

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

BULLETIN 990

NOVEMBER 10, 1953.

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - MARY SLEE CATERING CORP. v. BOROUGH OF PRINCETON.
2. DISCIPLINARY PROCEEDINGS (Newark) - SALE FOR OFF-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES IN OTHER THAN ORIGINAL CONTAINERS - PERMITTING OBSCENE LANGUAGE - EMPLOYING UNQUALIFIED PERSON - FAILURE TO HAVE TRUE COPY OF APPLICATION ON PREMISES - LICENSE SUSPENDED FOR 45 DAYS.
3. DISCIPLINARY PROCEEDINGS (Lodi) - SALE TO MINORS - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - GAMBLING - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Camden) - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS.
6. ACTIVITY REPORT FOR OCTOBER 1953.
7. DISCIPLINARY PROCEEDINGS (Asbury Park) - SALES TO MINORS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. DISQUALIFICATION - APPLICATION HELD TO BE PREMATURE WHERE IT APPEARED THAT AT LEAST FIVE YEARS HAD NOT ELAPSED FROM TIME PETITIONER WAS RELEASED FROM PENAL INSTITUTION - PETITION DISMISSED.
9. STATE LICENSES - NEW APPLICATIONS FILED.

New Jersey State Library

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

BULLETIN 990

NOVEMBER 10, 1953.

1. APPELLATE DECISIONS - MARY SLEE CATERING CORP. v.
BOROUGH OF PRINCETON.
MARY SLEE CATERING CORP.,)
Appellant,)
-vs-) ON APPEAL
MAYOR AND COUNCIL OF THE BOROUGH) CONCLUSIONS AND ORDER
OF PRINCETON,)
Respondent.)

Louis Gerber, Esq. and Edward J. O'Mara, Esq., Attorneys for Appellant.

No appearance on behalf of Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent taken on August 13, 1953, whereby it denied appellant's application for a plenary retail consumption license for premises known as 239 Nassau Street, Borough of Princeton.

The Petition of Appeal alleges that respondent denied the application for the following stated reasons:

"Mr. Johnson, Chairman of the Finance Committee presented the application of the Mary Slee Catering Corporation for a Plenary Retail Consumption License for premises at 239 Nassau Street and recommended that the application be denied on the basis of the letter of September 12th, 1952, received by the Clerk from the New Jersey Alcoholic Beverage Control Department which stated that the Borough of Princeton is precluded from issuing a new plenary retail consumption license based on the Attorney General's opinion #22, 1952, this denial being without prejudice to the applicant, and that no objection to the application had been filed with the Mayor and Council."

The Petition of Appeal further alleges that the action of respondent was erroneous in that "Formal Opinion 1952 - #22 dated September 3rd, 1952, by the Deputy Attorney General to the Director of Alcoholic Beverage Control is an erroneous interpretation of the law."

Respondent filed an answer wherein it admitted that no objection to the granting of the license had been filed with respondent and admitted that respondent denied the application for the reasons set forth in the Petition of Appeal.

Prior to the hearing herein, Louis Gerber, Esq., attorney for appellant, and Edgar Smith, Esq., attorney for respondent, filed a stipulation but the facts set forth therein are inaccurate in some respects. I am disregarding the stipulation because the correct facts in this case appear from the official records of this Division and are hereinafter set forth.

No one appeared on behalf of respondent at the hearing held herein and appellant was permitted to proceed ex parte in accordance with Rule 10 of State Regulations No. 15.

For the present licensing year, the Mayor and Council of the Borough of Princeton issued ten plenary retail consumption licenses for premises entirely within the boundaries of the Borough. For the present licensing year, as heretofore, the State Director issued a plenary retail consumption license to the Nassau Club of Princeton for premises entirely within the boundaries of the Borough. This license was issued by the State Director because of the provisions of R. S. 33:1-20. Thus, apart from the hereinafter discussed license for the Princeton Inn, there are eleven plenary retail consumption licenses existing in the Borough of Princeton at the present time. The premises known as Princeton Inn are owned by Princeton Inn Company and are located partly within the Borough of Princeton and partly within the Township of Princeton. For many years prior to the present licensing year, a plenary retail consumption license was locally issued for the Princeton Inn. (R. S. 33:1-16.) For the present licensing year, Princeton Inn Company filed an application for renewal of its license with me, as Director of Alcoholic Beverage Control, because Mr. Wallace, now an officer of Princeton Inn Company, is a member of the Township Committee of the Township of Princeton. (See R. S. 33:1-20). Thereafter, the Mayor and Council of the Borough of Princeton forwarded to me a copy of a resolution stating that it had no objection and consented to the issuance of said license. The Township Committee of the Township of Princeton forwarded to me a copy of its similar resolution. Effective July 1, 1953, I issued a renewal of said license to the Princeton Inn Company, t/a The Princeton Inn. Thereafter, I forwarded \$400.00 of the license fee, which had been deposited with the application, to the Township Committee and \$200.00 of the license fee to the Borough in accordance with a mutual agreement between the Township and the Borough.

Originally, respondent Mayor and Council issued a Temporary plenary retail consumption license for the Princeton Inn on December 8, 1933; and the Mayor and Council issued a permanent license for the Princeton Inn on February 6, 1934. It appears that thereafter (and despite R. S. 33:1-16) action upon application for license for the Princeton Inn was taken by the Princeton Township Committee and not by Princeton Borough's Mayor and Council although the Borough continued to receive its share of the license fee. Subtleties incident to R.S. 33:1-16 taken together with R. S. 33:1-20 were not raised in the instant appeal.

The legal question to be decided is whether or not the issuance of a license to appellant is barred by the provisions of R. S. 33:1-12.14 (Section 2 of P. L. 1947, ch. 94 -- the State Limitation Law), the pertinent portion of which is as follows:

"Except as otherwise provided in this act, no new plenary retail consumption ... license shall be issued in a municipality unless and until the ... total number of such licenses existing in the municipality is fewer than one for each one thousand of its population as shown by the last then preceding Federal census; ..."

The application filed by appellant is an application for a new license. According to the official 1950 Federal census, the population of the Borough of Princeton is 12,230 and, hence, no new plenary retail consumption license may be issued in the Borough unless and until the total number of such licenses existing in the municipality is fewer than twelve.

The pertinent portions of the Attorney General's Formal Opinion - 1952 - #22, dated September 3, 1952, are as follows:

"The issue, succinctly stated, therefore, is whether the Princeton Inn, a portion of whose licensed business is located in the Borough, should be considered as holding a license 'existing in the municipality' within the purpose and intent of the statutory language, quoted above, appearing in R. S. 33:1-12.14.

"The issue must be resolved in the affirmative. Irrespective of whether the Borough actually issues a license certificate authorizing the alcoholic beverage operation of the Princeton Inn in its municipality, the Inn is undoubtedly conducting its licensed business in the Borough pursuant to some official action taken by the Borough's issuing authority. Otherwise, of course, the Inn would be guilty of illegal sales of alcoholic beverages without a license, so far as the conduct of its business in the Borough was concerned. It is too obvious to require comment that the Inn, even though holding a license certificate issued to it by the Township, could not lawfully operate thereunder in the Borough. It follows, therefore, that the Princeton Inn, which exercises the privileges of a plenary retail consumption license in the Borough, must be considered as holding a license (as distinguished from a license certificate) 'existing in the municipality', thus exhausting the Borough's quota of 12 consumption licenses based upon its population of 12,230.

"This construction of the law accords with the legislative policy of restricting the number of licenses that may be issued by a municipality. The provisions of R. S. 33:1-16, quoted above, are not inconsistent with such policy. This section was designed merely to eliminate the unjust requirement, theretofore existing, of an applicant paying separate license fees to two municipalities for a single place of business located on the dividing line of these municipalities. It did not, however, eliminate the necessity for the submission of separate applications to each municipality and separate action thereon by them.

"The problem may be seen in clearer focus if we were to assume that the Borough had already issued 12 consumption license certificates and a new application were now to be made by the Princeton Inn for a consumption license. In that case, it would be crystal clear that the Borough, having reached its maximum limit of 12 consumption licenses, could not authorize the operation of a licensed business on that portion of the premises of the Princeton Inn located in its municipality. The fact that we are here concerned with the reverse situation does not, of course, change the result.

"You are advised that the answer to your inquiry is that, in the indicated circumstances, the Borough of Princeton is precluded from issuing a new plenary retail consumption license.

Very truly yours,
Theodore D. Parsons,
Attorney General,

By: Samuel B. Helfand,
Deputy Attorney General."

To the extent that construction of the State Limitation Law may be necessary, that remedial measure must, in keeping with its manifest purpose, be strictly construed. The current license for the Princeton Inn is issued for premises in the Borough of Princeton as well as in the Township of Princeton. Now, as heretofore, the

license is one existing in the Borough of Princeton within the meaning and operation of the State Limitation Law. I find no merit in the argument to the contrary made in appellant's behalf. Finding, thus, that twelve plenary retail consumption licenses are existing in the Borough I am constrained to find that issuance of an additional such license in the Borough is prohibited by the State Limitation Law; and, therefore, respondent's action will be affirmed.

Accordingly, it is, on this 29th day of October, 1953,

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

DOMINIC A. CAVICCHIA
Director.

- 2. DISCIPLINARY PROCEEDINGS - SALE FOR OFF-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES IN OTHER THAN ORIGINAL CONTAINERS - PERMITTING OBSCENE LANGUAGE - EMPLOYING UNQUALIFIED PERSON - FAILURE TO HAVE TRUE COPY OF APPLICATION ON PREMISES - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against

BOOTS 'N SADDLE (A N. J. Corp.)
441 Washington Street
Newark 2, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-922 for the 1952-53 and 1953-54 licensing years, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Kapp Brothers, Esqs., by Herman W. Kapp, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

"1. On Saturday, April 11, 1953, between 10:30 P.M. and 11:00 P.M., you sold alcoholic beverages not pursuant to and within the terms of your license as defined by R.S. 33:1-12(1) in that you sold bottles of alcoholic beverages in other than their original containers for consumption off the licensed premises, in that you opened such containers and thereby destroyed their original character before making deliveries thereof to the purchasers; in violation of R. S. 33:1-2.

"2. On Saturday, April 11, 1953, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20.

"3. On Saturday, April 11, 1953, and on divers days prior thereto you knowingly employed on your licensed premises Morris Taubman, a non-resident of the State of New Jersey who had not obtained a requisite employment permit from the Director of the Division of Alcoholic Beverage Control; in violation of Rule 4 of State Regulations No. 13.

"4. On Saturday, April 11, 1953, you conducted your licensed business without having a photostatic or other true copy of the application for the current license on the licensed premises, available for inspection, in violation of Rule 16 of State Regulations No. 20."

An ABC agent testified that at 10:30 p.m., on April 11, 1953, he and three other agents arrived in the vicinity of defendant's licensed premises and that he entered the premises while the three other agents remained outside. The further testimony of this agent may be summarized as follows: The establishment was crowded and two men, subsequently identified as Morris Taubman and Louis Alvino, were tending bar. There were several female patrons and a large number of male patrons present, and during the twenty-five minutes the agent remained in the licensed premises the patrons incessantly used foul, filthy and obscene language, which is too revolting to repeat here. The bartenders made no attempt to stop the patrons from using such language. During the time the agent was in the tavern he observed, on six different occasions, patrons purchasing alcoholic beverages in original containers for off-premises consumption from the bartenders, who received payment therefor after destroying the seal surrounding the cap on the bottle. At 10:55 p.m., the agent asked Morris Taubman, one of the bartenders, the price of a pint of port wine to take out. Taubman answered, "The price is seventy-five cents. It is a little more after ten o'clock." The agent then ordered a pint. The bartender took a pint bottle of wine from a shelf, put it on the counter and removed the seal. The agent questioned him regarding this and Morris Taubman answered, "I have to take the seal off because this is the way to beat the law." The agent handed a dollar bill to Louis Alvino, the other bartender, who had come over while the removal of the seal was being discussed. Louis Alvino rang up seventy-five cents on the cash register and slid a quarter back down on the bar to the agent. Morris Taubman handed the wine to the agent and, as he did so, said, "Stick it in your pocket." The agent placed the bottle of wine in his top coat pocket and left the premises. A few minutes later the agent re-entered, accompanied by the three agents who had remained outside. All identified themselves to Morris Taubman as ABC agents. The filthy language of the patrons continued; and the testifying agent heard the agent in charge call this to the attention of Morris Taubman, who said: "What the hell do you want me to do about it?" Morris Taubman did nothing about it. When the bartenders were interrogated, it was disclosed that Morris Taubman was a non-resident; that he did not possess a permit to work on the licensed premises; and that the copy of application for the liquor license could not be found on the licensed premises.

The testimony of the three other agents corroborated substantially the testimony of the agent as outlined above with reference to the occurrences which took place on the licensed premises after they entered with the agent who had purchased the bottle of wine. In addition thereto, one of the agents testified that, as he stood in the doorway, he observed the agent who had previously entered talking to Morris Taubman and then saw the latter take what appeared to him to be "a pint bottle of wine" from the back bar and place it on the bar. He further testified that he observed Louis Alvino accept a bill from the agent, who placed the bottle in his pocket and departed from the premises.

Benjamin Chesner, president of the defendant corporation, testified that, although he was not present at the time the ABC agents were in the premises, he arrived later that night and found the copy of the application for the current license "Under the drawer in the register", but that he was not sure whether or not he ever told either Morris Taubman or Louis Alvino where it was kept. He admitted that he did not know that a non-resident employee required a permit in order to work on licensed premises. He further testified that he gave instructions to the employees that they should see that proper

decorum existed at all times, and that he never authorized sale of alcoholic beverages in original containers during prohibited hours.

Morris Taubman, employed as a bartender by defendant, testified that he did not sell any alcoholic beverages in original containers for off-premises consumption after 10:00 p.m. on Saturday, April 11, 1953. He testified that he remembered the ABC agent ask for a bottle of wine to take out but, because it was after 10:00 p.m., he told him, "The only time I give it to you you drink it by the bar"; that he then became busy, but later Louis Alvino said, "Morris, give me a bottle of wine. This man wants to drink it by the bar"; that, after he (Morris Taubman) took the seal off a bottle of wine, "I give it to the bartender. He goes over and puts it on the bar next to the glass, and we got busy. About fifteen minutes later this man walks in with three other fellows, takes the bottle and drops it on the bar, and he said -- the other three fellows -- 'You sell this man a bottle of wine?'" The witness testified that he called the bartender over and asked, "Louie, did you give this man a bottle of wine?" and that Louis Alvino answered, "Yes, but I gave him a glass and put it on the bar to drink it here. What was he doing outside?" The witness admitted that he did not know where the copy of the license application was and that he did not obtain an employment permit to work on defendant's licensed premises. He denied hearing any indecent language at any time in the premises on the evening in question.

Louis Alvino, a bartender on duty on the night in question and who was alleged to have participated in the illegal transaction, did not appear as a witness. Benjamin Chesner, hereinabove referred to, testified that he saw Louis Alvino being served a subpoena and that he appeared at the Division of Alcoholic Beverage Control on the date of the hearing herein but left "in a huff" prior thereto. The fact that he appeared was corroborated by Morris Taubman, the other witness produced by defendant.

In connection with the above recital of the testimony in the case, it may be noted that defendant's attorney objected to admission in evidence of the conversation between the Division's agent and defendant's bartender, Morris Taubman, wherein the agent called Taubman's attention to the filthy language and the latter replied: "What the hell do you want me to do about it?" If for no other reason, such evidence was pertinent and admissible to show, along with the other evidence in the case, that the bartender was apparently aware of the filthy language going on and was making no effort to curb it. Defendant's attorney likewise objected to testimony of an alleged conversation (after the agents had identified themselves) between one of the agents and both Taubman and the other bartender, Louis Alvino, concerning the sale of the pint bottle of wine. However, this point need not here be decided since this conversation produced nothing of evidential value and has been disregarded.

I am satisfied, after careful review of all the testimony adduced herein, that the ABC agent purchased a bottle of wine for off-premises consumption during prohibited hours and that the foul, filthy and obscene language, as testified to by the agents at the hearing, was used openly by the patrons in defendant's licensed premises and that the bartenders made no effort to put a stop to it. Morris Taubman admitted that he removed the seal from the bottle before delivering it to the agent. His version of the incident is unworthy of belief. There is no dispute that the copy of the application for the license could not be produced by the employees at the time of the investigation. The statement by an officer of defendant that it was found later in a drawer under the cash register cannot be

accepted in view of the warning hereinafter mentioned. Morris Taubman admits that he possessed no permit issued to a non-resident which entitled him to the privilege of working on licensed premises in this State.

A licensee is necessarily accountable in disciplinary proceedings for violations committed or permitted by its employees on the licensed premises. Rule 31 of State Regulations No. 20; Re Arlington Inn, Bulletin 982, Item 1; Re Paton, Bulletin 898, Item 3.

I find defendant guilty of all the charges preferred against it in the instant case.

Defendant has no prior adjudicated record. However, a warning letter dated March 10, 1952, sent to defendant after an inspection of its licensed premises on February 18, 1952, disclosed that it failed to have on its licensed premises a copy of its then current license application available for inspection, in violation of Rule 16 of State Regulations No. 20. In this letter the defendant was cautioned to advise its employees "who may be left in charge of" the licensed premises exactly where the copy of the license application is kept. Furthermore, defendant was informed that the warning might be considered in determining the proper penalty to be imposed.

Considering all the circumstances, I shall suspend the defendant's license for a total of forty-five days.

Although this proceeding was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1953-54. State Regulations No. 16.

Accordingly, it is, on this 2nd day of November, 1953,

ORDERED that Plenary Retail Consumption License C-922, issued for the 1953-54 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Boots 'N Saddle (A. N. J. Corp.), for premises 441 Washington Street, Newark, be and the same is hereby suspended for forty-five (45) days, commencing at 2:00 a.m. November 9, 1953, and terminating at 2:00 a.m. December 24, 1953.

DOMINIC A. CAVICCHIA
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

TONY'S WHITE TAVERN, INC.
171-173 South Main Street
Lodi, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-30, issued by the Mayor and Council of the Borough of Lodi.

Tony's White Tavern, Inc., Defendant-licensee, by Peter Castiglia, Secretary.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to minors and permitted the consumption of such beverages by said minors on the licensed premises, in violation of Rule 1 of State Regulations No. 20.

At approximately 10:30 p.m. on September 25, 1953, two ABC agents entered the dining room of defendant's licensed premises to investigate a complaint that minors were being served and permitted to consume alcoholic beverages there. At approximately 11:15 p.m. a group of seven young males entered the dining room and seated themselves at a table where six of them ordered beer and one ordered Coca Cola from a waitress. Pursuant to that order the waitress obtained six bottles of beer, six empty glasses and a glass of Coca Cola which she served to these males, who proceeded to consume their respective drinks. One of the minors ordered and obtained from the waitress a second bottle of beer, the contents of which he proceeded to consume. The agents identified themselves and, upon learning that four of those drinking beer were 16 years of age, one was 17 years of age and one was 18 years of age, seized the remainder of the drinks. Each of the said minors gave a signed sworn statement admitting the service and consumption of the beer and denying that anyone asked them their ages. The waitress verbally admitted serving the drinks but declined to give a written statement.

Defendant has no prior adjudicated record. In view of the number of minors and the tender age of most of them I shall suspend defendant's license for forty days. Cf. Re Critelli, Bulletin 956, Item 4; Re Holmes, Bulletin 987, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 30th day of October, 1953,

ORDERED that Plenary Retail Consumption License C-30, issued by the Mayor and Council of the Borough of Lodi to Tony's White Tavern, Inc., 171-173 South Main Street, Lodi, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 4:00 a.m. November 9, 1953, and terminating at 4:00 a.m. December 14, 1953.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - GAMBLING - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

WOODLAWN BAR & GRILL, INC. 422 Ocean Avenue Jersey City 5, N. J.,

CONCLUSIONS AND ORDER.

Holder of Plenary Retail Consumption License C-59, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Giuliano & Giuliano, Esqs., by James R. Giuliano, Esq., Attorneys for Defendant-licensee. David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that it (1) sold alcoholic beverages at retail, in original containers for consumption off its licensed premises; in violation of Rule 1 of State Regulations No. 38; and (2) permitted gambling in and upon its licensed premises; in violation of Rule 7 of State Regulations No. 20.

The file herein discloses that, at approximately 10:50 p.m., on July 8th, 1953, two ABC agents entered defendant's barroom at which time the bartender and three male patrons were playing cards at the end of the bar. After serving glasses of beer to the agents, the bartender resumed playing cards and was seen to collect twenty-five cents from each of the other players.

At approximately 11:15 p.m. the bartender sold three quart bottles of beer (unopened) to a male patron. One of the agents then ordered two quarts of beer "to take home," whereupon the bartender took two quart bottles of "Piel's Light Beer" from a cooler and placed them in a paper bag for which the agent paid 80 cents.

The aforementioned male patron and the agent each left the licensed premises with their purchases. The agent immediately returned to the barroom where he and the other agent watched the bartender as he resumed the card game. Thereafter they identified themselves to the bartender who readily admitted that he had sold the bottles of beer and that he and three patrons had been playing cards (knock rummy) for twenty-five cents a game upon the licensed premises. He further admitted that he knew that both were violations.

In the absence of a prior record, the minimum period of suspension for the violation set forth in charge (1), would be fifteen days. Re Fleming's Wine & Liquor, Inc., Bulletin 984, Item 6. However, Joseph T. Hynes, president and principal stockholder (98%) of defendant corporate licensee, held the license before transferring it to defendant and his said license was suspended by the local issuing authority for three days, effective April 30, 1951, for violation of the local "hours" regulation. The prior record of defendant's predecessor in interest must be considered in arriving at the proper penalty to be imposed in this case. Re New Glass Bar, Inc., Bulletin 922, Item 4. Although the offense set forth in charge (1) is a violation of a State Regulation and the offense of which defendant's president was convicted in 1951, as aforesaid, is a violation of a

local regulation, both are nevertheless similar and the license will be suspended for thirty days on charge (1). Re Mekis & O'Shaughnessy, Bulletin 952, Item 6. Ten days will be added for the violation set forth in charge 2 (Re Capt. Stephen T. Schoonmaker Post, Bulletin 903, Item 7), making a total of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 2nd day of November, 1953,

ORDERED that Plenary Retail Consumption License C-59, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Woodlawn Bar & Grill, Inc., for premises 422 Ocean Avenue, Jersey City, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. November 9, 1953, and terminating at 2:00 a.m. December 14, 1953.

DOMINIC A. CAVICCHIA
Director.

5. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against)

LILLIAN H. RICHMAN)
T/a RICHMAN'S CAFE)
1135-37 South 4th Street)
Camden, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-18, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)
-----)

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

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On September 10, 1953 and on divers days prior thereto, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulations No. 20."

At the hearing herein an ABC agent testified that he and another ABC agent entered defendant's premises on September 10, 1953, at about 11:10 a.m., and sat at the U-shaped bar at which defendant was acting as bartender. This agent further testified that shortly thereafter a man, who appeared to be about fifty-five years of age and walked with a limp, entered defendant's premises and took a seat at the opposite side of the bar. Although the testimony of this agent indicates that the licensee spoke to this man and accepted from him a slip of paper which she placed in her pocket, there is nothing in this portion of the evidence to indicate that any gambling occurred, because the agent did not hear the conversation and the slip was not produced at the hearing.

However, the agent further testified that a short time there- after the licensee returned to the place where this man was sitting at the bar, handed him something, and said to him, "Put this on 408"; that thereupon this man wrote on a pad, tore off the slip and handed it to the licensee; that the licensee then walked over to the place where the agents were seated; that the witness put two ten-cent pieces on the bar, pushed them toward the licensee and said, "Put that on 408"; that the licensee went back to the man, gave him the two dimes and received from him a slip of paper which she gave to the witness. The slip of paper, which was introduced into evidence, bears the numerals "408-20." It was stipulated that if the other ABC agent were called to testify he would corroborate the foregoing testimony.

The first-mentioned ABC agent testified that he returned to the defendant's premises on September 11, 1953, and September 22, 1953, and that the man who had previously accepted their (the agents) money was not present on either occasion. However, the agent testified that on September 22, 1953, he asked the licensee if she remembered placing a bet for him and giving a receipt and that she replied, "Yes, I remember you played on 408"; that the licensee then told the agent that the man had no connection with the tavern; that he was crippled and she was sorry for him and played numbers about once or twice a week; that she would play 25¢ at a time and saw no harm in it.

Defendant testified that she never knew the crippled man was a "number man"; that he comes in once or twice a week, and that she gives him 50¢ or 25¢ when he comes around. She testified that he was present on September 10, 1953, at the time the agents were in her premises; that she then gave him a quarter but that she did not receive a slip from him. However, she did admit that the ABC agent gave her two dimes which she gave to the man; that she obtained from the man the slip which was introduced into evidence, and that she gave the slip to the agent.

From the evidence herein I find that defendant placed a number bet with the man in question on September 10, 1953, and that she participated in the placing of a number bet by the ABC agents with this man immediately thereafter. Hence I find defendant guilty as charged.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days (the minimum penalty for this type of violation involving a licensee or an employee of a licensee). Re Kimak, Bulletin 685, Item 7.

Accordingly, it is, on this 29th day of October, 1953,

ORDERED that Plenary Retail Consumption License C-18, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Lillian H. Richman, t/a Richman's Cafe, for premises 1135-37 South 4th Street, Camden, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. November 5, 1953, and terminating at 2:00 a.m. November 25, 1953.

DOMINIC A. CAVICCHIA
Director.

6. ACTIVITY REPORT FOR OCTOBER 1953

ARRESTS:
 Total number of persons arrested - - - - - 26
 Licensees and employees - - - - - 5
 Bootleggers - - - - - 21

SEIZURES:
 Motor vehicles - cars - - - - - 1
 Stills - over 50 gallons - - - - - 1
 - 50 gallons or under - - - - - 1
 Mash - gallons - - - - - 700.00
 Distilled alcoholic beverages - gallons - - - - - 7.63
 Wine - gallons - - - - - 4.48
 Brewed malt alcoholic beverages - gallons - - - - - 31.59

RETAIL LICENSEES:
 Premises inspected - - - - - 1,179
 Premises where alcoholic beverages were gauged - - - - - 751
 Bottles gauged - - - - - 14,495
 Premises where violations were found - - - - - 88
 Violations found - - - - - 291
 Type of violations found:
 Unqualified employees - - - - - 230
 Disposal permit necessary - - - - - 8
 Other mercantile business - - - - - 5
 Prohibited signs - - - - - 4
 Improper beer taps - - - - - 1
 Reg. #38 sign not posted - - - - - 1
 Other violations - - - - - 42

STATE LICENSEES:
 Premises inspected - - - - - 13
 License applications investigated - - - - - 14

COMPLAINTS:
 Complaints assigned for investigation - - - - - 404
 Investigations completed - - - - - 377
 Investigations pending - - - - - 166

LABORATORY:
 Analyses made - - - - - 128
 Refills from licensed premises - bottles - - - - - 1
 Bottles from unlicensed premises - - - - - 35

IDENTIFICATION BUREAU:
 Criminal fingerprint identifications made - - - - - 23
 Persons fingerprinted for non-criminal purposes - - - - - 185
 Identification contacts made with other enforcement agencies - - - - - 193
 Motor vehicle identifications via N. J. State Police Teletype - - - - - 5

DISCIPLINARY PROCEEDINGS:
 Cases transmitted to municipalities - - - - - 17
 Violations involved:
 Sale during prohibited hours - - - - - 11
 Sale to minors - - - - - 3
 Sale to intoxicated persons - - - - - 2
 Permitting bookmaking on premises - - - - - 2
 Failure to afford view into premises during prohibited hours - - - - - 2
 Permitting lottery activity (pool) - - - - - 1
 Bottling alcoholic beverages for sale - - - - - 1
 Cases instituted at Division - - - - - 18
 Violations involved:
 Permitting lottery activity (punch boards, pools) on premises - - - - - 2
 Sale to non-members by clubs - - - - - 2
 Conducting business as a nuisance - - - - - 2
 Permitting gambling (cards) on premises - - - - - 1
 Sale outside scope of license - - - - - 1
 Hindering investigation - - - - - 1
 Cases brought by municipalities on own initiative and reported to Division - - - - - 10
 Violations involved:
 Sale to minors - - - - - 6
 Permitting brawls on premises - - - - - 4

HEARINGS HELD AT DIVISION:
 Total number of hearings held - - - - - 45
 Appeals - - - - - 7
 Disciplinary proceedings - - - - - 19
 Eligibility - - - - - 11
 Seizures - - - - - 5
 Tax revocation - - - - - 2
 Applications for license - - - - - 1

PERMITS ISSUED:
 Total number of permits issued - - - - - 1,689
 Employment - - - - - 142
 Solicitors - - - - - 77
 Disposal of alcoholic beverages - - - - - 83
 Social affairs - - - - - 459
 Special wine - - - - - 793
 Miscellaneous - - - - - 135

DOMINIC A. CAVICCHIA
 Director.

Dated: November 2, 1953.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MAIN CENTRAL HOTEL AND CAFETERIA, INC. T/a ZULA BAR 111-113 Second Avenue Asbury Park, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the City Council of the City of Asbury Park.

Ascenzio R. Albarelli, Esq., Attorney for Defendant-licensee. 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, served and delivered alcoholic beverages at its licensed premises to minors and allowed, permitted and suffered the consumption of such beverages by such minors upon its licensed premises; in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that, at approximately 11:30 p.m., Friday, September 11, 1953, four ABC agents arrived in the vicinity of defendant's licensed premises. Two agents entered defendant's barroom immediately. The other two agents followed shortly thereafter. There were then approximately fifty patrons upon the licensed premises.

At approximately 11:45 p.m., the agents who had first entered the licensed premises observed a young-appearing male at the bar with a glass containing a dark fluid in his hand. This male went to a booth where he conversed with another male and then both he and his companion approached the bar where one of the bartenders prepared two drinks containing whiskey and placed one in front of each of the male patrons. Each took a sip of his drink, whereupon the two agents identified themselves as agents and ascertained that the young-appearing male was David W. ---, 17 years of age. The bartender admitted that he had served the drink to the minor and that said minor looked "like a juvenile." At the request of the same agents two members of the Asbury Park Police Department appeared at defendant's licensed premises, and the said agents and the minor went to Police Headquarters. A signed, sworn statement was given by the minor, who admitted that he was 17 years of age; that he is occasionally employed to "sweep up" at defendant's licensed premises, without pay; that, on September 11, 1953, he and his male companion went to the premises at 6:00 p.m.; that, after he had finished "sweeping up," he had consumed "a beer"; that, at approximately 12:10 a.m., September 12, 1953, one of the bartenders had served him a Coca Cola and whiskey from which he took a sip; that the drinks were paid for by his companion and that he was not questioned by anyone regarding his age.

The bartender gave a statement, which he refused to sign, in which he admitted that he had served "two rye whiskeys and cokes" to the minor's companion and that he had seen said companion hand one of these drinks to the minor; that he did not ask the minor to show proof of his age and that "in the light" the minor appeared to be such. However, he denied that he knew that David was a minor.

Meanwhile, the other two agents had been seated at the bar. After the first two agents had identified themselves to David and the bartender, it became known in the barroom that ABC agents were present. At approximately 12:30 a.m., on September 12, 1953, the other agents, who had not identified themselves as such, observed a waitress obtain from the other bartender three glasses of beer and a glass containing a dark fluid and ice, into which the bartender had poured some whiskey. The waitress served these drinks to four male patrons seated at a table, one of whom appeared to be a minor. As the waitress picked up money and left the table a female whispered something to her, whereupon the waitress returned to the table, picked up the glass containing the dark fluid and whiskey and returned with it to the bar where she handed it to the bartender and said, "Here put this over there for awhile" (pointing to the center bar). The aforementioned male who appeared to the agents to be a minor approached the waitress and said, "Hey, that's my drink," to which the waitress replied, "Not now, later, later," and escorted him back to the table and whispered to him.

It was approximately 12:45 a.m. when the first two agents departed the licensed premises with the minor David. Almost immediately thereafter the male whose drink had been returned to the bar approached the second bartender, above mentioned, and said, "Give me my drink" (pointing to the glass which had been taken from the table by the waitress and handed to the bartender to be placed on the bar). The bartender handed the glass to him and he took a sip, whereupon the agents identified themselves and ascertained that he was Jose M. ---, 20 years of age. The agents, the minor and the bartender went to Police Headquarters where a signed, sworn statement was given by the bartender, who denied that he had served the drink to Jose but admitted handing it to him when he had said it was his and had said that he was 21 years of age. The minor stated orally that he had been served "three beers" by the second bartender before the agents entered the licensed premises and that he had ordered Coca Cola from the waitress. The agents were unable to find the waitress.

Chemical analysis of the drinks seized from both minors, David and Jose, disclosed that each contained more than one-half of one percent of alcohol by volume and thus each was an alcoholic beverage. R.S. 33:1-1(b).

Defendant has a prior record. Its license was suspended by the local issuing authority for fifteen days, effective December 7, 1942, for sale of alcoholic beverages to minors. The local issuing authority also suspended defendant's license for two days for possession of mislabeled beer taps, which penalty was reimposed, effective January 12, 1946, upon affirmance on appeal to the then Commissioner. Main Central Hotel & Cafeteria, Inc. v. Asbury Park, Bulletin 688, Item 10. Inasmuch as the similar violation occurred more than ten years ago and the dissimilar violation occurred more than five years ago, I shall not consider them in aggravation of the present charge. Re Wally's Inc., Bulletin 931, Item 9. Therefore, I shall suspend defendant's license for fifteen days, the minimum penalty for a violation of this kind involving a minor 17 years of age. Re Roesch, Bulletin 966, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 19th day of October, 1953,

ORDERED that Plenary Retail Consumption License C-11, issued by the City Council of the City of Asbury Park to Main Central Hotel and Cafeteria, Inc., t/a Zula Bar, 111-113 Second Avenue, Asbury Park, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. October 26, 1953, and terminating at 2:00 a.m. November 5, 1953.

DOMINIC A. CAVICCHIA
Director.

8. DISQUALIFICATION - APPLICATION HELD TO BE PREMATURE WHERE IT APPEARED THAT AT LEAST FIVE YEARS HAD NOT ELAPSED FROM TIME PETITIONER WAS RELEASED FROM PENAL INSTITUTION - PETITION DISMISSED.

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

CONCLUSIONS
 AND ORDER

Case No. 1093.)
 -----)

BY THE DIRECTOR:

The petition filed herein recites that on June 24, 1946, petitioner pleaded guilty to the crime of breaking and entering; that he was sentenced to a Reformatory for an indefinite period and released therefrom on parole in April 1947.

Fingerprint returns disclose that on May 21, 1948, petitioner pleaded guilty in a Court of Quarter Sessions to five indictments for breaking with intent to steal; that on June 4, 1948, he was sentenced to a Reformatory and paroled therefrom on April 15, 1949.

The crime to which petitioner pleaded guilty involved moral turpitude. Re Case No. 13, Bulletin 228, Item 3.

R. S. 33:1-31.2 provides that any person convicted of a crime involving moral turpitude may, after the lapse of five years from the date of conviction, apply to the Commissioner (now Director) for an order removing his statutory disqualification; that, whenever such application is made and it appears to the satisfaction of the Commissioner that "at least five years have elapsed from the date of conviction, that the applicant has conducted himself in a law-abiding manner during that period and that his association with the alcoholic beverage industry will not be contrary to the public interest," the Commissioner may, in his discretion, enter an order removing the disqualification.

It is clear from the above quoted language that the Legislature intended that the probationary period during which the applicant is to be law-abiding was not to start with the date of conviction but was to commence at the time the applicant re-enters society after release from prison. The time while one is confined for a crime is not a part of the probationary period. Re Case No. 31, Bulletin 273, Item 2, and cases therein cited.

It is apparent that the application made herein is premature and that the petitioner will not be eligible for relief prior to April 15, 1954.

Accordingly, it is, on this 19th day of October, 1953,

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

DOMINIC A. CAVICCHIA
 Director.

9. STATE LICENSES - NEW APPLICATIONS FILED.

Garden State Liquor Wholesalers, Inc.
37-41 Franklin Turnpike
Mahwah, N. J.

Application filed November 4, 1953 for transfer of Plenary Wholesale License W-78 from Suffern Distributor's, Inc. with additional warehouse at 120-124 Sanford Street, New Brunswick, New Jersey.

Fenwick Distributors, Inc.
126-130 Rear West Main Street
Penns Grove, N. J.

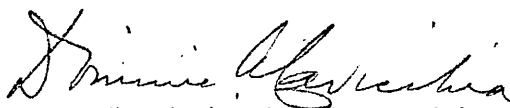
Application filed November 4, 1953 for transfer of State Beverage Distributor's License SBD-3 from Turnpike Distributing Company, 530 Edgewood Avenue, Trenton, N. J.

James Fiorina
T/a Haledon Distributing Co.
29 Mangold Street (Rear), Haledon, N. J.

Application filed November 4, 1953 for transfer of State Beverage Distributor's License SBD-53 from William Walter Erving, t/a Haledon Distributing Co.

Suffern Distributors, Inc.
27-35 Franklin Turnpike
Mahwah, N. J.

Application filed November 4, 1953 for Limited Wholesale License and additional warehouse at Railroad Avenue, Wharton, N. J.


Dominic A. Cavicchia
Director.