

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

May 21, 1951.

BULLETIN 906

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

May 21, 1951.

BULLETIN 906

1. APPELLATE DECISIONS - CORSO BAR & GRILL, INC. v. HOBOKEN.

CORSO BAR & GRILL, INC., )  
Appellant, )

-vs-

BOARD OF COMMISSIONERS OF THE )  
CITY OF HOBOKEN, )  
Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDERS

-----)  
Morris E. Barison, Esq., Attorney for Appellant.  
Dominick J. Marrone, Esq., by William Gottlieb, Esq., Attorney for  
Respondent.

BY THE DIRECTOR:

This is an appeal from a 30-day suspension imposed by the respondent after it had found the appellant guilty of selling alcoholic beverages to a minor.

The sole issue is whether the evidence justifies the guilty verdict.

Howard ---, an 18-year-old minor, testified that on Sunday, December 10, 1950, about 9:00 p.m., he was driving an automobile accompanied by five boys, three of whom were 17 years old, and the other two, 16 years old. Howard stated that he stopped the automobile across the street from the appellant's premises and, leaving the other boys in the car, he got out and walked toward the tavern. He found the door locked and, after knocking, it was opened by Bernhardt Muller, nephew of the appellant's president, and employed at the tavern "a couple of hours maybe every night or three nights out of a week". Muller told Howard the place was closed and the latter walked away. Howard testified that he returned a "couple of minutes" later, knocked on the door again, and this time Muller sold him six containers of beer for \$2.40.

Four of Howard's companions testified that they observed him walking in the direction of the appellant's tavern and that he returned with six containers of beer. They did not, however, actually see him enter the tavern.

The fifth companion, Thomas ---, testified that he saw Howard enter the appellant's tavern and emerge therefrom with six containers of beer. While it is true that he did not testify to the incident in as great detail as did Howard, the fact is that he was only cursorily examined, both on direct and cross-examination. His entire testimony consumed less than one page of the typewritten transcript.

A police sergeant of the City of Hoboken testified that, during the course of investigating a "manslaughter case" in which the boys were involved several hours after the purchase of the beer, he was told by Howard that he had bought six containers of beer at the appellant's tavern, and Howard subsequently, when confronted with Muller, "definitely identified" Muller as the "man who served him six containers of beer on the night in question".

Muller admits opening the door for Howard and telling him the tavern was closed but denies that Howard returned and was sold any beer by him. He also admits having seen Howard in the tavern on prior occasions.

The only other witness for the defendant, an aunt of Muller and the wife of appellant's president, although present at the tavern on the Sunday night in question, testified that she was in the rear of the tavern and was not "in a position to see the bar". She admitted that the appellant's price for a container of beer is 40¢ and that other taverns in the neighborhood vary their charges from 35¢ to 45¢ for a container of beer.

The evidence presented affords ample justification for the respondent's finding and it is, therefore, affirmed. The suspension, held in abeyance pending this appeal, will be reimposed.

Accordingly, it is, on this 7th day of May, 1951,

ORDERED that the respondent's action be and the same is hereby affirmed and the appeal be and the same is hereby dismissed; and it is further

ORDERED that the 30-day suspension heretofore imposed by the respondent upon the appellant's plenary retail consumption license C-44, for premises 1404-1406 Grand Street, Hoboken, is hereby reinstated to commence at 2:00 a.m. May 14, 1951, and to terminate at 2:00 a.m. June 13, 1951.

ERWIN B. HOCK  
Director.

2. APPELLATE DECISIONS - HAYS NEWARK REST. INC. v. NEWARK.

HAYS NEWARK REST. INC., )

Appellant, )

-vs-

ON APPEAL  
O R D E R

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
NEWARK, )

Respondent. )

Jack L. Cohen, Esq., Attorney for Appellant.

Charles Handler, Esq., by George B. Astley, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the denial of an application by appellant for the transfer of a license from Grant Lunch Corporation to appellant, and from premises at 74-76 Market Street to premises at 400 Delancy Street, Newark. The premises to which the transfer was sought are located in the Port Authority Truck Terminal which, since the hearing of the appeal herein, has been leased for other purposes.

On April 13, 1951, an order was entered in the companion case entitled "Hays Newark Rest. Inc. v. Newark and Raff" (see Bulletin 903, Item 3). This order was entered pursuant to a stipulation of dismissal dated March 21, 1951, filed in said case. The attorney for appellant has indicated that said stipulation was intended to apply also to the appeal filed herein.

No reason appearing to the contrary, it is, on this 1st day of May, 1951,

ORDERED that the appeal herein be and the same is hereby dismissed without prejudice and without cost to either of the parties.

ERWIN B. HOCK  
Director.

## 3. APPELLATE DECISIONS - CHIARINI v. LOWER PENNS NECK TOWNSHIP.

DOMINICK CHIARINI and EMMA CHIARINI, )  
t/a LITTLE BLACK CAT, )

Appellants, )

-vs- )

TOWNSHIP COMMITTEE OF THE TOWNSHIP )  
OF LOWER PENNS NECK, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

William T. Cahill, Esq. and Alvin R. Featherer, Esq., Attorneys for  
Appellants.

J. Bernard Rogovoy, Esq., Attorney for Respondent Township.

Wayland A. Lucas, Esq., Attorney for Objectors.

BY THE DIRECTOR:

This is an appeal from the denial of appellants' application to transfer their plenary retail consumption license from 517 North Broadway to a building proposed to be constructed at 114 North Broadway, Township of Lower Penns Neck. Plans and specifications for the building were attached to the application. The distance between the two premises is between one and one-and-one-half miles. Respondent, by unanimous vote, denied the application after a hearing held on January 5, 1951.

From the evidence herein it appears that appellants have held a license for more than sixteen years, and that no complaint has ever been made as to the manner in which they conducted their licensed premises. In December 1950 appellants were forced to vacate their licensed premises at 517 North Broadway because that property had been taken over by the New Jersey Turnpike Authority. They have owned the vacant land at 114 North Broadway since 1946.

North Broadway is a heavily traveled highway which traverses the Township of Lower Penns Neck from its northerly boundary to its southerly boundary. It passes through many developments which have acquired local names. Appellants' old premises were located in a section known as Deepwater, and the premises to which they seek to transfer are located in a section known as Central Park. The latter section is largely residential except for such businesses as have been established along North Broadway. In the immediate vicinity of 114 North Broadway there are at least seven business places (a market, men's shop, furrier's shop, gasoline station, infants' wear shop, restaurant, and hardware store) and four residences on the east side of the street; two business places (a real estate office and a barber shop) and a number of residences on the west side of the street. At the time the hearing below was held, the section was not zoned. At the hearing below sixteen persons, many of whom resided on side streets, spoke in opposition to the transfer, and four persons, in addition to appellants, spoke in favor of the transfer. There was also presented to respondent a petition containing the names of 260 persons who opposed the transfer.

The evidence indicates that this is a mixed residential and business neighborhood. The nearest licensed premises are located at least a mile away. The question as to whether licensed premises should be permitted in a section of a mixed residential and business character is primarily to be determined in the sound discretion of the local issuing authority. Londa v. Elizabeth et al., Bulletin 901, Item 1. If this were all, I would be inclined to affirm the action of respondent. Welstead v. Matawan, Bulletin 133, Item 2; Shortman v. Hawthorne, Bulletin 784, Item 4; Senatore v. Randolph, Bulletin 891, Item 2.

However, at the hearing held herein it appeared that on January 18, 1951, after appellants' application was denied, respondent adopted an ordinance which zoned for commercial purposes the section of North Broadway where appellants' proposed premises are located.

At the hearing herein, Township Committee Chairman Vincent testified:

"Hearing the testimony and not having our zoning and planning board map complete, we voted against it. Since that time it has been completed and now he cannot have a place, only in a commercial district. Had he asked for a transfer for those licenses without the State putting him out of his place I would have said no, but the State has put him out in the street and has nowhere to go; he owns the property, has owned it for four or five years, therefore, as Chairman of the Township Committee, I think he should have the transfer given to him."

Committeeman Langley testified:

"By the Hearer:

Q Do I understand, Mr. Langley, that you voted in effect to deny the transfer?

A That's right, sir.

Q What is your present opinion?

A Today after hearing the evidence as given before you that it would be a rank injustice for him not to go into business again. I feel, also, that we have designated that part of our community as a commercial section, therefore, I would be in favor of granting that license -- transferring it."

Committeeman Jack testified:

"Q As I understand, you don't want to express any opinion as to whether or not this transfer should be granted or denied, is that your testimony, Mr. Jack?

A We have expressed an opinion and you have this opinion.

Q You are still of the same opinion?

A At the moment I am because I have not had the opportunity to hear the rest of the evidence. In other words, I won't go out on a limb and say one thing or the other without hearing the complete case."

*(from file)*  
The hereinabove quoted testimony was given before the objectors to the transfer had testified.

The record herein is unusual and, in some of its aspects, surprising. Appellants' application was, as noted, unanimously denied and respondent's answer to the petition of appeal (filed, of course, before the hearing) states: "Respondent alleges that its conclusions were lawful, valid and proper and that its findings should be confirmed"; yet, two Committeemen testified on appeal as hereinabove quoted, while the testimony of the third was noncommittal. Under the peculiar circumstances, and after careful study and re-study of the whole record before me, I have been unable to determine whether respondent's action constituted an abuse of discretionary power and, thus, I am constrained to remand the case to respondent so that the members may deliberatively consider all the issues and then decide on the merits as to whether the application is to be granted or denied. It is to be well understood that I here express no opinion whatever upon the merits. It is nevertheless appropriate, and in no sense a coloration or leaning with respect to the general merits, for me to point out that respondent's granting, if any, would have to be

specially conditioned upon due completion of the premises in keeping with the filed and approved plans and specifications (Re Salter, Bulletin 184, Item 8); and, prior to such granting, notices of application for transfer would (if the two notices already published did not do so) have to contain a statement that plans and specifications for building to be constructed may be examined at the office of the Township Clerk. (Rule 4, State Regulations No. 6.) Further, solely to avoid possible confusion in the matter, and with the same clear admonition against construing anything herein as directing or suggesting respondent's action under this remand, it may be pointed out that, while a license may not lawfully be issued or transferred in violation of an operative municipal zoning ordinance, it does not follow that an application must be granted because the granting is permitted by an applicable zoning ordinance.

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

ORDERED that the case be and the same is hereby remanded to respondent Township Committee for its further action.

ERWIN B. HOCK  
 Director.

4. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - REQUEST TO WITHDRAW NON VULT PLEA DENIED BUT HEARING PERMITTED AS TO ALLEGED CORRECTION - FALSE STATEMENTS IN APPLICATION - FAILURE TO FILE WRITTEN NOTICE OF CHANGE IN FACTS SET FORTH IN APPLICATION, IN VIOLATION OF R.S. 33:1-34 - AIDING AND ABETTING NON-LICENSEES TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - SALE TO NON-MEMBERS - LICENSE SUSPENDED FOR BALANCE OF TERM - QUESTION AS TO WHETHER DEFENDANT IS A BONA FIDE CLUB SHOULD BE DETERMINED BY LOCAL ISSUING AUTHORITY IF APPLICATION FOR RENEWAL FILED.

In the Matter of Disciplinary Proceedings against

OVERTON SOCIAL AND PLEASURE CLUB  
 201 South Orange Avenue  
 Newark, N. J.,

Holder of Club License CB-52 for the 1949-50 licensing year, and now holder of Club License CB-52 for the licensing year 1950-51, both issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS  
 AND ORDER

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

BY THE DIRECTOR:

Defendant was served with charges alleging:

"1. In your application dated June 8, 1949, filed with the Municipal Board of Alcoholic Beverage Control of Newark, and upon which you obtained your current club license, you falsely stated 'No' in answer to Question 29, which asks: 'Has any individual,....other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact Carl C. Dugger and William H. Harrington were so interested as real and beneficial owners of the licensed business; said false statement being in violation of R. S. 33:1-25.

- "2. In your aforesaid application, you falsely stated 'No' in answer to Question 30, which asks: 'Have you agreed to pay the club steward, club manager, any employee, or other person, any percentage of the profits derived from the business to be conducted under the license applied for?', whereas in truth and fact you had agreed to permit Carl C. Dugger and William H. Harrington to retain all of the profits derived from the licensed business; said false statement being in violation of R. S. 33:1-25.
- "3. In your aforesaid application, in answer to Question 14, which calls for the names and addresses of all officers of your club, you falsely stated that Peter M. Darden was your secretary and Clifford Lee was your treasurer, whereas in truth and fact Carl C. Dugger was your secretary and treasurer; said false statement being in violation of R. S. 33:1-25.
- "4. In your aforesaid application, in answer to Question 15, which calls for the names and addresses of all directors or trustees of your club, you falsely stated that Joseph Rhomes, Charles Howard, Daniel Wilson and Joseph Graham were your trustees, whereas in truth and fact you had no trustees; said false statement being in violation of R. S. 33:1-25.
- "5. You failed to file with the Municipal Board of Alcoholic Beverage Control of Newark, within 10 days after the occurrence thereof, written notice of changes in facts set forth in answer to Questions 14, 29 and 30 of your aforesaid application, such changes being that on or about August 21, 1949 Carl C. Dugger succeeded William H. Harrington as your president and Robert Harrington succeeded Carl C. Dugger as secretary and treasurer and that on or about said date you entered into an agreement with Robert Harrington by which he acquired an interest in your licensed business, succeeding William H. Harrington as a real and beneficial owner thereof, and by which you agreed to permit him instead of William H. Harrington to share with Carl C. Dugger the profits derived from said business; your failure to file such notice being in violation of R. S. 33:1-34.
- "6. From on or about November 15, 1945 until on or about August 21, 1949, you knowingly aided and abetted Carl C. Dugger and William H. Harrington, and from the latter date until the present time you knowingly aided and abetted Carl C. Dugger and Robert Harrington, to exercise, contrary to R. S. 33:1-26, the rights and privileges of your successive club licenses; in violation of R. S. 33:1-52.
- "7. On November 7, 1949, between 2:00 P.M. and 5:00 P.M., you sold alcoholic beverages to a person not a bona fide member of your club or a bona fide guest of a member; in violation of Rule 8 of State Regulations No. 7."

Acting on behalf of defendant-licensee, another attorney entered a plea of non vult to all of the above charges. Thereafter the present attorney for defendant-licensee filed a petition herein which in no wise denied any of the allegations set forth in the charges but alleged that the club "permitted the operation of the bar to drift into a situation where said individuals (Carl C. Dugger, William H. Harrington and Robert Harrington) were running same for their own profit and benefit, entirely through the ignorance of the membership of the petitioner". The petition requested leave to withdraw the plea of non vult theretofore entered, and also requested a hearing so that evidence might be presented in support of the facts set forth in the petition and so that evidence might be presented that the unlawful situation had been corrected. No ruling was made at that time as to the request to withdraw the plea, but a hearing was held on March 3, 1950, in accordance



with the request contained in the petition. At the opening of the hearing, the attorney for defendant-licensee requested leave to withdraw the plea of non vult, but the Hearer denied the request and permitted the defendant-licensee to present proof as to the alleged negligence and ignorance of the members of the club and as to the alleged correction. I agree with the ruling of the Hearer.

It appears from the proof presented at the hearing that the club was organized in 1929 and obtained a club license in 1945. The club then had about two hundred members, and now has between two hundred and three hundred members. Peter M. Darden, who was treasurer of the club in 1945, testified that, at the time the original license was obtained, the club used \$500.00 of its own money and borrowed approximately \$300.00 from him, Carl C. Dugger, William H. Harrington and another member, Mr. Fields, who is now deceased. He testified that the license was obtained for the benefit of the club members, and that it was the understanding that the loans were to be repaid. The loans were partly repaid. The testimony indicates that, for a period of more than four years, the profits from the operation of the bar, if there were any profits, were divided between Carl C. Dugger and William H. Harrington until the death of the latter, when the profits were shared between Carl C. Dugger and Robert Harrington. It appears, however, that at times there were no profits and the bills were paid out of the club treasury. This manner of operation was, of course, illegal, but I conclude that the club was a bona fide organization which had been in existence for a period of about sixteen years before it obtained its liquor license, and that the individuals mentioned in the charges had not organized a club merely for the purpose of obtaining a liquor license for their own benefit. In the latter case, of course, I would revoke the license.

As to alleged correction of the illegal situation: The evidence shows that a special meeting was held on February 7, 1950, at which Carl C. Dugger resigned as president and Robert Harrington resigned as secretary, and new officers and trustees were elected. At said meeting it was also resolved that a steward and bartender should be hired at a weekly salary, and that all profits from the operation of the bar should be turned over and be the property of the club. Although this meeting was attended by only a small number of members, and Dugger and Harrington were permitted to retain membership in the club, I am satisfied from the evidence that they no longer participate in the operation of the bar. However, it appears from hearings held November 30, 1950 and December 14, 1950 that few if any of the actions authorized and decided by the February meeting have been actually and realistically put into effect. The club allegedly adopted new by-laws but the officers and directors seem unfamiliar with their provisions. No general membership meeting was held as provided therein. The officers and trustees elected in February 1950 carried over. The trustees may have met, but it is clear that the minutes of such meetings do not correctly portray the activities thereof. Nominal dues only are paid, the funds for carrying on the activities of the club seemingly coming from the operation of the bar.

I am far from satisfied that the club is now operating in a bona fide manner. However, no charges or order to show cause was served upon the club alleging that it ceased to be a bona fide club. Cf. Re Unity Political and Social League, Inc., Bulletin 894, Item 3.

I find defendant guilty as to the "farming out" charges, and the charge of selling to non-members. The fact that I cannot find that a complete correction has been made leaves me only one course. I shall suspend defendant's license for the balance of its term. Re Lukaszewich, Bulletin 892, Item 4.



If and when defendant applies for a renewal license, the local issuing authority should determine whether the club is bona fide in all respects, according to the law and any applicable local ordinance, and whether the club is worthy of a license. Majestic Friends Club, Inc. v. Montclair, Bulletin 639, Item 9.

Accordingly, it is, on this 30th day of April, 1951,

ORDERED that Club License CB-52 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark, for the 1950-51 licensing year, to Overton Social and Pleasure Club, for premises 201 South Orange Avenue, Newark, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. May 5, 1951.

ERWIN B. HOCK  
Director.

5. DISCIPLINARY PROCEEDINGS - BOOKMAKING AND GAMBLING - ALLOWING OBSCENE PRINTED OR WRITTEN MATTER ON LICENSED PREMISES - CONTRACEPTIVES - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

FRANK A. SKWARA )  
T/a FRANK'S CAFE )  
912 Brunswick Avenue )  
Trenton 8, N. J., )

CONCLUSIONS  
AND  
ORDERS

Holder of Plenary Retail Consump- )  
tion License C-264, issued by the )  
Board of Commissioners of the )  
City of Trenton. )

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Frank A. Skwara, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that he (1) engaged in, and allowed, permitted and suffered bookmaking and gambling in and upon his licensed premises, in violation of Rule 7 of State Regulations No. 20; (2) allowed, permitted and suffered upon his licensed premises obscene, indecent, filthy, lewd, lascivious and disgusting printed or written matter, in violation of Rule 17 of State Regulations No. 20; and (3) possessed, and allowed, permitted and suffered contraceptive devices in and upon his licensed premises, in violation of Rule 9 of State Regulations No. 20.

On March 14, 15 and 16, 1951, ABC agents, who were present on defendant's licensed premises, observed defendant's bartender accepting bets on the outcome of various horse races from many customers. On the 15th and 16th they placed such bets and on the 16th observed the licensee participate in this bookmaking activity.

After the agents made their identity known on March 16th, a search of the licensed premises disclosed, in a box behind the bar, a mimeographed pamphlet containing pornographic descriptions of sex acts, obscene, filthy, and unspeakably vile. In addition, the box contained a carton containing eight 1/2-dozen rubber prophylactics, a contraceptive device.

Defendant has no prior adjudicated record. Considering all the circumstances, including the aggravated nature of the violations and the plea, I shall suspend the license for 60 days.

Accordingly, it is, on this 4th day of May, 1951,

ORDERED that Plenary Retail Consumption License C-264, issued by the Board of Commissioners of the City of Trenton to Frank A. Skwara, t/a Frank's Cafe, for premises 912 Brunswick Avenue, Trenton, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. May 11, 1951; and it is further

ORDERED that if any license be issued to this licensee, or anyone else, for the premises in question for the 1951-52 licensing year, such license shall be under suspension until 2:00 a.m. July 10, 1951.

ERWIN B. HOCK  
Director.

6. DISCIPLINARY PROCEEDINGS - SELLING AND PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS; IN VIOLATION OF LOCAL REGULATION - POSSESSING OBSCENE STATUETTE - CONTRACEPTIVES - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 50 DAYS - SUBSEQUENT ORDER TO BE ENTERED FIXING EFFECTIVE DATE OF SUSPENSION WHEN LICENSEE RESUMES BUSINESS.

In the Matter of Disciplinary  
Proceedings against )

LOUIS KELMAN )  
T/a FAIRMONT LODGE )  
319 Fifth Street )  
Lakewood, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-24, issued by the )  
Township Committee of the Township )  
of Lakewood. )

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

BY THE DIRECTOR:

The following charges were preferred against the defendant:

"1. On Saturday, February 3, 1951, between 2:00 a.m. and 4:15 a.m., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption of alcoholic beverages in the barroom of your licensed premises; in violation of Section 2 of an Ordinance adopted by the Township Committee of the Township of Lakewood on January 20, 1940, which prohibits any such activity between the hours of 2:00 a.m. and 7:00 a.m. on weekdays.

"2. On Saturday, February 3, 1951, you allowed, permitted and suffered in the barroom of your licensed premises and had in your possession matter containing an obscene, indecent, filthy, lewd, lascivious and disgusting representation comprised in a certain statuette; in violation of Rule 17 of State Regulations No. 20.

"3. On Saturday, February 3, 1951, you possessed, and allowed, permitted and suffered a contraceptive device or prophylactic against venereal disease in the barroom of your licensed premises; in violation of Rule 9 of State Regulations No. 20.

"4. On Saturday, February 3, 1951, between 5:35 a.m. and 7:30 a.m., while an inspector and an investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation at your licensed premises, you hindered and failed to facilitate such investigation; in violation of R. S. 33:1-35."

Defendant pleaded non vult to charges (1), (2) and (3), and not guilty to charge (4).

As to charges (1), (2) and (3), the file herein discloses that on the morning of February 3, 1951, ABC agents observed drinks being served to customers on the licensed premises as late as 4:15 a.m. One of the agents found an indecent statuette and a package of contraceptives in a drawer located behind the bar.

As to charge (4): The undisputed evidence in the instant case discloses that two bottles containing beer, two glasses of beer and two shot glasses of whiskey, purchased by the two ABC agents, were carried by them from the barroom into an adjoining room after the said ABC agents had disclosed their identity to one Max Sacks, manager of defendant's licensed establishment.

One of the ABC agents testified that during the time the investigation was in progress Max Sacks became infuriated and, with a sweep of his arm, swept from the table the bottles of beer and glasses of beer and whiskey being preserved for evidential purposes by the ABC agents. The witness further testified that he immediately picked up the bottles from the floor and summoned his fellow agent.

The other ABC agent testified that, while in the process of making a search of the barroom of defendant's premises, he heard a crash and his fellow agent calling "Come in here." Upon entering the room he observed the agent "holding the two bottles of beer in his hand, one in each hand, and all around the surrounding area where the evidence was on this table you could see it was wet and the glasses were strewn all around." The witness testified that he picked up the broken glasses from the floor.

Max Sacks testified that "I got up to go to the bathroom which was on the right side. I either slipped or was unbalanced and I accidentally bumped against that table and that is when the bottles fell off. I didn't swing or destroy them." The witness further testified, when asked what he did when the bottles and glasses fell to the floor, "I looked around and saw what happened and continued going to the bathroom." When the witness was asked whether he tried to retrieve the bottles with the beer pouring out of them from the floor, he testified, "No, I continued to the bathroom. It was an accident and there was nothing to do but pick up the empty bottles there."

I am satisfied that Max Sacks deliberately tried to hinder the investigation by the attempted destruction of the bottles of beer and the glasses of beer and whiskey that were being retained at the time by the ABC agents to submit to me as evidence of the sale of alcoholic beverages during prohibited hours.

Despite the fact that the defendant did not participate in the events which occurred on the licensed premises at the time in question, nevertheless, he is responsible for the acts of his agents or employees in the conduct of defendant's licensed business. Re Cosfair Corporation, Bulletin 830, Item 7. After careful consideration of all the evidence, I find defendant guilty of charge (4).

Under the circumstances of this case, and taking into consideration that defendant has no prior adjudicated record, I shall suspend the defendant's license for a period of fifty days.

The records of this Division indicate that defendant's premises are now closed and will remain closed until some time in the autumn. Thus, no effective suspension can be imposed at the present time. The starting date of the suspension herein will be postponed until my further order, after the licensed premises shall have reopened for business in the autumn of 1951.

The suspension, which will become effective in the autumn, will operate against the renewal license, if issued to defendant, or against the license if issued or transferred to another person and renewed for the 1951-52 licensing year. See State Regulations No. 16.

Accordingly, it is, on this 9th day of May, 1951,

ORDERED that any license for the 1951-52 licensing period, issued to defendant for this or any other premises, or issued or transferred to any other person for the same premises, shall be suspended for a period of fifty (50) days, the time to be fixed by subsequent order as aforesaid.

ERWIN B. HOCK  
Director.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AND FAILURE TO KEEP INTERIOR OF LICENSED PREMISES OPEN TO PUBLIC VIEW DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL REGULATIONS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

JOSEPH MICHAEL MROZEK )  
161 Third Street )  
Elizabeth, 1, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-218, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Elizabeth. )

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John L. McGuire, Esq., Attorney for Defendant-licensee.  
Vincent T. Flanagan, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to charges alleging that on Saturday, March 31, 1951, (1) and (2) he sold alcoholic beverages and failed to keep the interior of his licensed premises open to public view between the hours of 2:00 a.m. and 2:35 a.m., in violation of local regulations; and (3) he hindered an investigation made upon his licensed premises, in violation of R. S. 33:1-35.

The municipal regulations prohibit the sale of alcoholic beverages between the hours of 2:00 a.m. and 6:00 a.m. on weekdays and require that during those hours the interior of the licensed premises shall remain open to public view. On Saturday, March 31, 1951, at about 2:35 a.m., ABC agents gained entrance to the licensed premises. It appears from the file in the instant case, however, that defendant attempted to block the doorway in order to prevent the ABC agents from entering the licensed premises although the ABC agents had previously made their identity known to him. After gaining admission the ABC agents observed twelve male patrons at the bar, each with a glass of alcoholic beverages in front of him. The

wife of defendant was pouring whiskey for a customer at the end of the bar. Despite the fact that one of the ABC agents requested that the contents of the glasses be preserved, the wife of the defendant continued to pour the beverages down the drain.

The interference with the orderly process of law enforcement by a licensee will not be countenanced. Defendant has no previous adjudicated record. Under all the circumstances in this case, and considering the plea entered herein, I shall impose the minimum suspension of fifteen and five days, respectively, for Charges (1) and (2) (Re Vitrone, Bulletin 661, Item 5), and fifteen days for Charge (3) (Re Niewinski, Bulletin 549, Item 9). Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 26th day of April, 1951,

ORDERED that Plenary Retail Consumption License C-218, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Joseph Michael Mrozek, for premises 161 Third Street, Elizabeth, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. May 2, 1951, and terminating at 2:00 a.m. June 1, 1951.

ERWIN B. HOCK  
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINOR (16 YEARS OF AGE) -  
LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

EARL H. GORDON )  
N/S of Cookstown-New Egypt Road )  
North Hanover Township )  
P.O. Cookstown, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribu- )  
tion License D-1, issued by the Town- )  
ship Committee of the Township of )  
North Hanover. )

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Earl H. Gordon, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded guilty to a charge alleging that he sold and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

An examination of the file herein discloses that, on April 3, 1951, a minor, 16 years of age, purchased twelve cans of beer for off-premises consumption from an employee of defendant-licensee.

Defendant has no previous adjudicated record. Under the circumstances, I shall suspend defendant's license for twenty days (Re Dante, Bulletin 771, Item 9), less five days' remission for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 26th day of April, 1951,

ORDERED that Plenary Retail Distribution License D-1, issued by the Township Committee of the Township of North Hanover to Earl H. Gordon, N/S of Cookstown-New Egypt Road, North Hanover Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. May 7, 1951, and terminating at 9:00 a.m. May 22, 1951.

ERWIN B. HOCK

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD - LICENSE  
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

MILESTONE CATERING CO., INC.  
T/a THE MILESTONE  
Sylvan Avenue & Sherwood Place  
Englewood Cliffs  
P.O. Coytesville, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-5, issued by the  
Borough Council of the Borough of  
Englewood Cliffs.

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Cohen and Turtz, Esqs., by Theodore Cohen, Esq., Attorneys for  
Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it  
possessed on its licensed premises alcoholic beverages in bottles  
bearing labels which did not describe the contents thereof, in vio-  
lation of Rule 27 of State Regulations No. 20.

On February 8, 1951, an agent of the Federal Treasury Depart-  
ment, Internal Revenue Service, seized on defendant's licensed  
premises four 4/5 quart bottles containing alcoholic beverages when  
his field tests indicated a variance between the labels on the  
bottles and the contents thereof. Three of the seized bottles were  
labeled "Canadian Club Blended Canadian Whisky 90.4 Proof" and one  
bottle was labeled "Johnnie Walker Black Label Blended Scotch  
Whisky 86.8 Proof". An analysis by a Federal chemist disclosed that  
the contents of the said bottles were not genuine as labeled.

Defendant's attorney states, in an attempt to mitigate the  
penalty to be imposed herein, that the defendant was a victim of  
circumstances beyond its control. Licensees are strictly responsible  
for any "refills" found in their stock of liquor.

Defendant has a previous adjudicated record. Effective March  
26, 1951, its license was suspended for ten days for permitting a  
brawl on its licensed premises. Bulletin 901, Item 4. The usual  
suspension imposed for four-bottle illicit liquor cases is twenty  
days. Re Sweet, Bulletin 799, Item 7. Considering the prior  
record, I shall suspend the license for twenty-five days, and remit  
five days for the plea entered herein, leaving a net suspension of  
twenty days.

Accordingly, it is, on this 26th day of April, 1951,

ORDERED that Plenary Retail Consumption License C-5, issued by  
the Borough Council of the Borough of Englewood Cliffs to Milestone  
Catering Co., Inc., t/a The Milestone, for premises at Sylvan Avenue  
and Sherwood Place, Englewood Cliffs, be and the same is hereby sus-  
pended for a period of twenty (20) days, commencing at 2:00 a.m.  
May 3, 1951, and terminating at 2:00 a.m. May 23, 1951.

ERWIN B. HOCK  
Director.

10. DISCIPLINARY PROCEEDINGS - PERMITTING FEMALES TO SIT OR STAND AT A PUBLIC BAR, IN VIOLATION OF A LOCAL ORDINANCE - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary  
Proceedings against

MORRIS DIANGELO  
T/a GREENWOOD INN  
4457 Marlton Pike  
Pennsauken Township  
P.O. Merchantville, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-23, issued by the  
Township Committee of the Township  
of Pennsauken.

Gene R. Mariano, 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 he (1) permitted females to sit or stand at a public bar on his licensed premises, in violation of a local ordinance; and not guilty to a charge that he (2) hindered and failed to facilitate an investigation then being conducted on his licensed premises by agents of this Division, in violation of R. S. 33:1-35.

Three agents of the State Division of Alcoholic Beverage Control entered defendant's premises on Saturday, February 10, 1951, at about 1:20 a.m., and observed that drinks were being served to eight women, some sitting and some standing at the public bar in defendant's tavern.

The agents, after making their identity known to the bartender, were referred to the defendant then sitting on the customers' side of the bar. One of the agents testified that after approaching the defendant and identifying himself, he entered into conversation with the defendant, who loudly and profanely refused the names of the bartender and waitress, objected to the agent's asking the names and identification of the women, and addressed the agents in profane, immoral and grossly indecent language. He further testified that when one of the patrons used the vilest epithets in referring to the agents, the licensee made no attempt to quiet the patron. Two of the agents testified that, during the investigation, defendant jostled one of the agents and swept from a table the glasses of alcoholic beverages placed there by the agents as evidence in the case. The local police who, arriving promptly in response to a telephone call by someone, quieted the customers and the defendant.

The only evidence in contradiction of the agents' testimony, other than testimony given by two women who merely say that they did not see or hear everything that happened, and the aforesaid patron who attempted to assume all the blame for the occurrence, was that of the defendant. The defendant mainly denies most of the objectionable language and actions attributed to him by the agents.

I believe the testimony of the agents. The actions and language of defendant constituted a hindrance of and a failure to facilitate the pending investigation.

I find defendant guilty as charged.

Defendant has no previous adjudicated record. I shall suspend his license for five days on charge 1, Re Choice Liquors, Inc.,



Bulletin 827, Item 5; and add fifteen days for charge 2. Cf.  
Re Sudol, Bulletin 900, Item 7.

Accordingly, it is, on this 24th day of April, 1951,

ORDERED that Plenary Retail Consumption License C-23, issued by the Township Committee of the Township of Pennsauken to Morris DiAngelo, t/a Greenwood Inn, for premises 4457 Marlton Pike, Pennsauken Township, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. May 1, 1951, and terminating at 2:00 a.m. May 21, 1951.

ERWIN B. HOCK  
Director.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

JOSEPH F. FLIS & STANLEY J. )  
IWANICKI )  
4 Market Street )  
Passaic, N. J., )

CONCLUSIONS  
AND ORDER

Holders of Plenary Retail Consump- )  
tion License C-135, issued by the )  
Board of Commissioners of the City )  
of Passaic. )

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Defendant-licensees, by Stanley J. Iwanicki, Partner.  
William F. Wood, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they pos-  
sessed on their licensed premises alcoholic beverages in a bottle  
bearing a label which did not truly describe its contents, in viola-  
tion of Rule 27 of State Regulations No. 20.

On April 9, 1951, an ABC agent tested 32 opened bottles of  
alcoholic beverages on defendants' licensed premises and seized one  
4/5 quart bottle of "Canadian Club Blended Canadian Whisky" when his  
field test indicated a variance in the contents thereof from the  
whiskey described in the label. An analysis by the Division chemist  
disclosed that the contents of the seized bottle varied substantially  
in acids, solids and color from the contents of a genuine sample of  
the same product.

Defendants have no prior adjudicated record. I shall suspend  
defendants' license for the minimum period of fifteen days.  
Re Rudolph, Bulletin 680, Item 1. Remitting five days because of the  
plea will leave a net suspension of ten days.

Accordingly, it is, on this 25th day of April, 1951,

ORDERED that Plenary Retail Consumption License C-135, issued  
by the Board of Commissioners of the City of Passaic to Joseph F.  
Flis & Stanley J. Iwanicki, for premises 4 Market Street, Passaic,  
be and the same is hereby suspended for ten (10) days, commencing at  
3:00 a.m. May 1, 1951, and terminating at 3:00 a.m. May 11, 1951.

ERWIN B. HOCK  
Director.

12. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - LICENSE  
SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

JERSEY AVENUE INC. (a corp.) )  
T/a MACK TAVERN )  
72-74 Jersey Avenue )  
New Brunswick, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-46, issued by the )  
Board of Commissioners of the )  
City of New Brunswick. )

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Jersey Avenue Inc. (a corp.), Defendant-licensee, by Bela Benczik,  
President.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to a charge alleging that it possessed on its licensed premises a tap connected to a barrel of beer, which tap did not bear a marker or name label, in violation of Rule 26 of State Regulations No. 20.

An ABC agent, on routine inspection of defendant's licensed premises on March 13, 1951, found that beer was being drawn from a barrel marked "Ruppert" through a spigot having no name label thereon.

Defendant has no previous adjudicated record. I shall suspend the license for three days. Remitting one day because of the plea will leave a net suspension of two days. Re Wadiak, Bulletin 903, Item 12.

Accordingly, it is, on this 30th day of April, 1951,

ORDERED that Plenary Retail Consumption License C-46, issued by the Board of Commissioners of the City of New Brunswick to Jersey Avenue Inc. (a corp.), t/a Mack Tavern, for premises 72-74 Jersey Avenue, New Brunswick, be and the same is hereby suspended for a period of two (2) days, commencing at 2:00 a.m. May 7, 1951, and terminating at 2:00 a.m. May 9, 1951.

*Erwin B. Hoff*

Director.