

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

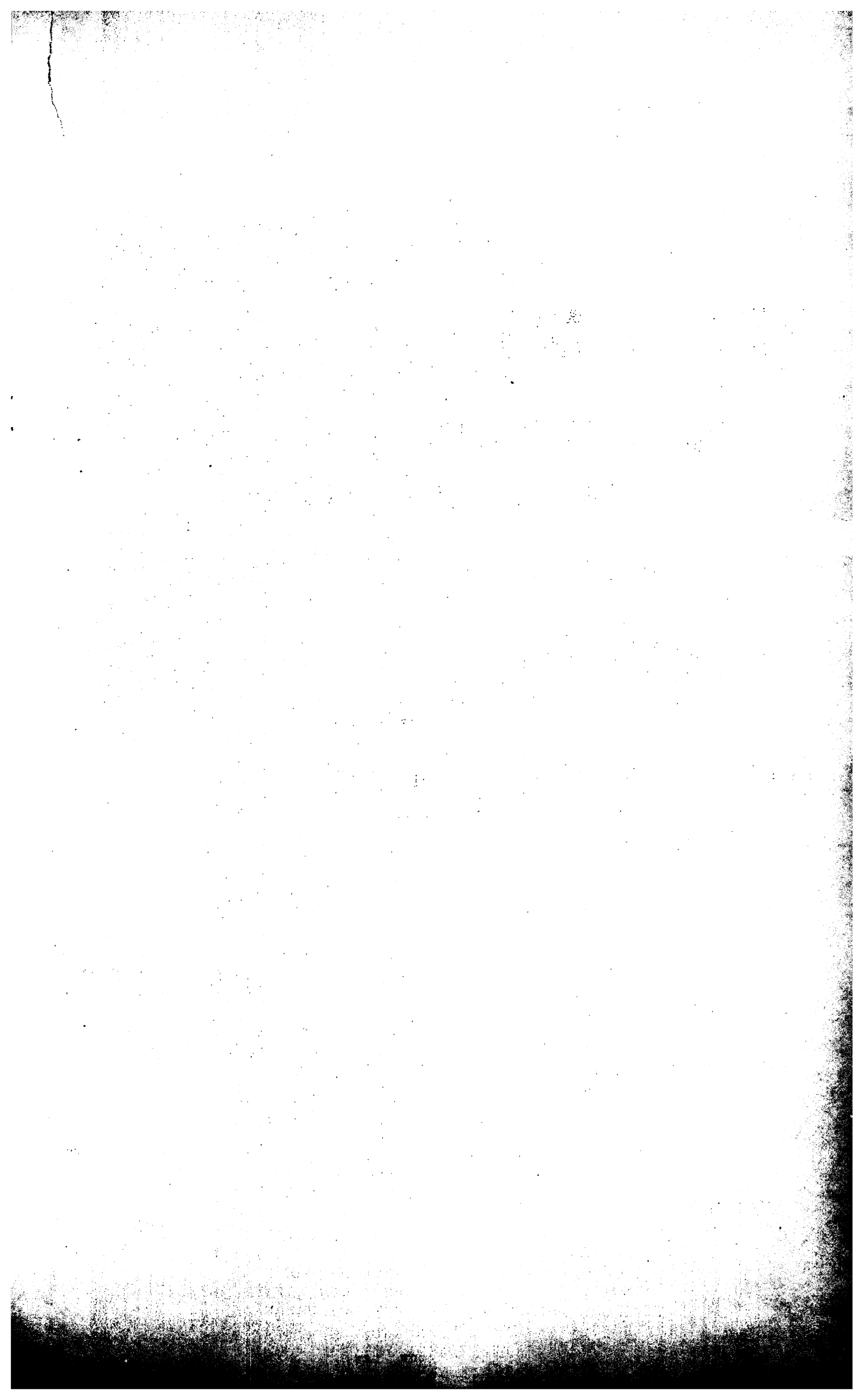
BULLETIN 911

JULY 9, 1951.

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STATE OF NEW JERSEY
 Department of Law and Public Safety
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1060 Broad Street Newark 2, N. J.

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ACTIVITY REPORT FOR JUNE 1951

I.			
ARRESTS:			
Total number of persons arrested	-----	14	
Licensees and employees	----- 6		
Bootleggers	----- 8		
SEIZURES:			
Distilled alcoholic beverages - gallons	-----	.38	
Wine - gallons	-----	1.26	
Brewed malt alcoholic beverages - gallons	-----	6.19	
RETAIL LICENSEES:			
Premises inspected	-----	851	
Premises where alcoholic beverages were gauged	-----	971	
Bottles gauged	-----	15,642	
Premises where violations were found	-----	29	
Violations found	-----	35	
Type of violations found:			
Unqualified employees	----- 18	Improper beer taps	----- 1
Reg. #38 sign not posted	----- 2	Other mercantile business	----- 1
Gambling devices	----- 1	Disposal permit necessary	----- 1
Prohibited signs	----- 1	Other violations	----- 10
STATE LICENSEES:			
Premises inspected	-----	5	
License applications investigated	-----	33	
COMPLAINTS:			
Complaints assigned for investigation	-----	319	
Investigations completed	-----	256	
Investigations pending	-----	154	
LABORATORY:			
Analyses made	-----	105	
"Shake-up" cases (alcohol, water and artificial color) - bottles	-----	7	
Liquor found to be not genuine as labeled - bottles	-----	3	
IDENTIFICATION BUREAU:			
Criminal fingerprint identifications made	-----	25	
Persons fingerprinted for non-criminal purposes	-----	384	
Identification contacts made with other enforcement agencies	-----	292	
Motor vehicle identifications via N. J. State Police Teletype	-----	5	
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities	-----	22	
Violations involved:			
Sale during prohibited hours	----- 8	Sale to non-members by clubs	----- 1
Sale to minors	----- 7	Lottery activity on premises (raffle)	----- 1
Bookmaking on premises	----- 4	Failure to afford view into premises	-----
Brawls on premises	----- 2	during prohibited hours	----- 1
Cases instituted at Division	-----	12	
Violations involved:			
Possessing illicit liquor	----- 3	Sale outside scope of license	----- 1
Fraud and front	----- 3	Retailer bottling without license	----- 1
Immoral activity on premises	----- 2	Failure to report retailer in default	----- 1
Permitting vehicles with insignia to be	-----	Sale to minors	----- 1
used in other business	----- 1	Failure to file notice of change in	-----
Conviction of crime involving moral	-----	application	----- 1
turpitude	----- 1	Lottery activity on premises (numbers)	----- 1
Cases brought by municipalities on own initiative and reported to Division	-----	9	
Violations involved:			
Sale during prohibited hours	----- 4		
Sale to minors	----- 3		
Brawls on premises	----- 2		
CANCELLATION PROCEEDINGS instituted at Division			
Violation involved:	-----	1	
License improvidently issued because one of licensees	-----		
had been convicted of crimes involving moral turpitude	-----		
HEARINGS HELD AT DIVISION:			
Total number of hearings held	-----	44	
Appeals	----- 12	Seizures	----- 6
Disciplinary proceedings	----- 20	Tax revocation	----- 1
Eligibility	----- 3	Applications for license	----- 2
PERMITS ISSUED:			
Total number of permits issued	-----	1,136	
Employment	----- 204	Social affair	----- 368
Solicitors	----- 107	Miscellaneous	----- 392
Disposal of alcoholic beverages	----- 65		

Dated: July 2, 1951.

ERWIN B. HOCK, DIRECTOR

2. APPELLATE DECISIONS - ADLER ET AL. v. EAST PATERSON, GRAND UNION COMPANY AND CAHAYLA.

ALBERT ADLER, LOUIS CHESNOFF, DAVID THALER, K & W LIQUOR & DELICATESSEN, INC., a New Jersey corporation, and HUDSON BERGEN COUNTY RETAIL LIQUOR STORES ASSOCIATION, a New Jersey corp., Appellants,

ON APPEAL CONCLUSIONS AND ORDER

-vs-

MAYOR AND COUNCIL OF THE BOROUGH OF EAST PATERSON, THE GRAND UNION COMPANY and MICHAEL CAHAYLA, Respondents.

Samuel Moskowitz, Esq., Attorney for Appellants. R. Sery Nicosia, Esq., Attorney for Respondent Mayor and Council of the Borough of East Paterson. Milton C. Kitay, Esq., Attorney for Respondent The Grand Union Co. John D. Vasilyk, Esq., Attorney for Respondent Michael Cahayla.

BY THE DIRECTOR:

Appellants, all of whom except Hudson Bergen County Retail Liquor Stores Association are licensees in the Borough of East Paterson, appeal from the action of respondent Mayor and Council in granting the transfer of a plenary retail distribution license from respondent Michael Cahayla to respondent The Grand Union Company, and from premises known as 73 Rudolph Avenue to premises at the southeast corner of Route 4 and Boulevard, East Paterson. The transfer was granted "subject to the condition that the transfer thereof shall not be endorsed or effective unless and until the above premises of The Grand Union Company are first completed in keeping with the Plans and Specifications filed with the Clerk of the Borough of East Paterson". The condition was given my ex parte approval on May 18, 1951. (It should be noted that respondent Michael Cahayla is not a necessary party to the appeal.)

Appellants allege, in substance, that the action of respondent Mayor and Council was erroneous in that its action in transferring the license from place to place constituted an abuse of discretion because the area to which the license is transferred is amply serviced by the present existing outlets.

The evidence herein discloses that respondent The Grand Union Company is erecting a building on a large plot of land located on the southerly side of New Jersey State Highway 4 between the Boulevard and Iozza Terrace. Appellant Albert Adler is the holder of a plenary retail distribution license issued for premises on the same side of the highway and approximately fifteen hundred feet east of The Grand Union Company building. Appellants Louis Chesnoff, David Thaler and K & W Liquor & Delicatessen, Inc. are the holders of plenary retail distribution licenses issued for premises on the northerly side of the highway and approximately opposite The Grand Union Company building.

The evidence further shows that during the past few years a large number of garden apartments have been erected on the southerly side of the highway in the immediate vicinity of The Grand Union building. According to a witness produced by appellant, these apartments accommodate more than 600 families, and according to a witness produced by respondents these apartments accommodate more than 1,000 families. The evidence indicates that, because of the

heavy traffic on the highway, it would be much more convenient for the residents of these garden apartments to purchase their alcoholic beverages at The Grand Union building rather than at the premises occupied by three of the appellants on the opposite side of the highway. Moreover, The Grand Union building, according to a witness who specializes in chain store real estate, is to be developed as a shopping center with the expectation that it will attract customers from many other municipalities located on the highway. In addition to the licensed premises, the building in question will contain numerous other stores and, according to the witness, "every tenant in there is a national concern with a rating over a million AA-1".

The question as to the number of licenses which should be permitted in a section of this character must be decided primarily in the sound discretion of the local issuing authority. When the transfer application was granted, three councilmen voted in favor of the transfer, two councilmen voted against the transfer, and one councilman took no part in the proceedings because he is interested in a liquor license in the borough. The votes in this case indicate a difference of opinion among the councilmen as to whether or not the area to which the transfer was granted was adequately served. After reviewing all the testimony, I conclude that appellants have failed to establish that the action of a majority of councilmen in voting for the transfer of the license was unreasonable or constituted an abuse of the discretionary power granted to local issuing authorities by the provisions of the Alcoholic Beverage Law. Hence, I shall affirm the action of respondent Mayor and Council.

Accordingly, it is, on this 21st day of June, 1951,

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

ERWIN B. HOCK
Director.

3. APPELLATE DECISIONS - ASBURY PARK LICENSED BEVERAGE ASSOCIATION v. ASBURY PARK, VLAHOS AND PETRANTES.

ASBURY PARK LICENSED BEVERAGE ASSOCIATION,)
Appellant,)

-vs-

ON APPEAL
CONCLUSIONS AND ORDER

CITY COUNCIL OF THE CITY OF ASBURY PARK, and THEODORE VLAHOS,)
CONSTANTINOS VLAHOS and HELEN)
PETRANTES, trading as DELMAR)
RESTAURANT & COCKTAIL LOUNGE,)
Respondents.)

-----)
Sidney Simandl, Esq. and Harry L. Giberson, Jr., Esq., Attorneys for Appellant.

Marvin E. Schaefer, Esq., Attorney for Respondent City Council.
Charles Frankel, Esq., Attorney for Respondents Theodore Vlahos, Constantine Vlahos and Helen Petrantes.

BY THE DIRECTOR:

This is an appeal from the action of respondent City Council in transferring a plenary retail consumption license held by respondents Theodore Vlahos, Constantine Vlahos and Helen Petrantes from 802-804 Main Street to 112 Third Avenue, Asbury Park.

On February 2, 1951, the individual respondents first applied to the City Council for a transfer of their license from 802-804 Main Street to 112 Third Avenue. Written objections having been filed, a hearing thereon was held by the City Council on February 27, 1951. Decision was reserved after a number of witnesses had testified that they were opposed to the transfer of the license and other witnesses had testified that they were in favor of the transfer of the license. At its meeting held on March 13, 1951, the City Council unanimously adopted the following motion:

"THAT, the application of Constantinos Vlahos, Theodore Vlahos, Helen Petrantes, for transfer of premises of License C-53 to 112 Third Avenue, be denied."

On March 21, 1951, the individual respondents filed a second application for the same transfer of their license. Written objections to said application having been filed, a hearing thereon was held on April 3, 1951. Decision was again reserved after a number of witnesses had testified that they were opposed to the transfer of the license and other witnesses testified that they were in favor of the transfer of the license. The objections in both cases were based upon the allegation that there were too many licensed premises in the neighborhood to which the transfer was sought.

On April 12, 1951, the individual respondents advised the City Council in writing that:

"***if application for transfer of license is granted we agree to maintain a bonafide restaurant, at all times. Should we fail to do so we are willing to have our license revoked."

At a meeting of the City Council held on April 24, 1951, the following resolution was introduced and seconded:

"BE IT RESOLVED, that Plenary Retail Consumption License C-53 issued to Constantinos Vlahos, Theodore Vlahos, Helen Petrantes be transferred from premises 802-4 Main Street to premises 112 Third Avenue, subject to existing condition⁽¹⁾ and subject to provision that the transfer of license is effective only so long as the licensee continues to operate a bona fide restaurant on said premises in accordance with consent of said licensee by letter dated April 12, 1951."

The aforesaid resolution (approved by me on May 1, 1951) was adopted by the votes of Mayor Smock and Councilmen Ely, Keuper and Hines, all of whom had voted to deny the first application. Councilman Shebell, who had voted against the first application, also voted against the aforesaid resolution "because of too many licensed taverns in that particular neighborhood".

At the hearing herein Mayor Smock testified that he had voted against the first application because he felt it was "not necessary to have a package goods department operating in conjunction with a restaurant". His testimony was to the effect that he had voted in favor of the second application because the licensees had agreed to use their license only in conjunction with a bona fide restaurant and that "in a resort area like Asbury Park the issuance of a license is an accessory to a restaurant". The Mayor testified, further:

"The second time there was no question; absolutely agreed to stipulate that no package goods department would operate with the restaurant. If it had operated with it I would have voted against the transfer of the license."

Note (1): The condition prohibited dancing on the licensed premises.

Councilman Keuper testified at the hearing herein:

"The (first) application for the transfer from Main Street to Kingsley (?) Street was for a plenary retail consumption license without any restrictions, without any limitations and I didn't want just another barroom down on Third Avenue and Kingsley Street or a package store in combination with just a barroom. That's why I voted against it but when the application was changed to apply for a bona fide restaurant in connection with the sale of liquor, then I voted for it."

(It is appropriate to point out here that operation of a separate package store establishment under this license or under any renewal or transfer thereof is flatly prohibited by P.L. 1948, c. 98, since the "Broad Package Privilege" was not granted as to such license in 1948 pursuant to the cited Act and State Regulations No. 32.)

As noted, respondent Council's actions of denial of transfer on March 13 and of granting of transfer on April 24 were taken on separate and distinct applications. The new issues considered in connection with the action on the second application appear to indicate clearly that this is not a case of backing and filling, without change in the merits, on the part of the issuing authority.

At the premises known as 112 Third Avenue there are "booths and table and everything pertaining to a restaurant" and a fully equipped kitchen. The premises were used as an unlicensed restaurant for the past three summers, at least. The premises have been leased to the individual respondents for a period of five years with an option to renew for an additional period of five years.

From the testimony it appears that, prior to the transfer herein, there were eleven existing licenses in this section of Asbury Park which is bounded by First Avenue, Fourth Avenue, Ocean Avenue and Burgh Street. However, this is the beach front area. Primarily, it is the duty of the local issuing authority to determine, in its sound discretion, the number of licensed restaurants necessary in such an area to cater to the needs of the large numbers of visitors to Asbury Park, particularly during the summer months. In all appeals the burden of proof to establish that the action of the issuing authority was erroneous rests with the appellant (Rule 6 of State Regulations No. 15). From the evidence herein I conclude that appellant has failed to sustain the burden of proving that the City Council abused its discretionary power in transferring the license subject to the restrictions set forth in the resolution dated April 24, 1951. The action of respondent City Council will, therefore, be affirmed.

Accordingly, it is, on this 22nd day of June, 1951,

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

ERWIN B. HOCK
Director.

4. APPELLATE DECISIONS - CIARDIELLO v. ENGLEWOOD.

CECILIA CIARDIELLO,)
)
 Appellant,)
)
 -vs-)
)
 COMMON COUNCIL OF THE CITY)
 OF ENGLEWOOD,)
)
 Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

 Mario R. LaBarbera, Esq., Attorney for Appellant.
 LeRoy B. Huckin, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby it denied appellant's application for a limited retail distribution license for premises at 70 Slocum Avenue, Englewood.

The answer alleges that the city has issued sufficient licenses of this type to supply the needs of the population of Englewood; that a limited retail distribution license is in force within the immediate neighborhood, and the needs of the citizens are properly served by such licensee.

Appellant operates a grocery store and delicatessen and, hence, is not barred from obtaining a limited retail distribution license by the provisions of P.L. 1951, c. 163.

It appears from the testimony herein that at the present time ten limited retail distribution licenses, sixteen plenary retail consumption licenses and nine plenary retail distribution licenses have been issued in the City of Englewood which had a population of 23,092 according to the Federal census for 1940. Of these licenses, five limited retail distribution licenses, four plenary retail consumption licenses and three plenary retail distribution licenses have been issued in the Third Ward, which is the ward in which appellant's premises are located. One of the limited retail distribution licenses has been issued for premises located about 900 feet distant from appellant's premises, and one of the plenary retail distribution licenses has been issued for premises about 850 feet from appellant's premises.

On behalf of appellant, no evidence as to the need for an additional license was presented except by the applicant and her husband.

Appellant appears to allege unjust discrimination because, after her application was filed and about two weeks before her application was denied, respondent issued a similar license to Safeway Stores. However, the testimony of W. Gerald Clark, Jr., Councilman-at-large and President of the Common Council, indicates that the application of Safeway Stores was granted because it was deemed, in substance, to be a renewal of a similar license which had been surrendered by Safeway Stores in 1948. Moreover, the premises for which this license was granted are located in another section of the city. Aside from this, the Councilman-at-large testified that it has been the policy of respondent, since 1946, not to issue any additional licenses of this type because of the number already in existence. Such a policy may be adopted and followed by an issuing authority even in the absence of an ordinance limiting the number of licenses. Under the circumstances of this case, I conclude there has been no unjust discrimination against appellant.

The number of licenses of any type which should be permitted in any particular section of a municipality must be determined primarily in the sound discretion of the local issuing authority. On appeal the burden is upon appellant to establish that the action of respondent was arbitrary or constituted an abuse of discretion.

Considering all the facts of the case, I conclude that appellant has failed to sustain the burden of proof in this case and, hence, I shall affirm the action of respondent.

Accordingly, it is, on this 29th day of June, 1951,

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

ERWIN B. HOCK
Director.

5. APPELLATE DECISIONS - SARCZUK AND SZARKO v. UNION TOWNSHIP AND GRAU.

EMIL SARCZUK and WALTER SZARKO,)
trading as LARCHMONT WINES AND)
LIQUORS,)
Appellants,)

-vs-

ON APPEAL
O R D E R

TOWNSHIP COMMITTEE OF THE TOWN-)
SHIP OF UNION, and HARRY R. GRAU,)
trading as HARRY'S BOTTLE SHOP,)
Respondents.)

George L. Lombardi, Esq., Attorney for Appellants.
Gustave G. Kein, Jr., Esq., Attorney for Respondent Township
Committee.

Herbert R. Angen, Esq., Attorney for Respondent Harry R. Grau,
t/a Harry's Bottle Shop.

BY THE DIRECTOR:

This is an appeal from the action of respondent Township Committee whereby it granted an application to transfer plenary retail distribution license D-6 from Ostwood Food Co. to respondent Harry R. Grau, trading as Harry's Bottle Shop, and from premises at 1714 Stuyvesant Avenue to premises at 2583 Morris Avenue, Union Township.

Prior to the date fixed for hearing herein, the attorney for appellants forwarded to me a letter, signed by both of his clients, wherein they requested him to withdraw the appeal. At the same time he advised me that he had no objection to the dismissal of the appeal.

None of the parties to the appeal appeared at the scheduled hearing.

No reason appearing to the contrary,

It is, on this 22nd day of June, 1951,

ORDERED that the within appeal be and the same is hereby dismissed.

ERWIN B. HOCK
Director.

6. DISCIPLINARY PROCEEDINGS - GAMBLING ON LICENSED PREMISES BY PREDECESSOR-IN-INTEREST - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO FILE APPLICATION TO LIFT SUSPENSION AFTER 90 DAYS OF THE SUSPENSION HAVE BEEN SERVED, PROVIDED ILLEGAL SITUATION CORRECTED.

In the Matter of Disciplinary Proceedings against)

ARTHUR F. CUMMINS, SR.)
424 - 45th Street)
Union City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-137, issued by the Board of Commissioners of the City of Union City.)
-----)

Isidore Hornstein, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) on or about January 27, 1950, and on divers days prior thereto, defendant's predecessor-in-interest, Arthur Cummins, engaged in bookmaking and gambling upon the licensed premises, in violation of Rule 7 of State Regulations No. 20; (2) in his application dated December 9, 1950, by which he obtained his current plenary retail consumption license, defendant falsely stated that no other individual had any interest in the license whereas in fact Arthur Cummins had such interest, and (3) from on or about February 16, 1950, defendant knowingly aided and abetted Arthur Cummins to exercise the rights and privileges of his successive plenary retail consumption licenses.

The facts in this case may be summarized as follows: Arthur Cummins, who is the father of defendant-licensee, had held a plenary retail consumption license for the above named premises for a number of years. On January 27, 1950, detectives from the Hudson County Prosecutor's Office entered the above mentioned premises and arrested Arthur Cummins (who is also known as Arthur L. Cummins) after seizing evidence indicating that bookmaking and gambling were being conducted on the licensed premises. On February 18, 1950, with the consent of Arthur Cummins, the license in question was transferred to Arthur F. Cummins, Sr., his son, by the local issuing authority. On October 19, 1950, Arthur Cummins pleaded non vult in the Hudson County Court to an indictment for bookmaking and was fined \$1,000.00. Both the father and the son admit that, despite the transfer of the license, the business conducted thereunder has been at all times mentioned herein owned and is now owned by the father, Arthur Cummins.

From the foregoing it is clear that the statement in the application filed by the son on June 9, 1950 was false. Defendant is guilty as charged.

The illegal situation continues to exist and, hence, I have no alternative except to suspend the license for the balance of its term.

In proceedings decided herewith, I have expressed the opinion that Arthur L. Cummins has been convicted of a crime involving moral turpitude and, hence, that he is, and was at the time the "front" was created, ineligible to hold a liquor license.

If before June 30, 1951, the license is transferred to a qualified person, such transfer must be made expressly subject to the suspension herein imposed. If the license is so transferred, the transferee of the license may apply for renewal of the license for

the 1951-52 licensing year but, if such a renewal license is issued, it shall remain under suspension until the entry of a further order in this proceeding. No order will be entered by me lifting the suspension of the renewed license until at least ninety (90) days from the effective date of the suspension herein imposed shall have been served. Re Lukaszewich, Bulletin 892, Item 4.

Accordingly, it is, on this 14th day of June, 1951,

ORDERED that Plenary Retail Consumption License C-137, issued by the Board of Commissioners of the City of Union City to Arthur F. Cummins, Sr. for premises 424 - 45th Street, Union City, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. June 19, 1951; and it is further

ORDERED that any renewal of said license issued to any transferee of the license shall remain under suspension until the entry of a further order in this proceeding.

ERWIN B. HOCK
Director.

- 7. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO FILE APPLICATION TO LIFT SUSPENSION AFTER 30 DAYS OF THE SUSPENSION HAVE BEEN SERVED, PROVIDED ILLEGAL SITUATION CORRECTED.

In the Matter of Disciplinary Proceedings against)

ARTHUR F. CUMMINS, SR.)
T/a CUMMINS TAVERN AND)
TROPICAL GARDENS)
328 Bay Avenue)
Highlands, N. J.,)

CONCLUSIONS
AND ORDERS

Holder of Plenary Retail Consumption License C-13, issued by the Borough Council of the Borough of Highlands.)

Isidore Hornstein, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging in effect that (1) in his application dated June 5, 1950, upon which he obtained his current license, he falsely denied that any other individual had any interest in the license, whereas in fact Minnie Cummins had such an interest, and (2) from on or about June 3, 1947, he knowingly aided and abetted Minnie Cummins to exercise the rights and privileges of his successive licenses.

Minnie Cummins is the mother of defendant-licensee. For many years prior to 1947 she held a license for the premises in question, but on or about June 3, 1947, the license, with her consent, was transferred by the local issuing authority to defendant herein. It is admitted by both interested parties that, despite the transfer of the license, Minnie Cummins has since kept as her own all the receipts from the licensed business. A review of the file leads me to believe that she transferred the license to her son because, during the period the license was in her name, the local issuing authority suspended her license for seven days, effective June 8, 1942, for sales

to minors, and also suspended the license for two days, effective September 4, 1946, for a mislabeled beer tap. Apparently Minnie Cummins was at all times eligible to hold a license but she was fearful that a third violation might jeopardize her license.

Under the circumstances, I have no alternative except to suspend defendant's license for the balance of its term. If hereafter the illegal situation is corrected, application may be made to me for lifting of the suspension, but in no event will an order lifting the suspension be entered until the expiration of thirty days from the effective date hereof.

Accordingly, it is, on this 14th day of June, 1951,

ORDERED that Plenary Retail Consumption License C-13, issued by the Borough Council of the Borough of Highlands to Arthur F. Cummins, Sr., t/a Cummins Tavern and Tropical Gardens, for premises 328 Bay Avenue, Highlands, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. June 19, 1951; and it is further

ORDERED that if said license is transferred to a qualified person prior to June 30, 1951, and thereafter renewed in his or her name, such license shall remain under suspension until entry of a further order herein upon an application made to me for the lifting of the suspension.

ERWIN B. HOCK
Director.

8. MORAL TURPITUDE - CONVICTION FOR OBTAINING MONEY UNDER FALSE PRETENSES INVOLVES MORAL TURPITUDE - APPLICANT INELIGIBLE TO HOLD LICENSE IN OPINION OF DIRECTOR.

In the Matter of the Eligibility)
of)

ARTHUR L. CUMMINS)
425 - 45th Street)
Union City, N. J.,)

CONCLUSIONS
AND
OPINION

To Hold a Liquor License.)
Case No. 628.)

Isidore Hornstein, Esq., Attorney for Applicant.

BY THE DIRECTOR:

Fingerprint returns indicate that in 1915, when applicant was about nineteen years of age, he was convicted of carrying a concealed weapon and sentenced to a reformatory, where he remained nearly one year. At the hearing he also admitted (although this is not supported by fingerprint returns) that, about 1920, he was convicted in a Federal Court of some charge in connection with a theft from a railroad. In 1932 he was arrested on a false pretense charge. When he appeared before the Second Criminal Court, Newark, N.J., he received a suspended sentence after making restitution. On October 19, 1950 he pleaded non vult in the Hudson County Court to an indictment for bookmaking, and was fined \$1,000.00.

In Jordan v. DeGeorge, 95 Law Ed. Advance Opinions 648 (U.S. Sup. Ct., decided May 7, 1951), Chief Justice Vinson said:

"Without exception, federal and state courts have held that a crime in which fraud is an ingredient involves moral turpitude."

Hence, in my opinion, applicant's conviction on the charge of false pretense was a conviction of a crime involving moral turpitude. It is unnecessary to determine whether any of the other crimes involved moral turpitude.

In my opinion, applicant is not qualified to hold a liquor license in the State of New Jersey. R.S. 33:1-25.

ERWIN B. HOCK
Director.

Dated: June 14, 1951.

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

In the Matter of Disciplinary Proceedings against)

PETER J. WAGENAAR)
22 First Avenue)
Paterson, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-95, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

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Saul C. Schutzman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to the following charge:

"On May 17, 1951, and on divers days prior thereto, including May 3, 8 and 10, 1951, you engaged in and allowed, permitted and suffered book-making and gambling in and upon your licensed premises, in violation of Rule 7 of State Regulations No. 20."

The file herein discloses that on May 17, 1951, three ABC agents entered defendant's premises. At that time the licensee was present and one Samuel P. Hornidge was tending bar. At about 1:05 p.m., one of the agents, after obtaining a slip of paper from the bartender, wrote a bet on a horse race on the paper and handed it with four marked bills to the bartender. Shortly thereafter the agents identified themselves, and the bet slip and the marked bills were found in the cash register.

On previous investigations made on May 3, May 8 and May 10, the agents observed that a baseball pool was being conducted on the licensed premises, and that the licensee and the bartender were laying odds with various patrons against the score which a patron might obtain upon a shuffle-alley machine.

As a result of a search made after they identified themselves, the agents also found on the licensed premises other horse race betting slips, a booklet containing information as to the baseball pool and a cigar box containing \$90.95. This evidence was seized by the agents. Defendant and his bartender were placed under arrest by members of the Paterson Police Department when they arrived in response to a telephone call from the agents.

In statements given to the agents, Samuel P. Hornidge admitted that he ran the baseball pool and took bets on the horse races. The licensee admitted that he took bets "a couple of times" and that he and his bartender split between \$70.00 and \$100.00 a week taking horse race bets.

Defendant has no prior record.

The minimum suspension imposed in cases involving gambling has been a suspension of the license for a period of twenty days where the licensee or his agent participated in the violation. Re Ferment, Bulletin 635, Item 5; Re Jarvis, Bulletin 897, Item 9. However, the present case is aggravated because of the various types of gambling permitted and the scale upon which the operation was being conducted. Under all the circumstances, I shall suspend the license for a period of twenty-five days. Five days will be remitted because of the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 21st day of June, 1951,

ORDERED that Plenary Retail Consumption License C-95, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Peter J. Wagenaar, for premises 22 First Avenue, Paterson, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. June 27, 1951; and it is further

ORDERED that, if any license be issued to this licensee or to any other person for the premises in question for the 1951-52 licensing year, such license shall be under suspension until 3:00 a.m. July 17, 1951.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW MINIMUM RESALE PRICE - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against)

ALBIE ZAR and MAX FOYER)
T/a AMITY CIGAR STORE)
50 Sip Avenue)
Jersey City 6, N. J.,)

CONCLUSIONS
AND
ORDERS

Holder of Plenary Retail Distribution License D-13, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City, and now held individually by)

MAX FOYER,)

for the same premises.)

Louis E. Saunders, Esq., by Leo N. Knoblauch, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to a charge alleging that they sold alcoholic beverages at retail for a price below the minimum consumer price, in violation of Rule 5 of State Regulations No. 30.

An agent of the State Division of Alcoholic Beverage Control testified that on Thursday, December 21, 1950, at about 12:40 p.m., having in his possession exactly \$5.00 in United States currency, he entered defendants' licensed premises, and after "pricing" two brands of whiskey purchased from Albie Zar, a member of the partnership-licensee, two pint bottles of Schenley Reserve Blended Whiskey for

the total price of \$5.00. The minimum consumer price for the said whiskey, as listed in the then current "Complete List of New Jersey Minimum Resale Prices of Alcoholic Beverages" was \$2.54 per pint, or \$5.08 for two pints. The agent paid the total sum of money then in his possession, i.e., \$5.00, and carried the whiskey out of the defendants' licensed premises in a paper bag into which it had been placed by the said Zar. Rejoining his companions (other agents of the State Division) just outside the door, the three agents then entered the premises where Zar admitted the sale, claiming, however, that the agent gave him five dollars and ten cents and that he gave the agent some change.

The other agents corroborated the story as to the amount of money in the possession of the first agent when he entered the store, and that the said money consisted of four one-dollar bills and four "quarters".

Mr. Zar, testifying, claims only that he made the proper and full charge. Another person, present at the time, was not called as a witness, because, as Zar testified, the witness said "he didn't hear anything".

I believe the evidence of the agent, corroborated as it is by two other agents, rather than the uncorroborated categorical denial offered by the defendant Zar, and find defendants guilty as charged.

Effective September 20, 1948, defendants' license, then held by Albie Zar, individually, was suspended for ten days, less five because of a plea of non vult to a similar violation. The usual minimum will, therefore, be doubled. Cf. Re Montclair Food Company, Inc., Bulletin 847, Item 10. This is so, even considering that only one of the licensees was involved in the former violation. Re Hollander, Bulletin 898, Item 7. The license will be suspended for twenty days.

Accordingly, it is, on this 12th day of June, 1951,

ORDERED that Plenary Retail Distribution License D-13, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Albie Zar and Max Foyer, t/a Amity Cigar Store, 50 Sip Avenue, Jersey City, and now held individually by Max Foyer, for the same premises, be and the same is hereby suspended for the balance of its term, effective at 9:00 a.m. June 20, 1951; and it is further

ORDERED that if any license be issued to the present licensee or any other person for the premises in question for the 1951-52 licensing year, such license shall be under suspension until 9:00 a.m. July 10, 1951.

ERWIN B. HOCK
Director.

11. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - CHARGE ALLEGING FALSE ANSWER IN APPLICATION DISMISSED FOR LACK OF PROOF - ORDER TO SHOW CAUSE WHY LICENSE SHOULD NOT BE DECLARED NULL AND VOID BECAUSE CLUB HAD NOT BEEN IN EXCLUSIVE POSSESSION AND USE OF A CLUBHOUSE OR CLUB QUARTERS FOR AT LEAST THREE YEARS, DISCHARGED.

In the Matter of Disciplinary Proceedings against)

POLISH AMERICAN VETERANS & CITIZENS CLUB)
126 Vosseller Avenue)
Bound Brook, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-3, issued by the Mayor and Council of the Borough of Bound Brook.)

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Saul C. Schutzman, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant, by order dated November 8, 1950, was ordered to show cause why its club license should not be suspended, revoked or cancelled and declared null and void for the following reason:

"Said license was improvidently issued in violation of Rule 4 of State Regulations No. 7, in that your club had not been in exclusive possession and use of a club-house or club quarters for at least three (3) years immediately prior to the submission, on May 24, 1950, of your application for license."

The following charge was also served upon defendant:

"In your application dated May 18, 1950, filed with the Mayor and Council of the Borough of Bound Brook, upon which you obtained your current club license, you falsely stated 'Yes' in answer to Question 19, which asks: 'Has the club been in active operation in the State of New Jersey for at least three (3) years immediately prior to this application?', whereas in truth and fact you had not been in active operation for that period; said false statement being in violation of R. S. 33:1-25."

The defendant appeared in opposition to the show-cause-order and pleaded not guilty to the aforesaid charge.

The evidence discloses that a club known as Polish American Veterans Home, Inc. was originally incorporated shortly after the conclusion of World War II, in late 1944 or early 1945, and that a club known as Polish American Citizens Club, Inc. was incorporated shortly after the end of World War I, in 1918 or 1920. On May 25, 1949, Polish American Veterans Home, Inc. filed with the Secretary of State an agreement of merger with Polish American Citizens Club, Inc., forming Polish American Citizens and Veterans, Inc., defendant club. Thus, all the privileges, powers and prerogatives of either "Veterans Home" and "Citizens Club", and all property rights of both of said predecessor clubs, subject to any trusts, became vested in the continuing club. R.S. 15:1-18.

Since the predecessor clubs which merged to become defendant club had been in active operation for more than three years prior to the merger, I conclude that defendant club may be deemed to have been in active operation for more than three years as required by Rule 3 of State Regulations No. 7. Hence, I further conclude that the answer in the application referred to in the charge was not false, and I shall dismiss the charge.

The evidence offered by the Division in support of the show-cause-order consists of written statements taken during the course of the investigation -- two statements made by Joseph S. Jarema, President of the defendant club, dated October 3 and October 28, 1950, and one statement made by Theodore Pajak, a member of the club, dated October 17, 1950.

The statements given by Joseph S. Jarema, the President of defendant club, were prima facie sufficient to support the charge and warrant the issuance of the order to show cause. However, at the hearing, Jarema, testifying under oath, stated facts which are substantially different from those contained in his second statement and substantially the same as those contained in his first statement. His sworn testimony is to the effect that the Polish American Veterans Home, Inc., one of the constituent clubs of the defendant, had club quarters at 340 W. 2nd Street from shortly after its formation in 1944 until the merger described herein, and moved in March or April 1949 to the new building now occupied by defendant. Theodore Pajak at the hearing, testifying under oath, completely refuted his written statement. Andrew Ingot, one of the organizers and financial secretary of the Polish American Veterans Home and owner of the building at 340 W. 2nd Street, testified under oath that said Veterans Home had club quarters in the basement of his building from its formation until the merger and the completion of the new building. His testimony was supported by two other members of the organization. The fact that monthly membership meetings were held, for the sake of convenience, at a larger hall does not change the principle involved herein. Bulletin 260, Item 3; cf. Burak v. Irvington, Bulletin 130, Item 2, and Wildwood Villas Fishing Club v. Way, Bulletin 215, Item 6.

After carefully considering all the testimony, I conclude that the order to show cause should be discharged, and the charge should be dismissed.

Accordingly, it is, on this 8th day of June, 1951,

ORDERED that the order to show cause herein is hereby discharged, and the charge herein is hereby dismissed.

ERWIN B. HOCK
Director.

12. STATE LICENSES - NEW APPLICATIONS FILED.

Camden County Beverage Company
N.W. Corner Fillmore and Bulson Streets, Camden, N.J.
Application for Limited Brewery License filed June 25, 1951.

Saxon Distributing Company
418-424 Summit Ave., Jersey City, N.J.
Application filed June 26, 1951 for transfer of State Beverage Distributor's License SBD-91 from H. G. Degenring, Inc., 16-18 W. Front St., Red Bank, N. J.

Renfield Importers Limited
Room 416, 1060 Broad St., Newark, N.J.
Application filed June 21, 1951 to include warehouse at 120 West Franklin Ave., Pennington, N.J.

Spreen Bros. Motor Express, Inc.
Route 6 and Phillips Avenue, between Huyler Street and Phillips Ave.
South Hackensack, N. J.
Application filed June 29, 1951 for Transportation License.

John Bacigalupo,
East Landis Avenue, East Vineland, Buena Vista Township, N. J.
Application filed July 2, 1951 for Transportation License.

Volor Beverage Company, Inc.
339 Elm Avenue, Bogota, N. J.
Application filed July 2, 1951 for State Beverage Distributor's License.

Oneida Motor Freight Inc.
445 Washington Street, New York 13, N. Y.
Application filed July 2, 1951 for Transportation License.

John Condon and Michael Condon, t/a Condon's Express
80-82 East 13th St., Paterson, N. J.
Application filed July 2, 1951 for Transportation License.

William M. Bevan
730 Water Street, Pottsville, Pennsylvania.
Application filed July 2, 1951 for Transportation License.

Moshassuck Transportation Company
720 Tonnele Avenue, Jersey City, N. J.
Application filed July 3, 1951 for Transportation License.

ERWIN B. HOCK
Director.

13. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary)
Proceedings against)
STRATFORD INN, a Corp.)
T/a STRATFORD INN)
2nd & Garfield Aves.)
Avon-by-the-Sea, N. J.,)
Holder of Seasonal Retail Consump-)
tion License CS-3, issued by the)
Board of Commissioners of the)
Borough of Avon-by-the-Sea.)
-----)

O R D E R

BY THE DIRECTOR:

It appearing that by Order dated September 26, 1950, the license held by the above named defendant was suspended for a period of five days, and that the effective date of said suspension was to be fixed by subsequent order (Re Stratford Inn, Bulletin 886, Item 8); and

It further appearing that defendant's premises have now been reopened for business;

It is, on this 11th day of June, 1951,

ORDERED that the five-day suspension heretofore imposed shall commence at 2:00 a.m. June 18, 1951, and terminate at 2:00 a.m. June 23, 1951.

Erwin B. Hock
Director.