

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

BULLETIN 1379

March 9, 1961

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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.

March 9, 1961.

BULLETIN 1379

1. APPELLATE DECISIONS - YOUNGERMAN AND FREED v. EGG HARBOR.

SOLOMON YOUNGERMAN and ARNOLD FREED,)
t/a SOLAR COMPANY, a partnership,)
Appellants,) ON APPEAL
v.) CONCLUSIONS
TOWNSHIP COMMITTEE OF THE TOWNSHIP) AND ORDER
OF EGG HARBOR,)
Respondent.)

Elias G. Naame, Esq., Attorney for Appellants.
Samuel Levinson, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Township Committee whereby on June 6, 1960 it denied appellants' application for transfer of Plenary Retail Consumption License C-23 from Pine Acres Country Club, Inc. to appellants, and from premises located at Fourth and Mulberry Avenues, Cardiff, to premises located at East Verona Avenue and Paris Place, West Atlantic City. Both communities are in Egg Harbor Township.

"Appellants, in their petition of appeal, allege in substance that respondent's action was erroneous in that it was illegal, arbitrary and capricious, and they contend that on May 2, 1960 they informed respondent by letter that in the event their application was approved, they were willing to accept the transfer with the following restrictions: '(1) alcoholic beverages would not be dispensed to the bowlers in the alleys and the sales would be confined to a special room; (2) sales of alcoholic beverages would be suspended during the morning hours while the alleys were being used by junior bowlers'.

"Respondent, in its answer, denies appellants' allegations and in substance alleges that in its sound discretion, it denied the application for transfer because it concluded that the best interests of the municipality would be served thereby. It contends further that (1) the premises to which appellants seek to transfer the license consists of twenty-four bowling alleys which are patronized by a large number of minors, and that limiting the sale of alcoholic beverages to afternoon and evening hours would not eliminate the harmful influences on them; (2) it would be practically impossible to confine the sale and consumption of liquors to a special room; (3) the sale of liquor on the premises would be tempting to minors, some of whom might falsify their ages to secure such beverages; (4) appellants' premises are in the vicinity of a residential district and a private school for boys and respondent believes, as do a large number of residents, that the children who now patronize the bowling alleys will be harmed if liquor is sold and consumed on the premises; (5) appellants' premises are located on a highly traveled highway and traffic hazards and accidents would be increased by motorists seeking

to purchase liquor on the premises and (6) there is no public need for an additional liquor establishment in the area which now contains a package goods store and a tavern.

"The record herein discloses that the site to which the license in question is sought to be transferred is a bowling establishment known as Verona Lanes in West Atlantic City, Egg Harbor Township, five miles distant from Pine Acres Country Club, Inc., which holds the license in a section of the Township known as Cardiff; that West Atlantic City has a population of 500 and is separated from the other communities in the Township by the City of Pleasantville; that there are two existing licensed premises in West Atlantic City, approximately one-half mile to the east of Verona Lanes; that Verona Lanes is in an unrestricted business and residential area on Verona Avenue, a four-lane highway leading to and from Atlantic City; that Verona Lanes has twenty-four alleys and parking facilities for 100 cars and is operated by Verona Lanes, Inc., in which Youngerman and Freed, owners of the establishment, are officers and shareholders, and that appellants have leased from said corporation a room in the building to be converted into a cocktail lounge should the application for transfer be granted. It further appears that prior to the hearing below, the Township Committee received a petition signed by 84 residents of West Atlantic City and letters from the West Atlantic City Parents Club, the West Atlantic City Women's Civic Club, the Headmaster of Oxford Academy, the two licensees in the community and the Atlantic-Cape May County Liquor Stores Association objecting to the granting of appellants' application because of the harmful influence they believe it would have upon minors and because of the traffic hazards which would ensue.

"At the hearing herein, appellants testified in substance that 1,000 to 1,500 bowlers use the facilities of Verona Lanes; that six teams of junior bowlers bowl on Saturday mornings; that minors come in after school to practice and occasionally bowl at night; that all but three bowlers come from municipalities other than Egg Harbor Township; that the bowling alleys are reached primarily by motor vehicles; that an adult bowling league has transferred its patronage to other alleys because their members could not be accommodated with alcoholic beverages and other leagues have expressed their intention to do likewise for the same reason; that appellants intend to convert into a cocktail lounge a room they have leased in the bowling establishment which will have a door leading into it from outside the building, another leading into the bowling area and one way mirrored windows through which those in the bowling area cannot see the patrons of the lounge, yet permitting the patrons therein to observe the bowlers; that no alcoholic beverages will be served in the bowling area and that the cocktail lounge will be closed and locked and sales suspended when junior leaguers are bowling.

"George Klass testified in substance that he operates the Sea Breeze Motel across from Verona Lanes; that the motel has 78 rooms and accommodates 200 to 250 guests and that the area would be best served if appellants' application were granted.

"Lowell Evans testified in substance that he is the organizer of a bowling league consisting of sixteen teams having a membership of 120 bowlers who now bowl at Verona Lanes and that the league will withdraw its patronage unless members can be accommodated with alcoholic beverages.

"John Couchoud, Mayor of Egg Harbor Township, testified in substance that the Township has a population of 6,000 and 33 existing licensed premises, two of which are in West Atlantic City; that there are numerous taverns on the highway 'within a stone's throw of the bowling alleys'; that there is no need for another license in West Atlantic City; that he considered it improper for a bowling alley

which entertains young folks to be selling alcoholic beverages and that the Committee in arriving at its decision took into consideration the petition and letters submitted by the residents of the community.

"Dr. Edward Knight testified in substance that Oxford Academy is a boarding school for boys; that most of those attending are 17 years of age; that the Academy is located a few blocks from Verona Lanes; that the students frequent the bowling alleys; that the granting of appellants' application would create greater traffic hazards and that the sale and consumption of alcoholic beverages at Verona Lanes would be harmful to the youths who bowl there.

"Richard Bardsley, a dentist and member of the Board of Education, testified that the traffic in the area is 'brutal'.

"Henry Warke, presently a member of the Township Committee, testified in substance that in the summer and during the racing season, cars pile up for one-half to three-quarters of a mile in the area; that there are a sufficient number of licensed premises in West Atlantic City; that liquor has no place in a sporting event and that the transfer would put temptation in the way of minors.

"Edward Brown, a thirty-year resident of West Atlantic City, testified in substance that the traffic along Verona Avenue is heavy at all times and more especially in the summer and during the racing season.

"John Lee, a service station operator whose place of business is about 700 feet from Verona Lanes on the opposite side of Verona Avenue, testified that in the area traffic is heavy at all time 'around 75 cars a minute'.

"Ted Accardi, proprietor of Ted's Bar and Restaurant, one of the licensees in West Atlantic City, testified that he objects to the transfer primarily because, 'I'm going to lose business if they get a license'.

"The transfer of a liquor license is not a right inherent in the license but is, rather, a privilege which the issuing authority may grant or deny in the exercise of reasonable discretion. When the transfer is denied on reasonable grounds, such action will be affirmed. Rokay Wines & Liquors, Inc. v. Passaic, Bulletin 1198, Item 1.

"General objections to transfer within a business neighborhood are ordinarily not sufficient reasons for denying a transfer. However, where the transfer is sought to a section of a municipality which is of a mixed residential and business character, denial of the transfer does not constitute an abuse of respondent's discretion. Respondent's conclusion that the existing licenses are sufficient to serve the needs of those residing in West Atlantic City does not appear to be unreasonable. See Drucker v. Trenton, Bulletin 474, Item 9, and cases cited therein.

"Moreover, it is not unreasonable to deny a transfer to premises which are used by minors. In Turner v. Ramsey, Bulletin 37, Item 7, Commissioner Burnett said, 'the denial of a license because of the premises are used by minors is within the power of the local board and is justified', and that principle has been followed in numerous cases including the more recent case of Livingston Land Corporation v. Livingston, et al., Bulletin 1136, Item 3, wherein the Director said:

'Bowling alleys may well attract youths under twenty-one and, if issuing authorities honestly believe that the sale of liquor should not be permitted on premises operated as bowling alleys and uniformly apply such policy, their action will be upheld irrespective of my

personal belief that there is nothing intrinsically wrong in granting a license in respect to bowling alleys subject to revocation if sales are made to minors. If the Council had granted this license, I should have had no compunction in affirming its issuance. But that is quite different from concluding that the Council has acted unreasonably merely because they differ with me in a matter of policy. ***'

"On appeal the burden is on appellants to show that respondent abused its discretion. Rule 6 of State Regulation No. 15; Christian v. Passaic, Bulletin 928, Item 2.

"Considering all the facts and circumstances herein, I conclude that appellants have not sustained the burden of proof in showing that the action of respondent Township Committee was erroneous. I recommend, therefore, that respondent's action be affirmed and that the appeal herein be dismissed."

Pursuant to Rule 14 of State Regulation No. 15, appellants' attorney filed with me written exceptions to the Hearer's Report and written argument referring thereto. Thereafter appellants' attorney submitted to me "written supplemental exceptions" and respondent's attorney filed written answering argument thereto.

Neither the original exceptions nor the supplemental exceptions contains any objection to the resume of the evidence presented at the hearing of the appeal, as set forth in the Hearer's Report. After carefully reading the transcript of the testimony, I find that the Hearer's Report substantially sets forth the evidence presented at the hearing.

The original exceptions, however, allege that the Report of the Hearer was erroneous because (a) he has failed to make factual findings, (b) his conclusion that the section is of a mixed residential and business character is in error, (c) his conclusion that the existing licenses in the area are sufficient is in error, (d) his conclusion that it is not unreasonable to deny a transfer to premises which are used by minors is in error. The supplemental exceptions allege that in December 1960, after Hearer's Report was filed herein, the respondent granted an application to transfer a similar license to Wyatt's Diner and Restaurant for premises in the West Atlantic section of the Township (about seven-tenths of a mile from appellants' premises). In his answering argument respondent's attorney alleges that the Wyatt premises are conducted as a restaurant whereas appellants' premises are conducted as a bowling alley.

I find no merit as to allegation (a) but, in any event, I shall herein make factual findings in the case. As to allegation (b), I find as a fact that appellants' premises are in a business zone and in an area devoted predominately to business (with a few residences on East Verona Avenue), but that the character of the area is not material in this case. As to (c) and (d), I find as facts from the testimony of Mayor Couchoud that a hearing was held after written objections had been received, and that the members of the Township Committee voted to deny appellants' application because there were other taverns on the highway near appellants' premises, because minors bowl at appellants' premises and because many persons objected to the transfer of the license to said premises. The subsequent action of respondent in granting the transfer of a license to Wyatt in the West Atlantic section may weaken the conclusion that there were already enough licenses in the section but, as indicated in the cases cited in the Hearer's Report, it is within the discretionary power of a local issuing authority to deny a license to a bowling alley. While there is no specific evidence that respondent has

adopted such a policy, appellants have presented no proof that respondent has ever issued or transferred a license to a bowling alley.

Having carefully considered the record herein, including the testimony, exhibits, Hearer's Report and exceptions and written argument thereto, I shall enter an order affirming the action of respondent. Fanwood v. Rocco et al., 59 N.J. Super. 306 (App.Div. 1959); affirmed, Fanwood v. Rocco et al., 33 N.J. 404 (Sup.Ct. 1960).

Accordingly, it is, on this 26th day of January 1961,

ORDERED that the action of the Township Committee in denying appellants' application for transfer of the license in question be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - STADIUM LOUNGE, INC. v. CLIFTON.

STADIUM LOUNGE, INC.,)	
Appellant,)	
v.)	ON APPEAL
)	CONCLUSIONS
)	AND ORDER
MUNICIPAL BOARD OF ALCOHOLIC)	
BEVERAGE CONTROL OF THE CITY)	
OF CLIFTON,)	
Respondent.)	

Koribanics & Koribanics, Esqs., by Steven Koribanics, Esq.,
Attorneys for Appellant.
Edward F. Johnson, Esq., by Manfred Triebel, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The sole issue in this appeal concerns the action of the members of respondent Board whereby, at a meeting held on January 9, 1961, they unanimously refused to defer the effective dates of a ten-day suspension until after May 15, 1961. At said meeting respondent adopted a resolution providing that said suspension would become effective at 3 a.m. January 16, 1961. The petition of appeal alleges that the action of respondent was arbitrary, capricious and contrary to the best interest of numerous innocent persons. Appellant's premises are located at 1065 Bloomfield Avenue, Clifton.

On January 13, 1961, upon the filing of the appeal, I entered an order to show cause why the appeal should stay the effect of respondent's order of suspension pending determination of the appeal. Said order to show cause was returnable on January 18, 1961, and testimony thereon was then taken by an assigned Hearer.

At said hearing Joseph Pisacane (General Manager of appellant's premises) testified that forty-three organized bowling leagues use the forty alleys located in appellant's premises; that the bowling season starts after Labor Day and continues until approximately May 15 of the following year; that dinners and food are served in the cocktail lounge, and that more than five thousand patrons would be

inconvenienced by suspension of the license prior to the expiration of the bowling season.

The three members of respondent Board appeared at the hearing. Chairman McEvoy testified that appellant was informed at a meeting held on December 19, 1960, that a ten-day penalty would be imposed after appellant pleaded non vult to a charge alleging the sale of alcoholic beverages to a minor; that appellant's attorney then argued in favor of a deferment of the suspension and presented bulletin items in which the Director deferred suspensions because innocent persons would be inconvenienced; that the members considered the argument and studied the bulletins and on January 9, 1961, adopted the resolution from which the appeal has been taken. Benjamin Blackman (a member of the Board) testified that all factors were considered and that the refusal to defer the effective dates of the suspension was in accordance with the usual policy of the Board. It was stipulated that the testimony of Salvatore Corradino (the third member of the Board) would be substantially the same as that given by the other two members.

At the close of the hearing the Hearer announced that no Hearer's Report would be prepared in this case. Rule 14 of State Regulation No. 15. It was stipulated that the testimony presented at said hearing would be considered as if given at a final hearing in the case. Therefore, the case is now ready for my final decision.

The measure or extent of penalty to be imposed in a disciplinary proceeding against a municipal licensee rests within the sound discretion of the issuing authority. Dzieman v. Paterson, Bulletin 233, Item 10. The same rule applies as to the effective dates of a suspension, irrespective of any action which the Director may take in proceedings pending before him. After carefully considering the evidence and the oral argument of both attorneys at the close of the hearing, I conclude that appellant has not sustained the burden of showing that the action of respondent was erroneous. Rule 6 of State Regulation No. 15. Hence I shall discharge the rule to show cause and enter an order affirming respondent's action, vacating my order dated January 13, 1961, and fixing effective dates for the suspension.

Accordingly, it is, on this 27th day of January 1961,

ORDERED that the rule to show cause be and the same is hereby discharged; and it is further

ORDERED that the action of respondent whereby it suspended appellant's license for ten days be and the same is hereby affirmed; and it is further

ORDERED that the order entered by me on January 13, 1961, be vacated at 3 a.m. Monday, February 6, 1961, and that the ten-day suspension imposed by respondent be and the same is hereby reimposed to commence at 3 a.m. Monday, February 6, 1961, and to terminate at 3 a.m. Thursday, February 16, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

3. WILLNER'S LIQUORS v. WEST PATERSON (APPEAL DISCONTINUED).

Willner's Liquors,)
 Appellant,)
 v.) ORDER OF DISCONTINUANCE
 Mayor and Borough Council of the)
 Borough of West Paterson,)
 Respondent.)

 Samuel W. Lucas, Esq., Attorney for Appellant.
 Milton Schamach, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The attorneys for the respective parties hereto having stipulated to discontinue the within appeal, and no reason appearing to the contrary,

It is, on this 27th day of January, 1961,

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

WILLIAM HOWE DAVIS
DIRECTOR

4. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - MOTOR VEHICLE PREVIOUSLY RETURNED TO INNOCENT OWNER UPON APPLICATION IN ADVANCE OF STATUTORY HEARING -- ILLICIT AND TAXPAID ALCOHOLIC BEVERAGES FORFEITED.

In the Matter of the Seizure)
 on July 22, 1960, of a quantity) Case No. 10,360
 of alcoholic beverages, a)
 tractor and trailer, in the) On Hearing
 vicinity of 192 West 52nd)
 Street, in the City of Bayonne,) CONCLUSIONS AND ORDER
 County of Hudson and State of)
 New Jersey.)

 Francis G. Fitzpatrick, Esq., Attorney for Frank Manfredi,
 Claimant.
 I. Edward Amada, Esq., appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

This matter came on for hearing pursuant to R.S. 33:1-66 to determine whether a quantity of alcoholic beverages seized on July 22, 1960, at 195 West 52nd Street, Bayonne, and described in a schedule attached hereto, constitutes unlawful property and should be forfeited.

The Hearer who presided at the hearing held herein recently retired before he had an opportunity to prepare a Hearer's Report, and the attorney for claimant consented to waive the filing of a Hearer's Report, as required by Rule 4 of State Regulation No. 28.

On July 26, 1960, I entered an order in this case permitting the return to Santini Bros., Inc. (upon payment of costs) of a

tractor, trailer and furniture seized at the same time and place. Bulletin 1354, Item 4. Hence the hearing herein was limited to the question whether the alcoholic beverages should be returned to the claimant or forfeited.

At the hearing herein an ABC agent testified that, with the consent of Frank Manfredi, he, another ABC agent and members of the Bayonne Police Department entered the cellar of Mr. Manfredi's home at 195 West 52nd Street and seized the alcoholic beverages and that the bottles of whiskey contained tax stamps but that the jugs of rum and the jugs and bottles of wine contained no tax stamp.

Frank Manfredi testified that he has been employed as a truck-driver for Santini Bros., Inc. for nearly 30 years; that, while driving trucks for his employer in Mexico and the State of California, he purchased quantities of rum and wine for his own consumption, brought them into New Jersey in his employer's unlicensed truck and stored them in his cellar. He admits that on July 9, 1960, he purchased 30 cases (or a total of 120 gallons) of wine in Miraloma, California, and that he placed this wine in his cellar on the day prior to the seizure. He testified that he brought the rum in from Mexico (one bottle at a time) over a period of seven years. He also testified that he purchased the whiskey in Washington, D.C. Mrs. Manfredi testified that the alcoholic beverages were packed away until consumed by the family and visitors.

R.S. 33:1-2 provides that alcoholic beverages intended in good faith to be used solely for personal consumption may be transported in any vehicle from a point outside this State in limited amounts within any consecutive period of twenty-four hours. It is clear that most of these alcoholic beverages were transported into New Jersey in quantities far in excess of the permissible amounts without a special permit. Moreover, despite the fact that claimant has no criminal record, it seems incredible that the tremendous stock of wines and liquors in the cellar were for personal consumption. In addition, claimant transported these alcoholic beverages in his employer's vehicle in direct violation of his employer's instruction dated January 8, 1958. Since the alcoholic beverages were transported into New Jersey in violation of R.S. 33:1-2, they are illicit. R.S. 33:1-1(i). I am not satisfied that the claimant acted in good faith and, hence, shall enter an order forfeiting the seized alcoholic beverages.

Accordingly, it is on this 18th day of January, 1961,

DETERMINED and ORDERED that the seized property described in Schedule "A" appended hereto, constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66 and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
DIRECTOR

SCHEDULE "A"

355 - gallon jugs of wine
12 - 4/5 gallon jugs of rum
18 - 4/5 quart bottles of whiskey
24 - 4/5 quart bottles of wine

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Edward Sloboda)
t/a The Wonder Bar)
205 Madison Street & 51 Hoover Avenue)
Passaic, New Jersey)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption)
License C-99 issued by the Board of)
Commissioners of the City of Passaic.)

ORDER

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

BY THE DIRECTOR:

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

On December 14, 1960 an ABC agent tested defendant's open stock of liquor and seized four bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of said bottles, when compared with the contents of genuine bottles of the same brand, varied substantially in solids, acids and proof. Defendant admitted he had re-filled aforesaid bottles with another brand of whiskey.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days, the minimum suspension in a "refull" case involving four bottles. Re Grower, Bulletin 1263, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 24th day of January 1961,

ORDERED that Plenary Retail Consumption License C-99, issued by the Board of Commissioners of the City of Passaic to Edward Sloboda, t/a The Wonder Bar, for premises 205 Madison Street & 51 Hoover Avenue, Passaic, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m., Wednesday, February 1, 1961 and terminating at 3:00 a.m., Thursday, February 16, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALES TO MINOR - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against
 Sonny's Countryside Tavern, Inc.,
 t/a Sonny's Countryside Tavern
 Plainfield-Sterling Road
 Warren Township
 PO RD 3, Plainfield, N. J.,
 Holder of Plenary Retail Consumption License C-5, issued by the Township Committee of Warren Township.

)
)
) CONCLUSIONS
) AND
) ORDER

 Robert W. Wolfe, Esq., Attorney for Defendant-licensee
 David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'On August 2, 1960, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Pfc. John ---, age 19; in violation of Rule 1 of State Regulation No. 20.'

"At the hearing held herein John --- testified that he was born on November 26, 1940, and that he was then a Private-first-class in the Marine Corps. He testified that on the evening of August 2, 1960, he and George --- were in a restaurant in Watchung for approximately an hour; that both then left the restaurant, drove about five miles in his car to defendant's premises and parked in front of said premises. John --- further testified that George --- remained in the car; that he alone entered defendant's premises and purchased two quarts of beer from a male bartender who did not question him as to his age; that the bartender put the cardboard containers in a bag; that he returned with the bag to the car, drove back to the restaurant in Watchung and that he and George --- were consuming the beer in the restaurant when they were arrested by a member of the Watchung Police Department.

"George --- testified that on the evening in question he rode in John's car from the restaurant to defendant's premises; that the car was parked in front of defendant's premises at about 11:30 p.m.; that he remained in the car but saw John enter the premises and leave the premises about five minutes later with a package containing two containers of beer; that he tasted the beer after he and John returned to the restaurant and shortly before they were arrested.

"An ABC agent testified that on August 5, 1960, he obtained a written statement from George --- and that thereafter, on the same day, George --- directed him to defendant's premises, which George -- identified as the place in front of which they parked on the evening of August 2. Another ABC agent testified that on August 10, 1960, he obtained a written statement from John --- and that about two hours later he and the ABC agent heretofore mentioned accompanied John to defendant's premises, where John identified the premises as the place where he had purchased the beer on August 2

but was unable to identify Charles Fritz as the bartender who had sold him the beer. Both statements referred to were subsequently introduced into evidence by defendant's attorney.

"On behalf of defendant, Charles Fritz testified that he was the only bartender on duty in defendant's premises between 6 p.m. on August 2, 1960, and the closing hour on the following morning; that he did not see John on the premises at any time during the evening, and that there had been no cardboard containers on the premises for about ten days prior to said date. Elmer Bozack, president of defendant corporation, testified that he was not in the premises on the evening in question and that he had run out of containers about twelve days prior to August 2. Officer Lawler of the Watchung Police Department testified that he arrested John and George in the restaurant in Watchung on August 2 at about 11:45 p.m. for illegal possession of alcoholic beverages. Officer Lawler testified that he questioned them as to where they had purchased the beer and that both told him, at first, they had given 'a bum down in Plainfield' the sum of one dollar to purchase the beer for them at a licensed place in Plainfield and that, when he asked them if they couldn't come across with a better answer, they said that they refused to tell him where they bought it because they did not want to hurt one of their buddies.

"On redirect examination, John --- testified that he had never told any police officer or any one else that he had purchased the beer at defendant's premises prior to the time he gave such information to the ABC agent on August 10. George testified that the first time he disclosed that the beer was purchased at defendant's premises was when he gave such information to the ABC agent on August 5.

"Having observed both young men on the stand, I believe that they told the truth under oath at the hearing herein. There appears to be no reason why they should testify falsely. The bartender (Charles Fritz) may have no recollection of having seen John on the premises on the evening in question but John was there only a few minutes. Admittedly, beer had been sold in containers in defendant's premises at some time prior to August 2, 1960, and I am not impressed by the testimony that the containers 'ran out' shortly before said date. Lastly, it is well established that the failure to identify the person who made the sale is not fatal in disciplinary proceedings. Re LaCorte, Bulletin 469, Item 1; Re Zebrowski, Bulletin 1308, Item 9.

"After reviewing all the evidence and the exhibits herein, I conclude that defendant's guilt has been established by a fair preponderance of the believable evidence. Defendant has no prior adjudicated record. It is recommended, therefore, that defendant be found guilty as charged, and that an order be entered suspending defendant's license for a period of fifteen days, the minimum penalty for sale of alcoholic beverages to a 19-year-old minor. Re Wilkes, Bulletin 1371, Item 9."

After the submission of the Hearer's Report herein the attorney for the defendant, by letter dated January 25, 1961, advised that he did not intend to file exceptions to the said Report (Rule 6 of State Regulation No. 16) and requested that suspension of defendant's license be imposed at an early date. The attorney appearing for the Division stated he had no objection thereto.

Having carefully considered the record herein, including the transcript of the testimony and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 1st day of February 1, 1961,

ORDERED that Plenary Retail Consumption License C-5, issued by the Township Committee of Warren Township to Sonny's Countryside Tavern, Inc., t/a Sonny's Countryside Tavern, for premises on Plainfield-Sterling Road, Warren Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Monday, February 6, 1961, and terminating at 2:00 a.m., Tuesday, February 21, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD BY PREDECESSOR-IN-INTEREST - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
New Casino Bar & Grill (A Corporation))	CONCLUSIONS
32 Passaic Street)	
Garfield, New Jersey)	AND
)	
Holder of Plenary Retail Consumption License C-2, issued by the City Council of the City of Garfield.)	ORDER

Defendant-licensee, by Sam Ali, President.
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On October 22, 1960, an ABC agent tested defendant's open stock of liquor and seized one bottle, the contents of which appeared to be low in proof and off in color. Subsequent analysis by the Division's chemist disclosed that the contents of the seized bottle were high in solids.

It appears that when the agent entered the premises, he saw Sam Ali (president of the corporate-licensee) place the aforesaid bottle of liquor on the kitchen floor. When the agents seized the bottle, Ali admitted that he had refilled it with a different brand of whiskey.

Defendant has no prior adjudicated record. However, when its predecessor (Safaden Ali Sheh, Administrator of the Estate of Louise Ali Sheh) held the license for the same premises, said license was suspended for twenty-five days by the Director, effective June 16, 1958, for sales to alcoholic beverages to minors. In that case, George Ali, the vice-president and 49 per cent shareholder of the corporate-licensee herein, was involved in the violation. See Re Safaden Ali Sheh, Adm. of the Estate of Louise Ali Sheh, Bulletin 1235, Item 4. The minimum penalty imposed in "refill" cases involving one bottle is a ten-day suspension of the license (Re Panageas, Bulletin 1372, Item 7). Because of the dissimilar violation by defendant's predecessor-in-interest which occurred within a five year period, an additional five days will be imposed (Re C. & D. Tavern (A Corp.), Bulletin 1339, Item 3),

making a total suspension of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 7th day of February, 1961,

ORDERED that Plenary Retail Consumption License C-2, issued by the City Council of the City of Garfield to New Casino Bar & Grill (A Corporation), for premises 32 Passaic Street, Garfield, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Tuesday, February 14, 1961, and terminating at 3:00 a.m., Friday, February 24, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALES TO MINOR - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Philip Passner)
t/a 5 Corners Bar & Grill)
470 Central Avenue)
Newark 7, New Jersey)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-791 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

ORDER

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

BY THE DIRECTOR:

The defendant pleaded non vult to the following charges:

- "1. On January 6, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Andrew ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- "2. On January 6, 1961, at your licensed premises, you did attempt to hinder, delay and cause the hindrance and delay of the investigation of the above alleged violation then and there being conducted by Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey by urging, suggesting and counselling said Investigators to make false and untruthful reports of their investigation to show that no such violation had in fact occurred and by offering to give money to said Investigators to make and file such false and untruthful reports; in violation of R.S. 33: 1-35."

On Friday, January 6, 1961 at about 9:15 p.m., two ABC agents who were in defendant's licensed premises, observed Philip Passner, the licensee, serve a glass of beer to Andrew --- (age 20) without requiring him to make any written representation of his age. After observing Andrew consume a portion of his beer, the agents identified themselves to Andrew and the licensee who verbally admitted aforesaid violation. While the agents were completing their investigation of this case, the licensee made an offer of money to one of them if he would forget to report the incident.

By way of mitigation, the attorney for the defendant has submitted a letter which I have carefully read together with the file in the case, the reports of the agents and a sworn written statement of the minor involved herein. I, however, do not find any extenuating circumstances in this case which would impel me to impose less than the minimum penalty in cases of this kind.

Defendant has a prior adjudicated record. Effective July 28, 1959, his license was suspended by this Division for ten days for obtaining alcoholic beverages from an unauthorized source. Re Passner, Bulletin 1295, Item 6. I shall suspend defendant's license for the minimum period of ten days on Charge 1 (Re Danny's Hide-A-Way, Inc., Bulletin 1329, Item 6); for fifteen days on Charge 2 (Re Cherlin, Bulletin 1288, Item 3) and for an additional five days because of the dissimilar violation which occurred within the past five years (Re Rinaldi & Buccigrossi, Bulletin 1351, Item 9), making a total suspension 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 14th day of February 1961,

ORDERED that Plenary Retail Consumption License C-791, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Philip Passner, t/a 5 Corners Bar & Grill, for premises 470 Central Avenue, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Monday, February 20, 1961 and terminating at 2:00 a.m., Friday, March 17, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Thomas Santaniello t/a Brick Bar 642 Montgomery Street Jersey City, New Jersey Holder of Plenary Retail Consumption License C-103, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS AND ORDER

James F. McGovern, Jr., Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that during prohibited hours he sold and permitted the sale of alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Friday, January 6, 1961, ABC agents who were seated at the bar in defendant's licensed premises observed a patron enter through the side door at 10:28 p.m. and converse with Thomas Santaniello, the licensee. Santaniello took six twelve-ounce cans of beer from a cooler, placed them in a paper bag and handed the package to the patron. When the patron left with the merchandise, the agents followed and seized the bag containing the beer. Returning to the premises with the patron, the agents identified themselves to Santaniello who admitted giving the beer to the patron stating that he did not charge him for it. The patron said that the beer was given to him as a Christmas present.

Defendant's attorney submitted a letter, together with a photostatic copy of a police report showing that a child was struck by a car around 9:45 of the same evening in front of defendant's premises; that defendant rendered first aid to the child, telephoned for the ambulance and, in the course of rendering such services and rushing to and from his premises, he lost track of the time. Considering all of the circumstances and the clean record of defendant for more than twenty-seven years, I shall suspend his license for ten days and remit five days for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 14th day of February, 1961,

ORDERED that Plenary Retail Consumption License C-103, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Thomas Santaniello, t/a Brick Bar, for premises 642 Montgomery Street, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Monday, February 20, 1961, and terminating at 2:00 a.m., Saturday, February 25, 1961.

WILLIAM HOWE DAVIS DIRECTOR

10. APPELLATE DECISIONS - TERMINAL DINER, INC. et al v. WEEHAWKEN, PASQUA AND VECCHIONE.

Terminal Diner, Inc., Stopper)
Bros. and James Feinan,)

Appellants,)

v.)

ORDER of DISCONTINUANCE

Township Committee of the)
Township of Weehawken, and)
Anthony S. Pasqua and Jerry)
Vecchione, t/a J. & A. Bar &)
Grill,)

Respondents.)

Nathan J. Littauer, Esq., and Samuel Moskowitz, Esq., Attorneys
for Appellants
DeFazio & DeFazio, Esqs., Attorneys for Respondents Anthony S.
Pasqua and Jerry Vecchione
Leon S. Milmed, Esq., Attorney for Respondent Township Committee.

BY THE DIRECTOR:

The attorneys for the respective parties hereto in writing
having stipulated to discontinue the within appeal, and no reason
appearing to the contrary,

It is, on this 1st day of February 1961,

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

WILLIAM HOWE DAVIS
DIRECTOR.

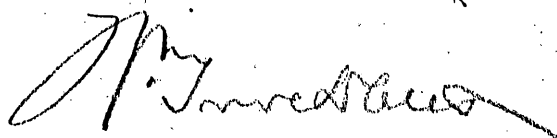
11. STATE LICENSES -- NEW APPLICATIONS FILED.

George L. Schrade, Inc.
178-180 South 12th Street
Newark, New Jersey.

Application filed March 3, 1961 for place-to-
place transfer of Additional Warehouse License AW-48
on State Beverage Distributor's License SBD-82, from
Northwest Corner Railroad Avenue and Eleventh Avenue,
Neptune, New Jersey, to 1100 Corlies Avenue, Neptune,
New Jersey.

Original Beer Importing & Distributing Co. Inc.
11 West 42nd Street
New York, New York.

Application filed March 6, 1961 for
Limited Wholesale License.



William Howe Davis
Director