant alleged in paragraph 5(m) that the premises to which the license is transferred will not constitute a bona fide barroom with adequate facilities within the contemplation of R.S. 33:1-12.23 "and the applicant has admitted that he will conduct only a package store operation under said license."

The respondents' answers denied, among other things, the said allegation. The application for license was not produced or submitted in evidence at the time of the hearing herein and thus the Hearer did not have the opportunity to examine the same and determine whether or not the license did in fact carry the broad package privilege. Assuming, therefore, that there was no such privilege conferred by the license, the Hearer concluded that the premises must contain a bona fide public barroom in accordance with R.S. 33:1-23 and State Regulation No. 32. Division records, however, disclose that the said license does, indeed, carry such broad package privilege and, accordingly, that portion of the Hearer's report which refers to the fact that the operation of these premises solely as a package liquor store would be in violation of the said statute and regulation, and that the licensee would be in violation in the event he so operates, is expressly disapproved since, in view of the broad package privilege afforded by the license, such operation would be lawful.

In all other respects, after consideration of the entire record herein, including the transcripts of the testimony, the exhibits, the Hearer's report, the appellant's exceptions and argument thereto, and the 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 19th day of April 1968,

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

JOSEPH M. KEEGAN
DIRECTOR

2. APPELLATE DECISIONS - DELROZ, INC. v. WEST ORANGE.

Cases Nos. 3213, 3214)
 Delroz, Inc., t/a Twins Lounge,)
 Appellant,)

v.)

On Appeal

Board of Alcoholic Beverage)
 Control of the Town of West)
 Orange,)

SUPPLEMENTAL ORDER

Respondent.)

-----)
 Rinaldo and Rinaldo, Esqs., by Matthew T. Rinaldo, Esq.)
 Attorneys for Appellant)
 Louis Lando, Esq. Attorney for Respondent)

BY THE DIRECTOR:

On July 31, 1967, an order was entered affirming the action of the respondent in each of the above cases, dismissing the appeals therein, and reimposing the suspension of the license for one hundred twenty days for sale to minors. Delroz, Inc. v. West Orange, Bulletin 1755, Item 1.

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

The court affirmed the Director's action on March 21, 1968. Delroz, Inc. v. West Orange, App. Div. 1968, not officially reported, recorded in Bulletin 1786, Item 1. Mandate on affirmance having now been received, the suspension may be reimposed.

Accordingly, it is, on this 16th day of April, 1968,

ORDERED that the one hundred twenty day suspension heretofore imposed and stayed during the pendency of proceedings on appeal be reinstated against Plenary Retail Consumption License C-37, issued by the Board of Alcoholic Beverage Control of the Town of West Orange to Delroz, Inc., t/a Twins Lounge, for premises 31-33 Harrison Street, West Orange, for the balance of its term, viz., until midnight, June 30, 1968, commencing at 2:00 a.m. Tuesday, April 23, 1968; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Wednesday, August 21, 1968.

JOSEPH M. KEEGAN
 DIRECTOR

3. DISCIPLINARY PROCEEDINGS - HOSTESS ACTIVITY - PRIOR SIMILAR AND DISSIMILAR RECORD - AGGRAVATING CIRCUMSTANCE - LICENSE SUSPENDED FOR 80 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Fantaco, Inc.
t/a Jay's Bar & Grille
35-37 N. Arkansas Ave.
Atlantic City, N. J.

CONCLUSIONS
and

Holder of Plenary Retail Consumption License C-138 issued by the Board of Commissioners of the City of Atlantic City

ORDER

Edwin H. Helfant, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 22, 1968, it permitted female entertainers to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20.

Reports of investigation disclose that on the date alleged, female entertainers drank at the expense of male patrons splits (6.4 ounces) of the cheapest domestic champagne (retailing at 59¢) at a charge of \$7 each.

Licensee has a previous record of suspension of license by the Director for seventy-five days effective August 11, 1965, for undisclosed interest in the license and employing criminally disqualified persons, and for one hundred ten days effective October 4, 1967 (terminating January 22, 1968), for permitting solicitation for prostitution and hostess activity. Re Fantaco, Inc., Bulletin 1637, Item 2; Bulletin 1766, Item 2.

The prior record of suspension of license for similar violation in 1967 within the past five years considered, the license will be suspended for sixty days (Re Beef and Bird, Inc., Bulletin 1711, Item 1), to which will be added five days by reason of the record of suspension for dissimilar violations in 1965 within the past five years (Re Diesel Inn, Incorporated, Bulletin 1786, Item 6) and fifteen days by reason of the aggravating circumstance of the occurrence of the instant violation in close proximity to the termination of the previous suspension for similar violation (Re Maesm, Inc., Bulletin 1769, Item 4), or a total of eighty days, with remission of five days for the plea entered, leaving a net suspension of seventy-five days.

Accordingly, it is, on this 17th day of April, 1968,

ORDERED that Plenary Retail Consumption License C-138, issued by the Board of Commissioners of the City of Atlantic City to Fantaco, Inc., t/a Jay's Bar & Grille, for premises 35-37 N. Arkansas Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1968, commencing at 7:00 a.m. Friday, April 19, 1968; 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. Wednesday, July 3, 1968.

JOSEPH M. KEEGAN
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

Hub Corp., Inc.
807 - 7th Street
Union City, N.J.

Holder of Plenary Retail Consumption
License C-149 issued by the Board of
Commissioners of the City of
Union City

CONCLUSIONS

and

ORDER

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

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on January 10 and 25, 1968, it permitted 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 Jesswell, Inc., Bulletin 1778, Item 4.

Accordingly, it is, on this 17th day of April, 1968,

ORDERED that Plenary Retail Consumption License C-149, issued by the Board of Commissioners of the City of Union City to Hub Corp., Inc., for premises 807 - 7th Street, Union City, be and the same is hereby suspended for fifty-five (55) days, commencing at 3:00 a.m. Wednesday, April 24, 1968, and terminating at 3:00 a.m. Tuesday, June 18, 1968.

JOSEPH M. KEEGAN
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
 LABELED - FALSE STATEMENT IN APPLICATION FOR LICENSE - LICENSE
 SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

Gropp's Tavern, Inc.)
 t/a Gropp's Tavern)
 2694 Nottingham Way)
 Hamilton Township (Mercer Co.))
 P.O. Trenton, N.J.,)

CONCLUSIONS

and

Holder of Plenary Retail Consumption)
 License C-1, issued by the Township)
 Committee of the Township of Hamilton.)

ORDER

-----)
 Henry F. Gill, Esq., Attorney for Licensee
 Walter H. Cleaver, Esq., Appearing for Division of Alcoholic
 Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1)
 on December 8, 1967 it possessed alcoholic beverages in two
 bottles bearing labels which did not truly describe their con-
 tents, in violation of Rule 27 of State Regulation No. 20,
 and (2) in its current application failed to disclose its
 prior record of suspension of license, in violation of R.S.
 33:1-25.

Licensee has a previous record of suspension of li-
 cense by the local issuing authority for five days effective
 August 11, 1957 for sale to minors.

The prior record of suspension for dissimilar viola-
 tion in 1957 occurring more than five years ago disregarded in
 admeasuring the penalty, the license will be suspended on the
 first charge for fifteen days (Re Mancuso, Inc., Bulletin 1785,
 Item 3) and on the second charge for ten days (Re Makem, Inc.,
 Bulletin 1785, Item 7), or a total of twenty-five days, with
 remission of five days for the plea entered, leaving a net sus-
 pension of twenty days.

Accordingly, it is, on this 16th day of April 1968,

ORDERED that Plenary Retail Consumption License C-1,
 issued by the Township Committee of the Township of Hamilton to
 Gropp's Tavern, Inc., t/a Gropp's Tavern, for premises 2694
 Nottingham Way, Hamilton Township, be and the same is hereby
 suspended for twenty (20) days, commencing at 2 a.m. Tuesday,
 April 23, 1968, and terminating at 2 a.m. Monday, May 13,
 1968.

JOSEPH M. KEEGAN
 DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF TERMS OF
ALCOHOL PERMIT - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

CANCELLATION PROCEEDINGS - ORDER TO SHOW CAUSE VACATED IN VIEW
OF SUSPENSION OF LICENSE.

In the Matter of Disciplinary)
and Cancellation Proceedings)
against)

Stefania Lukiw and Michael Myskiw)
t/a Brody Company)
954 - 18th Avenue)
Newark, N. J.)

CONCLUSIONS

Holders of Plenary Retail Distribution)
License D-171, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Newark, and Special Permit)
AL No. 77, issued by the Director of)
the Division of Alcoholic Beverage)
Control.)

and

ORDER

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Licensees, Pro se

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

BY THE DIRECTOR:

Licensees plead non vult to the following charge:

"On February 10, 1968, in a consecutive period of
twenty-four (24) hours, viz., at about 8:30 P.M.,
you sold alcohol to one person in excess of thirty-
two (32) ounces, specifically two one-quart bottles,
totaling sixty-four (64) ounces, contrary to and in
violation of the terms and conditions of Special
Permit AL No. 77, heretofore issued to you by the
Director of the Division of Alcoholic Beverage
Control, and of Rule 4(c) of State Regulation No. 31."

In addition, the licensees were required to show cause why
Special Permit AL No. 77 should not be suspended, revoked or can-
celled by reason of the said violation.

Report of investigation discloses that, at the time the
sale was made, the Division agent was requested to date two order
forms on two different dates, which was done.

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.

In view of the aforesaid suspension, no additional action
will be taken with respect to Special Permit AL No. 77 issued to the
licensees. However, licensees are pointedly warned that any future
similar violations may well result in outright revocation or cancel-
lation of the said permit.

Accordingly, it is, on this 15th day of April 1968,

ORDERED that Plenary Retail Distribution License D-171,
issued by the Municipal Board of Alcoholic Beverage Control of the

City of Newark to Stefania Lukiw and Michael Myskiw, t/a Brody Company, for premises 954 - 18th Avenue, Newark, be and the same is hereby suspended for five (5) days, commencing at 9 a.m. Monday, April 22, 1968, and terminating at 9 a.m. Saturday, April 27, 1968.

JOSEPH M. KEEGAN
DIRECTOR

7. CANCELLATION PROCEEDINGS - LIMITED RETAIL DISTRIBUTION LICENSE
IMPROVIDENTLY ISSUED - LICENSE CANCELLED.

In the Matter of Cancellation
Proceedings against

William S. Henderson & Edmund
A. Kennedy
t/a Kin-Lon Spa
Rt. 23 & Kiel Ave.
Kinnelon, N.J.

CONCLUSIONS

and

ORDER

Holders of Limited Retail Distri-
bution License DL-1 issued by the
Mayor and Council of the Borough
of Kinnelon

Licensees, Pro se

David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensees do not contest an order to show cause why their license should not be suspended, revoked or cancelled and declared null and void for the following reason:

"The license was improvidently issued, in violation of R.S. 33:1-12 (3b), in that it was issued to you for premises (1) not operated and conducted by you as a bona fide grocery store, meat market, meat and grocery store, delicatessen or other type of bona fide food store at which groceries or other foodstuffs are sold at retail and (2) at which the sale of groceries or other foodstuffs is not the primary and principal business."

Prior to the hearing scheduled in this matter for April 4, 1968, by letter dated April 2, 1968, the licensees advised me that they have surrendered their license to the Borough Clerk.

Accordingly, it is, on this 18th day of April, 1968,

ORDERED that Limited Retail Distribution License DL-1, issued by the Mayor and Council of the Borough of Kinnelon to William S. Henderson and Edmund A. Kennedy, t/a Kin-Lon Spa, for premises Route 23 and Kiel Avenue, Kinnelon, be and the same is hereby cancelled, effective immediately.

JOSEPH M. KEEGAN
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Samuel Gelber
t/a Samuel Gelber
16 Main Street & 2 Tennent Avenue
Englishtown, N.J.,

CONCLUSIONS

and

Holder of Plenary Retail Distribution
License D-1, issued by the Borough
Council of the Borough of Englishtown.

ORDER

Licensee, Pro se

Walter H. Cleaver, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on March 16, 1968 he sold three 6-packs of beer to a minor, age 18, in violation of Rule 1 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 1601 Arctic Corporation, Bulletin 1759, Item 10.

Accordingly, it is, on this 16th day of April 1968,

ORDERED that Plenary Retail Distribution License D-1, issued by the Borough Council of the Borough of Englishtown to Samuel Gelber, t/a Samuel Gelber, for premises 16 Main Street & 2 Tennent Avenue, Englishtown, be and the same is hereby suspended for ten (10) days, commencing at 9 a.m. Tuesday, April 23, 1968, and terminating at 9 a.m. Friday, May 3, 1968.

JOSEPH M. KEEGAN
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

Alfred T. Sanderson
23 North Main Street
Woodstown, N.J.

CONCLUSIONS

and

Holder of Plenary Retail Consumption
License C-2, issued by the Borough
Council of the Borough of Woodstown.

ORDER

Licensee, Pro se

Walter H. Cleaver, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 14, 1967 he possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in

violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re P-T-J Corporation, Bulletin 1785, Item 8.

Accordingly, it is, on this 22nd day of April 1968,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Woodstown to Alfred T. Sanderson, for premises 23 North Main Street, Woodstown, be and the same is hereby suspended for five (5) days, commencing at 6 a.m. Monday, April 29, 1968, and terminating at 6 a.m. Saturday, May 4, 1968.

JOSEPH M. KEEGAN
DIRECTOR

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

In the Matter of Disciplinary Proceedings against

Harry Wm. Pollack
t/a Joseph's Liquor Store
2A Wheaton Plaza
Millville, N.J.

CONCLUSIONS
and

Holder of Plenary Retail Distribution License D-1, issued by the Board of Commissioners of the City of Millville.

ORDER

Samuel Adler, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 30, 1968 he sold three six-packs of beer to a minor, age 18, in violation of Rule 1 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 1601 Arctic Corporation, Bulletin 1759, Item 10.


Accordingly, it is, on this 23rd day of April 1968,

ORDERED that Plenary Retail Distribution License D-1, issued by the Board of Commissioners of the City of Millville to Harry Wm. Pollack, t/a Joseph's Liquor Store, for premises 2A Wheaton Plaza, Millville, be and the same is hereby suspended for ten (10) days, commencing at 9 a.m. Tuesday, April 30, 1968, and terminating at 9 a.m. Friday, May 10, 1968.

JOSEPH M. KEEGAN
DIRECTOR

11. STATE LICENSES - NEW APPLICATION FILED.

Vermouth Industries of America, Inc.
100 Hancock Street, Lodi, New Jersey
Application filed June 6, 1968 for plenary winery license.


Joseph M. Keegan
Director