

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

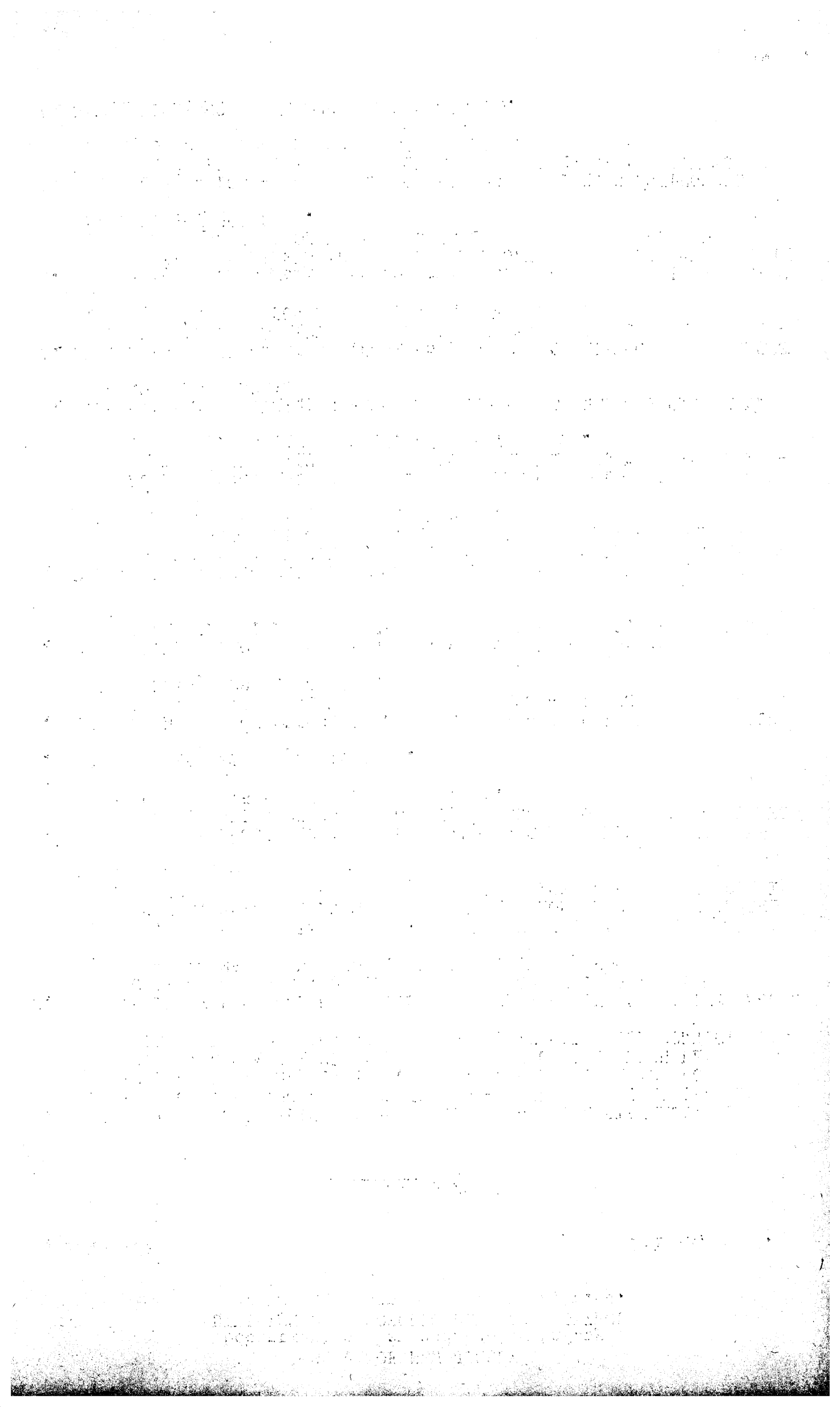
BULLETIN 968

MAY 11, 1953.

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

BULLETIN 968

MAY 11, 1953.

1. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - ILLEGAL SITUATION NOT CORRECTED - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO APPLY TO LIFT SUSPENSION AFTER 20 DAYS, IF SITUATION CORRECTED.

In the Matter of Disciplinary Proceedings against

ANTHONY GHIO
1441-51 - 45th Street
North Bergen, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-39, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen.

Dominick J. Marrone, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. In your application dated July 18, 1952, filed with the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen, upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question 30, 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 Carmen Lateano and Maeona Lateano had such an interest in that they were the real and beneficial owners of the licensed business and were permitted to retain all the profits derived from the business after payment to you of a fixed monthly fee; said false statement being in violation of R. S. 33:1-25.

"2. In your aforesaid application for license, you falsely stated 'No' in answer to Question 31, which asks: 'Have you agreed to pay any employee, or other person, any portion or percentage of the profits or income (by way of rent, salary or otherwise) derived from the business to be conducted under the license applied for?', whereas in truth and fact you had agreed to permit Carmen Lateano and Maeona Lateano to retain all of the profits derived from the licensed business after payment to you of a fixed monthly fee; said false statement being in violation of R. S. 33:1-25.

"3. From July 29, 1952 until the present time, you knowingly aided and abetted Carmen Lateano and Maeona Lateano to exercise, contrary to R. S. 33:1-26, the rights and privileges of your current plenary retail consumption license; thereby yourself violating R. S. 33:1-52."

The file herein discloses that on July 29, 1952 the license in question, then held by Carmen Lateano, was transferred by the local issuing authority to defendant who was the owner of the building where the licensed business had been conducted. It appears that after the transfer was approved an agreement was entered into between the defendant and the former licensee whereby the money paid by defendant to the former licensee was to be deposited in a bank in the name of the former licensee's attorney. The attorney had the privilege of drawing checks for payment of bills incurred for supplies and services that were necessary in the operation of the licensed business. The agreement further provided that all profits were to be retained by the former licensee and his wife and that they were to conduct the business free from interference of any kind from the defendant. He, in turn, was to receive a stipulated amount of rent each month for the use and occupation of the licensed premises. In effect, therefore, the license was "farmed out" to the former licensee and his wife by the defendant. Such action is a serious violation of the liquor laws. Re Pier Hotel, Inc., Bulletin 897, Item 4.

There is nothing in the record to indicate that Carmen Lateano the former licensee, his wife Maeona Lateano, or defendant, were ineligible to hold a liquor license.

Defendant has no prior adjudicated record. The illegal operation of the licensed premises, however, still exists. Such operation cannot be permitted to continue. I shall suspend the license for the balance of its term. Leave is reserved to the defendant, or other qualified person, to file a petition with me to have the suspension lifted upon proof of true ownership and operation of the license and business conducted thereunder. No relief will be afforded prior to the expiration of at least twenty days from the date upon which the suspension becomes effective. Re Russo, Bulletin 741, Item 4; Re Hoppe, Bulletin 889, Item 6; Re Calandriello, Bulletin 934, Item 9; Re Simon, Bulletin 938, Item 6; Re Scull, Bulletin 949, Item 3.

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

ORDERED that Plenary Retail Consumption License C-39, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen to Anthony Ghio, 1441-51 - 45th Street, North Bergen, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. April 7, 1953; and it is further

ORDERED that in the event a correction of the illegal situation is effected, leave will be given as aforesaid to make application to the Director for restoration of the license privileges.

DOMINIC A. CAVICCHIA
Director.

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

GERALD COHEN
30 Bridge Street
Paterson, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-266, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Theodore D. Rosenberg, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold and delivered and permitted the sale and delivery of an alcoholic beverage at retail in its original container for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that on Friday, March 27, 1953, at about 11:10 p.m., an ABC agent told one of the bartenders in defendant's premises that he was going home and wanted to buy a pint of Hunter's. The bartender placed a pint bottle of Hunter Blended Whiskey on the bar and charged the agent \$3.00 for the bottle. The agent placed the bottle in his pocket and left the premises, but returned shortly thereafter with two other ABC agents who had been waiting outside. The agents identified themselves to the bartender, who admitted that he had made the sale.

Defendant has a prior record. Effective April 3, 1950, the Director suspended his license for a period of ten days for selling alcoholic beverages to a minor. Re Cohen, Bulletin 871, Item 2. The minimum penalty for a violation of type charged in this case consists of a suspension of the license for fifteen days. However, in view of the prior record of defendant, I shall suspend his license for a period of twenty days. Five days will be remitted because of the plea entered herein, leaving a net suspension of fifteen days. Re Morrisroe, Bulletin 959, Item 7.

Accordingly, it is, on this 20th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-266, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Gerald Cohen, for premises 30 Bridge Street, Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. April 27, 1953, and terminating at 3:00 a.m. May 12, 1953.

DOMINIC A. CAVICCHIA
Director.

3. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES BY RETAILER FROM PERSON NOT THE HOLDER OF A NEW JERSEY MANUFACTURER'S OR WHOLESALER'S LICENSE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

STANLEY PULEK
103-5 Hawthorne Avenue
Newark 8, N. J.,

CONCLUSIONS AND ORDER.

Holder of Plenary Retail Consumption License C-948, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

George D. McLaughlin, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he purchased and obtained alcoholic beverages from a person who was not the holder of any New Jersey manufacturer's or wholesaler's license, in violation of Rule 15 of State Regulations No. 20.

The file herein discloses that on March 6, 1953, defendant purchased approximately 300 cases of assorted brands of beer from a person who was not the holder of any alcoholic beverage license or special permit permitting such sale. Apparently the beer had been acquired by the seller at a public auction conducted (in another state) by a governmental agency. It further appears that the seller had the alcoholic beverages delivered to defendant in a truck which bore a transit insignia. The defendant when confronted with the violation by an ABC agent admitted the purchase of the beer from a friend of his daughter but contended he was under the impression that the seller thereof was in the beer business and that he believed that the transaction was legitimate because the delivery of the cases of beer was made in a truck bearing a New Jersey transit insignia.

Failure of a retailer to ascertain if the person from whom he purchases alcoholic beverages holds a New Jersey manufacturer's or wholesaler's license or a special permit opens the door for violations, deliberate or innocent. The alleged mitigation urged by defendant constitutes no reason for imposition of less than the established minimum penalty for violations of this type.

Defendant has no prior adjudicated record. I shall suspend the license for the minimum period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Cf. Re Colonna Park, Inc., Bulletin 875, Item 4.

Accordingly, it is, on this 31st day of March, 1953,

ORDERED that Plenary Retail Consumption License C-948, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Stanley Pulek, 103-5 Hawthorne Avenue, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. April 6, 1953, and terminating at 2:00 a.m. April 16, 1953.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
NICHOLAS HAWRYLAK
T/a MAJESTIC TAVERN
281 Grove St.
Jersey City 2, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-496, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.
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Nicholas Hawrylak, Defendant-licensee, Pro Se.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on Sunday, March 15, 1953, he sold and delivered alcoholic beverages in original containers for consumption off the licensed premises, in violation of Rule 1 of State Regulations No. 38.

The file discloses that two ABC agents visited the defendant's licensed premises at 9:00 p.m., on Sunday, March 15, 1953. At 9:30 p.m., they observed the bartender, subsequently identified as the defendant, engage in conversation with a male patron, as a result of which the defendant placed six cans of beer in a paper bag and handed them to the man. At 10:00 p.m., one of the ABC agents ordered six cans of beer to take home. The defendant went to the refrigerator in the back bar, obtained the cans of beer and, after placing them in a paper bag and handing the package to an agent, accepted fifty cents from each of the two ABC agents in payment thereof.

The ABC agents then left the defendant's licensed premises, returned shortly thereafter, identified themselves and confronted the defendant with the violation. The defendant admitted the sale of the six cans of beer but refused to give a written statement.

Defendant has no prior adjudicated record. I shall impose the fifteen-day minimum penalty for a violation of this character. Re Kaiser, Bulletin 954, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

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

ORDERED that Plenary Retail Consumption License C-496, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Nicholas Hawrylak, t/a Majestic Tavern, 281 Grove Street, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. April 13, 1953, and terminating at 2:00 a.m. April 23, 1953.

DOMINIC A. CAVICCHIA
Director.

5.

ACTIVITY REPORT FOR APRIL 1953

ARRESTS:		
Total number of persons arrested	-----	32
Licensees and employees	-----13	
Bootleggers	-----19	
SEIZURES:		
Motor vehicles - cars	-----	6
Stills - over 50 gallons	-----	1
- 50 gallons or under	-----	2
Alcohol - gallons	-----	25.00
Mash - gallons	-----	5,574.00
Distilled alcoholic beverages - gallons	-----	248.39
Wine - gallons	-----	1.00
Brewed malt alcoholic beverages - gallons	-----	7.78
RETAIL LICENSEES:		
Premises inspected	-----	909
Premises where alcoholic beverages were gauged	-----	676
Bottles gauged	-----	13,290
Premises where violations were found	-----	105
Violations found	-----	140
Type of violations found:		
Unqualified employees	-----50	Other mercantile business
Reg. #38 sign not posted	-----11	Gambling devices
Disposal permit necessary	-----10	Other violations
STATE LICENSEES:		
Premises inspected	-----	13
License applications investigated	-----	14
COMPLAINTS:		
Complaints assigned for investigation	-----	420
Investigations completed	-----	406
Investigations pending	-----	131
LABORATORY:		
Analyses made	-----	116
Bottles from unlicensed premises	-----	31
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	31
Persons fingerprinted for non-criminal purposes	-----	276
Identification contacts made with other enforcement agencies	-----	227
Motor vehicle identifications via N. J. State Police Teletype	-----	3
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	9
Violations involved:		
Sale to minors	-----6	
Sale during prohibited hours	-----3	
Permitting females at the bar (mun.reg.)	-----1	
Permitting bookmaking on premises	-----1	
Permitting lottery (pools) on premises	-----1	
Cases instituted at Division	-----	34*
Violations involved:		
Sale to minors	-----10	Aiding and abetting sale outside scope of license
Sale during prohibited hours	-----5	Permitting female impersonators on prem.
Permitting immoral activity on premises	-----4	Permitting lottery (50-50 club) on prem.
Delivery without bona fide invoice	-----3	Violation of special ruling
Giving free goods & kick-backs to retailers	-----3	Permitting pin ball machine on prem.
Sale below minimum resale price	-----3	Sale to non-members by club
Fraud and front	-----2	Conducting business as a nuisance
Permitting foul language on premises	-----2	Possessing contraceptives on premises
Failure to display license certificate	-----1	Possessing obscene matter
Failure to have lic. application available	-----1	Furnishing prohibited advertising matter to retail licensees
Employing non-resident without permit	-----1	Sale outside scope of license
Permitting hostesses on premises	-----1	Unauthorized transportation
Sale to intoxicated persons	-----1	
*Includes one cancellation proceeding - license improvidently issued in excess of limitation of DL licenses:		
Cases brought by municipalities on own initiative and reported to Division	-----	5
Violations involved:		
Sale to minors	-----3	
Sale during prohibited hours	-----1	
Permitting brawl on premises	-----1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	51
Appeals	-----2	Seizures
Disciplinary proceedings	-----31	Tax revocation
Eligibility	-----11	Applications for license
PERMITS ISSUED:		
Total number of permits issued	-----	2,452
Employment	-----1,754	Social affairs
Solicitors	-----74	Miscellaneous
Disposal of alcoholic beverages	-----38	

Dated: May 1, 1953.

DOMINIC A. CAVICCHIA
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR SIMILAR VIOLATION MORE THAN FIVE YEARS AGO - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against AL STRICKLAND T/a STRICKLAND'S TAVERN 108 Easton Avenue New Brunswick, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-57, issued by the Board of Commissioners of the City of New Brunswick.

Al Strickland, Defendant-licensee, Pro Se. David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold alcoholic beverages to a minor and permitted the consumption of an alcoholic beverage by said minor on his licensed premises, in violation of Rule 1 of State Regulations No. 20.

On Thursday, April 2, 1953, Richard ---, who was born on June 15, 1932, and who was then twenty years of age, entered defendant's premises and purchased from defendant twenty quart-containers of beer, which defendant placed upon the bar. Richard --- also purchased from defendant one glass of beer and consumed the beer while standing at the bar. Shortly thereafter the twenty containers of beer were taken from the licensed premises by Richard --- and three youthful companions who entered the premises after the sales were made.

Defendant has a prior record. Effective March 14, 1944, his license was suspended by the Commissioner for twenty-five days after he had been found guilty on a charge alleging that he had sold alcoholic beverages to minors (Re Strickland, Bulletin 610, Item 1, and Bulletin 612, Item 3). Ordinarily a second violation of a similar character would warrant double the minimum ten-day suspension for a violation of the nature charged herein but, since more than five years have elapsed between the violations, I shall suspend defendant's license for a period of fifteen days. Cf. Re Stock, Bulletin 948, Item 12. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 14th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-57, issued by the Board of Commissioners of the City of New Brunswick to Al Strickland, t/a Strickland's Tavern, for premises 108 Easton Avenue, New Brunswick, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. April 20, 1953, and terminating at 2:00 a.m. April 30, 1953.

DOMINIC A. CAVICCHIA Director.

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

In the Matter of Disciplinary Proceedings against CARNEGIE TAVERN, INC. 378-380 Carnegie Place Union Township (Union Co.) P.O. Vaux Hall, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-22, issued by the Township Committee of the Township of Union (Union Co.)

Eugene A. Liotta, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed a mislabeled beer tap on its licensed premises, in violation of Rule 26 of State Regulations No. 20.

During the course of a routine inspection of defendant's licensed premises on March 11, 1953, an agent of the State Division of Alcoholic Beverage Control found a beer tap labeled "Ballantine" connected with a barrel of Hensler's beer.

Defendant has no prior adjudicated record. I shall suspend the license for three days (the minimum period heretofore imposed in such cases). One day will be remitted for the plea entered herein, leaving a net suspension of two days. Re Graham, Bulletin 954, Item 10.

Accordingly, it is, on this 6th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-22, issued by the Township Committee of the Township of Union (Union Co.) to Carnegie Tavern, Inc., 378-380 Carnegie Place, Union Township (Union Co.); be and the same is hereby suspended for a period of two (2) days, commencing at 2:00 a.m. April 13, 1953, and terminating at 2:00 a.m. April 15, 1953.

DOMINIC A. CAVICCHIA Director.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR SIMILAR VIOLATION MORE THAN FIVE YEARS AGO - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GRAY'S PHARMACY INC.)
585 Broad Street)
Newark 2, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-98, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

-----)
Leo J. Berg, Esq., Attorney 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 sold at retail alcoholic beverages at less than the price as listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

The file discloses that, on March 27, 1953, the president of defendant corporate licensee sold two 4/5 quart bottles of Old Mr. Boston Rocking Chair Blended Whiskey to an ABC agent for \$3.50 per bottle. The minimum consumer resale price of the item in question, as listed in the Minimum Consumer Resale Price List, effective January 1, 1953, was \$3.65.

Defendant has a prior record. Effective February 3, 1947, its license was suspended by the then Deputy Commissioner for a period of five days after it had pleaded non vult to a similar charge. Re Gray's Pharmacy Inc., Bulletin 747, Item 12. However, instead of doubling for a second similar violation the usual ten-day penalty for a first offense of this character, I shall suspend defendant's license for a period of fifteen days because more than five years have elapsed since the previous violation (cf. Re Kneble, Bulletin 942, Item 6; Re Ostrowski, Bulletin 952, Item 7). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 20th day of April, 1953,

ORDERED that Plenary Retail Distribution License D-98, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Gray's Pharmacy Inc., 585 Broad Street, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. April 27, 1953, and terminating at 9:00 a.m. May 7, 1953.

DOMINIC A. CAVICCHIA
Director.

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

In the Matter of Disciplinary Proceedings against)

MINNIE ZOTTO)
T/a ZOTTO RESTAURANT)
1324 Hamilton Avenue)
Trenton 9, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-124, issued by the Board of Commissioners of the City of Trenton.)

-----)
Minnie Zotto, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein disclosed that on April 2, 1953, two ABC agents entered defendant's premises. At about 3:48 p.m. one of the agents purchased from Lena Robinson, daughter of the licensee and manager of the licensed premises, a 4/5 quart bottle of Three Feathers Reserve Blended Whiskey for \$3.50. The other agent observed the sale and both agents thereafter identified themselves to the person who made the sale. Effective April 1, 1953, the minimum consumer resale price of the item in question was \$4.42.

Defendant has no prior adjudicated record. I shall suspend the license for the minimum period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Lang, Bulletin 957, Item 8.

Accordingly, it is, on this 21st day of April, 1953,

ORDERED that Plenary Retail Consumption License C-124, issued by the Board of Commissioners of the City of Trenton to Minnie Zotto, t/a Zotto Restaurant, for premises 1324 Hamilton Avenue, Trenton, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. April 27, 1953, and terminating at 2:00 a.m. May 2, 1953.

DOMINIC A. CAVICCHIA
Director.

10. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE TO MINORS DISMISSED.

In the Matter of Disciplinary Proceedings against

GEORGE LIZAK
T/a RED LION INN
53 French Street
New Brunswick, N. J.,

CONCLUSIONS
AND ORDER.

Holder of Plenary Retail Consumption License C-33, issued by the Board of Commissioners of the City of New Brunswick.

Geza Stamberger, Jr., Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On Sunday, January 4, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Lloyd E. --- and Edward ---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing herein Lloyd E. --- testified that he was born on January 29, 1932; that on January 4, 1953, he and Edward --- entered defendant's premises about 10:00 p.m. and remained there for about an hour; and that they sat at the bar and "had about five or six beers apiece" which were served to them by a bartender. He further testified that the bartender was "a young guy" and, definitely, that the licensee was not acting as bartender at that time.

Edward --- testified that he was born on May 29, 1933; that he entered defendant's premises with Lloyd E. --- on January 4, 1953, at "about nine-thirty, ten o'clock" and remained there about an hour; that they sat at the bar; that he had "four or five" glasses of beer which were served by a bartender; and that Lloyd E. --- was also drinking beer.

An ABC agent testified that he visited defendant's premises on January 16, 1953, with the two minors; that they stated that this was the place where they had been served drinks on January 4, but that both minors further stated that defendant "wasn't on that day" and that defendant did not serve them.

Defendant testified that he has been a licensee since 1937 and that he has never been found guilty of any violations. He further testified that he employs no bartenders; that the business is operated solely by himself and his wife who tends bar occasionally; that, on the afternoon of January 4, 1953, his wife was not well and that he alone tended bar from 1:00 p.m. until the closing hour at 2:00 a.m. He says that neither of the minors was in his licensed premises on January 4, 1953. His testimony that he alone tended bar on that day and that neither minor was present on the licensed premises on that day was corroborated by three patrons. Referring to January 4, 1953, one patron testified he was in defendant's premises from

1:00 p.m. until midnight; another patron, a Medical Detachment Sergeant, testified that he was there from 8:30 p.m. until 1:45 a.m. and the third patron testified that he was there from 9:30 p.m. until 2:00 a.m.

Since this case presents a clear conflict between the evidence given by the minors and the evidence given by the defendant and his witnesses, the question of credibility is of paramount importance. Earlier on the same day the minors had consumed a considerable amount of beer in two other licensed places (see Re Seaker and Davis Bulletin 959, Item 9 and Re Sotak, Bulletin 962, Item 9), and thereafter, before they allegedly visited defendant's premises, they "went up to some people's house, drank there for a while." On cross-examination, one of the minors was asked "Were you intoxicated?" He answered: "I believe I was half. I wasn't too drunk. I would say I was drunk, not that I didn't know what I was doing." The other minor, on cross-examination, in response to the question whether he was intoxicated or sober, testified that he "was feeling good." This must be considered in evaluating their testimony.

Both minors definitely stated that defendant was not the person who made the sale. Neither minor alleged that the sale was made by a woman, and the licensee testified that he employs no other person. As already indicated, one minor described the bartender as "a young guy." It seems clear, however, that the licensee, fifty-six years of age, could not be considered "a young guy." Thus, this is not a case of a mere failure on the part of the minors to specifically identify the person who, they claim, served them (which failure is not fatal in disciplinary proceedings of this nature). Rather, it is an attempted description of the alleged bartender, which is in sharp conflict with the actual appearance of the only person alleged to have been on duty that night.

After carefully considering all the testimony, I conclude that defendant's guilt has not been established by the necessary preponderance of the evidence. I therefore find defendant not guilty.

Accordingly, it is, on this 17th day of April, 1953,

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

DOMINIC A. CAVICCHIA
Director.

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

In the Matter of Disciplinary Proceedings against

ALFRED PASSERO
168-170 Union Avenue
Paterson, New Jersey,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-35, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Peter Calcia, 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 sold an alcoholic beverage at less than its price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

The file herein discloses that on February 10, 1953, a customer telephoned to defendant's premises and ordered a Statuette of Bino Vermouth. At that time defendant did not have the item in stock but, shortly thereafter, Sigmund Stobezki, the holder of a solicitor's permit, entered defendant's store and defendant requested Stobezki to get the item for him. Thereupon Stobezki went to the licensed premises of Pal's Wine & Liquor Inc., another retailer, and obtained a Bino Vermouth Statuette, which he delivered to defendant. The item was subsequently delivered by defendant's employee to the customer's home and the customer was charged \$5.45. In a statement given to an ABC agent on March 5, 1953, defendant said:

"When the salesman borrowed the bottle for me I asked him what the price was and he quoted \$5.45. I took his word for it and billed it at that price. To tell you the truth I did not check the Minimum Retail Price list to see if the salesman quoted me the correct price."

In a statement given to an ABC agent on March 6, 1953, by Sigmund Stobezki, the following question and answer appear:

"Q. Did Passaro ask you what the Minimum Retail price was?
A. Yes, and I quoted him the price of \$5.50. I don't know how I got this price fixed in my mind, because it was the price published in the Oct. 1, 1952 list."

Actually, the item in question was listed in the List of New Jersey Minimum Consumer Resale Prices, effective January 1, 1953, as follows:

"Bino Vermouth
(Italy, Super Torino)
(Statuette) 40 oz. 5.99"

although, as the salesman states, the minimum consumer price had been fixed at \$5.50 in the previous list, effective October 1, 1952. Defendant could not have been confused by any change in the method of listing the item because he admits that he did not check the list

to see if the salesman quoted the correct price. In any event, it appears that defendant sold the item at 54 cents less than the minimum consumer price then in effect.

Defendant has no prior record. I shall suspend the license for the minimum period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Lang, Bulletin 957, Item 8.

Accordingly, it is, on this 23rd day of April, 1953,

ORDERED that Plenary Retail Distribution License D-35, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Alfred Passero, for premises 168-170 Union Avenue, Paterson, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. May 4, 1953, and terminating at 9:00 a.m. May 9, 1953.

DOMINIC A. CAVICCHIA
Director.

12. DISCIPLINARY PROCEEDINGS - SOLICITOR'S PERMIT - AIDING AND ABETTING RETAILERS IN SALE OF ALCOHOLIC BEVERAGES NOT PURSUANT TO AND WITHIN TERMS OF THEIR LICENSES - PERMIT SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SIGMUND STOBESKI
661 East 23rd Street
Paterson, N. J.,

CONCLUSIONS
AND ORDER

Holder of Solicitor's Permit #907, issued by the Director of the Division of Alcoholic Beverage Control.

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Sigmund Stobezki, Defendant-permittee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On February 10, 1953, you knowingly aided and abetted Pal's Wine & Liquor Inc., holder of a plenary retail distribution license for premises 241 Union Avenue, Paterson, N. J., to sell an alcoholic beverage not pursuant to and within the terms of its license as defined by R. S. 33:1-12(3)a, contrary to R. S. 33:1-2, in that acting on behalf of Alfred Passero, holder of a plenary retail distribution license for premises 168-170 Union Avenue, Paterson, N. J., you obtained a 40-ounce statuette of Bino Vermouth (Italy, Super Torino) from said Pal's Wine & Liquor Inc. and delivered it to said Alfred Passero for resale and not for consumption by said Alfred Passero; in violation of R. S. 33:1-52.

"2. On February 13, 1953, you knowingly aided and abetted Alfred Passero, holder of a plenary retail distribution license for premises 168-170 Union Avenue, Paterson, N. J., to sell an alcoholic beverage not pursuant to and within the terms of his license as defined by R. S. 33:1-12(3)a, contrary to R. S. 33:1-2, in that acting on behalf of said Alfred Passero you

delivered a 40-ounce statuette of Bino Vermouth (Italy, Super Torino) from the licensed premises of said Alfred Passero to Pal's Wine & Liquor Inc., holder of a plenary retail distribution license for premises 241 Union Avenue, Paterson, N. J., for resale and not for consumption by said Pal's Wine & Liquor Inc.; in violation of R. S. 33:1-52."

The manner in which defendant obtained the statuette is set forth in Re Passero, decided herewith. It appears that on February 10, 1953, defendant obtained an order for two Bino Vermouth statuettes from Alfred Passero and that, a few days later, after delivery of this order had been made, he obtained one of these statuettes from Passero and returned it to Pal's Wine & Liquor Inc.

Defendant has no prior record. In attempted mitigation he alleges that "I tried to do a favor for a retailer which, if I had realized was in violation of the law I would never have attempted." Nevertheless, defendant's action cannot be condoned, because proper control requires that retail licensees shall purchase or obtain alcoholic beverages only from New Jersey manufacturers or wholesalers or pursuant to special permit. Considering all the circumstances of this case I shall suspend defendant's permit for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 23rd day of April, 1953,

ORDERED that Solicitor's Permit #907, issued by the Director of the Division of Alcoholic Beverage Control to Sigmund Stobezki, 661 East 23rd Street, Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. May 4, 1953, and terminating at 9:00 a.m. May 19, 1953.

DOMINIC A. CAVICCHIA
Director.

13. DISQUALIFICATION - EMPLOYMENT ON LICENSED PREMISES DURING PAST FIVE YEARS AFTER PETITIONER NOTIFIED OF HIS INELIGIBILITY TO BE SO EMPLOYED - APPLICATION TO LIFT DENIED.

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

CONCLUSIONS
AND ORDER

Case No. 1041.
- - - - -)

BY THE DIRECTOR:

On September 17, 1947 petitioner pleaded non vult to charges of issuing a series of seven checks with intent to defraud and renting a motor vehicle with intent to defraud. As a result thereof, he was sentenced on October 9, 1947 by a Judge of a Court of Quarter Sessions to a county prison for a period of six months. He was released from the penal institution on March 9, 1948. The total sum of the checks issued amounted to \$2,125.00.

Under the circumstances of the case, the crimes to which petitioner pleaded non vult involved moral turpitude and petitioner was so advised by a letter sent to him by the Director on April 13, 1949.

At the hearing herein, petitioner produced three witnesses: an insurance adjuster, a jewelry salesman, and a police detective, all

of whom testified that they have known him for at least ten years. All three were of the opinion that he bears a reputation for being a law-abiding person in the community in which he resides. All were further of the opinion that he has rehabilitated himself since leaving the penal institution in 1948. The police department of the municipality wherein petitioner lives and the police department of an adjoining city have advised that no complaint or investigation is presently pending which involves the petitioner.

I would have no hesitancy in granting relief to petitioner were it not for the fact that he has been employed on licensed premises on two separate occasions since leaving the penal institution in 1948. First, he tended bar for a liquor licensee of this state for approximately ten months, and until he was notified on April 13, 1949 by this Division that, because of his conviction of a crime which in the opinion of the Director involved moral turpitude, he was precluded by statute from working on licensed premises. He then ceased said employment. Subsequently, however, he again obtained employment with a liquor licensee of this state, according to his testimony, as a "clean-up man and porter — help out behind the bar — not full time." He further testified that, after working at this position for a period of three weeks, he was notified by a member of this Division that he could not continue such employment. Petitioner attempts to explain his disregard of the original notice given by this Division because he believed it only referred to employment as a bartender and not to an employee engaging in other types of work in addition thereto. I am not impressed with petitioner's explanation. Moreover, according to an investigation made by an ABC agent on August 15, 1950 of the licensed premises where petitioner was then tending bar, petitioner signed a fictitious name on a retail inspection report in order to avoid detection. In view of his attempt to perpetrate a fraud upon this Division, I shall not grant the relief which he now seeks. Petitioner's petition will therefore be denied.

Accordingly, it is, on this 22nd day of April, 1953,

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

DOMINIC A. CAVICCHIA
Director.

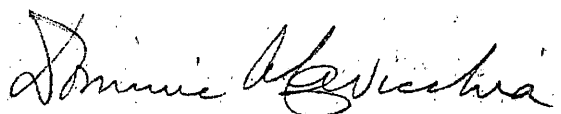
14. STATE LICENSES - NEW APPLICATIONS FILED.

Turnpike Distributing Company
44-46 Belvidere St.
Trenton, N. J.

Application filed April 30, 1953 for transfer of State Beverage Distributor's License from Anthony Colaluca, Lincoln Boulevard, Middlesex Borough, N. J.

Standard Motor Freight Inc.
1391 Paterson Plank Road
Secaucus, N. J.

Application filed May 6, 1953 for Transportation License.



Dominic A. Cavicchia
Director.