

BULLETIN 1201

JANUARY 6, 1958.

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

BULLETIN 1201

JANUARY 6, 1958.

1. APPELLATE DECISIONS - PARISI v. JERSEY CITY AND MACCHI.

BIAGIO PARISI, Pastor of)
CHIESA CRISTIANA DELLA)
FEDE APOSTOLICA,)

Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF JERSEY CITY, and WILLIAM)
MACCHI and JEANE MACCHI, t/a)
EAGLE LIQUOR STORES,)

Respondents.)

ON APPEAL
CONCLUSIONS AND ORDER

Biagio Parisi, Appellant, Pro se.
Ezra L. Nolan, Esq., by Joseph W. Tumulty, Esq., Attorney for
Respondent Municipal Board of Alcoholic Beverage Control.
John J. Boylan, Esq., Attorney for Respondents William Macchi
and Jeane Macchi.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Municipal Board whereby it approved the transfer of Plenary Retail Distribution License D-9 from Eagle Liquor Stores, Inc. to respondents William Macchi and Jeane Macchi, partners, trading as Eagle Liquor Stores, and from premises 178 Newark Avenue to 528 Jersey Avenue, Jersey City.

"Appellant contends that the transfer of the license in question is unlawful in that the proposed new location is within 200 feet of the church of which he is pastor; that he filed a notice of such objection with the respondent Board, but did not receive notice of the hearing on the application in time to appear therein.

"The respondents assert that the building in which the appellant's religious services are conducted is not a church edifice within the meaning of the pertinent statute and decisions relating thereto.

"The evidence discloses the application for transfer was filed on July 3, 1957. In the application it is stated that the nearest entrance to the Salvation Army and Chiesa Cristiana Della Fede Apostolica are both within 200 feet of the proposed licensed premises and that waivers from these organizations are attached. The waiver of the Salvation Army is dated April 30, 1957 and was signed by the Divisional Commander of such organization. The waiver of the Chiesa Cristiana Della Fede Apostolica church is dated April 23, 1957 and is signed by appellant.

"On July 10, 1957 the appellant sent a letter to respondent Board withdrawing his consent, stating that his reason for such action was that the proposed licensed premises were too close to the religious institution, was obnoxious to the congregation, and he was misled into believing that he

could, for any reason, every six months object to a renewal of such license and therefore, now objected to the transfer of the license. On July 12, 1957, Mrs. J. Hohn, a Salvation Army Major, sent a letter to the Board wherein she stated that it had just been brought to her attention that negotiations were under way to open a liquor store at 528 Jersey Avenue, across the street from the Salvation Army Chapel and she objected to liquor being sold so near to their place of worship and requested the Board to do all it could to prevent its taking place.

"The minutes of the meeting of respondent Board held on July 24, 1957 to consider the application disclose that an attorney appeared representing two licensees, one located next door to the Salvation Army and the other located in the immediate vicinity, who objected to the transfer. The attorney also stated that appellant had not received notice of the hearing (on July 18th a letter was mailed by the Board to the appellant notifying him of the hearing to be held on July 24th, which letter he received) and he could not produce him, and that the Salvation Army authorized him to object. However, when asked, the attorney stated that he specifically represented the two licensees.

"After hearing objections of the licensees, and a real estate agent who stated that two families resided in the church premises, and referring to the fact that no objector appeared representing the Salvation Army, one of the Board members said that the case resolves itself to the question as to whether the edifice is a church housing a bona fide religious organization within the meaning of the statute. The Board then voted to grant the transfer.

"The only issue presented at the hearing on appeal is whether the premises occupied by appellant's religious organization can be deemed to be a church edifice. Appellant and his wife were the only persons who appeared at the hearing herein to voice objections based on that issue.

"Pastor Parisi testified that the building in which the religious services are conducted is a three-story brick building (two buildings removed from the proposed licensed premises) with two rooms on the first floor occupied as a residence by an elderly, ill woman in destitute circumstances who does not pay rent; that the second floor consists of one large room where the services are held and that the two rooms on the third floor are occupied by another elderly, ill woman in destitute circumstances who does not pay any rent.

"The tenant of the first floor of the building where religious services are held testified that the building previously had been a one-family dwelling; that she has resided therein for twelve years and came there in dire economical distress and that another woman resides on the third floor.

"The term 'church' as used in the Alcoholic Beverage Control Act has been definitely established in the early days of this Division to mean a recognized edifice devoted permanently to the worship of God, as recently cited in Re Dept. of Missions of the Episcopal Diocese of Newark v. Denville et al., Bulletin 1158, Item 1. Likewise in Re Mellas v. East Orange et al., Bulletin 1047, Item 2, involving a Community House used in part for school purposes and in part for other purposes including living quarters, there was cited with approval the following language from Re Manning v. Trenton, Bulletin 247, Item 1:

'In the instant case, no one would recognize this ordinary dwelling house as being a church. The most anyone could say is that it is used to some extent like a church. It is not used exclusively for the worship of God. It was not built with that in mind. The second floor of this dwelling house is nothing but a flat to be rented out to tenants. The Church Trustee (who testified on behalf of all the Trustees) himself talks of the "church downstairs". A house divided against itself into a place of worship and an ordinary flat is not, within the contemplation of the statute, a church edifice.'

"On the basis of the above cited, long-established principle, I am of the opinion that the premises occupied by Chiesa Cristiana Della Fede Apostolica do not constitute a church edifice. While its motives in permitting a partial use of the building for residential purposes are charitable and highly commendable, nevertheless, it demonstrates that it did not need or use the entire premises for religious purposes. I, therefore, recommend that the action of the respondent Board be affirmed and the appeal dismissed.

"One other aspect of the case requires comment. So far as appears, the respondent Board had before it a valid waiver from the Salvation Army signed by its Divisional Commander and not revoked by him. Hence, it is not necessary at this time to determine whether the Salvation Army premises in question constitute a church edifice."

After the Hearer's Report was filed herein, I received a letter from the appellant (who did not appear with counsel) which I have considered as a written exception to the Hearer's Report and argument in support thereof, pursuant to Rule 14 of State Regulation No. 15.

While I am in sympathy with appellant's desire to conserve the interests of his congregation, and despite the charitable motives which prompt the partial use of the building for residential purposes, nevertheless, I must follow the law as applied to the facts which, in the instant case, must lead to the conclusion that the respondent was entirely justified in its decision that the premises occupied by appellant do not constitute a church edifice.

Having carefully considered the transcript of the proceedings herein, the Hearer's Report, and the exceptions taken thereto, I concur in the findings and conclusion of the Hearer and adopt his recommendation.

Accordingly, it is, on this 20th day of November, 1957,

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

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - MELLAS v. WEST ORANGE.

SPIROS MELLAS,)
 Appellant,)
 --vs--) ON APPEAL
 MUNICIPAL BOARD OF ALCOHOLIC) O R D E R
 BEVERAGE CONTROL OF THE TOWN)
 OF WEST ORANGE,)
 Respondent.)

 Martin J. Loftus, Esq., Attorney for Appellant.
 William E. Kennedy, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant filed an appeal from the action of respondent whereby it denied an application to transfer License C-3 from Frank Sylvester and Doninck Sylvester to appellant, and from premises at 7 White Street to 259 Main Street, West Orange.

Prior to the hearing scheduled to be held herein, the attorney for appellant advised me by letter that his client desires to withdraw the appeal.

No reason appearing to the contrary,

It is, on this 26th day of November, 1957,

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

WILLIAM HOWE DAVIS
 Director.

3. APPELLATE DECISIONS - FRATERNAL ORDER OF EAGLES NO. 1311 v. HANOVER TOWNSHIP.

FRATERNAL ORDER OF EAGLES,)
 NO. 1311,)
 Appellant,)
 --vs--) ORDER OF
 DISCONTINUANCE
 TOWNSHIP OF HANOVER, MORRIS)
 COUNTY, NEW JERSEY,)
 Respondent.)

 Edward F. Broderick, Esq., Attorney for Appellant.
 Young & Sears, Esqs., Attorneys for Respondent.

BY THE DIRECTOR:

The parties hereto, by written stipulation filed herein, having agreed to discontinue the within appeal, and no reason appearing to the contrary,

It is, on this 3rd day of December, 1957,

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

WILLIAM HOWE DAVIS
 Director.

4. DISCIPLINARY PROCEEDINGS - BRAWL - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HENRY FESSLER)
T/a HENRY FESSLER'S COCKTAIL LOUNGE)
568 Christopher Street)
Orange, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-67, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange.)

Colalillo & Goldner, Esqs., by Sam E. Goldner, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On August 16, 1957, you allowed, permitted and suffered a brawl, act of violence and disturbance in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that at about 10:35 p.m. on Friday, August 16, 1957, one of our agents witnessed a fight between a bartender employed by the defendant on his licensed premises and an intoxicated male patron who had directed an indecent remark toward him after being refused service. The patron was badly beaten by the bartender and was hospitalized for his injuries which were severe, requiring eight stitches in his face.

Defendant has a prior adjudicated record. Effective October 16, 1950, the local issuing authority suspended defendant's license for twenty days for permitting a brawl on the licensed premises and sale of alcoholic beverages to minors. Again, effective May 15, 1956, I reimposed a twenty-day suspension of defendant's license upon affirmance of the action of the local issuing authority finding defendant herein guilty of selling alcoholic beverages during prohibited hours (Fessler v. Orange, Bulletin 1116, Item 1). While it would have been difficult for the average person to restrain himself considering the nature of the remarks directed at the bartender by the patron obviously under the influence of liquor, the severity of the beating necessitates a penalty more severe than the minimum in brawl cases. It appearing that defendant pleaded guilty to a similar violation within the past ten years and was found guilty of a dissimilar violation within the past five years, I shall suspend defendant's license for a period of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 18th day of November, 1957,

ORDERED that Plenary Retail Consumption License C-67, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange to Henry Fessler, t/a Henry Fessler's Cocktail Lounge, for premises 568 Christopher Street, Orange, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. November 25, 1957, and terminating at 2:00 a.m. December 20, 1957.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOSEPH A. O'BYRNE)
Longport Blvd. at Bass Harbor Bridge)
Egg Harbor Township)
PO Somers Point, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-20, issued by the Township Committee of the Township of Egg Harbor.)
-----)

Joseph A. O'Byrne, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to two minors and permitted said minors to consume said beverages in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that ABC agents, acting on information received from the Ocean City Police Department, obtained sworn, written statements dated September 10, 1957, from David --- (age 18) and Girard --- (age 19) wherein they state that on Saturday night, August 31, 1957, they visited the defendant's licensed premises; that they consumed several glasses of beer served to them by the bartender, and that no one on the premises inquired of them about their ages. Before executing their statements the minors directed the agents to the defendant's licensed premises and pointed it out as the place where they were served and consumed aforesaid drinks.

Defendant has a prior adjudicated record. Effective October 20, 1947, defendant's license was suspended for three days by the local issuing authority for sale to minors. The minimum penalty for the sale of alcoholic beverages to an 18-year-old minor is fifteen days (Re Angelotta, Bulletin 1163, Item 12). Considering the previous similar violation which occurred within a ten-year period, I shall suspend defendant's license for twenty days (Re Fulton Bar & Grill, Inc., Bulletin 1189, Item 5). Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 20th day of November, 1957,

ORDERED that Plenary Retail Consumption License C-20, issued by the Township Committee of the Township of Egg Harbor to Joseph A. O'Byrne, for premises on Longport Blvd. at Bass Harbor Bridge, Egg Harbor Township, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. December 2, 1957, and terminating at 3:00 a.m. December 17, 1957.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EVELYN CAPELLI)
T/a HICKEY'S CAFE)
5 1/2 Zabriskie Street)
Jersey City 7, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-418, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Evelyn Capelli, Defendant-licensee, Pro se.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Sunday, October 27, 1957 you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., 6 - 12 ounce cans of Piel's Light Beer, at retail, in their original containers for consumption off the licensed premises, and allowed, permitted and suffered the removal of such alcoholic beverages from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

The file herein discloses that at 5:55 p.m. on Sunday, October 27, 1957, an ABC agent purchased six 12-ounce cans of beer from a bartender employed by defendant. After payment for the beer, the agent left the premises with a bag containing the beer and joined another agent who waited outside of the licensed premises. Both agents then went into the licensed premises and made known their identities to the bartender who had made the sale. He orally admitted the sale but refused to give anything in writing pertaining thereto.

Defendant has no prior adjudicated record. Under the circumstances, I shall impose a minimum suspension of defendant's license of fifteen days (Re Klinghoffer, Bulletin 1195, Item 7). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 18th day of November, 1957,

ORDERED that Plenary Retail Consumption License C-418, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Evelyn Capelli, t/a Hickey's Cafe, for premises 5 1/2 Zabriskie Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. December 2, 1957, and terminating at 2:00 a.m. December 12, 1957.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED
IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED
FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ORLANDO'S WINES & LIQUORS (A CORP.))
122 Anderson Avenue)
Fairview, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution)
License D-8, issued by the Borough)
Council of the Borough of Fairview.)

Defendant-licensee, by Patrick Orlando, President.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that
it sold an alcoholic beverage at less than the price listed
in the Minimum Consumer Resale Price List then in effect, in
violation of Rule 5 of State Regulation No. 30.

The file herein discloses that on October 24, 1957, an
ABC agent entered the defendant's licensed premises, took a
gallon bottle of Gallo Vintner's Stock Zinfandel wine from a
shelf, placed it on a counter, and asked Patrick Orlando the
price of such wine. Orlando replied that the price was \$2.50.
The agent paid that amount, and Orlando placed the wine in a
bag, and rang up such amount on the cash register. The minimum
resale price then in effect for the item in question was \$2.59.
The agent left with the gallon of wine, joined a fellow-agent
who was stationed outside and both agents immediately entered
the premises and identified themselves to Orlando. Orlando
admitted the sale of the wine for \$2.50 and gave the agents
the cash register tape on which such sale was recorded.

Defendant has no prior adjudicated record. I shall
suspend its license for the minimum period of ten days, and
remit five days for the plea entered herein, leaving a net
suspension of five days. Re Gugala, Bulletin 1189, Item 6.

Accordingly, it is, on this 20th day of November, 1957,

ORDERED that Plenary Retail Distribution License D-8,
issued by the Borough Council of the Borough of Fairview to
Orlando's Wines & Liquors (A Corp.), for premises 122 Anderson
Avenue, Fairview, be and the same is hereby suspended for five
(5) days, commencing at 9:00 a.m. December 2, 1957, and ter-
minating at 9:00 a.m. December 7, 1957.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

HERMAN LEVINE
T/a "HERMAN'S BAR & GRILL"
71-73 Broadway
Passaic, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-28, issued by the Board of Commissioners of the City of Passaic.

Herman Levine, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, October 20, 1957, he sold an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that an ABC agent who was in defendant's licensed premises on Sunday, October 20, 1957, at about 2:55 a.m., observed the sale of a quart-bottle of whiskey by defendant to a patron. When the patron left the premises with the bottle, this agent and another ABC agent who had remained outside stopped the patron who admitted that he had purchased the bottle in defendant's premises. Both agents and the patron returned to the premises where defendant verbally admitted to the agents that he had made the sale.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days (Re Hensch, Bulletin 1194, Item 8). Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 20th day of November, 1957,

ORDERED that Plenary Retail Consumption License C-28, issued by the Board of Commissioners of the City of Passaic to Herman Levine, t/a "Herman's Bar & Grill", for premises 71-73 Broadway, Passaic, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. December 2, 1957, and terminating at 3:00 a.m. December 12, 1957.

WILLIAM HOWE DAVIS
Director.

ACTIVITY REPORT FOR NOVEMBER 1957

ARRESTS:		
Total number of persons arrested	-----	22
Licensees and employees	----- 5	
Bootleggers	----- 17	
SEIZURES:		
Motor vehicles - cars	-----	3
Stills - over 50 gallons	-----	1
- 50 gallons or under	-----	1
Mash - gallons	-----	445.00
Distilled alcoholic beverages - gallons	-----	172.38
Wine - gallons	-----	.50
Brewed malt alcoholic beverages - gallons	-----	3.09
RETAIL LICENSEES:		
Premises inspected	-----	556
Premises where alcoholic beverages were gauged	-----	502
Bottles gauged	-----	8,068
Premises where violations were found	-----	59
Violations found	-----	101
Type of violations found:		
Unqualified employees	----- 40	Disposal permit neccessary
Reg. #38 sign not posted	----- 16	Improper beer taps
Application copy not available	----- 16	Other mercantile business
Prohibited signs	----- 8	Other violations
STATE LICENSEES:		
Premises inspected	-----	13
License applications investigated	-----	10
COMPLAINTS:		
Complaints assigned for investigation	-----	343
Investigations completed	-----	299
Investigations pending	-----	177
LABORATORY:		
Analyses made	-----	130
Bottles from unlicensed premises	-----	16
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	16
Persons fingerprinted for non-criminal purposes	-----	113
Identification contacts made with other enforcement agencies	-----	94
Motor vehicle identifications via N. J. State Police teletype	-----	4
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	14
Violations involved	-----	16
Sale during prohibited hours	----- 8	
Sale to minors	----- 4	
Sale to non-members by club	----- 2	
Sale to intoxicated persons	----- 1	
Permitting lottery activity (punch board)	----- 1	
Cases instituted at Division	-----	12
Violations involved	-----	25
Sale during prohibited hours	----- 3	Sale below minimum resale price
Fraud and front	----- 3	Hindering investigation
Permitting immoral activity on premises	----- 2	Licensee convicted of crime involving
Permitting foul language on premises	----- 2	moral turpitude after license
Permitting lottery activity (numbers)	----- 2	issuance
Sale to minors	----- 1	Possessing illicit liquor
Possessing indecent matter	----- 1	Conducting business as a nuisance
Sale to non-members by club	----- 1	Failure to file notice of change in
Permitting brawl on premises	----- 1	application
Serving women at a bar (local reg.)	----- 1	Employing bartender without requisite
Unqualified employees	----- 1	identification card (local reg.)
Cases brought by municipalities on own initiative and reported to Division	-----	7
Violations involved	-----	8
Sale to minors	----- 3	
Sale during prohibited hours	----- 2	
Permitting bookmaking on premises	----- 1	
Employing police officer on premises	----- 1	
Permitting brawl on premises	----- 1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	45
Appeals	----- 7	Seizures
Disciplinary proceedings	----- 28	Tax revocations
Eligibility	----- 4	Applications for license
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	1,317
Licenses	----- 1	Wine permits
Employment permits	----- 98	Miscellaneous permits
Solicitors'	----- 40	Transit insignia
Disposal	----- 72	Transit certificates
Social affair	----- 313	

10. AUTOMATIC SUSPENSION - SALES TO MINORS - LICENSE PREVIOUSLY SUSPENDED BY DIRECTOR - APPLICATION GRANTED.

Auto. Susp. #145)
In the Matter of a Petition by)
CASTLE GREER)
T/a CASTLE'S INN)
11 New Street)
Sea Bright, N. J.,)

ON PETITION
O R D E R

To Lift the Statutory Automatic)
Suspension of Plenary Retail)
Consumption License C-10, issued)
by the Mayor and Council of the)
Borough of Sea Bright.)

Henneberry & Giordano, Esqs., Attorneys for Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on November 15, 1957, Castle Greer (the petitioner herein) was fined the sum of \$300.00 and costs after she had pleaded non vult in the Superior Court, Monmouth County Law Division, to an indictment alleging that she sold alcoholic beverages to minors in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension of her license for the balance of its term. R. S. 33:1-31.1. The petition requests the lifting of the automatic suspension.

By Order dated July 18, 1957, I suspended the petitioner's license for sixty-five days after she had pleaded non vult in disciplinary proceedings to a charge of selling alcoholic beverages to minors. This suspension was effective from 3:00 a.m. July 29, 1957, to 3:00 a.m. October 2, 1957 (Bulletin 1186, Item 5). The criminal proceedings involved some of the minors named in the disciplinary proceedings. I am satisfied that the suspension imposed in the disciplinary proceedings was adequate and, hence, I shall grant the relief requested.

Accordingly, it is, on this 19th day of November, 1957,

ORDERED that the statutory automatic suspension of License C-10 be and the same is hereby lifted, and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
Director.

11. AUTOMATIC SUSPENSION - SALES TO MINORS - LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITY - APPLICATION GRANTED.

Auto. Susp. #144)
 In the Matter of a Petition to)
 Lift Automatic Suspension of)
 Plenary Retail Distribution)
 License D-12, issued by the)
 Township Committee of the)
 Township of Maplewood to)

 NEW PROSPECT DELICATESSEN (CORP.))
 1887 Springfield Avenue)
 Maplewood, N. J.)

ON PETITION
O R D E R

Kapp Brothers, Esqs., by Herman W. Kapp, Esq., Attorneys for
Petitioner.

BY THE DIRECTOR:

A verified petition filed herein discloses that on November 6, 1957, Reuben Gordon (vice president of New Prospect Delicatessen (Corp.)) was fined the sum of \$500.00 and received a suspended sentence of three months in the county jail after he had been found guilty in the Essex County Court on a charge of selling alcoholic beverages to a minor, in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by the corporation. R. S. 33:1-31.1.

It further appears from the petition and from the records of this Division that the local issuing authority suspended the license held by the corporation for ten business days effective October 19, 1957, after it had pleaded non vult in disciplinary proceedings to a charge of selling alcoholic beverages to the same minor, in violation of Rule 1 of State Regulation No. 20.

It appearing that the suspension imposed by the local issuing authority is adequate under the circumstances of this case, and that the suspension imposed in said disciplinary proceedings has been served, the relief requested herein will be granted.

Accordingly, it is, on this 12th day of November, 1957,

ORDERED that the automatic suspension of License D-12, held by New Prospect Delicatessen (Corp.), for premises 1887 Springfield Avenue, Maplewood, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE TO MINOR DISMISSED.

In the Matter of Disciplinary Proceedings against)

ROMEO J. SAVARESE)
T/a HIGHWAY TAVERN)
64 E. McFarlan Street)
Dover, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the Board of Aldermen of the Town of Dover.)

Edward F. Broderick, Esq. and Robert P. Hanley, Esq.,
Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to a charge alleging that he sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

"The undisputed fact adduced at the hearing is that at about 10:30 p.m. April 23, 1957, Romeo J. Savarese (the licensee herein) sold four quart-size containers of beer to John --- (an 18-year-old minor).

"John testified that he is 5'9" tall, weighs 170 lbs., was born on March 12, 1939, and that on the date alleged Savarese sold him four containers of beer without making inquiry as to his age or requiring any written proof thereof.

"Savarese testified that, while John appeared to him to be of age, nevertheless, he requested some identification before serving him and, when shown a U.S. Armed Services identification card, he copied therefrom onto a 'Representation and Statement' form the date of birth 'March 12, 1935' and the age '22' and presented the form to John who affixed his signature and place of residence. He testified further that on the following day, when John and an ABC agent came to his premises, he produced the signed 'Representation and Statement' and that John denied that the signature thereon was his. The agent corroborated Savarese's testimony respecting the production of the signed form.

"A U. S. Government employee testified that he was in the licensed premises on the night alleged; that he heard a man order some cartons of beer from Savarese; that 'Mr. Savarese asked for identification, he produced some sort of card' and that he saw the man sign 'Well, it was one of these forms which is to state you are over 21.'

"The 'Representation and Statement' allegedly signed by John, together with several specimens of his handwriting taken at the hearing and prior thereto, were received in evidence by consent.

"Albert V. Osborne (a recognized handwriting expert called as a witness for defendant) testified that he had examined

the writings admittedly written by John and had compared them with the disputed writings and that he found that the disputed writings had a number of habit peculiarities similar to those found in the genuine writings. The witness pointed out the aforesaid peculiarities and stated that the signature and address on the 'Representation and Statement' were written in a 'disguised fashion' and that 'it is my best judgment that he (John) wrote it.'

"I have carefully considered the evidence herein and I find that it is difficult to believe that the correct month and day of John's birth (albeit the wrong year) were inserted by Savarese on the 'Representation and Statement' form unless that information was proffered to him. Although recognizing that the courts have held that handwriting-comparison testimony is of low degree (Mutual Life Insurance Co. v. Brown, 30 N. J. Eq. 194), nevertheless said testimony is competent evidence and its probative force is a question for the trier of the facts (Fenias v. Reckenstein, 124 N.J.L. 196). I conclude from that testimony, coupled with the testimony of the defendant and his other witness, that John signed the 'Representation and Statement' falsely representing himself to be twenty-two years of age, and that Savarese, believing him to be such and relying on the false written representation by, and appearance of, John, made the sale in good faith. Thus, the procedure and defense prescribed by R. S. 33:1-77 appears to have been followed and established by defendant. I recommend, therefore, that the charge herein be dismissed. Caruso v. Jersey City, Bulletin 694, Item 1."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After carefully considering the facts and circumstances appearing herein, I concur in and adopt the Hearer's recommendation.

Accordingly, it is, on this 14th day of November, 1957,

ORDERED that the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

13. ALIENS - EFFECT OF TREATIES BETWEEN THE UNITED STATES AND OTHER COUNTRIES AFFORDING RECIPROCAL TRADE PRIVILEGES TO THEIR NATIONALS - REVISED LIST OF TREATY COUNTRIES.

The New Jersey Alcoholic Beverage Law (R. S. 33:1-25) prohibits any alien from holding any alcoholic beverage license and prohibits an alien (except in limited instances involving hotels or airports) from owning more than 10% of the shares of stock in any corporate retail licensee. The law (R.S. 33:1-26) further prohibits the employment of any alien upon licensed premises unless such alien has obtained an employment permit from the Division of Alcoholic Beverage Control.

The foregoing provisions of the New Jersey Alcoholic Beverage Law are, however, necessarily superseded in those instances where the United States has entered into treaties with various foreign countries whereby their nationals are afforded the same trade privileges in the United States as our own citizens and, conversely, citizens of the United States are afforded the same trade privileges of nationals of the foreign countries while our citizens are abroad. Accordingly, nationals of those countries are exempt from the above restrictions against aliens. See Re Guskind, Bulletin 130, Item 5; Re McGuigan, Bulletin 228, Item 2; Re Sacks, Bulletin 942, Item 9.

Since the promulgation on September 19, 1955 (Bulletin 1083, Item 4) of a list of treaty countries, subsequent treaties have become effective with respect to Iran, The Republic of Korea and The Netherlands.

Accordingly, I am herewith setting forth a newly revised list of all countries with which the United States has treaties of the type in question. Nationals of the countries appearing on this list are not required to obtain employment permits from this Division and are eligible to hold alcoholic beverage licenses and to be stockholders in corporations holding retail licenses notwithstanding their lack of United States citizenship, assuming that they are qualified in all other respects under R. S. 33:1-25.

ARGENTINA
AUSTRIA
BELGIUM
BOLIVIA
BORNEO
CHINA
COLOMBIA
COSTA RICA
DENMARK
EL SALVADOR
ESTONIA
ETHIOPIA
FINLAND
GERMANY

GREECE
HONDURAS
IRAN
IRELAND
ISRAEL
ITALY
JAPAN
KOREA
LATVIA
LIBERIA
NETHERLANDS
NORWAY
PARAGUAY
SPAIN
SWITZERLAND
THAILAND
TURKEY
YUGOSLAVIA

GREAT BRITAIN, including nationals of Scotland and other British territory in Europe, but not including nationals of British territory not in Europe, such as Canada

WILLIAM HOWE DAVIS
Director.

December 10, 1957.

14. STATE LICENSES - NEW APPLICATIONS FILED.

McFaddin Express Inc.

E/S U. S. Rte. #1, 2/10 mile South of Old Post Road
Edison Township, New Jersey.

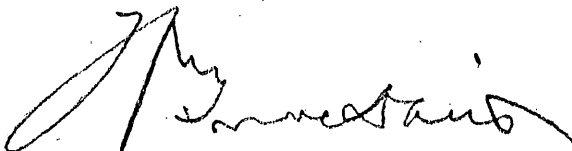
Application filed December 27, 1957 for additional
warehouse at 4107 Dell Avenue, North Bergen, New Jersey,
on Transportation License T-195.

Schuster's Express Inc.

621 Grove Street

Elizabeth, N. J.

Application filed December 30, 1957 for place-to-place
transfer of Transportation License T-178 from 17 Florence
Street, Jersey City, N. J.



William Howe Davis
Director.