

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1363

November 30, 1960

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - PASQUA AND VECCHIONE v. WEEHAWKEN.
2. APPELLATE DECISIONS - CONKLIN v. CRESSKILL AND JIMMIE'S HOLIDAY HAVEN, INC.
3. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOLIC BEVERAGES - MOTOR VEHICLE RETURNED TO INNOCENT OWNER IN ADVANCE OF STATUTORY HEARING.
4. ACTIVITY REPORT FOR SEPTEMBER 1960.
5. DISCIPLINARY PROCEEDINGS (Avalon) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATES TO BE FIXED BY SUBSEQUENT ORDER.
6. DISCIPLINARY PROCEEDINGS (Roselle Park) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Dover) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Union City) - GAMBLING - LOTTERY - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

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1100 Raymond Blvd. Newark 2, N. J.

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1. APPELLATE DECISIONS - PASQUA AND VECCHIONE v. WEEHAWKEN.

Anthony S. Pasqua and Jerry Vecchione	)	
t/a J. & A. Bar & Grill, partnership,	)	ON APPEAL
Appellants,	)	CONCLUSIONS
v.	)	AND
Township Committee of the Township	)	ORDER
of Weehawken,	)	
Respondent.	)	

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DeFazio, Davidson & DeFazio, Esqs., by Charles DeFazio, Jr., Esq.,  
and Samuel J. Davidson, Esq., Attorneys for Appellants.  
Milmed & Feder, Esqs., by Leon S. Milmed, Esq., Attorneys for  
Respondent.  
Nathan J. Littauer, Esq., and Samuel Moskowitz, Esq., Attorneys for  
Objectors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from an alleged denial by respondent Committee of an application filed by appellants for a person-to-person and place-to-place transfer of a plenary retail consumption license from The American News Company to appellants and from West Shore Terminal, foot of Pershing Road to east side of the foot of Baldwin Avenue (opposite Lincoln Tunnel ventilating building and south of United Fruit Company Pier), Weehawken.

"No answer was filed by respondent in this appeal and no witnesses were called by it to testify at the within hearing.

"The respondent Committee is composed of seven members, one of whom is Committeeman-at-large known as the Mayor. On June 14, 1960 a public hearing was held and at the conclusion thereof, upon request of the attorney for the objectors for permission to file a memorandum, the matter was continued until June 23, 1960. At the latter date the hearing was further continued until June 27, 1960 at which time three of the six members of respondent Committee voted to approve and three to deny appellants' application. Under substantially similar circumstances it has been held by this Division that the action of the local issuing authority constituted a denial of appellants' application. Duca v. National Park, Bulletin 1070, Item 1 and cases cited therein.

"It appears from the evidence adduced herein that the premises to which the license in question had been issued is located in close proximity to and in the area of the three licensed premises whose respective proprietors are the objectors to the instant transfer. It further appears that for some time past both the railroad passenger service to the West Shore Terminal and the ferry service which carried the passengers to New York have been discontinued. Thus, many thousands of persons who formerly arrived daily in the vicinity and from whom the four licensed premises attracted patrons no longer come to that area.

"According to the testimony of one of the appellants, the proposed premises are located at a distance of approximately 2700 feet from the West Shore Terminal.

"The record herein discloses that some time prior to the present application which resulted in the instant appeal, a similar application for the person-to-person and place-to-place transfer was denied by the respondent Committee. A resolution dated May 5, 1960 denying said transfer does not disclose the manner in which the members of the Committee voted with reference thereto. Earl A. Purdy, a member of respondent Committee, testified in answer to a question of the Township attorney, that one member of the Committee who had voted against the transfer application of appellants when originally filed, had 'switched his vote' on the present transfer application and voted in favor thereof. The reasons advanced by the respondent Committee denying the prior application were (1) that there exists an adequate number of licensed premises in the area affected by the application; (2) that no public need or convenience would be met or served by the granting of the application; and (3) that the granting of such application would not be in the best interests of the public health, safety and welfare of the inhabitants of the Township of Weehawken.

"Jerry Vecchione, one of the appellants, testified that the premises for which the liquor license has been sought had been conducted by him eleven or twelve years as a restaurant; that although the New York Central Railroad owns the land, he owns the building and operates his business by virtue of a lease; that when the original application of transfer was filed with respondent, there was a provision in the lease which prohibited the sale of alcoholic beverages on the premises; that at the time the present application was filed the lease was amended to permit sale of alcoholic beverages on the premises with the exception that no such sale of liquor could be made to employees of the New York Central Railroad; that at no time to his knowledge had any complaints concerning the operation of the restaurant business been made to the police department; that in the vicinity of his premises there are many industrial establishments and waterfront businesses which employ numerous persons and that he serves food each day to approximately 250 persons.

"James F. Maher, a member of the respondent Committee, testified that he was not present on June 27, 1960 when the vote was taken on appellants' application. He further testified that if he had been present he would have voted in favor of the transfer as he had done on the first application for the following reasons: 'Mr. Vecchione has been a reputable businessman in this Township for many years. To my knowledge there has not been a complaint of any kind against him or the business he operates now. The only objectors to the issuance of this license are three liquor dealers who would be his competitors if the license were issued. I personally inspected the premises of the applicant, including the interior of the building, and feel that all requirements of the A.B.C. would be met. Presently a restaurant, this establishment has operated for many years to the complete satisfaction of all our local regulatory bodies. It has been emphasized by the objectors that the proposed premises for this license is an out-of-the-way place. In my opinion it is no more an out-of-the-way place than the Terminal Diner which has a liquor license and they're apparently one of the objectors. Mr. Vecchione has been a resident of Weehawken for many years and his family still resides in our Township. I have known him for fifteen years and can personally vouch for his good character and integrity. He is a veteran of World War II and belongs to the American Legion, Post 18, Weehawken. For the above reasons and in my discretion I recommend that the application be approved.'

"Commissioner Purdy testified that at the hearings of both the prior application and the present application held by the local issuing authority, he voted against the transfer. He gave as his main reason that in his opinion it was not a good thing for the Township; that he had nothing against the applicants but only was opposed to the locality; that the premises were not on a public road and that in his opinion there was no necessity for the transfer of the license 'from a place that used to have five or six thousand customers a day to a few hundred. We would prefer that he pick some other spot.'

"Seymour Stopper, one of the objectors, who operates licensed premises in the immediate vicinity of the building to which the present license had been issued, testified in substance that his main objection to the transfer of the license in question is that some of the employees of the businesses which are close to the applicants' premises patronize his establishment and as a result thereof, his business would suffer if the transfer were permitted.

"It was stipulated that a representative of another licensed premises in the immediate vicinity would, if called as a witness, advance the same reason as Stopper.

"It has been consistently held that the mere fact that a competitor might suffer loss in business by the transfer of a license is not a proper reason to deny such application. Knast & Krause v. Camden, et al., Bulletin 810, Item 2.

"In Taylor v. South River, Bulletin 520, Item 4, the then Commissioner ruled:

'It is axiomatic that, under the Alcoholic Beverage Law, the question of issuance (or transfer) of a municipal liquor license is entrusted, in the first instance to the sound and bona fide discretion of the local issuing authority. In discharge of that function, the local issuing authority, when acting upon an application, is not bound by any doctrine of res judicata to reach the same decision as upon some previous application involving the same applicant and premises. To the contrary, each individual application is necessarily to be considered on its own full merits. Cf. Lavelle v. Way, Bulletin 140, Item 1; Bradford v. Paulsboro, Bulletin 410, Item 3. The evident and salutary purpose of such a doctrine is to enable the municipality to benefit by its own sound experience and to avoid repetition of what it honestly believes to have been a past mistake.

'However, while giving full recognition to this doctrine, proper liquor control clearly dictates that an issuing authority may not be permitted to "back and fill" in the applications before it without sound reason therefor. Where, as here, it has squarely reversed its position, the burden is upon it to convincingly explain such reversal. VanKesteren et al. v. Camp, Bulletin 296, Item 7; Merkowsky et al. v. Bayonne et al., Bulletin 386, Item 4. Cf. Northend Tavern, Inc. v. Northvale, Bulletin 493, Item 5.' (Underscoring added).

"It appears that The American News Company, present holder of the license, has filed application for a renewal thereof at its present premises for the 1960-61 licensing period and that no action by respondent has been taken thereon. In the present posture of the record, it appears unnecessary to consider anything further with reference to this appeal. I recommend, under the circumstances appearing in this case, that the matter be remanded to respondent

Committee with instructions to reconsider appellants' pending application for transfer at a scheduled hearing, at which all parties will be free to offer testimony in addition to that already offered in these proceedings, either with respect to the present issues or such additional issue as may be raised."

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15. Having carefully considered the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendation.

Accordingly, it is, on this 10th day of October, 1960,

ORDERED that the matter be remanded to the respondent Township Committee for its further consideration in accordance with the opinion expressed herein.

WILLIAM HOWE DAVIS  
DIRECTOR

2. APPELLATE DECISIONS - CONKLIN v. CRESSKILL AND JIMMIE'S HOLIDAY HAVEN, INC.

William Conklin, Jr.,	)	
Appellant,	)	
v.	)	On Appeal
Borough Council of the Borough of Cresskill, and Jimmie's Holiday Haven, Inc.,	)	CONCLUSIONS and ORDER
Respondents.	)	

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John R. Kelly, Esq., Attorney for Appellant.  
Stanley W. Bradley, Esq., Attorney for Respondent Borough Council.  
Robert E. Personette, Esq., Attorney for Respondent Jimmie's Holiday Haven, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Borough Council on June 15, 1960 whereby, by unanimous vote of its members, it granted a plenary retail consumption license to respondent Jimmie's Holiday Haven, Inc. (hereinafter referred to as Holiday) for the 1959-60 licensing period for premises located at 80 Piermont Road, Cresskill, New Jersey. The license has since been renewed for the 1960-61 licensing period.

"The petition of appeal sets forth that the issuance of such license was in violation of the statute in such cases made and provided; that the respondent Borough of Cresskill was limited to the number of such licenses it could issue by the latest official U. S. census in force and effect on June 15, 1960 and that the respondent Borough of Cresskill exceeded this number by the issuance of a new plenary retail consumption license on that date to the respondent Holiday.

"The answer and supplemental answer of respondent Borough, in sum, allege that the issuance of such license was in all respects legal and proper and in compliance with the law. Holiday's answer concurs in such allegation.

"Although not set forth as a specific ground of appeal, testimony was submitted as to whether public need or convenience would be served by the location of a liquor license at the Piermont Road premises. It appears therefrom that presently there are five other plenary retail consumption licenses located in the business center of the municipality in close proximity to one another, and that this is the only area zoned for business use. There is another plenary retail consumption license issued for a location in the west end of the Borough in a residential area which exists there by reason of a non-conforming use insofar as zoning is concerned.

"Holiday has been, for approximately five years last past, the only restaurant in the Borough and is of excellent character and available for social affairs. (Appellant asserts that he serves a businessmen's lunch to an average of 10 to 20 persons and serves an average of 12 to 15 persons at dinner from a limited menu.)

"One of the councilmen testified that he considered Holiday the most distinguished premises in town suitable for the proposed uses. It appears that applications for a liquor license were previously presented by Holiday on October 2, 1956, February 3, 1960 and May 23, 1960. The favorable report of the Council committee which investigated the present application recites that the building consists of a dining room with an estimated seating capacity of 100; that the restaurant is air-conditioned and attractive in appearance and has adequate parking facilities; that an average of 12 waitresses are employed there and five kitchen help.

"The formal resolution of the Borough Council whereby it granted the license in question embodies a recital of substantially the facts above outlined concerning the type of restaurant and the fact that no other such type is available.

"It appears that the previous applications could not be granted by the Borough Council because of a Borough ordinance restricting the number of such licenses to six, and also because the State Numerical Limitation Law (R.S. 33:1-12.14) barred issuance of such a license in that, so far as here pertinent, it read, prior to recent amendment: 'No new plenary retail consumption license...shall be issued in a municipality unless and until the...total number of such licenses existing in such municipality is fewer than one for each 1,000 of its population as shown by the last then preceding Federal census.' The 1950 Federal census population of the Borough was 3,534.

"Anticipating that an increase of population would be shown by the 1960 Federal census sufficient to permit the issuance of the instant license in accordance with state law, the Borough Council on June 1, 1960 amended its pertinent ordinance to read: 'The number of plenary retail consumption licenses to sell alcoholic beverages within the Borough of Cresskill is hereby limited to the number authorized by the laws of the State of New Jersey.'

"The Mayor of the Borough received the following letter dated May 27, 1960 on the letterhead of the U. S. Department of Commerce, Bureau of the Census, Field Division:

'Dear Mayor:

This is to certify that the population of the Borough of Cresskill, County of Bergen, State of New Jersey, is 7,267 according to the 1960 Census taken as of April 1st 1960.

This figure will be increased after the returns for Cresskill residents who were out of town when

count was made are credited and other routine checks have been made. This figure, however, is final as to the minimum population of Cresskill, N. J.

I am making this certification in my official capacity as District Supervisor, U. S. Bureau of the Census, with authority to make such announcements in advance.

Very truly yours,

(sgd)

John F. Knowlan'

Borough officials received the following letter dated June 2, 1960 on the letterhead of the Department of Commerce, Bureau of the Census, Washington 25:

'I HEREBY CERTIFY, That John F. Knowlan, who signed the attached statement, was on the date thereof a duly appointed and Acting District Supervisor of the U. S. Bureau of the Census, and, as such Supervisor, authorized to issue such 1960 Census population figures for the communities in his area.

(sgd) Robert W. Burgess  
Director  
Bureau of the Census'

"On June 3, 1960 the application for the license in question was filed with the Borough Clerk accompanied by a representation that an addition would be constructed to the present building at considerable cost and a resulting increase in the Borough ratables. On June 15, 1960 the application was granted, 'subject to the express condition that the improvements as described in the plans and specifications prepared and submitted by the applicant and as approved by the Planning Board shall first be completed.'

"On June 23, 1960 the Governor signed into law Senate #117, which thereupon became Chapter 72 of the Laws of 1960, effective immediately. Chapter 72 changed the ratio as to retail consumption licenses from one to each 1,000 of the population to one for each 2,000 as shown by the latest then preceding Federal census. The point is made that aside from the effect to be given to the census information on which the Borough Council acted, the time sequence bespeaks an improper design of the Council to provide Holiday with a license before it became legally impossible to do so by virtue of the then contemplated amendment of the state law.

"In view of the opinion of the councilmen that it was extremely desirable to provide for a liquor license in the restaurant, which previously was impossible of accomplishment by reason of the previous ordinance, state law and 1950 census population, it is clear that the action was not improperly motivated.

"It is further contended that it was improper for the Borough Council to amend its resolution of June 15th by its resolution on June 21st, such amendment reading, in part:

'...that a Plenary Retail Consumption License to be designated as License No. C7, is authorized to be issued to Jimmie's Holiday Haven, Inc., effective immediately and without any special conditions for the existing restaurant premises at 80 County Road, Cresskill, New Jersey.'

"It is explained that the original condition imposed on

June 15th was due to the Council's misunderstanding of the Alcoholic Beverage Control Law and Regulations in that it was of the opinion that where a new addition was to be constructed to existing premises, the Council was required to impose such condition even if it was satisfied to grant a license to the then existing premises without the addition. When the matter was clarified, the Council adopted the amendatory resolution being willing to rely on Holiday's representation that the addition would be built in the future, inasmuch as such proposed addition was one, but not the sole, reason which led it to grant the application. This brings for consideration the major issue of the appeal, that is, at what stage of the Federal census may a municipality accept enumeration of population by the census bureau as the basis for the issuance of a liquor license. The State Limitation Law does not define the word 'shown'. The herein pertinent definition of the word 'show' in Webster's New International Dictionary, second edition, unabridged, is 'to disclose, reveal, make known'.

"It appears that in Asbury Park Press, Inc. v. Woolley, 33 N.J. 1 (Sup. Ct. June 6, 1960), a taxpayer sought a declaration from the court that the County of Monmouth was entitled to elect three members to the General Assembly, rather than two as allotted by the 1941 Apportionment Act. The New Jersey Constitution adopted in 1947 provides that the then present apportionment should continue until the next census of the United States shall have been taken; that apportionment of the members of the General Assembly should be made by the Legislature at the first session after the next and every subsequent census and each apportionment then made should remain unaltered until the following census shall have been taken. Subsequent to the 1940 census there was a reapportionment by the Legislature. The 1950 census of New Jersey was certified by the United States Bureau of the Census on February 5, 1952 and was filed by the Governor with the Secretary of State on February 11, 1952. Despite the revelation from the figures that substantial relative changes in the population of various counties had occurred since 1940, during the succeeding eight years the Legislature failed to make any reapportionment.

"Justice Francis, speaking for the Supreme Court, stated that no declaration would presently be made with respect to the invalidity of the 1941 Act; that eight years had passed without any attack on the apportionment in the courts; that there will be no primary or general election of members of the General Assembly until 1961; that the 1960 census has been taken and already some preliminary figures are making their appearance in the public press; that the indications are that sufficiently reliable figures will be available in ample time prior to the next primary election; that 'As counsel for one of the defendant counties properly observed, such preliminary statistics have been adjudged adequate for the purpose of meeting the provision for apportionment "as nearly as may be" according to the number of inhabitants of each county...It may be noted that our Constitution requires reapportionment after the "following census shall have been taken". It does not say "taken and promulgated in final form"'. "

"Justice Francis quoted the following language from Cahill v. Leopold, 141 Conn. 1, 103 A. 2d 818 (Sup. Ct. Err. 1954):

'...It is not necessary that the information be published in book form before it becomes officially available. Indeed, there is not even a constitutional provision requiring the figures to be final. While final tabulations tend to greater exactitude than those previously computed, there is no need for the precision of perfection. The results of the preliminary counts customarily released by the

census bureau, as happened in the case at bar, are ample to afford sufficiently accurate data for an Assembly to proceed to redistrict in an intelligent manner, provided the counts have been broken down into counties, town and wards.'

"Justice Francis continues: 'Under the circumstances, it is to be presumed that the Legislature contemplates the performance of its constitutional duty to reapportion when the preliminary census results become available.'

"The court withheld final determination of the various problems presented in order that the Legislature might have an opportunity to consider adoption of a reapportionment act when the preliminary 1960 census data had been made available by the Federal authorities.

"I am of the opinion, therefore, that respondent Borough Council was legally justified in accepting the preliminary figures of the Census Bureau, especially the figures certified as the final minimum population, as adequate for the purpose of meeting the provisions of the State Limitation Law.

"It is interesting to note that in Application for Catering Club Liquor License by Noonday Club (1950 Pa. 38 Del. Co. 92) the court held that under a statute establishing a quota for retail licenses based on population, but not prescribing how the population was to be determined, the Pennsylvania Liquor Board erred in refusing to issue a club license on the single ground that the quota for retail licenses as shown by the population based on the 1940 United States census was already exceeded, where the official preliminary count of the population of the 1950 census showed that the quota was not exceeded.

"Appellant relies upon R.S. 33:1-1.2 which defines census to mean the latest Federal census effective within this State (the very issue here being when it is effective insofar as the State Limitation Law is concerned), and the cases where population is made the basis for classification for the purpose of regulating the affairs of cities and counties (as typified by Martin v. Ivins, 59 N.J.L. 364 and Buck v. Douglass et al, 74 N.J.L. 300, and R.S. 52:4-1). Different statutory language and different considerations are there involved and, in any event, decision herein must follow the principles enunciated in Asbury Park Press, Inc. v. Woolley, supra, wherein the court noted that the 1950 census was officially promulgated in 1952, pursuant to R.S. 52:4-1 and, nevertheless, held that the Legislature could consider the population enumerated in advance of any such official promulgation.

"I therefore recommend that the action of the respondent Borough Council be affirmed and that the appeal be dismissed."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument thereto were filed with me by the attorney for appellant. Written answering argument was filed with me on behalf of both respondents.

After carefully considering the testimony, exhibits, Hearer's Report, exceptions thereto and written argument thereto filed on behalf of appellant and both respondents, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence I shall enter an order as recommended by the Hearer.

Accordingly, is is, on this 13th day of October 1960,

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

WILLIAM HOWE DAVIS  
DIRECTOR

3. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOLIC BEVERAGES - MOTOR VEHICLE RETURNED TO INNOCENT OWNER IN ADVANCE OF STATUTORY HEARING.

In the Matter of the Seizure	)	Case No. 10,383
on September 2, 1960 of a	)	
quantity of alcoholic beverages	)	ON APPLICATION FOR RETURN
and a Cadillac automobile in	)	OF MOTOR VEHICLE PRIOR TO
the City of Hackensack, County	)	STATUTORY HEARING
of Bergen and State of New Jersey.	)	ORDER
-----)		

Feder and Rinzler, Esqs., by Joseph A. Feder, Esq., Attorneys for Eugene Alberti, claimant.  
I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This is an application by Eugene Alberti, the owner of a Cadillac sedan which was seized on September 2, 1960 because it was used to transport 12 quarts of illicit alcohol. Eugene Alberti asserts that it will inflict a hardship upon him if required to await the outcome of the statutory seizure hearing, because he needs the car for transportation in order to earn a livelihood as an authorized agent for the American Federation of Musicians.

It appears from the evidence presented that Michael John Bregder and William Fisher were apprehended in the car which was being used to transport 12 half-gallon "Mason" jars of alcohol, following a previous arrangement by Bregder with a person previously unknown to him, who, in fact, was an off-duty police officer, whereby Bregder agreed to sell illicit liquor to such officer. Both Bregder and Fisher explained, when apprehended, that Bregder had met Fisher in a tavern, and there requested Fisher to drive him to the rendezvous, in the Cadillac sedan, which Fisher had borrowed previously for his own personal pleasure, from Alberti, its owner.

Alberti has been subjected to an exhaustive examination, which establishes that he is the actual owner of the Cadillac sedan. His background is only pertinent to the extent that it would influence a determination as to whether he would be likely to have engaged or participated in the use of his car to transport illicit alcoholic beverages.

On that score the testimony of Michael John Bregder appears to eliminate any such possibility. Bregder testified that he is 24 years of age, honorably discharged from the Army in September 1959. During such service he was stationed in Virginia, where he became aware that moonshine corn was available. On a visit there within the past few months, he purchased the corn whiskey in question, and stored it in his car. Being unemployed, he sought to sell the whiskey, and hence accosted the police officer while driving his car. Upon making the arrangement, he drove to the tavern in question, and requested Fisher to take him to the rendezvous, ostensibly to meet a friend, for the reason that if he appeared there in another car, it would be more difficult for identification.

I am satisfied from the evidence presented that Eugene Alberti acted in good faith, and had no knowledge of the unlawful use to which his Cadillac sedan was put or of such facts as would have led a person of ordinary prudence to discover such use. R.S. 33:1-66(f). Consequently, I shall return the Cadillac sedan to him upon payment of the costs of the seizure and storage of such motor vehicle.

Accordingly, it is DETERMINED and ORDERED that if on or before the 20th day of October, 1960, Eugene Alberti pays the costs of the seizure and storage of his Cadillac sedan, it will be returned to him.

Dated: October 10, 1960

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 12 - half-gallon "Mason" jars of alcohol
- 1 - Cadillac sedan, Serial and Engine No. 13100,  
New Jersey Registration BFM560.

4.

ACTIVITY REPORT FOR SEPTEMBER 1960

<b>ARRESTS:</b>		
Total number of persons arrested - - - - -		37
Licensees and employees - - - - -	15	
Bootleggers - - - - -	22	
<b>SEIZURES:</b>		
Motor vehicles - cars - - - - -		8
Stills - 50 gallons or under - - - - -		1
Mash - gallons - - - - -		300.00
Distilled alcoholic beverages - gallons - - - - -		66.36
Wine - gallons - - - - -		6.37
Brewed malt alcoholic beverages - gallons - - - - -		14.81
<b>RETAIL LICENSEES:</b>		
Premises inspected - - - - -		561
Premises where alcoholic beverages were gauged - - - - -		495
Bottles gauged - - - - -		8,489
Premises where violations were found - - - - -		49
Violations found - - - - -		70
Unqualified employees - - - - -	32	Disposal permit necessary - - - - - 4
Application copy not available - - - - -	8	Improper beer taps - - - - - 1
Reg. #38 sign not posted - - - - -	8	Other mercantile business - - - - - 1
Prohibited signs - - - - -	5	Other violations - - - - - 11
<b>STATE LICENSEES:</b>		
Premises inspected - - - - -		22
License applications investigated - - - - -		15
<b>COMPLAINTS:</b>		
Complaints assigned for investigation - - - - -		421
Investigations completed - - - - -		381
Investigations pending - - - - -		180
<b>LABORATORY:</b>		
Analyses made - - - - -		180
Refills from licensed premises - bottles - - - - -		50
Bottles from unlicensed premises - - - - -		60
<b>IDENTIFICATION:</b>		
Criminal fingerprint identifications made - - - - -		16
Persons fingerprinted for non-criminal purposes - - - - -		219
Identification contacts made with other enforcement agencies - - - - -		165
Motor vehicle identifications via N. J. State Police teletype - - - - -		4
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities - - - - -		16
Violations involved - - - - -		18
Sale during prohibited hours - - - - -	10	
Sale to minors - - - - -	5	Failure to close premises during prohibited hours - - - - - 2
Possessing contraceptives on premises - - - - -	1	
Cases instituted at Division - - - - -		19
Violations involved - - - - -		26
Possessing liquor not truly labeled - - - - -	5	Filing false tax reports - - - - - 1
Sale during prohibited hours - - - - -	5	Sale outside scope of license - - - - - 1
Conducting business as a nuisance - - - - -	2	Failure to close premises during prohibited hours - - - - - 1
Sale to intoxicated persons - - - - -	2	Permitting lottery activity (numbers) on premises - - - - - 1
Permitting foul language on premises - - - - -	2	Service to women at bar (local reg.) - - - - - 1
Sale to minors - - - - -	2	
Purchase from improper source - - - - -	3	
Cases brought by municipalities on own initiative and reported to Division - - - - -		10
Violations involved - - - - -		14
Sale to minors - - - - -	4	Failure to close premises during prohibited hours - - - - - 1
Sale during prohibited hours - - - - -	3	Failure to afford view into premises during prohibited hours - - - - - 1
Permitting brawls on premises - - - - -	2	Permitting bookmaking on premises - - - - - 1
Hindering investigation - - - - -	1	
Sale to intoxicated persons - - - - -	1	
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held - - - - -		32
Appeals - - - - -	10	
Disciplinary proceedings - - - - -	12	Seizures - - - - - 4
Eligibility - - - - -	4	Tax revocations - - - - - 2
<b>STATE LICENSES AND PERMITS ISSUED:</b>		
Total number issued - - - - -		1,133
Licenses - - - - -	6	Wine permits - - - - - 58
Solicitors' permits - - - - -	48	Miscellaneous permits - - - - - 198
Employment - - - - -	226	Transit insignia - - - - - 196
Disposal - - - - -	88	Transit certificates - - - - - 28
Social affair - - - - -	485	
<b>OFFICE OF AMUSEMENT GAMES CONTROL:</b>		
Licenses issued - - - - -	1	
Premises inspected - - - - -	1	
Premises where violations were found - - - - -	0	
Enforcement files established - - - - -	51	

WILLIAM HOWE DAVIS  
 Director of Alcoholic Beverage Control  
 Commissioner of Amusement Games Control

Dated: October 6, 1960

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATES TO BE FIXED BY SUBSEQUENT ORDER.

In the Matter of Disciplinary Proceedings against )

Helen Mullray Friedel t/a Princeton Hotel 21st St. & Dune Drive Avalon, N. J., )

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-4, issued by the Board of Commissioners of the Borough of Avalon )

ORDER

Morton I. Greenberg, Esq., Attorney for Defendant-licensee William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that she possessed on her licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On August 11, 1960, an ABC agent tested defendant's open stock of liquor and seized a number of bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of four of said bottles varied substantially in solids and color, and the fifth bottle varied substantially in solids and acids, from the contents of genuine bottles of the labeled brands.

The licensee's assistant manager told the agent that he had poured whiskey of a different brand into each of the seized five bottles without the knowledge of the licensee. The explanation offered by counsel for the licensee in alleged mitigation of the offense is that her employee substituted the whiskey for use at a private party given by the licensee. This explanation, if true, cannot be accepted as an excuse for or in mitigation of the violation.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty-five days, the minimum period where five bottles are involved. Re Fishman, Bulletin 1349, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Investigation discloses that defendant's licensed business is not being conducted at present. Thus no effective penalty can be imposed at this time. The effective dates for the suspension will be fixed by subsequent order which will be entered by me after the licensed premises shall have been reopened for the 1961 season.

Accordingly, it is, on this 11th day of October 1960,

ORDERED that plenary retail consumption license C-4, issued by the Board of Commissioners of the Borough of Avalon to Helen Mullray Friedel, t/a Princeton Hotel, for premises at 21st St. & Dune Drive, Avalon, be and the same is hereby suspended for twenty (20) days, the effective dates to be fixed by subsequent order, as aforesaid.

WILLIAM HOWE DAVIS DIRECTOR

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

In the Matter of Disciplinary )  
Proceedings against )

John Cascio )  
t/a Business Men's Lunch )  
101 E. Westfield Avenue )  
Roselle Park, N. J. )

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption )  
License C-10, issued by the Borough )  
Council of the Borough of Roselle Park. )

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William Boffa, Jr., Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., Appearing for the Division of  
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

On July 7, 1960 an ABC agent tested defendant's open bottles of alcoholic beverages and seized, among other bottles, a quart bottle of "Seagram's Seven Crown American Blended Whiskey 86 Proof" for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottle, when compared with the contents of a genuine bottle of the same brand, varied substantially in solids.

Defendant has no prior adjudicated record. I shall suspend his license for ten days, the minimum period where one bottle is involved. (Re Kozlowski, Bulletin 1347, Item 7). Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 13th day of October, 1960,

ORDERED that Plenary Retail Consumption License C-10, issued by the Borough Council of the Borough of Roselle Park to John Cascio, t/a Business Men's Lunch, for premises 101 E. Westfield Avenue, Roselle Park, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m., Monday, October 24, 1960 and terminating at 2:00 a.m., Saturday, October 29, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

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

In the Matter of Disciplinary Proceedings against  
 Fred P. Andoli & Mary M. Andoli  
 t/a Fred's Tavern  
 337 E. Blackwell Street  
 Dover, N. J.  
 Holders of Plenary Retail Consumption License C-12, issued by the Mayor and Board of Aldermen of the Town of Dover.

CONCLUSIONS

AND

ORDER

Defendant-licensees, Pro se.  
 William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On September 12, 1960, an ABC agent tested defendants' open stock of liquor and seized four bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of the four one-quart bottles of "Seagram's Seven Crown American Blended Whiskey 86 Proof" varied substantially in solids from an analysis of the contents of a genuine sample of the labeled brand.

Defendants have a prior adjudicated record. Effective February 24, 1959 their license was suspended for ten days for sale of alcoholic beverages to a minor. Bulletin 1269, Item 8. The minimum suspension in cases where four bottles are involved is twenty days. Re Lydecker, Bulletin 1342, Item 3. Inasmuch as the previous dissimilar record occurred within the past five years, five days will be added to the penalty imposed herein, making a total suspension of 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 24th day of October 1960,

ORDERED that Plenary Retail Consumption License C-12 issued by the Mayor and Board of Aldermen of the Town of Dover to Fred P. Andoli & Mary M. Andoli, t/a Fred's Tavern, for premises 337 E. Blackwell Street, Dover, be and the same is hereby suspended for twenty (20) days, commencing at 1:00 a.m., Tuesday, November 1, 1960 and terminating at 1:00 a.m., Monday, November 21, 1960.

WILLIAM HOWE DAVIS  
 DIRECTOR

8. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 Las Villas Club, Inc.  
 2517 Bergenline Avenue  
 Union City, New Jersey  
 Holder of Plenary Retail Consumption License C-69, issued by the Board of Commissioners of the City of Union City.

)  
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 ) CONCLUSIONS  
 ) AND  
 ) ORDER  
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 Louis P. Church, Esq., Attorney for Defendant-licensee.  
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On September 10 and 24, 1960, you allowed, permitted and suffered gambling, viz., the making and accepting of bets in a lottery commonly known as the 'numbers game', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.
- "2. On September 10 and 24, 1960, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale, in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

At 1:45 p.m., September 10, 1960, two ABC agents visited defendant's licensed premises wherein they observed a man openly taking "numbers" bets in the barroom and over the phone. One of the agents asked Roberto Rivera, the bartender, for a piece of paper telling him that he wanted to play a good "number". The other agent chimed in with "Yes, its 069, we'll go half and half". The bartender nodded and handed him the piece of paper upon which the agents recorded their bet. The agents then gave the slip of paper and a dollar bill to the unidentified "bookie" who said "OK" when they told him that both were playing 50¢ on number 069.


At 12:50 p.m., September 24, 1960 the same agents returned to defendant's licensed premises and when they told Rivera that they came close to winning on the 069 number they had played, he said "Yes, that was too bad, you try again". The agents agreed and when they inquired as to the whereabouts of the "bookie" with whom they had placed the previous bet, Rivera said, "He is not the bookie, the bookie is the boss", pointing to Andres Garcia (50% shareholder of the corporate-licensee herein) whom the agents had observed accepting money from several patrons. One of the agents then gave Rivera a previously prepared "numbers" bet slip and a marked one-dollar bill which Rivera turned over to Garcia, who recorded the bet on a sheet of paper and put the money in his pocket. Shortly thereafter, a third ABC agent and a local police officer entered the premises and found in Garcia's possession a sheet of paper listing 27 "numbers" bets, the marked one-dollar

bill and \$115 in cash. The agents located other "numbers" slips behind the bar. Garcia admitted that he took the bets and that the money represented collections for that day. Rivera also admitted taking bets and turning them over to Garcia. Both men were placed under arrest.

Defendant has a prior adjudicated record. Effective May 31, 1960 its license was suspended for ten days by this Division for possessing on its licensed premises liquor in bottles which were not truly labeled. Re Las Villas Club, Inc., Bulletin 1343, Item 6. The minimum penalty imposed for violations such as charged herein where the licensee or its agents are involved, is a suspension of the license for twenty-five days. Re Tuzzo, Bulletin 1355, Item 4. However, the penalty in the instant case will be increased by five days because of the prior dissimilar violation which occurred within a five-year period. I shall suspend defendant's license for a total period of thirty days, and remit five days for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 20th day of October, 1960,

ORDERED that Plenary Retail Consumption License C-69, issued by the Board of Commissioners of the City of Union City to Las Villas Club, Inc., for premises 2517 Bergenline Avenue, Union City, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m., Thursday, October 27, 1960 and terminating at 3:00 a.m., Monday, November 21, 1960.

  
William Howe Davis  
Director