

STATE OF NEW JERSEY  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 803

MAY 19, 1948.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Asbury Park) - FALSE STATEMENT IN APPLICATION CONCERNING PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
2. DISQUALIFICATION - MISCONDUCT DURING FIVE YEARS LAST PAST - RENEWAL OF APPLICATION TO LIFT DENIED.
3. APPELLATE DECISIONS - FRIEDMAN v. EAST NEWARK ET AL. - SUPPLEMENTAL ORDER RE SPINELLI.
4. AUTOMATIC SUSPENSION (Caldwell Township) - SELLING ALCOHOLIC BEVERAGES TO MINORS - LICENSE PREVIOUSLY SUSPENDED FOR 90 DAYS BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.
5. DISQUALIFICATION - PARTICIPATING IN VIOLATION OF ALCOHOLIC BEVERAGE LAW DURING FIVE YEARS LAST PAST - APPLICATION TO LIFT DENIED.
6. DISCIPLINARY PROCEEDINGS (Dover Township) - PIN BALL MACHINE AND LOTTERY - UPON REOPENING OF BUSINESS EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED.
7. DISCIPLINARY PROCEEDINGS (Wall Township) - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Newark) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
9. APPELLATE DECISIONS - KUPAY v. PASSAIC.
10. DISCIPLINARY PROCEEDINGS (Phillipsburg) - PERMITTING SLOT MACHINE ON LICENSED PREMISES IN VIOLATION OF RULE 8 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Phillipsburg) - PERMITTING SLOT MACHINES ON LICENSED PREMISES IN VIOLATION OF RULE 8 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS (Phillipsburg) - PERMITTING SLOT MACHINES ON LICENSED PREMISES IN VIOLATION OF RULE 8 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
13. DISCIPLINARY PROCEEDINGS (Phillipsburg) - SLOT MACHINES - PERMITTING LICENSED PREMISES TO BE USED IN CONNECTION WITH ILLEGAL ACTIVITIES IN VIOLATION OF RULE 4 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
14. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
15. DISCIPLINARY PROCEEDINGS (Newark) - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
16. DISCIPLINARY PROCEEDINGS (Somerdale) - FALSE ANSWER IN APPLICATION FOR LICENSE CONCEALING MATERIAL FACT (NON-RESIDENCE) - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 10 DAYS.
17. STATE LICENSES - NEW APPLICATIONS FILED.

STATE OF NEW JERSEY  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 803

MAY 19, 1948.

1. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION  
CONCERNING PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE  
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

HENRY O. LOPEZ )  
T/a CUBA'S )  
1147 Springwood Avenue )  
Asbury Park, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-35 issued by the )  
City Council of the City of )  
Asbury Park. )

-----  
Anshelewitz & Barr, Esqs., by Leon Anshelewitz, Esq., Attorney  
for Defendant-licensee.  
William F. Wood, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that he  
falsely answered "No" in answer to Question 41 in the application  
upon which he secured his current license, in violation of R. S.  
33:1-25.

In defendant's application filed June 6, 1947 to secure a  
renewal of his license for the current licensing year, defendant  
answered "No" to the question, "Have you...ever had any interest,  
directly or indirectly, in any alcoholic beverage license in New  
Jersey which was....suspended....?"

The truth of the matter is that defendant was President and  
principal stockholder of Henry O. Lopez, Inc., his predecessor in  
the alcoholic beverage business now conducted by defendant. The  
license held by said corporation was suspended for two days, effec-  
tive November 28, 1937, by the local issuing authority, on conviction  
of a charge alleging sale of alcoholic beverages during prohibited  
hours; for fifteen days, effective March 20, 1942, by the local issu-  
ing authority, on conviction of charges alleging the employment of  
hostesses and allowing known prostitutes and immoral activities on  
its licensed premises; and for fifteen days, effective May 4, 1944,  
by the then Commissioner of Alcoholic Beverage Control after convic-  
tion of a charge alleging that it had allowed lottery tickets to be  
sold on its licensed premises.

The defendant offers by way of mitigation that the application  
was prepared by someone employed for that purpose by him. He, how-  
ever, signed the application and necessarily took an oath as to the  
correctness of the information therein. Such an excuse can have no  
weight.

In view of the defendant's rather unsatisfactory record, I shall  
suspend the license for fifteen days, remitting five days for the  
plea, thus leaving a net suspension of ten days.

Accordingly, it is, on this 30th day of April, 1948,

ORDERED that Plenary Retail Consumption License C-35, issued  
by the City Council of the City of Asbury Park to Henry O. Lopez,

t/a Cuba's, for premises 1147 Springwood Avenue, Asbury Park, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. May 10, 1948, and terminating at 2:00 a.m. May 20, 1948.

ERWIN B. HOCK  
Commissioner.

2. DISQUALIFICATION - MISCONDUCT DURING FIVE YEARS LAST PAST - RENEWAL OF APPLICATION TO LIFT DENIED.

In the Matter of an Application )  
to Remove Disqualification )  
because of a Conviction, Pursuant )  
to R. S. 53:1-31.2. )  
Case No. 670 )  
----- )

CONCLUSIONS  
AND ORDER

BY THE COMMISSIONER:

In a prior proceeding, decided on July 12, 1946, I ruled that the crime of maintaining a house of prostitution of which petitioner was convicted on two occasions involved the element of moral turpitude. Re Case No. 527, Bulletin 719, Item 3. Although petitioner had been released from the penal institution on March 4, 1938, I was not satisfied, because of the seriousness of the crimes of which petitioner was convicted on the occasions in question, that his association with the alcoholic beverage industry would not be contrary to public interest. I granted permission, however, to petitioner to file a new petition for relief after ten years had elapsed from the date of his release from prison, namely, on or after March 4, 1948. I stated that such application, if filed, be considered on its merits.

Petitioner has filed a new petition for relief. Petitioner's record since my ruling on July 12, 1946 does not divulge any criminal convictions. An investigation by the Department, however, discloses that while petitioner was on his mother's licensed premises on the early morning of January 4th or 5th, 1948, he obtained a wrist watch from a soldier as security for a loan of three dollars. The watch in question had been stolen by the person who had given it to petitioner. At the time that the rightful owner appeared to claim the watch, it could not be found. Petitioner alleged that he had given the watch to his mother and that it had been stolen from her. Petitioner testified that he paid the owner of the watch \$15.00 in settlement.

Petitioner, in response to a question whether he had been in the habit of visiting the licensed premises owned and operated by his mother, stated, "No. It was just one of those things. I happened to walk in. I thought I'll take a chance and go on up there. And I run into that mess.\*\*\*\*"

Although petitioner produced three character witnesses who testified that he has the reputation of leading a law-abiding life, I am not satisfied, because of his conduct on his mother's licensed premises since the last formal hearing, that his association with the alcoholic beverage industry would not be detrimental to the public interest. Hence, I shall deny the within application.

Accordingly, it is, on this 30th day of April, 1948,

ORDERED that the petition herein be and the same is hereby denied.

ERWIN B. HOCK  
Commissioner.

3. APPELLATE DECISIONS - FRIEDMAN v. EAST NEWARK ET ALS. --  
SUPPLEMENTAL ORDER RE SPINELLI.

MOLLIE FRIEDMAN, )  
 Appellant, )  
 -vs- )  
 MAYOR AND COUNCIL OF THE BOROUGH )  
 OF EAST NEWARK, and JAMES SCOTT )  
 and NICHOLAS COLTRE; WILLIAM )  
 JOHNSTON, and JOHN B. SPINELLI, )  
 Respondents )

ON APPEAL  
O R D E R

-----  
 Matthew Krafte, Esq., Attorney for Appellant.  
 Gerald A. Caruso, Esq., Attorney for Respondent Borough of East Newark.  
 Russel E. Greco, Esq., Attorney for Respondent John B. Spinelli.

BY THE COMMISSIONER:

On October 28, 1947, Conclusions and Order were entered in the above case wherein final disposition of the appeal, in so far as it related to the license granted to John B. Spinelli, was reserved until the presentation of certain proof and the entry of a further order herein.

It appears from a report made to me by an investigator of the Department of Alcoholic Beverage Control that respondent Spinelli has made structural changes at his premises known as 210 Central Avenue, as a result of which the portion of said premises used for the sale of alcoholic beverages will be separated from the portion of his premises used as an ice cream parlor. Examination discloses that there will be separate entrances to each of said portions of the premises, and I have been assured by the attorney for respondent Spinelli that the door in the partition between said portions will be used only by the licensee or his agents, and not by the general public. The Mayor and Council of the Borough of East Newark have permitted an amendment to the license held by respondent Spinelli so that the licensed premises now are only that part of respondent's premises used by his alcoholic beverage business. Said premises now are described as follows: The easterly twenty-eight feet of first floor of 210 Central Avenue, being all of said first floor excepting that portion thereof used as an ice cream parlor.

Under the circumstances, I conclude that there has been substantial compliance with the requirements set forth in the Conclusions heretofore entered.

Accordingly, it is, on this 3rd day of May, 1948,

ORDERED that the action of respondent Mayor and Council of the Borough of East Newark, in issuing a plenary retail distribution license to John B. Spinelli for part of premises at 210 Central Avenue, East Newark, be and the same is hereby affirmed.

ERWIN B. HOCK  
Commissioner.

4. AUTOMATIC SUSPENSION - SELLING ALCOHOLIC BEVERAGES TO MINORS - LICENSE PREVIOUSLY SUSPENDED FOR 90 DAYS BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

In the Matter of Petition by )  
LEO NIEWIADOMSKI )  
T/a LEO'S BAR AND GRILL )  
Little Falls Road )  
Caldwell Township )  
P.O. RFD Little Falls, N.J., )

ON PETITION  
O R D E R

To Lift the Statutory Automatic )  
Suspension of a License Pursuant )  
to R. S. 33:1-31.1. )

-----  
August M. Basile, Esq., Attorney for Petitioner.

BY THE COMMISSIONER:

It appears from the petition herein that on April 28, 1948, Leo Niewiadomski was found guilty in the Essex County Court of Quarter Sessions on charges of selling alcoholic beverages to minors and was sentenced to serve thirty days in the Essex County Penitentiary. It further appears that petitioner actually served five days of said term and was thereupon released upon probation. On April 28, 1948, an agent of the Department of Alcoholic Beverage Control picked up the license held by petitioner and no business has been conducted under the license since that time.

It appears from the records of the Department of Alcoholic Beverage Control that on December 18, 1947 the Township Committee of the Township of Caldwell suspended the license held by petitioner for a period of ninety days after he had pleaded guilty in disciplinary proceedings to charges alleging that he had sold alcoholic beverages to minors and sold alcoholic beverages to a person apparently intoxicated. As a result of said suspension, petitioner's premises were closed from January 5, 1948 to April 5, 1948.

The indictment in the criminal proceedings and the charges in the disciplinary proceedings were based upon the same facts concerning the sales to minors. The conviction in the criminal proceedings has resulted in the automatic suspension of petitioner's license for the balance of its term. R. S. 33:1-31.1. The petition herein prays that the automatic suspension of the license may be lifted.

Under the circumstances of this case, the period of suspension heretofore imposed by the Township Committee appears to be adequate. Hence the relief sought herein will be granted.

Accordingly, it is, on this 5th day of May, 1948,

ORDERED that the automatic suspension of License C-9, held by Leo Niewiadomski, t/a Leo's Bar and Grill, for premises on Little Falls Road, Caldwell Township, be and the same is hereby lifted, and said license is hereby restored to full force and operation, effective immediately.

ERWIN B. HOCK  
Commissioner.

By: Edward J. Dorton  
Deputy Commissioner.

5. DISQUALIFICATION - PARTICIPATING IN VIOLATION OF ALCOHOLIC BEVERAGE LAW DURING FIVE YEARS LAST PAST - APPLICATION TO LIFT DENIED.

In the Matter of an Application )  
 to Remove Disqualification )  
 because of a Conviction, )  
 Pursuant to R. S. 33:1-31.2. )

CONCLUSIONS  
 AND ORDER

Case No. 673. )  
 - - - - - )

BY THE COMMISSIONER:

In 1935 petitioner was on two occasions convicted of the crime of grand larceny in the court of a neighboring state. Sentenced to some five years, he served a total of about three and one-half years and was released in October 1938. These convictions, being without question the convictions of crimes involving moral turpitude within the purview of the Alcoholic Beverage Control Law of this state, disqualify him from holding a liquor license or from being employed by the holder of such a license. R. S. 33:1-25, 26.

Shortly after his release from prison, petitioner came to New Jersey and after about two years at sea secured employment as a bartender with the holder of a liquor license in this state, and was so employed for about five years until some time in April, 1948. He ceased his employment because a lawyer whom he consulted regarding the purchase of the business advised him of his possible disqualification. Immediately after ceasing his employment he filed the petition herein. Petitioner swears that he had no knowledge of his possible disqualification; that no one ever informed him thereof until on the occasion mentioned above. The surrounding circumstances lead me to accept his statement. Ignorance of the law cannot excuse a person in criminal or disciplinary proceedings. Knowledge of the law, however, is not a necessary ingredient of the good faith essential to rehabilitation proceedings as herein. Re Case No. 330, Bulletin 616, Item 9; Re Case No. 61, Bulletin 338, Item 2.

I am, however, faced with one further circumstance and it appears to be an insurmountable one. In 1944, while employed as a bartender as aforesaid, petitioner was actively involved in a violation of the Alcoholic Beverage Law. He served some two or three minors, contrary to the provisions of R. S. 33:1-77, and, while he was not convicted of this misdemeanor, the holder of the license was charged in disciplinary proceedings and had her license revoked by the local issuing authority. Upon appeal, the then Commissioner, affirming the conviction, reduced the penalty to a thirty-day suspension. Spinhoven v. Hoboken, Bulletin 620, Item 5. The evidence discloses that petitioner did violate the Alcoholic Beverage Law. Such violation cannot be overlooked. I cannot in the face of that record find, as I must to grant the relief herein sought, that petitioner has been a law-abiding person for the five years immediately last past. R. S. 33:1-31.2. I must refuse the relief sought. Cf. Re Case No. 255, Bulletin 597, Item 7.

Accordingly, it is, on this 11th day of May, 1948,

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

ERWIN B. HOCK  
 Commissioner.

6. DISCIPLINARY PROCEEDINGS - PIN BALL MACHINE AND LOTTERY - UPON REOPENING OF BUSINESS EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED.

In the Matter of Disciplinary Proceedings against )

MICHAEL CASERTA )  
T/a IRMA LOUISE RESTAURANT )  
E. Colony Road & State Hwy. 37 )  
Silver Beach, Dover Township )  
P.O. Normandy Beach, N. J., )

O R D E R

Holder of Plenary Retail Consumption License C-23 issued by the Township Committee of the Township of Dover. )  
----- )

BY THE COMMISSIONER:

It appearing that by order dated October 30, 1947, the license held by the above named defendant was suspended for a period of fifteen days, and that the effective date of said suspension was to be fixed by subsequent order (Re Caserta, Bulletin 782, Item 3), and

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

It is, on this 7th day of May, 1948,

ORDERED that the fifteen-day suspension heretofore imposed shall commence at 2:00 a.m. May 12, 1948, and terminate at 2:00 a.m. May 27, 1948.

ERWIN B. HOCK  
Commissioner.

7. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ALICE HALEY )  
T/a APPLETREE TAVERN )  
Remsen Mill Road, Glendola )  
Wall Township )  
P.O. R.D. 2, Neptune, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Wall. )  
----- )

Simmill & Mirne, Esqs., by Elvin R. Simmill, Esq., Attorneys for Defendant-licensee.

Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to charges alleging that she sold alcoholic beverages to, and permitted the consumption thereof by, minors upon her licensed premises, in violation of R. S. 35:1-77 and State Regulations No. 20, Rule 1.

On Saturday night, March 27, 1948, four minors (U.S. soldiers), aged respectively 18, 18, 20 and 20 years, were sold, served and permitted to consume some four or five "rounds" of beer.

Although some of defendant's employees allege that the boys were questioned as to their ages, there is no claim that any written statement of age was signed by any of the boys. It thus appears that defendant has not established a defense under the provisions of R.S. 33:1-77.

Defendant has no prior adjudicated record.

Under all the circumstances herein, and particularly the number of minors involved, I shall suspend the license for fifteen days. Remitting five days of said suspension because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 11th day of May, 1948,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Wall to Alice Haley, t/a Appletree Tavern, for premises Remsen Mill Road, Glendola, Wall Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. May 17, 1948, and terminating at 2:00 a.m. May 27, 1948.

ERWIN B. HOCK  
Commissioner.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
THE DUBONNET, INC. )  
54 Park Place )  
Newark 2, N. J., )  
Holder of Plenary Retail Consumption License C-10, issued by the )  
Municipal Board of Alcoholic Beverage Control of the City of )  
Newark. )

CONCLUSIONS  
AND ORDER

-----  
George R. Sommer, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that it possessed illicit alcoholic beverages at its licensed premises, in violation of R. S. 33:1-50.

On March 6, 1948, an inspector of the State Department of Alcoholic Beverage Control, during the course of an inspection of the defendant's licensed premises, seized two 4/5 quart bottles labeled "Four Roses Fine Blended Whiskey", and four 4/5 quart bottles labeled "Imported Seagram's V.O. Canadian Whisky A Blend", when his field tests indicated that the contents of said six bottles were not genuine as labeled. Subsequent analysis by the Department chemist confirmed this finding.

Defendant's officers deny any knowledge of any tampering with the contents of the bottle. "Knowledge", however, is not an essential ingredient of the violation. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156. The licensee is in effect an insurer of the bona fides of his liquor stock. Re Kurian, Bulletin 517, Item 2.

Defendant has no adjudicated record. I shall suspend its license for the minimum period indicated in six-bottle cases, namely, twenty-five days. Re Downie, Bulletin 702, Item 2. Remitting five days of

said suspension because of the plea will leave a net suspension of twenty days.

Accordingly, it is, on this 11th day of May, 1948,

ORDERED that Plenary Retail Consumption License C-10, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to The Dubonnet, Inc., for premises 54 Park Place, Newark, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. May 19, 1948, and terminating at 2:00 a.m. June 8, 1948.

ERWIN B. HOCK  
Commissioner.

9. APPELLATE DECISIONS - KUPAY v. PASSAIC.

JOHN KUPAY, )  
 )  
 Appellant, )  
 )  
 -vs- )  
 )  
 BOARD OF COMMISSIONERS OF THE )  
 CITY OF PASSAIC, )  
 )  
 Respondent )  
 ----- )

ON APPEAL  
CONCLUSIONS AND ORDER

Elmer Friedbauer, Esq., Attorney for Appellant.  
Thomas E. Duffy, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from respondent's refusal to grant a place-to-place transfer of a plenary retail consumption license from 155 to 145 Third Street, in the City of Passaic. Both premises are on the west side of Third Street between Mercer and Hudson Streets.

Respondent denied the transfer upon the stated ground that the transfer "would aggravate the existing concentration of licenses in that area".

It appears from the evidence that appellant is compelled to vacate 155 Third Street because said premises have been purchased by Russian Consolidated Society which holds a club license. Appellant has leased 145 Third Street for a period of three years, commencing April 1, 1948.

The evidence shows that, continuously since Repeal, there have been three taverns on the west side of Third Street and two taverns on the east side of Third Street between Mercer and Hudson Streets. At one time there was a sixth tavern on the east side of Third Street but that place has not been licensed during the past four years.

Six witnesses produced by respondent testified that the conditions in the neighborhood are not conducive to the welfare of the people residing therein. They ascribe these conditions to the fact that there are five taverns on one block. However, the major objections made by these witnesses were general in nature and did not specifically accuse appellant of wrongdoing. Only in one or two instances did these witnesses attempt to connect appellant's premises with the unsatisfactory conditions of which they complain. Some of these witnesses alleged that intoxicated persons had been seen to come from appellant's premises and that excessive noises have been permitted on said premises. Appellant denied these accusations. He produced three witnesses who reside at 155 Third Street and who testified that appellant's premises have been conducted in a proper manner and that there

is no unnecessary noise upon the licensed premises. Appellant has a clear record as a licensee.

If conditions are as bad as respondent's witnesses claim, it would seem apparent that there is need for a closer supervision by the local police in this section of the city. However, in the absence of convincing evidence that appellant is responsible for, or substantially contributed to, the unsatisfactory conditions, he should not be penalized.

After carefully reviewing the evidence I conclude that there is not sufficient evidence of misconduct by appellant to warrant denial of the transfer of his license. Cf. Conn v. Kearny, Bulletin 173, Item 1; Hobbs v. Lower Penns Neck, Bulletin 405, Item 4; Dashefsky v. Orange et al., Bulletin 407, Item 9.

Respondent alleges that its action was reasonable because it has already transferred the club license heretofore mentioned from 174 Third Street to 155 Third Street, and hence the transfer sought by appellant will result in the existence of six, instead of five, licensed premises in one block on Third Street between Hudson and Mercer Streets. This reason sounds plausible but an examination of the facts leads to the conclusion that it is without any weight. The club license was formerly outstanding for premises 174 Third Street, a short distance north of Hudson Street. It has now been transferred to 155 Third Street, which is located on the opposite side of the street a short distance south of Hudson Street. There is absolutely no evidence that the club license has contributed in any way to the alleged unsatisfactory conditions and, under these circumstances, it is immaterial whether the club license is located at 174 Third Street or 155 Third Street. Appellant herein seeks merely to transfer his license to other premises in the same neighborhood in close proximity to the premises for which he now holds a license. The situation in this respect is closely comparable to that in Conn v. Kearny, *supra*; Leonia Liquors, Inc. v. Leonia, Bulletin 766, Item 1; Grower v. Hackensack, Bulletin 789, Item 1, and Costa v. Verona, Bulletin 501, Item 2. In the latter case the Commissioner said:

"Thus, were appellant located in a different section of the municipality and seeking to transfer into the vicinity in question, or if, being within the area (as is the case), he were seeking to transfer to a site that would aggravate to any appreciable degree the existing concentration of licenses in that area, respondent would be justified in denying the transfer and, on appeal, I would sustain such denial. Neither of such situations, however, is present in this case. On the contrary, the facts herein indicate that the applicable ruling is that where no attack is made on the personal fitness of the applicant or the suitability of the premises, a refusal to transfer, whether from person to person or from place to place, cannot, in the absence of good independent cause, be sustained."

The fact that appellant proposes to transfer his licensed premises from one place to another on the same side of Third Street does not increase the number of outlets for the sale of liquor to the general public in that area. A transfer may not be denied merely to decrease the number of licenses. Kirschhoff v. Millville, Bulletin 254, Item 8.

Having carefully reviewed the entire record, I find that respondent's grounds for refusing the transfer are insufficient in that no valid objection to the transfer appears to exist. Consequently the denial of the transfer was unreasonable and the action of respondent must, therefore, be reversed.

Accordingly, it is, on this 11th day of May, 1948,

ORDERED that the action of respondent in refusing transfer of the plenary retail consumption license held by appellant, from premises 155 Third Street, Passaic, to premises 145 Third Street, Passaic, be and the same is hereby reversed and respondent is directed to transfer the license in accordance with the application made by appellant.

ERWIN B. HOCK  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - PERMITTING SLOT MACHINE ON LICENSED PREMISES IN VIOLATION OF RULE 8 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ITALIAN-AMERICAN HOME ASSOCIATION )  
374-6 South Main Street )  
Phillipsburg, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Club License CB-76, issued by the Board of Commissioners of the Town of Phillipsburg. )  
----- )

Robert E. Frederick, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, on March 17, 1948, it possessed a slot machine on or about its licensed premises, in violation of Rule 8 of State Regulations No. 20.

Defendant has no previous adjudicated record. The license will be suspended for a period of ten days, less five days' remission for the plea entered herein, leaving a net suspension of five days. Cf. Re Manasquan River Golf Club, Bulletin 800, Item 4.

Accordingly, it is, on this 14th day of May, 1948,

/ ORDERED that Club License CB-76, issued by the Board of Commissioners of the Town of Phillipsburg to Italian-American Home Association, for premises 374-6 South Main Street, Phillipsburg, be and the same is hereby suspended for a period of five (5) days, commencing at 1:00 a.m. May 24, 1948, and terminating at 1:00 a.m. May 29, 1948.

ERWIN B. HOCK  
Commissioner.

11. DISCIPLINARY PROCEEDINGS - PERMITTING SLOT MACHINES ON LICENSED PREMISES IN VIOLATION OF RULE 8 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ALERT SOCIAL CLUB )  
209 Chamber Street )  
Phillipsburg, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-72, issued by the Board of Commissioners of the Town of Phillipsburg. )  
----- )

Alert Social Club, by George Stewart, President.  
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that, on March 17, 1948, it possessed three slot machines on or about its licensed premises, in violation of Rule 8 of State Regulations No. 20.

Defendant has no previous adjudicated record. The license will be suspended for a period of ten days, less five days' remission for the plea entered herein, leaving a net suspension of five days. Cf. Re Manasquan River Golf Club, Bulletin 800, Item 4.

Accordingly, it is, on this 14th day of May, 1948,

ORDERED that Club License CB-72, issued by the Board of Commissioners of the Town of Phillipsburg to Alert Social Club, for premises 209 Chamber Street, Phillipsburg, be and the same is hereby suspended for a period of five (5) days, commencing at 1:00 a.m. May 24, 1948, and terminating at 1:00 a.m. May 29, 1948.

ERWIN B. HOCK  
Commissioner.

12. DISCIPLINARY PROCEEDINGS - PERMITTING SLOT MACHINES ON LICENSED PREMISES IN VIOLATION OF RULE 8 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

FRATERNAL ORDER OF EAGLES )  
PHILLIPSBURG AERIE #1372 )  
22 Market Street )  
Phillipsburg, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-73, issued by the Board of Commissioners of the Town of Phillipsburg. )  
----- )

Fraternal Order of Eagles Phillipsburg Aerie #1372, by William E. Glanz, Trustee.

William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that, on March 17, 1948, it possessed six slot machines on and about its licensed premises, in violation of Rule 8 of State Regulations No. 20.

Defendant has no previous adjudicated record. The license will be suspended for a period of ten days, less five days' remission for the plea, leaving a net suspension of five days. Cf. Re Manasquan River Golf Club, Bulletin 800, Item 4.

Accordingly, it is, on this 14th day of May, 1948,

ORDERED that Club License CB-73, issued by the Board of Commissioners of the Town of Phillipsburg to Fraternal Order of Eagles Phillipsburg Aerie #1372, for premises 22 Market Street, Phillipsburg, be and the same is hereby suspended for a period of five (5) days, commencing at 1:00 a.m. May 24, 1948, and terminating at 1:00 a.m. May 29, 1948.

ERWIN B. HOCK  
Commissioner.

13. DISCIPLINARY PROCEEDINGS - SLOT MACHINES - PERMITTING LICENSED PREMISES TO BE USED IN CONNECTION WITH ILLEGAL ACTIVITIES IN VIOLATION OF RULE 4 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

BERNARD J. DONOVAN HOME ASSOCIATION )  
78 South Main Street )  
Phillipsburg, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-69, issued by the Board of Commissioners of the Town of Phillipsburg. )

-----  
Bernard J. Donovan Home Association, by J. A. O'Hare, President. William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, on March 25, 1947, and on March 17, 1948, it possessed four slot machines in a room in its licensed building adjacent to its licensed premises, in violation of Rule 4 of State Regulations No. 20.

The defendant has no previous adjudicated record. I shall, therefore, suspend its license for a period of ten days, less five days' remission for the plea entered herein, or a net suspension of five days. Cf. Re Scully-Bozarth Post #1817, Veterans of Foreign Wars, Bulletin 796, Item 9.

Accordingly, it is, on this 14th day of May, 1948,

ORDERED that Club License CB-69, issued by the Board of Commissioners of the Town of Phillipsburg to Bernard J. Donovan Home Association, for premises 78 South Main Street, Phillipsburg, be and the same is hereby suspended for a period of five (5) days, commencing at 1:00 a.m. May 24, 1948, and terminating at 1:00 a.m. May 29, 1948.

ERWIN B. HOCK  
Commissioner.

14. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ARISTOTLE PAPAGEORGE & EMANUEL MAKRIS 2816 1/2 Hudson Boulevard Jersey City 6, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-52, issued by the Board of Commissioners of the City of Jersey City. )

John J. Meehan, Esq., Attorney for Defendant-licensees. William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendants pleaded non vult to a charge alleging that they sold a 4/5 quart bottle of Southern Comfort liqueur below the established Fair Trade price, in violation of Rule 6 of State Regulations No. 30.

On March 17, 1948, an ABC agent purchased the bottle in question for the sum of \$5.93, whereas the minimum retail price of said item, as established in Bulletin 795, effective March 2, 1948, was \$5.99.

In June 1945, while the license was in the name of one of these defendants, the license was suspended for a net ten-day period for a violation of sales during prohibited hours on Election Day. Re Papageorge, Bulletin 672, Item 7. Under all the circumstances, I shall impose a fifteen-day penalty, less five days for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 14th day of May, 1948,

ORDERED that Plenary Retail Distribution License D-52, issued by the Board of Commissioners of the City of Jersey City to Aristotle Papageorge and Emanuel Makris, for premises 2816 1/2 Hudson Boulevard, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. May 18, 1948, and terminating at 9:00 a.m. May 28, 1948.

ERWIN B. HOCK Commissioner.

15. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - PRIOR RECORD - LICENSE' SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ORSATTI'S INC. )  
189-191 Market Street )  
Newark 2, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-833, issued by the )  
Municipal Board of Alcoholic Beverage Control of the City of Newark. )

-----  
Orsatti's Inc., by Tina Zuckerman, Secretary.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that it sold alcoholic beverages below the established Fair Trade price, in violation of Rule 6 of State Regulations No. 30.

On April 13, 1948, defendant's bartender sold to an ABC agent on the licensed premises a pint bottle of Imperial Hiram Walker's Blended Whiskey for the sum of \$2.23. The established minimum resale price of this blend in pint bottles, effective March 5, 1948, is \$2.29. Bulletin 795.

Defendant pleads that the violation was the result of a "mistake". This plea, while carrying a sympathetic appeal, does not excuse the violation. Re Mack Drug Co., Inc., Bulletin 695, Item 9.

While ordinarily the minimum suspension imposed for unaggravated violation of the Fair Trade regulations is ten days (Mack Drug Co., Inc., supra), it appears that defendant only last year suffered a five-day suspension of its license when found guilty by the local issuing authority of permitting "horse betting" on the premises. I shall, therefore, suspend the license for fifteen days. Remitting five days thereof because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 14th day of May, 1948,

ORDERED that Plenary Retail Consumption License C-833, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Orsatti's Inc., 189-191 Market Street, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. May 24, 1948, and terminating at 2:00 a .m. June 3, 1948.

ERWIN B. HOCK  
Commissioner.

16. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION FOR LICENSE CONCEALING MATERIAL FACT (NON-RESIDENCE) - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against WALTER ROSENBAUM T/a COTTON CLUB Evesham Avenue Somerdale, N. J.,

Holder of Plenary Retail Consumption License C-10 issued by the Borough Council of the Borough of Somerdale, and transferred during the pendency of these proceedings to WILLIAM WHITE and THEODORE JOHNSON T/a COTTON CLUB,

for the same premises.

CONCLUSIONS AND ORDER

Walter Rosenbaum, Defendant-licensee, Pro Se. William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to the following charge:

"In your application dated May 26, 1947, upon which you obtained your current plenary retail consumption license, you, in answer to Question 3 in said application, falsely listed your residence as 222 Perry Street, Trenton, New Jersey, and you also falsely stated 'Yes' in answer to Question 27(a) which asks: 'Are you and all persons mentioned in this application actual and bona fide residents of the State of New Jersey at the present time?', whereas in truth and fact you resided at such time at 1933 West Columbia Avenue, Philadelphia, Pennsylvania; said false statement being in violation of R. S. 33:1-25."

At a hearing held herein, defendant explained that he operates a five-and-ten cent store business at 1933 West Columbia Avenue, Philadelphia, and that, because of late hours, he and his wife took one of the apartments above the said store where they stayed several nights a week. He further stated that, despite this fact, he always considered 222 Perry Street, Trenton, as his home. His mother-in-law resides at the Trenton address, but it seems clear that defendant used this address merely as an accommodation so that he might appear to be qualified to hold a liquor license in New Jersey. Defendant admits that he votes in Philadelphia.

Under the circumstances I conclude that defendant is not a resident of the State of New Jersey, and that he is guilty as charged.

It appears that, subsequent to the institution of these proceedings, the Borough Council transferred License C-10, subject to the penalty to be imposed herein, from Walter Rosenbaum to William White

and Theodore Johnson, who presumably are fully qualified to hold a license. It thus appears that the unlawful situation, so far as the holding of a retail license by a non-resident of the state is concerned, has been corrected. However, a suspension must be imposed because of the false statement in the application filed by defendant Rosenbaum. I shall suspend the license for ten days. Re Zuby, Bulletin 790, Item 11.

Accordingly, it is, on this 14th day of May, 1948,

ORDERED that Plenary Retail Consumption License C-10, issued by the Borough Council of the Borough of Somerdale to Walter Rosenbaum, and transferred to William White and Theodore Johnson, for premises on Evesham Avenue, Somerdale, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a .m. May 18, 1948, and terminating at 7:00 a.m. May 28, 1948.

ERWIN B. HOCK  
Commissioner.

17. STATE LICENSES - NEW APPLICATIONS FILED.

Spector Motor Service, Inc.  
156 Rome St.  
Newark, N. J.

Application for Transportation License filed May 7, 1948.

Stuyvesant Haulage Corp.  
953 Longfellow Ave.  
Bronx 59, New York.

Application for Transportation License filed May 11, 1948.

*Erwin B. Hock*

Commissioner.